



# FRUITA HOUSING AUTHORITY MEETING AND JOINT CITY COUNCIL AND HOUSING AUTHORITY MEETING

Fruita Civic Center  
Tuesday, April 04, 2023 at 5:30 PM

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## AGENDA

*The link to join the join the meeting electronically will be posted prior to the meeting at <https://www.fruita.org/bc-ham/page/housing-authority-meeting-information>. You may also contact the Housing Authority at (970) 858-3663 for information to connect to the meeting. This agenda is for informational purposes only and items may be added or deleted at the discretion of the Housing Authority. An executive session may be requested for any item appearing on the agenda.*

### CALL TO ORDER AND ROLL CALL

### AGENDA - ADOPT/AMEND

### CONSENT AGENDA

1. MINUTES - A request to approve the minutes of the March 7, 2023 Housing Authority meeting

### PUBLIC HEARINGS

2. RESOLUTION FHA 2023-01 – A Resolution Adopting a Budget and Appropriating Sums of Money for the Fruita Housing Authority for the Calendar Year Beginning on the First Day of January 2023 and Ending on the Last Day of December 2023

### OPEN JOINT MEETING

### JOINT MEETING AGENDA ITEMS

3. PRESENTATION - IndiBuild Presentation to Fruita City Council and Fruita Housing Authority on Proposals Regarding Fruita Mews.
4. JOINT EXECUTIVE SESSION – To convene in a Joint Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to C.R.S. Sec. 24-6-402(4)(e) with regard to a request from IndiBuild, LLC/Fruita Mews and receiving legal advice from attorneys pursuant to C.R.S. Sec. 24-6-402(4)(b) regarding the same.

### RECONVENE FROM EXECUTIVE SESSION TO JOINT MEETING

5. RESOLUTION FHA 2023-02 – A Resolution of the Board of Commissioners of the Fruita Housing Authority Concerning Becoming a Limited Partner in the Owners of the Fruita Mews Project.

6. **INDIBUILD PROPOSAL** – Discussion and possible action regarding request for waiver of development impact fees and acceptance of internal roadway network as public improvements

**FRUITA HOUSING AUTHORITY  
IN PERSON MEETING  
MARCH 7, 2023  
6:00 P.M.**

**1. CALL TO ORDER AND ROLL CALL**

The second regular meeting of the Fruita Housing Authority was called to order by Joel Kincaid, designated Chairman of the Authority, at 6:00 p.m. The meeting was held in person and virtually.

**Present:**

Chairman Joel Kincaid  
Vice-Chairman Matthew Breman  
Commissioner Jeannine Purser  
Commissioner James Williams  
Commissioner Ken Kreie  
Commissioner Amy Miller  
Commissioner Aaron Hancey

**Excused Absent**

(None)

**Housing Authority staff present:**

Director Mike Bennett  
Director Designee Shannon Vassen  
Secretary Deb Woods  
Treasurer Margaret Sell  
Housing Authority Attorney Mary Elizabeth Geiger  
Communications and Engagement Specialist Ciara DePinto

**CONSENT AGENDA – ADOPT/AMEND**

- 1. MINUTES – APPROVAL OF THE MINUTES OF JANUARY 17, 2023**
- 2. ATTORNEY ENGAGEMENT LETTER – A REQUEST TO APPROVE THE ENGAGEMENT OF BUTLER SNOW TO PROVIDE LEGAL SERVICES TO THE FRUITA HOUSING AUTHORITY**

Chairman Kincaid asked if there were any requests to remove any item(s) from the Consent agenda for further discussion. There were no such requests.

**COMMISSIONER BREMAN MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COMMISSIONER HANCEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**OTHER AGENDA ITEMS**

- 3. PRESENTATION AND OVERVIEW OF PROPOSED 2023 FRUITA HOUSING AUTHORITY BUDGET**

Director Designee Shannon Vassen presented the proposed draft 2023 Fruita Housing Authority Budget. He explained that now that the Authority has entered into an agreement with Butler Snow,

the Authority needs a budget to be able to pay expenses such as legal fees and publishing costs for notices to the public.

