



# *Sunset City Corporation*

200 West 1300 North • Sunset City, Utah 84015 • 801-825-1628

Mayor:

Scott Wiggill

Council:

Nancy Smalling

Nakisha Rigley

Hope Thompson

Ricky Carlson

Sam Bartling

## **CITY COUNCIL AGENDA REGULAR MEETING**

PUBLIC NOTICE IS HEREBY GIVEN that the Sunset City Council will hold a regular meeting at 6:30 p.m. on Wednesday, November 5, 2025 at the Sunset City Office Building, 200 West 1300 North, Sunset, Utah. Any information or items for the Council's consideration must be furnished at least ten (10) working days prior to the scheduled meeting to give the needed time to study the request. Agenda shall be as follows:

### REGULAR SESSION

- A. CALL TO ORDER & WELCOME
- B. INVOCATION OR INSPIRATIONAL THOUGHT AND PLEDGE OF ALLEGIANCE by Council Member Rigley
- C. APPROVAL OF MINUTES – October 7, 2025 and October 20, 2025
- D. PUBLIC COMMENTS

### AGENDA ITEMS

- 1. Discuss and Approve Amendments to the Plat for Falcon Ridge Building #2
- 2. Discuss Terms for the Development Agreement for the Ascend Land Development Project
- 3. Approve Development Agreement for the Ascend Land Development Project Based on Discussion and Changes from Agenda Item #2
- 4. Mayor, Council and Department Head Reports
- 5. Adjourn

Possible closed meeting for reasons allowed by Utah State Code 52-4-205.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Sunset City Offices, (801) 825-1628, at least three (3) working days prior to this meeting. Anchor location for electronic meetings by telephone device is 200 W 1300 N, Sunset UT 84015. With the adoption of Ordinance 1-6-3, the Council may participate per Electronic Meeting Rules. Please make arrangements in advance. Posted and e-mailed to local newspaper – October 31, 2025.

Nicole Supp, Recorder

Minutes of a regular meeting held October 7, 2025 at Sunset City Hall, 200 West 1300 North, Sunset, Utah; Mayor Wiggill presiding.

**REGULAR SESSION**

**Mayor and Council Present:**

Scott Wiggill	Mayor
Sam Bartling	Council Member
Ricky Carlson	Council Member
Nakisha Rigley	Council Member
Nancy Smalling	Council Member
Hope Thompson	Council Member

**City Employees Present:**

Recorder Supp	Recorder
Brett Jamison	Police Chief
Jason Monroe	Public Works Director
Joe Baca	Police Sergeant
Brendan Davis	Police Sergeant
Dalton Smuin	City Attorney (Electronically)

**Others Present:**

Katherine Hunter	Sunset
Marcia Hamblin	Sunset
Martin Harder	Clinton
Brenda Ewell	Sunset
Joseph Cook	Ascend Development
Henry De'Varona	Ascend Development
Matt Carter	1300 N Development
Kevin Simmons	1300 N Development

The regular session was called to order at 6:31 p.m. by Mayor Wiggill.

Council Member Bartling gave a prayer/inspirational thought and led the Pledge of Allegiance.

**APPROVAL OF VOUCHERS:** \$13,240.00 to Workhorse Excavation for the Final Payment on the Sprinkler Vault Removal, \$195,983.29 to UDOT for the Betterment Agreement for the 1800 North Interchange and Young Auto in the amount of \$42,203 for 2026 Dodge Durango Police Vehicle.

Council Member Rigley made a motion to approve the vouchers for Workhorse Excavation, UDOT and Young Auto and Council Member Smalling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

**APPROVAL OF MINUTES:** Council Member Smalling made a motion to approve the meeting minutes from September 2, 2025 and the Closed Session on September 2, 2025 as presented and

Council Member Rigley seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

**Public Comments:** Martin Harder – owns commercial property at 269 W 1260 N, Mr. Harder stated he owned property within the City limits and wished to ask if there was any way to determine whether he had an advocate or some form of advocacy through the City of Sunset. Mr. Harder mentioned that while he recognized the City's major development project as impressive, the project's work had led to trespassing and infringements on his property rights. Heavy equipment had repeatedly entered or driven through his parking area and approach. He stated he had spoken to the developer responsible multiple times but continued to experience the same issue. Mr. Harder requested that someone from the City Council contact him to explain what options were available and who he should speak with regarding the matter. Mayor Wiggill thanked Mr. Harder for his comments and asked that he provide his contact information after the meeting so the City could follow up.

