



Memorandum

TO: Selestina Sandoval, City Clerk

FROM: Ashley Chambers, Housing Manager
Tamra Allen, Community Development Director

DATE: May 23, 2024

SUBJECT: Appended Contract for 428 Rockaway Drive – ADU Production Program

The ADU Production Program Agreements for 428 Rockaway Drive (attached) and 428 Rockaway Drive (detached) were amended on April 23, 2024, to change the name from Peebles DeJarnatt Living Trust to Peebles Rental Properties LLC. The dates and terms of the agreement remain the same. This change was made at the property owner's request and the amended agreement was recorded with the Mesa County Clerk and Recorder on May 9, 2024 under Reception # 3092765 and 3092766. This document is to be included in file with the City of Grand Junction.

**ADU Production Program
COVENANT AGREEMENT FORM**

RECORDING REQUESTED BY:

City of Grand Junction

AFTER RECORDING, PLEASE MAIL THIS INSTRUMENT TO:

City of Grand Junction

250 North 5th Street

Grand Junction, CO 81501

ATTN: CITY CLERK

**COVENANT AGREEMENT RESTRICTING
OCCUPANCY FOR AN ACCESSORY DWELLING UNIT
AND PROVIDING FOR ENFORCEMENT CERTAIN
TERMS AND CONDITIONS**

This Covenant Agreement Restricting Occupancy for an Accessory Dwelling Unit ("Agreement") is made and entered in to as of 10/15/2023 ("Reference Date"), by and between the City Of Grand Junction, a Colorado Home Rule municipality ("City"), and Peebles Rental Properties, LLC, the owner of real property ("Owner"), located at 428 Rockaway Ave (Attached ADU) Grand Junction, CO ("Property"). Collectively the City and the Owner may be referred to as Parties.

RECITALS

1. Owner owns the Property, which is currently developed with, or will be developed with, a single-family residence. Owner has been approved by the City to construct on the Property an Accessory Dwelling Unit ("ADU") as that term is defined in 21.04.040(f) of Grand Junction Zoning and Development Code ("Code"), as "a type of lodging wherein a dwelling unit, either in full or in part, is rented to a temporary occupant(s) for monetary consideration for fewer than 30 consecutive days."

2. Ordinarily certain city Fees, collectively known as Development Impact Fees (Fire, Police, Parks and Transportation), Persigo Wastewater and City Water Plant Investment Fee (PIFs) ("Fees") will be paid by Owner as a condition of the development of an ADU under the Code. Pursuant to this agreement, the Owner may be excused from paying the Fees if the Owner, for a period of **five (5) years**, agrees to limit occupancy of the ADU per the terms of this Agreement and not use any Dwelling Unit on the Property as a short-term rental and commits the ADU to long-term rental.

For owner-occupied (living on the Property)) Properties, an additional incentive of up to **\$15,000** total including Fee waiver may be included for an additional **two (2) year commitment (7 years total)** to not utilize the and not use any Dwelling Unit on the Property as a short-term rental and commits the ADU to long-term rental.

Owner has reviewed and accepted the terms of this Agreement and has by signing agrees to comply with this Agreement.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the Parties agree as follows:

1. The City agrees to pay as consideration for the Owner's commitments, and the Owner agrees that the consideration is adequate to support the making and enforcement of the Agreement.

2. AMOUNT OF PAID FEES

The amount of Fees to be waived pursuant to this Agreement, in total, equal to **\$ 8655.68** ("PAID Fees") and/or N/A (additional Incentive, if applicable).

3. EXECUTION AND RECORDATION OF AGREEMENT

Before the City issues a Planning Clearance for an approved ADU and agrees to pay Fees, the Owner must execute and notarize this Agreement. Following Owner's execution and notarization of this Agreement, the City will sign and record the Covenant Agreement in the office of the Mesa County Clerk and Recorder. The Agreement shall touch, concern and affect the Property as described in Exhibit A and shall be a covenant that runs with the land until released by the City.