Chairman Joel Kincaid asked if the revenue in the Housing Authority Budget came from the City of Fruita's lodging tax or General Fund. Director Mike Bennett responded that when staff comes to the City Council to appropriate the funds, it will show where the funds will be coming from.

- **COMMISSIONER KREIE MOVED TO SCHEDULE A MEETING FOR APRIL 4, 2023 AT 6:00 PM AND PUBLISH NOTICE FOR THE ADOPTION OF THE HOUSING AUTHORITY BUDGET. COMMISSIONER MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- 4. EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM THE HOUSING AUTHORITY ATTORNEY AND SPECIAL COUNSEL PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME**
- **COMMISSIONER PURSER MOVED TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM THE HOUSING AUTHORITY ATTORNEY AND SPECIAL COUNSEL PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME. COMMISSIONER HANCEY SECONDED THE MOTION. THERE WERE SIX YES VOTES.**

*The Fruita Housing Authority convened in Executive Session at 6:06 p.m. The regular meeting of the City Council reconvened at 6:55 p.m.*

With no further business to come before the Fruita Housing Authority, the meeting was adjourned at 6:55 p.m.

Respectfully submitted,

Debra Woods  
Secretary  
Fruita Housing Authority



# FRUITA COLORADO

## AGENDA ITEM COVER SHEET

**TO:** FRUITA HOUSING AUTHORITY

**FROM:** MIKE BENNETT, FRUITA HOUSING AUTHORITY EXECUTIVE DIRECTOR

**DATE:** APRIL 4, 2023

**AGENDA TEXT:** RESOLUTION FHA 2023-01 – A Resolution Adopting a Budget and Appropriating Sums of Money for the Fruita Housing Authority for the Calendar Year Beginning on the First Day of January 2023 and Ending on the Last Day of December 2023

### BACKGROUND

A draft copy of the 2023 Budget for the Fruita Housing Authority was presented to the Board of Commissioners at their regular meeting on March 7, 2023. The current draft of the proposed budget can be found online on our website [here](#) and is attached with this cover sheet. The purpose of this agenda item is to conduct a public hearing on the proposed budget, approve the budget, and appropriate funds for the budget.

There have been no changes to the proposed Fruita Housing Authority budget since it was presented to the Board of Commissioners.

### FISCAL IMPACT

Adoption of the 2023 Annual Budget has an overall fiscal impact of \$15,100.

This amount includes current year revenues of:	\$15,100.00
Use of Available Funds:	\$ 0.00
Total	\$15,100.00

### OPTIONS AVAILABLE TO THE COMMISSION

1. Approve RESOLUTION FHA 2023-01 and Adopt a Budget for the Fruita Housing Authority and Appropriate Sums of Money
2. Make amendments to the Budget and adopt a revised 2023 Annual Budget

### RECOMMENDATION

It is the recommendation of staff that the Fruita Housing Authority move to:

- **ADOPT RESOLUTION FHA 2023-01 - ADOPTING A BUDGET AND APPROPRIATING SUMS OF MONEY FOR THE FRUITA HOUSING AUTHORITY BUDGET FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2023 AND ENDING ON THE LAST DAY OF DECEMBER 2023**

**RESOLUTION FHA 2023-01**

**A RESOLUTION ADOPTING A BUDGET AND APPROPRIATING  
SUMS OF MONEY FOR THE FRUITA HOUSING AUTHORITY FOR  
THE CALENDAR YEAR BEGINNING ON  
THE FIRST DAY OF JANUARY 2023 AND ENDING ON THE  
LAST DAY OF DECEMBER 2023**

**WHEREAS**, the Board of Commissioners of the Fruita Housing Authority have appointed an Executive Director to prepare and submit a proposed budget to said governing body at the proper time, and,

**WHEREAS**, the Executive Director submitted a proposed budget to this governing body on March 7, 2023, for its consideration, and,

