

## REIMBURSEMENT AGREEMENT

This Agreement is made and entered into by and between the City of Grand Junction, a Colorado home rule municipality ("City") and KenCo, LLC, a Colorado limited liability company ("Developer"). The City and the Developer may be referred to as "the Parties."

### RECITALS

The Developer is required to install certain public infrastructure ("Developer's Work") as a condition of City approval of the Developer's project known as Tracy's Village Subdivision ("Project"). In accordance with City's adopted Grand Junction Circulation Plan the Developer has agreed to make certain other improvements that the City desires to make to the public infrastructure in the Project area ("City Improvements"). The City Improvements will connect with or relate to the Developer's Work and performance of the construction of the City Improvements and the Developer's Work at the same time is more effective and efficient than performing the construction separately.

Accordingly, the City and the Developer have agreed that the Developer will construct the City Improvements, as the same are defined and described herein, in coordination with the Developer's Work and when the City Improvements are constructed by the Developer, inspected by the City and approved/accepted, then the City will reimburse the Developer \$104,323.79 ("Reimbursement") for certain costs of construction of the City Improvements as defined and described in this Agreement.

The City has appropriated and budgeted the necessary sum of money to pay the Reimbursement upon full and faithful performance by the Developer of the obligations it has agreed to assume arising out of and under this Agreement.

NOW THEREFORE, for and in consideration of the promises contained herein, the sufficiency of which the Parties hereby acknowledge support the making and enforcement of this Agreement, the Parties mutually covenant and agree as follows:

1. Developer has constructed the Developer's Work as set forth in the Project plans, dated 2-23-2022, which are in accordance with City controls, dimensions, designs, specifications and standards (City Standards).
2. The City will pay the Reimbursement to the Developer for the actual costs without markup, incurred by the Developer for the construction of the City Improvements to City Standards. The City Improvements are:
  - a) the construction of 310 feet of curb, gutter, and sidewalk on the west side of Palmer Street just south of Highway 50 (STA 0+60.08 to STA 3+60.08) ; and,
  - b) Eight feet of asphalt (as necessary to widen the street from a 36' asphalt local commercial street to a 44' asphalt collector street) on Palmer Street/Tracy's Road from Highway 50 to Linden Avenue (STA 0+45 to STA 12+60.00); and,


- c) construction of Linden Avenue from Tracy's Road south to the existing concrete (STA 3+08.13 to STA 4+36.13).
3. Payment of the Reimbursement to the Developer for completion of the City Improvements shall not constitute acceptance by the City of the City Improvements; acceptance, if at all, shall occur after City inspection and all quality control/quality assurance testing as required by City construction specifications has been established to the City's reasonable satisfaction and shall be made by a separate writing. The City will pay the Reimbursement to the Developer for completed and accepted construction of the City Improvements within thirty (30) days of acceptance by the City.
  4. The Developer shall warrant the City Improvements for one year from the date of initial acceptance.
  5. The City may accept the construction of any City Improvement(s) that is not to City Standards and in the event that it does so, the cost of repair and/or replacement of substandard work by the City or its contractor may be offset against the amounts owing hereunder.
  6. Developer shall be wholly responsible for completion of the City Improvements and shall bear the risk of loss relating to the work and its failure to timely complete the work in accordance with City Standards. The City reserves the right to inspect and reject any or all of the City Improvements that do not conform to City Standards.
  7. The Developer and any person(s) employed by or contracted with the Developer for construction of the City Improvements shall be independent contractors and not employees or agents of the City. This Agreement does not create a partnership nor a joint venture between the Parties.
  8. This Agreement incorporates all prior discussions and agreements of the Parties regarding cost-sharing of and reimbursement for the City Improvements to benefit the Project and may not be amended except in writing duly executed by the Parties.
  9. This Agreement is binding upon and inures only to the benefit of the Parties thereto; there are no third-party beneficiaries to this Agreement.
  10. The Developer may not assign or delegate this Agreement or any portion thereof without the City's prior written consent.
  11. In no event shall the City be liable to the Developer for any indirect or consequential damages, including but not limited to loss of advantage or profit,

that the Developer or any person or entity may claim by virtue of the Developer entering into this Agreement.

12. The Developer shall be solely responsible for compliance with all applicable laws and regulations in the performance of the work to construct the City Improvements as provided in this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement:

KenCo, LLC



Ken Basinger, Managing Member  
Signing with full authority of the LLC

Date: 2/22/23

CITY OF GRAND JUNCTION

By: 

Greg Caton, City Manager

Date: 3/1/2023