### **Regular Meeting**

1. **Recognize Police Sergeant Brendan Davis for 5 Years of Service:** Chief Jamison noted that Sergeant Brendan Davis had actually been with the department for closer to eight years, having served a three-year stint in addition to his current five. He expressed deep appreciation for Sergeant Davis's hard work, reliability, and dedication. Chief Jamison referred to Davis as his "left-hand person" who helped keep the department running smoothly and often went above and beyond expectations. He acknowledged both sergeants, including Sergeant Baca, as outstanding employees who had chosen to build and continue their careers in Sunset. Chief Jamison expressed gratitude for their service to the City and concluded by thanking Sergeant Davis. Council members and Mayor Wiggill expressed their thanks.
2. **Discuss and Approve Plat for Ascend Development:** Representatives Joseph Cook and Henry DeVarona were invited to present. Mr. Cook thanked the Council for the opportunity to speak and explained that they had resolved all civil engineering details with the City engineer. The final plat being presented reflected those resolutions, including details such as surveys and easements affecting the property.

Mayor Wiggill confirmed with Mr. Cook that the City Engineer had approved the plat, which he affirmed. Mayor Wiggill then asked if there were any questions or concerns from the Council.

Council Member Smalling asked how long the project was expected to take from start to finish. Mr. Cook responded that construction drawings for the vertical portion of the project had not yet been completed, and only conceptual plans were available at that time. He stated that groundbreaking was still some time away.

After confirming there were no further questions, Mayor Wiggill called for a motion to approve the plat for the Ascend Development.

Council Member Rigley made a motion to approve the plat for the Ascend Development and Council Member Carlson seconded the motion. The motion passed by majority vote with Council Members Carlson, Rigley and Smalling voting yes, Council Member Thompson voting no and Council Member Bartling not voting.

3. **Discussion with Ascend Development on their Proposed Development Agreement, Approve if Changes are Permitted:** Mr. Cook explained that the development

agreement had originally been drafted by the City's former attorney, Dustin Ericson, with input from the developer's attorney, Taylor James. He stated that most of the outstanding issues had been resolved and that the City Attorney appeared to be in agreement with the redlined revisions. The only major remaining issue, according to Mr. Cook, was the term of the agreement.

Recorder Supp informed the Council that the new City attorney, Dalton Smuin, wished to join the meeting by phone. The Attorney was placed on speaker for the Council and public.

Mayor Wiggill explained that the Council was reviewing the Ascend Development Agreement and requested that Attorney Smuin share his perspective.

Attorney Smuin clarified that the agreement had been prepared by the previous City attorney, Ericson, and included modifications based on input from the developer's attorney. He described the document as a standard development agreement outlining responsibilities and rights for both parties, particularly as they related to City utilities, rights-of-way, and public works connections. He said that most of the developer's requested changes had been approved by the City attorney's office, with the exception of the proposed term length. The developer had requested a seven-year term, while the City attorney's office recommended a two-year term. Attorney Smuin explained that shorter timelines help ensure developments move forward efficiently and prevent delays that can complicate City management. Mayor Wiggill confirmed that Attorney Smuin was recommending a two-year term, which he affirmed.

Mayor Wiggill invited questions from the Council. Council Member Thompson asked whether the City Engineers comments or notes on the development agreement have been addressed. She said that several items had been stricken that should not have been, including references to compliance with federal law.

Council Member Rigley interjected that the email with the engineer's comments had been distributed, and the information should already be available.

Mr. Cook stated he was not sure which email was being referenced but confirmed that the engineer had commented on the development prior to the meeting.

Council Member Thompson clarified that in several sections, the word "federal" had been removed from references to compliance with laws, leaving only state and City ordinances. Council Member Thompson questioned why those references were being omitted.

Mr. Cook responded that it was unreasonable to include federal laws that neither the City nor developers were fully aware of, suggesting that no one could possibly know all federal regulations that might apply.

Council Member Rigley disagreed, stating that ignorance of the law was not a valid reason to remove compliance requirements.

Mr. Cook said that if the City wanted to reinsert the word "federal," he had no objection.

The discussion continued as Council Member Thompson read a portion of the agreement related to default provisions that had been marked for removal. Council Member Thompson explained that the clause allowed the City to delay future land use applications



by the developer in the event of a default, among other remedies, and noted that the entire section had been struck out.

Mr. Cook argued that separate developments with distinct ownership groups should not be linked together through shared penalties, explaining that their company, Falcon Hill Development, had 13 investors, while Ascend Land Development had a separate set of investors.

Council Member Thompson questioned Mr. Cook further, noting that he had ownership interests in both companies, which would justify the City's intent to link compliance provisions. Mr. Cook confirmed he was part owner in each but reiterated that they were separate legal entities.

Council Member Thompson stated that the section should remain as part of the City's standard development agreement unless City legal counsel specifically advised otherwise.

Mayor Wiggill asked Attorney Smuin whether he had reviewed the version of the document containing the changes being discussed. Attorney Smuin replied that he had not seen the version with the engineer's comments and would need to review that document before providing an opinion.

The Council agreed that the attorney would need to receive and review the version referenced by Council Member Thompson before further discussion or approval could proceed.

Council Member Rigley stated that there were many unresolved notes in the document that needed to be addressed before moving forward.

Mr. Cook suggested having a meeting to discuss and resolve the outstanding issues. He said they could go through the comments together.