**WHEREAS**, upon due and proper notice, published in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on April 4, 2023, and interested taxpayers were given the opportunity to file or register any objections to said proposed budget, and,

**WHEREAS**, whatever increase may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law, pursuant to §29-1-108, C.R.S. and,

**WHEREAS**, this budget is in compliance with Article X, Section 20 of the Colorado State Constitution,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FRUITA HOUSING AUTHORITY:**

**Section 1:** The estimated expenditures for the Fruita Housing Authority General Fund are: \$15,100

**Section 2:** The estimated revenues for the Fruita Housing Authority General Fund are: \$15,100

**Section 3:** The 2023 Budget for the Fruita Housing Authority is hereby approved and adopted and made a part of the public records of the City.

**Section 4:** That the following sums are hereby appropriated from 2023 revenues from the Fruita Housing Authority for the expenditures of the Housing Authority General Fund for the purposes stated: Housing Authority General Fund-Current Operating Expenses - \$15,100

**PASSED AND ADOPTED BY THE FRUITA HOUSING AUTHORITY  
THIS 4TH DAY OF APRIL 2023**

ATTEST:

Fruita Housing Authority

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Joel Kincaid, Chair



# Component Unit - Housing Authority

## Revenues

Account	Description	2020 Actual	2021 Actual	2022 Budget	2022 Estimated	2023 Budget	% Chg.
<b>INTERGOVERNMENTAL REVENUE</b>							
3300	City of Fruita Contribution	-	-	-	-	15,100	N/A
		-	-	-	-	15,100	N/A
<b>CHARGES FOR SERVICES</b>							
3400	Developer Reimbursement	-	-	-	-	-	N/A
		-	-	-	-	-	N/A
<b>MISCELLANEOUS REVENUES</b>							
3600	Miscellaneous Revenue	-	-	-	-	-	N/A
		-	-	-	-	-	N/A
<b>TOTAL REVENUES</b>		-	-	-	-	<b>15,100</b>	<b>N/A</b>

## Expenses

Account	Description	2020 Actual	2021 Actual	2022 Budget	2022 Estimated	2023 Budget	% Chg.
<b>PURCHASED PROFESSIONAL SERVICES</b>							
4330	Legal Services	-	-	-	-	15,000	N/A
		-	-	-	-	15,000	
<b>OTHER PURCHASED SERVICES</b>							
4551	Publishing	-	-	-	-	100	N/A
		-	-	-	-	100	N/A
<b>TOTAL EXPENSES</b>		-	-	-	-	<b>15,100</b>	<b>N/A</b>



# FRUITA

## COLORADO

## AGENDA ITEM COVER SHEET

**TO:** JOINT MEETING OF FRUITA CITY COUNCIL & FRUITA HOUSING AUTHORITY

**FROM:** MIKE BENNETT, CITY MANAGER & FRUITA HOUSING AUTHORITY EXECUTIVE DIRECTOR

**DATE:** APRIL 4, 2023

**AGENDA TEXT:** PRESENTATION - IndiBuild Presentation to Fruita City Council and Fruita Housing Authority on Proposals Regarding Fruita Mews.

### BACKGROUND

In May of 2022, IndiBuild was awarded 9% Low Income Housing Tax Credits by the Colorado Housing Finance Authority to develop 44 affordable housing units ranging from 30% AMI – 60% AMI. IndiBuild has furnished the Fruita Housing Authority (“FHA”) Board of Commissioners with their cash flow analysis for the development. IndiBuild will present the two proposals regarding the Fruita Mews affordable housing development as summarized here.

#### Fruita City Council

IndiBuild has requested that the Fruita City Council:

1. Development impact fees:
  - a. Waive development impact fees as enumerated below; or
  - b. Accept payment of impact fees, but then lend the payment back to the project as a long-term, low-interest subordinate loan.
2. Public improvements:
  - a. Accept dedication of internal roadways as public improvements after City staff reviews and approves the revised construction plans and specifications.