4. The Agreement shall begin upon the issuance of a Planning Clearance for the ADU and have a term of **5 (five)** years from the date of a Certificate of Occupancy for the ADU ("Commencement Date") and ending on the **5th** (fifth) anniversary of the Commencement Date, unless the Parties hereto mutually terminate the Agreement earlier as provided in Section 8 ("Term").

5. EARLY TERMINATION OF THIS AGREEMENT

Owner may terminate this Agreement at any time by providing a signed written termination notice to the City and pay a termination fee in the following amounts: (1) twenty percent (20%) of the Total Paid Fees and any additional incentive; plus, (2) an additional 20 percent (20%) of the Paid Fees for each full or partial year left in the Term ("Termination Fee").

The following example illustrates the operation of the preceding paragraph where the paid Fees total \$15,000, and Owner terminates the Agreement with two years left in the original five-year term. In this example, the Termination Fee would be \$9000. The \$9,000 is computed as follows: (1) \$3000 representing 20% of the Waived Fees; and (2) \$6,000 representing: (i) 20% of the paid Impact Fees; multiplied by two full or partial years left on the original five-year term.

6. SALE OR TRANSFER OF TITLE

If the Property is voluntarily or involuntarily transferred or sold, the Owner must pay the Termination Fee at time of transfer or sale closing or the successor to the Owner must execute and record to the City's satisfaction a new Covenant Agreement for the remaining days/months/years. A Covenant Agreement must be executed by the new Owner and submitted to the City on terms determined by and to the City's satisfaction.

In accordance with City Code the City has a right to be paid all Fees and Extra Incentive disbursed, committed, or paid by the City for or on behalf of the Owner for the ADU, and penalties for Termination/default of any condition of this Covenant Agreement. In the event of Termination, the value of all Fees and Additional Incentive, Termination Fee, all as defined, described and made applicable by this Covenant, the Agreement and/or Ordinance and/or Resolution of the City, together with costs of collection, shall constitute a perpetual real estate lien equivalent to general property taxes.

7. DELIVERY OF OCCUPANCY CERTIFICATION FORMS AND LEASE MATERIALS TO CITY; ADDITIONAL REPORTS

(A) Within ten (10) calendar days of the date of having an initial occupant, the Owner shall provide the City (1) a fully executed long-term lease, and (2) the Occupancy Certification Forms executed by the Owner, along with any documentation provided in conjunction with the forms; and,

(B) Within ten (10) calendar days of an Annual Certification Date following an initial occupancy, the owner shall provide the City with the following (1) a copy of an executed lease for the ADU; and (2) the complete Occupancy Certification Forms executed by the Owner, along with any certification documentation provided in conjunction with those forms.

(C) The City shall keep the Occupancy Certification Forms in confidence to the extent permitted by law.

8. VIOLATIONS AND REMEDIES

(A) The Parties agree that each remedy allowed by this Agreement and the Code is a cumulative remedy and is not exclusive of any other remedy available pursuant to this Agreement, the Code or other legal authority.

(B) Owner agrees that: (1) a violation of this Agreement also constitutes both a permit violation and a Code violation for purposes of the Grand Junction Municipal Code; and (2) any violation of this Agreement may also be enforced through

the issuance of administrative citation(s) in accordance with the Grand Junction Municipal Code.

(C) For purposes of this paragraph an "Event of Default" occurs if the City notifies the Owner of a violation of this Agreement and the Owner does not fully cure the violation within ten (10) calendar days following the date of the notice, or if such a cure cannot be accomplished with diligent action within ten (10) days, within no more than sixty (60) days. If an Event of Default occurs, the City may provide written notice to the Owner that the City is terminating the Agreement and requiring the Owner to pay the City the full termination fee provided in Section 5, with a penalty of twenty percent (20%) of the paid Impact Fees ("Termination Fee and Penalty"). Until the Termination Fee and Penalty are fully paid, no use of the ADU may occur. Each day on which a use of the ADU is made, prior to payment of the Termination Fee and Penalty shall also constitute both a permit violation and a code violation.