Council Member Rigley commented that there seemed to have been a communication breakdown. She pointed out that the City's Attorney did not appear to have the same version of the document containing important comments.

Council Member Smalling said it was important for everyone to be reviewing the same document so that all parties had access to the same information. She emphasized the need for the City's engineer, attorney, and the developers to work from a unified version.

Mr. Cook agreed and suggested arranging a meeting with everyone present to go through the document together.

Council Member Smalling supported the idea but said the discussion should not take place that evening. She explained that she was not willing to make any approvals at this point, as the discrepancies between the documents showed that more coordination was needed. Council Member Smalling said she understood the developer's frustration and acknowledged the time spent on the project but emphasized that she had an obligation to the City's residents to ensure sound decisions. She concluded that the best course of action would be to stop and allow time for all parties to review the same version before moving forward.

Mayor Wiggill agreed, stating that there would not be enough votes to move forward that night. Mayor Wiggill suggested scheduling another meeting that would include the

Planning Commission, attorneys, and anyone else necessary to resolve the remaining issues.

Mr. Cook noted that the development had already been voted on and expressed frustration that the City had changed attorneys only two weeks before the meeting. Mayor Wiggill responded that there was no need to place blame but reiterated that the Council would not be able to approve the item that evening. Mayor Wiggill asked Mr. Cook to send an email to arrange a meeting so all the necessary individuals could attend and work through the issues together.

Mayor Wiggill agreed, saying that with adequate notice, the City could coordinate the meeting. Mayor Wiggill acknowledged that a miscommunication had clearly occurred and confirmed again that no vote would take place that night.

4. **Discuss and Approve Stormwater Pollution Prevention Maintenance Plan for Ascend Development:** Mr. Cook stated that the document had been provided to the City Engineer and described how the underground stormwater system would be maintained.

Mayor Wiggill clarified that was the purpose of the document and asked Public Works Director Monroe to share comments.

Director Monroe explained that the SWPPP plan did not require City Council approval and was solely under his authority to approve. He noted that such plans typically did not come before the Council and said they were unsure why it appeared on the agenda. Mayor Wiggill asked whether the plan had been reviewed and if the Director had any comments to share with the Council.

Director Monroe responded that the SWPPP had not yet been fully completed and that the document in question was related to underground detention, which was separate from the SWPPP. He said neither document should be before the Council until all other plans, including the development agreement, had been finalized.

Mayor Wiggill said there were still matters to discuss related to that topic and that it could be included as part of the upcoming meeting with the developers. Mayor Wiggill confirmed that no decisions would be made on either item that evening.

5. **Discuss and Approve Recommendation from Planning Commission to Allow Sunset Mixed-Use (1300 N) to Adjust Units per Plans Dated 9-8-2025:** Matt Carter began explaining that the developers had decided to reduce the unit sizes to create more affordable price points, which led to adjustments in the overall plan.

Mr. Carter said that these things tended to happen every time and thanked Recorder Supp for her help.

Mayor Wiggill said the City had no complaints about how the developers had handled the process and praised them for maintaining positive communication and professionalism. Mayor Wiggill publicly thanked them for treating City staff respectfully and working collaboratively.

Mr. Carter appreciated the acknowledgment and said the developers tried to maintain good communication and attention to detail. He explained that the unit sizes had been reduced by about 700 square feet but otherwise remained the same in layout and design.

Council Member Thompson clarified that the number of units had increased, not decreased. Council Member Rigley confirmed that there would be more units, but each would be smaller.

Mr. Carter explained that the total number of units had increased from 82 to 96, with the prior size around 2,200 square feet and the new size closer to 1,500 square feet. There would also be an optional family room space behind the garage for those who wished to finish it.

Mayor Wiggill observed that the smaller unit sizes made the homes more affordable, which was a positive outcome. Mr. Carter agreed, confirming that the homes would now be priced around \$375,000 to \$385,000. Council Member Smalling reacted to the pricing, acknowledging that while it was high, it was considered affordable in the current housing market. Mayor Wiggill said the change also brought pricing more in line with existing home values in Sunset City.

A resident, Ms. Hamblin, asked to make a comment. Mayor Wiggill granted permission. Ms. Hamblin asked for clarification about the reduced square footage and the new pricing, explaining that she had grandchildren preparing to purchase homes. Mr. Carter confirmed the size and price range again.

Mayor Wiggill asked if there were any additional questions or concerns. There were none.

Council Member Bartling made a motion to approve the adjustments to the number of units and Council Member Rigley seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

6. **Discuss and Approve Sunset Mixed-Use (1300 N) Long-Term Stormwater Management Agreement:** Director Monroe stated that the agreement had been reviewed and approved by the Public Works Director, City Attorney, and City Engineer. Mayor Wiggill thanked Director Monroe and asked for a motion.

Council Member Smalling made a motion to approve the Long-Term Stormwater Management Agreement and Council Member Bartling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

7. **Discuss and Approve Sunset Mixed-Use (1300 N) Boundary Adjustment Agreement:** Mr. Carter explained that the property consisted of two large parcels and a smaller connecting piece. The property line had originally divided one of the proposed buildings, so the boundary was adjusted to avoid that issue.