#### Fruita Housing Authority

IndiBuild is requesting that the FHA enter into a special limited partnership (“SLP”) with them that would provide the following benefits to the Mews Project:

1. Exemption from sales/use tax on building materials and
2. Exemption/Abatement of property taxes.

If the FHA is interested in becoming a special limited partner for the Fruita Mews Project, a resolution (FHA 2023-02) is included for consideration.

**FISCAL IMPACT FOR FRUITA HOUSING AUTHORITY**

If the FHA were to participate as a SLP, the estimated fiscal impact for the project is as follows:

- 1. Sales & Use Tax Abatement of 8.27% for the entire 50 unit development:
  - 8.27% (State, County and City)      \$ 465,046
  - 3.00% (City - Fruita portion):      \$ 168,699
  
- 2. Property Tax Abatement for the entire 50 unit development over the 15 year cash flow analysis period based on an estimated \$15 million market value:
  - All taxing entities:      \$ 1,069,447
  - IndiBuild estimates:      \$ 390,000
  - Fruita portion:      \$ 130,853

It is important to note that said sale/use and property taxes would not otherwise be collected if the project were not to develop.

Pursuant to C.R.S. 29-4-227, the determination by an authority of the percentage of the project that qualifies for the exemptions from payment of property taxes and sales and use taxes may be made on the basis of either the relative square footage or cost and is presumed valid absent manifest error.

If the FHA were to participate as a SLP, the FHA would receive the following benefits:

- 1. First right of refusal for purchase of the property after 15 years (details be determined)
- 2. Annual fee of \$5,000 (adjusted 3% annually) for total of \$92,995 over the 15-yr period.
- 3. Reimbursement of out-of-pocket legal expenses of the FHA estimated at \$50,000.

**FISCAL IMPACT FOR CITY OF FRUITA**

- 1. Request for City to waive payment of all, a portion of the development impact fees, or allow the fees to be paid over time at a low interest rate in a subordinate position.
  - a. Open Space Fee      \$ 93,000
  - b. Transportation Impact Fee      \$172,225  
*(includes a per unit credit of \$2,223 for improvements to K 4/10 Rd.)*
  - c. Chip Seal Fee      \$ 20,927  
*(IndiBuild estimate with dedication of internal roads – currently \$4,850 based on exterior K.4 Road only)*
  - TOTAL**      \$270,750
  
- 2. Acceptance of internal roadways as public improvements:
  - a. Additional maintenance and improvements cost to internal roadway network

**OPTIONS AVAILABLE TO THE COMMISSION AND CITY COUNCIL**

After the presentation from IndiBuild, the Fruita Housing Authority and the Fruita City Council may adjourn to executive session to discuss these proposals. Upon reconvening from executive session both entities will reconvene into open session for further discussion and possible action.



February 21, 2023

Fruita Housing Authority  
 Attention: Mike Bennett, Executive Director  
 325 E. Aspen Avenue  
 Fruita, Colorado 81521

RE: The Fruita Mews Partnership Opportunity

Dear Mr. Bennett,

IndiBuild LLC is pleased to present the Fruita Housing Authority with an opportunity to serve as a limited partner in the ownership of The Fruita Mews, a fifty-unit affordable housing community that will be developed in the City of Fruita.

The Colorado Housing and Finance Authority awarded The Fruita Mews an allocation of federal Low-Income Housing Tax Credits last May. Since then, our team has secured financing and development partners. We expect to close on the financing and begin construction this spring.

Partnerships between private developers and local housing authorities have become a regular feature of affordable housing projects in Colorado. The housing authority's participation would allow the project to qualify for property, sales, and use tax exemptions under state statute.

For the Housing Authority's participation, IndiBuild will:

1. grant the Housing Authority a right of first refusal and purchase option to acquire the project at a discounted price at the end of the project's fifteen-year tax credit compliance period;
2. pay the Housing Authority an annual fee from the project's cash flow;
3. arrange a grant from the Colorado Housing and Finance Authority, which the Housing Authority will lend to the project, and which the project will repay from its cash flow; and
4. reimburse the Housing Authority for its out-of-pocket expenses, including reasonable attorney's fees, related to its participation.