9. ADDITIONAL TERMS

(A) The Owner shall not permit occupancy of the ADU in a manner not in compliance with Grand Junction Municipal Code or adopted Building, Fire or other life safety and/or health code.

(8) The Owner shall assure that any occupancy of the ADU occurs in a manner that satisfies all applicable laws.

10. NOTICES

Any notices pursuant to this Agreement shall be in writing and sent (i) by an established express delivery service which maintains delivery records, (ii) by hand delivery, by United States Post first class mail, postage prepaid; or (iii) by certified or registered mail, postage prepaid, return receipt requested, to the following addresses:

To City: City of Grand Junction
Attn: Housing Manager
250 N 5th Street
Grand Junction, Co. 81501

To Owner: Peebles Rental Properties, LLC
c/o: Randy Peebles
2454 Broadway Ave
Grand Junction, CO 81507

City and Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land and shall bind all successors in title to the property. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Property or any covenants or restrictions contained in this Agreement whether such covenants or restrictions are set forth in such contract, or deed.

(A) No waiver of any nature, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of such condition or of any breach, or a waiver of any other condition or breach of any other term of this Agreement.

(B) The following Exhibits are attached and incorporated herein by this reference:

Exhibit A: Legal Description of Property

Exhibit B: Occupancy Certification Form

"CITY"

City of Grand Junction

BY:

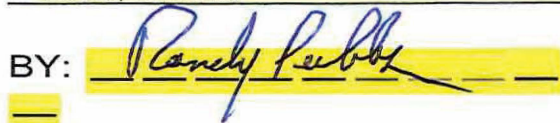


Andrea Phillips, Interim City Manager

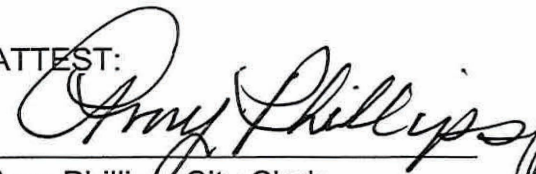
"OWNER"

Peebles Rental Properties, LLC;
Randy Peebles

BY:



ATTEST:



Amy Phillips, City Clerk



State of Colorado)

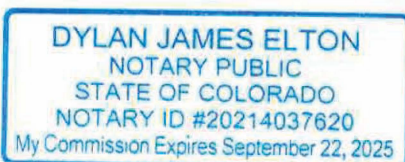
)ss.

County of Mesa)

The foregoing Agreement was acknowledged before me this 30th day of April, 2024, by Randy Peebles,

My commission expires: 09-22-2025

Witness my hand and official seal.





Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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MESA COUNTY ASSESSOR - REAL PROPERTY PUBLIC INFORMATION RETRIEVAL

BRENT GOFF, ASSESSOR Data Updated: 10/18/2023

Search By:
 Address Parcel Number Account Number Intersection Place Name Lat Lon

Enter Street Address: 428 ROCKAWAY AVE

Search by Area or Township: Zoom To...

Parcel Number <small>(Click for Map)</small>	Address	Name	Legal Description	Actual Value <small>(Click for Details)</small>
2945-154-28-017	428 ROCKAWAY AVE, GRAND JUNCTION, CO 81501	PEEBLES DEJARNATT LIVING TRUST DATED SEPTEMBER 8 2017	LOTS 31 + 32 BLK 2 JOSEPH A K CRAWFORD & THOMAS B CRAWFORD SUB- DIVISION AMENDED SEC 15 1S 1W - 0.14AC	<u>\$169,520</u>

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Grand Junction, Co. 81501

To Owner: Randy Peebles
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Grand Junction, CO 81507

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(A) No waiver of any nature, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of such condition or of any breach, or a waiver of any other condition or breach of any other term of this Agreement.