Mayor Wiggill clarified that if the development were divided into phases, the green section would be phase one and the blue section would be phase two. The original boundary would have run directly through the middle of the site and affected several units. The Council reviewed the change and had no further questions or concerns.

Council Member Thompson remarked that the proposed boundary adjustment made sense and confirmed that no additional space would be taken up by the change.

Mayor Wiggill thanked the applicant for their continued cooperation and professionalism in working with the City's staff and engineering team. Mayor Wiggill also requested that the applicant meet with Mr. Harder to address any ongoing issues, noting that Mr. Harder

was a long-term property owner in the City. Mayor Wiggill expressed appreciation for everyone's collaboration and concluded by thanking them for their time and efforts.

Council Member Carlson made a motion to approve the Boundary Adjustment Agreement and Council Member Rigley seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

8. **Discuss and Award Request for Proposals for Banking Services:** Recorder Supp explained that she, Mayor Wiggill, and Treasurer Roth had participated in interviews with the responding banks. She noted that only the City's current bank, Wells Fargo had responded to the request for proposals. After consulting with the City attorney, staff reached out directly to other banks for competitive options. Several banks were contacted, and a few returned proposals. After interviews, Zions Bank was identified as the best fit. Zions had offered a positive attitude, helpful approach, and a significantly lower monthly cost of \$495 compared to the \$700–\$1,000 the City was paying with Wells Fargo.

Mayor Wiggill added that Wells Fargo's fees had fluctuated based on varying factors, making it difficult to anticipate costs. Zions, on the other hand, provided a flat rate and a clear structure. Mayor Wiggill praised Recorder Supp for finding a more consistent and cost-effective option and shared that the interview with Zions Bank's team was positive. Mayor Wiggill asked if there were any questions.

Council Member Bartling asked if the proposed cost was a flat fee with no variable costs. Recorder Supp clarified that while some fees were based on unit pricing, most services would be covered under the \$495 rate for at least one year. After that year, if any changes were needed, Zions would notify the City beforehand.

Mayor Wiggill added that Zions had expressed interest in evaluating the City's operations over the first year. If the City stayed within the expected range, the rate would not change. Mayor Wiggill also complimented City staff for being financially efficient and expressed confidence in their ability to stay within cost parameters.

Recorder Supp continued, noting that Zions Bank had agreed to waive all fees during the transition period, which could last up to two months. This meant the City would only be paying Wells Fargo's fees during that time and not both banks simultaneously.

Mayor Wiggill remarked that this was a generous gesture and would prevent overlapping costs. After confirming that there were no further questions, Mayor Wiggill called for a motion to approve the award.

Council Member Rigley made a motion to approve awarding Zion's bank for the request for proposal and Council Member Smalling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

9. **Consider Resolution 2025-17 Adopting 4(II) 5.1 Flextime to Section 4 (II) Employee Conduct, Rules, Discipline and Grievance to the Personnel Policies and Procedures:**

Mayor Wiggill asked if everyone had reviewed the proposed changes. Council Member Rigley shared that she had reviewed it and was familiar with flex time through their own employment, stating that it was a beneficial policy.

Mayor Wiggill agreed and asked if there were any additional questions.

Recorder Supp explained that the change would effectively return staff schedules to summer hours, where City offices closed at noon on Fridays. She noted that the office currently opened at 8:00 a.m. instead of 9:00 a.m. and that this had worked well, providing an additional five hours of public service each week.

Mayor Wiggill observed that Fridays tended to be quiet at City Hall and that this schedule allowed staff time to address other duties while maintaining efficiency.

Council Member Bartling asked why the change was being addressed through a flex-time policy rather than simply adjusting office hours. Recorder Supp explained that the policy would give employees flexibility to take lunch breaks or adjust their schedules for appointments, while ensuring accountability. The term "flex time" kept the change within policy parameters and helped prevent misuse.

Council Member Smalling added that the policy would maintain normal business hours Monday through Thursday, and the City would close at noon on Fridays. The trial period during the summer had been successful, and Fridays remained very quiet. The policy would also allow staff to adjust their hours when needed while maintaining accountability.

Council Member Thompson asked if there was a limit on how many employees could flex their time simultaneously. Recorder Supp confirmed that all flex-time requests would go through her for approval to prevent scheduling conflicts.

Council Member Bartling then asked how the City would ensure public access if staff members flexed their time. Recorder Supp explained that the office would still be open for 40 hours per week, and coverage would always be maintained during public hours.

Council Member Rigley compared it to similar policies in other workplaces, where employees could shift their hours but still completed the same total work time.

Council Member Thompson clarified that if one staff member took lunch or flexed time, others would still be present to serve the public.

Mayor Wiggill noted that the public had generally accepted the City's Friday half-day schedule, and the flex-time policy would not reduce access to City services. Instead, it would help employees manage their schedules responsibly under the office manager's oversight.