Attached to this letter you will find a proposed organizational chart of the project's ownership entity and a good-faith estimate of the value of the tax exemptions. We would be happy to provide you with other information about the project or the proposed role of the Housing Authority role upon request.

IndiBuild respectfully requests the Fruita Housing Authority pass a resolution authorizing its participation in the project and delegating authority to its Executive Director to negotiate the terms of the Housing Authority's participation.

On behalf of IndiBuild,

Kim Coughlin, Founder & Principal

Attachments: Fruita Mews LLLP Organizational Chart  
 Estimate of Tax Exemptions

[info@indibuild.com](mailto:info@indibuild.com)

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**Fruita Mews**

Impact of Housing Authority Participation as SLP

**Sales and Use Tax Abatement**

Construction Contract	14,058,237
less non taxable	(8,434,942)
Taxable Amount	5,623,295
Sales Tax	8.27%
<b>Estimated Sales Tax Savings</b>	<b>465,046</b>

**Property Tax Abatement**

Estimated Property Tax	26,000
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<b>Increased Borrowing Amount</b>	<b>330,427</b>
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**Loan Terms**

Interest Rate (TBD)	6.00%
Amortization	35
DSCR	1.15

<b>TOTAL VALUE OF SLP TO LLLP</b>	<b>795,473</b>
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March 16, 2023

City of Fruita  
Attention: Mike Bennett, City Manager  
325 E. Aspen Avenue  
Fruita, Colorado 81521

RE: Impact Fee Waivers and Sales and Use Tax Exemption for Fruita Mews

Dear Mr. Bennett,

IndiBuild LLC is grateful for the support it has received from the City of Fruita for our fifty-unit affordable housing project.

We respectfully request the City of Fruita either waive or consider an alternative arrangement for the payment of impact fees.

Current economic conditions — specifically recent increases in interest rates and construction costs — have created challenges for all real estate development. These challenges have been particularly acute for affordable housing developers, which cannot simply pass the increased costs along to future residents because rents are restricted based on tenants’ incomes, which have not increased as quickly as development costs.

The development of affordable housing has always relied on partnerships between private developers and all levels of government. For Fruita Mews, our team has secured an allocation of federal Low-Income Housing Tax Credits, which we expect will yield more than \$12 million of private sector investment, and we have requested subsidized loans from the State of Colorado of over \$7 million. The State has conditioned its award on an increase in local support for the project.

Impact Fees

We acknowledge our project will result in increased use of existing City services and facilities that justify the imposition of impact fees. We request the City either: (i) waive certain impact fees enumerated below; or (ii) accept payment of impact fees, but then lend the payment back to the project as a long-term, low-interest subordinate loan. Although we request the City waive or lend the entire amount of the impact fees identified below, we would be grateful for any amount of financial support the City can offer.

Impact Fee	IndiBuild Estimate
Parks, Open Space, and Trails	\$93,000
Transportation	\$172,085
Chip/Seal	\$20,927
<b>Total</b>	<b>\$286,012</b>

Section 17.47.070(H) of the City’s Land Use Code allows City Council to “waive . . . or alter all or some of the impact fees . . . upon finding such waiver [or] alteration . . . is necessary to promote the economic development of the city or public health, safety and general welfare of its residents.”

info@indibuild.com

Affordable housing solutions - design | build | attain | sustain

Fruita Mews will both promote economic development and the general welfare of the City's residents. The project includes \$16 million of construction-related expenses, much of which will inure to contractors and consultants in the Grand Valley. More importantly, the project will provide the City with fifty income-restricted housing units. The City's *Comprehensive Plan*, which City Council approved in 2020, says, "The availability of workforce housing is now an economic development issue in Fruita. . . . Local businesses are experiencing workforce shortages." The *Grand Valley Housing Needs Assessment* commissioned by the City of Grand Junction in 2021 identified a shortage of more than 3,700 affordable rental units in Mesa County. At a City Council workshop last August, consultants hired by the City estimated the City will need 2,530 additional housing units over the next twenty years.