(B) The following Exhibits are attached and incorporated herein by this reference:

- Exhibit A: Legal Description of Property
Exhibit B: Occupancy Certification Form

"CITY"

City of Grand Junction

BY:

Greg Caton, City Manager

"OWNER" Peebles DeJornatt Living Trust

Randy Peebles TT

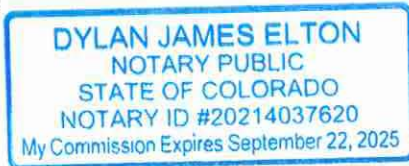
BY:

Marilyn DeJornatt Peebles TT

ATTEST:

Amy Phillips, City Clerk

State of Colorado)
)ss.
County of Mesa)




The foregoing Agreement was acknowledged before me this 18th day of October, 2023, by Randy Peebles & Marilyn DeJornatt - Peebles.

My commission expires: 09/22/2025
Witness my hand and official seal.

Dylan Elton
Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE City of Grand Junction COUNTY OF, Mesa AND IS DESCRIBED AS FOLLOWS:



MESA COUNTY ASSESSOR - REAL PROPERTY PUBLIC INFORMATION RETRIEVAL

BRENT GOFF, ASSESSOR Data Updated: 10/18/2023

Search By:
 Address Parcel Number Account Number Intersection Place Name Lat Lon

Enter Street Address:

Search by Area or Township: ▼

Parcel Number <small>(Click for Map)</small>	Address	Name	Legal Description	Actual Value <small>(Click for Details)</small>
2945-154-28-017	428 ROCKAWAY AVE, GRAND JUNCTION, CO 81501	PEEBLES DEJARNATT LIVING TRUST DATED SEPTEMBER 8 2017	LOTS 31 + 32 BLK 2 JOSEPH A K CRAWFORD & THOMAS B CRAWFORD SUB- DIVISION AMENDED SEC 15 1S 1W - 0.14AC	\$169,520

STATEMENT OF AUTHORITY

- This Statement of Authority relates to an entity¹ named the Peebles DeJarnatt Living Trust, dated September 8, 2017, and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.
- The type of entity is a:

<input type="checkbox"/> corporation	<input type="checkbox"/> registered limited liability partnership
<input type="checkbox"/> nonprofit corporation	<input type="checkbox"/> registered limited liability limited partnership
<input type="checkbox"/> limited liability company	<input type="checkbox"/> limited partnership association
<input type="checkbox"/> general partnership	<input type="checkbox"/> government or governmental subdivision or agency
<input type="checkbox"/> limited partnership	<input checked="" type="checkbox"/> trust (Section 38-30-108.5, C.R.S.)
<input type="checkbox"/> other:	
- The entity is formed under the laws of: Colorado
- The mailing address for the entity is: 2454 Broadway, Grand Junction, Colorado 81507
- The name position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is: Randy W. Peebles, Co-Trustee, and Marilyn DeJarnatt Peebles, Co-Trustee. Either Co-Trustee, acting alone, may execute instruments on behalf of the trust.
- ² The authority of the foregoing person(s) to bind the entity is not limited limited as follows:
- Other matters concerning the manner in which the entity deals with interests in real property: NONE

Executed this 8th day of September, 2017.

Randy W. Peebles
Randy W. Peebles

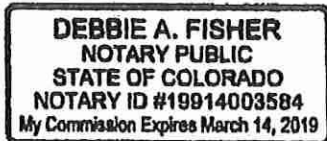
Marilyn DeJarnatt Peebles
Marilyn DeJarnatt Peebles

STATE OF COLORADO)
County of Mesa) ss.

The foregoing instrument was acknowledged before me this 8th day of September, 2017, by Randy W. Peebles and Marilyn DeJarnatt Peebles.

Witness my hand and official seal. 3-14-2019
My commission expires:

Debbie A. Fisher
Notary Public



¹This form should not be used unless the entity is capable of holding title to real property.
²The absence of any limitation shall be prima facie evidence that no such limitation exists.
³The statement of authority must be recorded to obtain the benefits of the statute.