Council Member Rigley emphasized the importance of providing flexibility to staff, many of whom were working parents, and stated that the team worked well together and deserved that trust.

Mayor Wiggill added that Council Member Bartling's concerns were focused on ensuring continued service to residents, which the policy addressed.

Council Member Bartling asked if all office staff were cross-trained to handle different responsibilities. Recorder Supp confirmed that all staff were trained in front-office public functions and daily operations, ensuring coverage at all times.

Council Member Smalling added that the policy allowed the office manager to manage staff efficiently while maintaining service quality. If issues arose, the City could revisit



the policy in the future. Council Member Rigley agreed, stating that the office manager would identify and correct any problems if they developed.

Mayor Wiggill noted that other City departments had similar scheduling flexibility and asked the Chief Jamison for confirmation. Chief Jamison confirmed, noting that employees already had established procedures for using vacation and sick time, and the flex-time policy would not affect that.

Council Member Carlson added that the policy provided a valuable employee benefit at no cost to the City. Mayor Wiggill called for any final questions. There were none.

Council Member Rigley made a motion to approve Resolution 2025-17 and Council Member Smalling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

10. **Mayor, Council and Department Head Reports:** Council Member Carlson began by noting he had been out of town for work and did not have updates to share. Mayor Wiggill jokingly referred to the Council Member Carlson's recent travels and asked if they had enjoyed their trip. Council Member Carlson replied that anyone who enjoyed music should visit Nashville.

Council Member Thompson expressed disappointment about the low turnout for the Community Cleanup Day. She shared that despite the event being widely advertised through social media, community apps, and word of mouth, participation was unexpectedly poor. Council Member Thompson noted that some residents seemed to misunderstand the event, thinking it meant cleaning their own properties rather than joining the organized community cleanup effort. Although she appreciated those who cleaned their own areas, she mentioned that several residents who had requested assistance did not receive it. Council Member Thompson added that the City now had a credit with Home Depot because the donated tools were returned unused. She said she were "super disappointed" about the turnout.

Council Member Rigley responded, explaining that she had been very ill that day and was unable to participate as planned. Council Member Thompson confirmed that Council Member Rigley had messaged during the event to explain her illness.

Council Member Bartling commented that, to his knowledge, the cleanup event had been properly announced.

Mayor Wiggill interjected, observing that the poor turnout highlighted broader communication challenges within the community. Mayor Wiggill explained that many residents, especially seniors, often expressed frustration with limited communication channels when they did not use social media or smartphones. Mayor Wiggill said they believed that Council Member Bartling's church announcement would help spread the word but added that even after reaching out to another organization that had offered to volunteer, those volunteers never arrived. Mayor Wiggill concluded that despite their best efforts, the City struggled to engage residents and expressed disappointment similar to Council Member Thompson's about the low participation.

Council Member Thompson responded lightheartedly, saying she intended to return to door-to-door outreach, which had been the most effective way to motivate residents in the past. She clarified that her comment about "showing up at people's houses" was not



meant as a threat but simply a sign of her determination to connect with the community more personally.

Ms. Hamblin suggested that future events could benefit from a more personalized, neighborhood-based approach. She proposed dividing the City into smaller areas so that volunteers could take ownership of specific zones, instead of everyone meeting at one central location like the park.

Mayor Wiggill agreed, explaining that the City had hoped for stronger community participation. He noted that attendance had also declined at other events such as Sunset Days and Roy Days, even when incentives like free family breakfasts were offered. Mayor Wiggill expressed frustration, saying it was difficult for City leaders to understand why more residents did not take advantage of these opportunities to engage with their community.

Mayor Wiggill offered condolences about the disappointing turnout for the cleanup day. Council Member Thompson responded by suggesting that future events could be shared through more direct City communication channels.

Ms. Hamblin then brought up the recent Mental Health Fair, noting that it had been well organized but that it could benefit from clearer booth identification. She described arriving around noon after hearing that a senior representative did not want to be left alone at their booth, but upon arrival, she could not locate the seniors' booth. Council Member Rigley apologized and explained that she had not been informed that a seniors' booth was expected. She had coordinated the fair but were unaware that one had been planned. Ms. Hamblin said she thought the event was very well organized overall but confirmed that she had walked the entire fair and could not find the senior booth. Council Member Rigley added that a couple of seniors had approached them saying they could not find their booth either, and Council Member Rigley was surprised because no one had told her about it during event setup.

Mayor Wiggill clarified that a booth had been set up for the seniors but that it had not been staffed for long, as the volunteers left after about an hour due to lack of relief. Ms. Hamblin confirmed that she had arrived after they left.

Mayor Wiggill redirected the discussion back to Council Member Thompson's report.

Council Member Thompson stated that despite being disappointed, she would continue her efforts to strengthen community involvement and encourage neighbors to care about one another. She announced plans to host the annual "Spooky Yard Contest" again this year and had already asked staff to create a JotForm for entries. She mentioned strong participation the previous year and said she was excited to see similar engagement again.