Other local governments in Colorado have supported affordable housing projects in this manner.

#### Road Dedication

We may request, by an amended plat map, that the City accept dedication of Fruita Mews' internal roadway. Financially, the dedication would save about \$52,000 of upfront construction costs but would increase Ute Water District's monthly fire-line water service fee by \$450, or about \$81,000 over the initial fifteen-year period. More importantly, the dedication would save maintenance costs over the long-term life of the project, which would reduce operating costs for future owners.

IndiBuild respectfully requests City Council pass a resolution authorizing a waiver or alternative arrangement for the payment of certain impact fees. We may request the City accept dedication of roadways after City staff reviews and approves our revised construction plans and specifications.

On behalf of IndiBuild,



Kim Pardoe, Founder & Principal



**FRUITA**  
COLORADO

## AGENDA ITEM COVER SHEET

**TO:** JOINT FRUITA CITY COUNCIL AND FRUITA HOUSING AUTHORITY

**FROM:** MIKE BENNETT, CITY MANAGER AND FRUITA HOUSING AUTHORITY EXECUTIVE DIRECTOR

**DATE:** APRIL 4, 2023

**AGENDA TEXT:** JOINT EXECUTIVE SESSION – To convene in a Joint Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to C.R.S. Sec. 24-6-402(4)(e) with regard to a request from IndiBuild, LLC/Fruita Mews and receiving legal advice from attorneys pursuant to C.R.S. Sec. 24-6-402(4)(b) regarding the same.

### BACKGROUND

The Fruita City Council and Fruita Housing Authority have reason to convene in a Joint Executive Session for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to CRS Sec. 24-6-402(4)(e) with regard to a request from IndiBuild, LLC/Fruita Mews and receiving legal advice from attorneys pursuant to CRS Sec. 24-6-402(4)(b) regarding the same. To convene in executive session, state law requires that a motion with specific language request the Executive Session be passed with 2/3 of the governing bodies voting in the affirmative for said motion.

### RECOMMENDATION

It is the recommendation of staff that the Fruita Housing Authority and Fruita City Council move to:

- **CONVENE IN A JOINT EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SEC. 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM ATTORNEYS PURSUANT TO C.R.S. SEC. 24-6-402(4)(B) REGARDING THE SAME.**



ANNOUNCEMENT NO. 1

***ANNOUNCEMENT TO BE MADE BY CHAIRMAN/MAYOR  
AT THE BEGINNING OF THE EXECUTIVE SESSION  
(MAKE SURE THE SESSION IS BEING RECORDED;  
DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION  
UNLESS SO ADVISED BY LEGAL COUNSEL.)***

It's April 4, 2023 and the time is \_\_\_\_\_. For the record, I am the Chairman of the Housing Authority and Mayor of the City of Fruita, Joel Kincaid. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons:

\_\_\_\_\_.

This is an executive session with attorneys for the following purposes:

- **TO CONVENE IN A JOINT EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO CRS SEC. 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM ATTORNEYS PURSUANT TO CRS SEC. 24-6-402(4)(B) REGARDING THE SAME.**

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.

**ANNOUNCEMENT NO. 2*****ANNOUNCEMENT TO BE MADE BY THE CHAIRMAN/MAYOR  
BEFORE CONCLUDING THE EXECUTIVE SESSION  
(WHILE THE SESSION IS STILL BEING RECORDED)***

I hereby attest that this recording reflects the actual contents of the discussion at the executive session and has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law.

\_\_\_\_\_ I will have the Deputy City Clerk retain the recording for a 90-day period.

***OR***  
***(if City personnel was the  
subject of the session and  
was not present at the session)***

\_\_\_\_\_ I will retain the tape in my possession for a 90-day period.

The time is now \_\_\_\_\_, and we now conclude the executive session and return to the open meeting.

***(stop recording and return to open meeting)***



# FRUITA COLORADO

## AGENDA ITEM COVER SHEET

**TO:** FRUITA HOUSING AUTHORITY

**FROM:** MIKE BENNETT, CITY MANAGER & FRUITA HOUSING AUTHORITY EXECUTIVE DIRECTOR

**DATE:** APRIL 4, 2023

**AGENDA TEXT:** RESOLUTION FHA 2023-02 – A Resolution of the Board of Commissioners of the Fruita Housing Authority Concerning Becoming a Limited Partner in the Owners of the Fruita Mews Project.

### BACKGROUND

IndiBuild has presented on the two proposals regarding the Fruita Mews development (“the development”) as summarized here.

#### Fruita Housing Authority

In May of 2022, IndiBuild was awarded 9% Low Income Housing Tax Credits by the Colorado Housing Finance Authority (CHFA) to develop 44 of the units as affordable housing units with rents ranging from 30% to 60% of the Average Median Income (AMI) with the remaining 6 units at 120% of AMI. IndiBuild has furnished the Fruita Housing Authority (“FHA”) their 15 year cash flow model for the project. IndiBuild is requesting that the FHA enter into a special limited partnership (“SLP”) with IndiBuild. This SLP would provide the following benefits to the project:

- 1) Sales/use tax exemption on building materials, and
- 2) Exemption from property taxes

If the FHA is interested in becoming a SLP with IndiBuild for the Fruita Mews Project, Resolution FHA 2023-02 is attached for consideration.

### FISCAL IMPACT FOR FHA

If the FHA were to participate as a SLP, the estimated fiscal impact for the project is as follows:

- 1) Sales & Use Tax Abatement of 8.27% for the entire 50 unit development :
 

8.27% (State, County and City)	\$465,046
3.00% (City - Fruita portion):	\$168,699
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IndiBuild estimates:	\$ 390,000
Fruita portion:	\$ 130,853

It is important to note that said sale/use and property taxes would not otherwise be collected if the project were not to develop.

Pursuant to C.R.S. 29-4-227, the determination by an authority of the percentage of the project that qualifies for the exemptions from payment of property taxes and sales and use taxes may be made on the basis of either the relative square footage or cost and is presumed valid absent manifest error.

*If the FHA were to participate as a SLP, the FHA would receive the following benefits:*

1. First right of refusal for purchase of the property after 15 years (details be determined)
2. Annual fee of \$5,000 (adjusted 3% annually) for total of \$92,995 over the 15-yr period.
3. Reimbursement of out-of-pocket legal expenses of the FHA estimated at \$50,000.

#### **OPTIONS AVAILABLE TO THE COMMISSION**

1. APPROVE RESOLUTION FHA 2023-02 AS PRESENTED OR WITH AMENDMENTS DIRECTING THE EXECUTIVE DIRECTOR TO WORK WITH THE FHA ATTORNEY TO EXECUTE A LIMITED LIABILITY PARTNERSHIP AGREEMENT WITH INDIBUILD AND MAKE A DETERMINATION AS TO THE PERCENTAGE OF THE DEVELOPMENT THAT WILL QUALIFY AS LOW INCOME AS REQUIRED BY C.R.S 29-4-227
2. TAKE NO ACTION AND DECLINE TO BE A PARTICIPANT IN THE SPECIAL LIMITED LIABILITY PARTNERSHIP WITH INDIBUILD

#### **RECOMMENDATION**

It is the recommendation of staff that the Fruita Housing Authority move to:

APPROVE RESOLUTION FHA 2023-02 DIRECTING THE EXECUTIVE DIRECTOR TO EXECUTE A LIMITED LIABILITY PARTNERSHIP AGREEMENT WITH INDIBUILD AND MAKE A DETERMINATION AS TO THE PERCENTAGE OF THE DEVELOPMENT THAT WILL QUALIFY AS LOW INCOME AS REQUIRED BY C.R.S 29-4-227