Council Member Thompson also provided updates from other meetings, explaining that she had missed the recent UTA board meeting but listened to the recording. There was some discussion about relocating bus stops and potentially changing routes in Sunset City. She mentioned an upcoming RAB meeting where a new contamination plume would be discussed, discovered during construction work.

Council Member Thompson stated that the developers from Woodbury were planning to begin commercial development east of 1900 West within six to nine months. The area, currently affected by freeway realignment, would eventually feature at least two large office buildings and a walkable commercial district.

Lastly, Council Member Thompson shared her experience in the Citizens Police Academy, describing it as an excellent program that provided insight into law enforcement and emergency response work. She said she particularly enjoyed the fingerprinting portion but admitted that blood spatter analysis “wasn’t for her.” She strongly encouraged residents to participate in future sessions. Mayor Wiggill thanked Council Member Thompson for the detailed report.

Council Member Smalling reported that the Mosquito Abatement board meeting was scheduled for later in the week, so there were no updates from that board yet. She complimented Council Member Rigley’s Mental Health Fair, saying it was well organized and enjoyable, and offered to share feedback gathered from attendees.

Council Member Smalling then excitedly discussed plans for the upcoming Veterans Program, scheduled for November 15 at 10:00 a.m. The event would feature a light breakfast with fruit and muffins and focus on honoring veterans of the Vietnam War, marking the 50th anniversary of the war’s end. She shared that the Agent Orange Memorial was being constructed in the Veterans park, but the sandstone plaque had cracked during production, causing a delay. Council Member Smalling expressed gratitude to City staff and engineers for their assistance and announced that the City would instead hold a groundbreaking ceremony for the memorial following the Veterans Program. She noted that formal invitations would be sent out two weeks before the event and encouraged the public to attend and honor local veterans. Mayor Wiggill thanked Smalling and expressed enthusiasm for the upcoming event.

Council Member Rigley shared on the success of the Mental Health Fair. She thanked those who helped organize and attend, noting that although attendance was light, the event was still meaningful. She shared that even helping one person made the effort worthwhile. Council Member Rigley then discussed waste diversion statistics from Wasatch Integrated, reporting that the City’s rate had risen from 7% to 8%, showing gradual progress in recycling and green waste collection. She announced that broken garbage, recycling, and green waste cans could now be recycled at no charge, provided that all metal parts were removed first. She expressed appreciation for the City’s commitment to sustainability.

Council Member Rigley mentioned ongoing efforts to rebuild the Youth Council and said that a few interested parents had reached out. She was hopeful that four students would join initially, though they were all boys, she wanted to recruit more girls to balance participation.

Council Member Rigley then suggested hosting another community bingo night before Winter Fest in February, noting that previous bingo nights had excellent participation and were a fun way to bring residents together.

Lastly, Council Member Rigley concluded by sharing personal news, announcing that she was expecting a baby. Council Members congratulated her and her family warmly.

Council Member Smalling remarked that when the recycling program first began, many residents were skeptical about using the blue bins, but they had since discovered how much recyclable material they actually produced.

Council Member Bartling congratulated Council Member Rigley and said they also used their blue bin much more than expected. Council Member Bartling reported that he had contacted Beverly Mcfarlane from the UDOT Municipal Coordination team regarding

safety around 1800 North and nearby schools. He had confirmed that UDOT conducted educational activities at elementary schools to teach students about crossing safety. Council Member Carlson asked whether schools were receptive to these programs, noting that some organizations had difficulty gaining access. Council Member Bartling said he was not aware of any issues so far. Mayor Wiggill added that photos from UDOT's school visits appeared to show positive engagement and said he would have liked to attend had he known about it in advance.

Council Member Bartling concluded by sharing feedback from a participant at the Mental Health Fair who said it was one of the best community events of its kind. He also reported difficulty coordinating CERT training with neighboring cities but planned to move forward.

Director Monroe stated he did not have anything to report.

Council Member Bartling said he had attended the most recent Planning Commission meeting. He shared the Planning Commission was doing an excellent job and had worked through discussions regarding mixed-use developments. The commissioners had explained the reasoning behind their decisions, and Council Member Bartling complimented their thoughtful approach. He reported that the Planning Commission did not recommend allowing short-term rentals or accessory dwelling units (ADUs) in the City; he explained that the ADUs were considered cost-prohibitive, particularly for external or detached units, while internal ADUs remained permissible. He added that very few residents had expressed interest in ADUs overall. Council Member Carlson remarked that this outcome seemed to align with the general direction of the discussion. Council Member Bartling continued, explaining that short-term rentals were discouraged because they did not appear to foster a sense of community. The Planning Commission believed that limiting such rentals would help maintain a stronger neighborhood atmosphere. He said he wanted to pass that information along to the Council and mayor so everyone was aware of the Planning Commission's recommendations.