**RESOLUTION FHA 2023-02**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE FRUITA HOUSING AUTHORITY CONCERNING  
BECOMING A LIMITED PARTNER IN THE OWNER OF  
THE MEWS PROJECT.**

**WHEREAS**, IndiBuild LLC (“IndiBuild”) proposes to develop an affordable housing project (the “MEWS Project) in the City of Fruita; and

**WHEREAS**, the MEWS Project is proposed to include 50 for rent homes serving persons making between 30% and 120% of area median income; and

**WHEREAS**, the Colorado Housing and Finance Authority has awarded a 9% low income housing tax credit to the MEWS Project; and

**WHEREAS**, C.R.S. § 29-4-227 provides for an exemption from property taxes and, during construction, from sales and use taxes for any project which is owned by an entity in which a housing authority has an ownership interest; and

**WHEREAS**, IndiBuild has requested that the Fruita Housing Authority (“FHA”) become a limited partner in a limited partnership to be formed to own the MEWS Project (the “Partnership”); and

**WHEREAS**, FHA wishes to support the MEWS Project by becoming a limited partner in the Partnership in order to provide the tax exemption authorized by C.R.S. § 29-4-227.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE FRUITA HOUSING AUTHORITY:**

Section 1. FHA determines that FHA should become a limited partner in the Partnership and directs the Executive Director execute a limited liability partnership agreement in a form approved by the FHA Attorney and to execute such other documents necessarily related to FHA becoming a limited partner in the Partnership in forms approved by the FHA Attorney. FHA further directs the Executive Director to make a determination as to the percentage of the MEWS Project is for occupancy by persons of low income as required by C.R.S. § 29-4-227.

Section 2. This Resolution shall be effective as of the date of its adoption.

ADOPTED this 4th day of April, 2023.

FRUITA HOUSING AUTHORITY

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Chair

ATTEST:

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Board Secretary

APPROVED AS TO FORM:

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Attorney



# FRUITA

## COLORADO

## AGENDA ITEM COVER SHEET

**TO:** FRUITA CITY COUNCIL

**FROM:** MIKE BENNETT, CITY MANAGER

**DATE:** APRIL 4, 2023

**AGENDA TEXT:** INDIBUILD PROPOSAL – Discussion and possible action regarding request for waiver of development impact fees and acceptance of internal roadway network as public improvements

### BACKGROUND

IndiBuild has presented on the two proposals regarding the Fruita Mews development as summarized here.

IndiBuild has requested that the Fruita City Council:

1. Development impact fees:
  - a. Waive development impact fees as enumerated below; or
  - b. Accept payment of impact fees, but then lend the payment back to the project as a long-term, low-interest subordinate loan.
2. Public improvements:
  - a. Accept dedication of internal roadways as public improvements after City staff reviews and approves the revised construction plans and specifications.

### FISCAL IMPACT

1. Request for City to waive payment of all, a portion of the development impact fees, or allow the fees to be paid over time at a low interest rate in a subordinate position.
 

a. Open Space Fee	\$ 93,000
b. Transportation Impact Fee <i>(includes a per unit credit of \$2,223 for improvements to K 4/10 Rd.)</i>	\$172,225
c. Chip Seal Fee <i>(IndiBuild estimate with dedication of internal roads – currently \$4,850 based on exterior K.4 Road only)</i>	<u>\$ 20,927</u>
<b>TOTAL</b>	<b>\$270,750</b>
2. Acceptance of internal roadways as public improvements:
  - a. Additional maintenance and improvements cost to internal roadway network

**OPTIONS AVAILABLE TO THE CITY COUNCIL**

1. Approve either one or both requests for a) waiver of impact fees or deferral of impact fees and b) acceptance of internal roadway as a public improvement, as presented or with modifications
2. Deny the request
3. Provide direction to staff to develop a broader policy on impact fee waivers and/or incentives for all affordable housing developments