Chief Jamison then reported that his department appreciated the Council's suggestions and community engagement. He noted that while many residents were quick to raise complaints, fewer volunteered to help implement solutions. Chief Jamison expressed appreciation to those who did participate and stated that the department had acted on the Council's earlier suggestions.

Chief Jamison informed the Council that, over the next two weeks, the Police department would focus on enforcing weed control in gutters ahead of street sweeping. He explained that the buildup of weeds and debris prevented the sweepers from operating effectively. He said that numerous warnings would be issued and encouraged Council Members to help spread the message that residents should clear their gutters to restore proper drainage. Council Member Rigley asked whether residents should pull the weeds out of the ground or if killing them with weed control products would be acceptable. Chief Jamison advised that the weeds should be removed completely to ensure proper cleanup and prevent debris from entering the street sweeper system. Council Member Carlson added that residents could pull the weeds once and then apply weed killer to prevent regrowth.

Chief Jamison continued his report, stating that the department had begun interviews for an eleventh position and may have found a suitable candidate, though a final decision had not yet been made. He added the department was also pursuing several grants—one recently approved for new radar units and another for in-car camera systems. Chief

Jamison credited these grants to the department's strong performance in DUI and alcohol enforcement, explaining that their statistics earned them additional funding for equipment. Mayor Wiggill commended the police department, saying they did an outstanding job and that their efforts were deeply appreciated by the Council. Mayor Wiggill noted that public service roles, including Council Members and department heads, often went unrecognized by the public, but emphasized that the City valued the department's dedication.

Council Member Bartling took a moment to thank the officers on behalf of his family. He shared that his children often waved at patrol cars and appreciated when officers waved back. He said these small gestures meant a lot to families and expressed gratitude to the department for being approachable and kind.

Council Member Thompson said that several residents had asked if the City planned to hold another self-defense class. Council Member Rigley and Council Member Smalling both said they thought that would be a great idea. Mayor Wiggill agreed, noting that the previous event had received positive feedback. Sergeant Baca stated he would be happy to, he requested the Council give him a day and time and he will make it happen.

Council Member Thompson then asked Chief Jamison about the department's new secretary.

Chief Jamison replied that the new employee was doing an exceptional job. He explained that the previous secretary had retired after 33 years of service, leaving big shoes to fill. The new secretary, Tiffany Palen, had no prior experience but quickly adapted to the role with assistance from the Clinton City secretary. Chief Jamison said Tiffany's ability to learn so quickly had made their job much easier. Mayor Wiggill added that Tiffany had a great personality and had been a positive addition to the office, helping to create a pleasant work environment. Council Member Smalling said that was good to hear.

Council Member Thompson then asked if it was true that there had recently been a murder in the City, noting that several residents had approached her about it.

Chief Jamison clarified that there had not been a murder. He explained that the incident being discussed involved a person experiencing a severe psychiatric episode who had repeatedly struck their head on the concrete, resulting in fatal injuries. The individual was transported for medical care and later died, but there was no foul play involved. Chief Jamison said that misinformation had spread quickly, leading to rumors about a homicide. He stated that the police had spoken directly with the individual's family, who confirmed the details of what happened. The person had a history of similar self-harm behavior and had been temporarily staying with another household at the time. Chief Jamison assured the Council that the incident had been fully investigated and ruled accidental.

Mayor Wiggill congratulated Chief Jamison on the department's ongoing success and professionalism. Mayor Wiggill also expressed appreciation for the recent Mental Health Fair, noting that it was a valuable event that raised awareness about available resources. Mayor Wiggill said he had assisted with setup, signage, and cleanup throughout the day and was pleased with how it turned out. Mayor Wiggill emphasized that the City's goal was to promote mental health awareness and thanked everyone involved for their efforts.



Mayor Wiggill then reported that new carpet and blinds had been ordered for the Sunset Room, which was frequently rented for events. The project had been included in this year's budget, and installation would begin soon once scheduling was finalized.

Mayor Wiggill also shared data from North Davis Fire District, reporting that Sunset City had 47 calls in the past month—34 medical and 13 fire-related. He expressed appreciation for both the Fire and Police departments for their coordinated response efforts, saying that the City received consistently positive feedback about their performance.

Recorder Supp reminded the Council that a few members still needed to complete their Open and Public Meetings Act training and asked that they do so soon. She also reminded those participating in the upcoming "Candy Crawl" event to confirm their attendance so the City could prepare enough treats to distribute. Finally, she announced that City offices would be closed on Monday for Columbus Day.

Mayor Wiggill added that the Candy Crawl would take place in the parking lot of City Hall. He shared that several departments—including Police, Public Works, and Fire—would participate, along with other public service entities. The event would include treats, donuts, and hot cider, and residents were encouraged to bring children and grandchildren for photos with City equipment. Mayor Wiggill expressed excitement about the event and thanked Recorder Supp for organizing it. Recorder Supp confirmed that the event would take place on October 24 from 6:00 to 8:00 p.m.

Recorder Supp explained that the City's current legal counsel, Dustin Ericson, had been appointed as a judge and could no longer serve as prosecutor. Danes & Jenkins, along with Dalton Smuin, would continue providing civil legal services until October 22, but prosecution services would need to be reassigned. Recorder Supp said they were moving quickly to issue a Request for Proposals (RFP) to secure new legal counsel and that Attorney Smuin had agreed to assist with City matters until a replacement was found. Recorder Supp added that Danes & Jenkins might apply for the RFP if they could adjust their workload. Mayor Wiggill noted that the firm had expressed concerns about balancing their workload and responsibilities but that the City needed to have a new contract in place by October 22.

Council Member Thompson asked whether the RFP needed to remain open for two weeks. Recorder Supp confirmed that it required at least 10 to 14 days. Thompson pointed out that this timeline would place the closing date around October 21, just before the transition deadline.

Recorder Supp added that attorney interviews would need to take place in front of the Council before a selection was made. She also mentioned that Judge Brower might be able to help temporarily fill prosecution duties until a new attorney was hired, though he was currently on vacation. Recorder Supp asked if the Council wanted any changes made to the RFP. Council Member Bartling suggested adjusting the dates but leaving the rest unchanged. Recorder Supp confirmed that the document was based on the same version used when the City previously contracted with Danes & Jenkins. Council Member Thompson said the document appeared good and asked if it had been updated recently. Recorder Supp replied that they had reviewed it thoroughly to ensure all information was current and had it approved by the City attorney before presenting it to the Council. Council Member Thompson stated that she had reviewed the document with a legal perspective and agreed that it looked good overall, aside from the date, which had already been mentioned.

Council Member Smalling expressed concern about ensuring that someone would be present at the upcoming meeting with the two individuals who attended earlier in the evening. She wanted to make sure the City would be represented appropriately during that discussion. Council Member Smalling asked whether the individual referenced earlier would be able to attend and cover that meeting, noting the importance of having someone present to protect the City's interests.

Council Member Thompson added that the individual had already sent an email about the meeting. She mentioned that she would be out of town the following week but would adjust her work schedule if needed to participate.

Director Monroe suggested that the Council gather and compile their questions in advance. He explained that trying to hold a meeting where everyone asked questions at once would not be productive and recommended that the City be well-prepared before meeting with the developers.

Mayor Wiggill agreed and stated that since everyone had already had time to review the document, it would be best to compile the information and determine whether each issue had been or needed to be addressed. Mayor Wiggill emphasized the importance of ensuring the project was handled professionally and, in the City's, best interest.

Council Member Smalling added that the Council should have a few days to review any updated materials before meeting to discuss them, to allow time to process and understand the information. She acknowledged that while she was action-oriented, she was not a contracts expert and appreciated time to review details carefully.

Mayor Wiggill agreed and noted that the City needed to ensure it was well-protected. He referenced past project issues and emphasized the need for accuracy in all documents to avoid future complications. Mayor Wiggill supported Director Monroe's earlier suggestion to focus on clear, firm questions and to eliminate anything unnecessary, reiterating that professionalism and thoroughness were the goals.

Mayor Wiggill stated the developers had expected to leave that night's meeting with the documents finalized, but the Council's decision to take more time to review them was the right one. Mayor Wiggill expressed appreciation for the Council's diligence in ensuring everything was done properly, emphasizing that the review process was important to protect the City's interests. He shared that the Council had presented itself well during the meeting and that taking the time to review documents thoroughly was a responsible approach.

Council Member Rigley made a motion to adjourn the Regular Session and then move into a Work Session and Council Member Smalling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

#### **Work Session**

1. **Discuss Request for Proposals for Attorney Services:** Council Member Smalling expressed concern about ensuring that someone would be present at the upcoming meeting with the two individuals who attended earlier in the evening. She wanted to make sure the City would be represented appropriately during that discussion. Council Member Smalling asked whether the individual referenced earlier would be able to attend



and cover that meeting, noting the importance of having someone present to protect the City's interests.

Council Member Thompson added that the individual had already sent an email about the meeting. She mentioned that she would be out of town the following week but would adjust her work schedule if needed to participate.

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Council Member Rigley made a motion to adjourn and move into a closed session and Council Member Thompson seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Rigley, Smalling and Thompson voting yes.

The Regular meeting adjourned at 7:39 p.m.

Approved – November 5, 2025

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Scott Wiggill, Mayor

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Nicole Supp, Recorder

Minutes of a Special Session held October 20, 2025 at Sunset City Hall, 200 West 1300 North, Sunset, Utah; Mayor Scott Wiggill presiding.

**Present:** Mayor Wiggill, Council Member Bartling, Council Member Carlson, Council Member Smalling (6:43pm), Council Member Thompson, Director Monroe, Recorder Supp, Engineer Todd Freeman, Attorney Dalton Smuin, Joseph Cook and Henry De'Varona.

**Excused:** Council Member Rigley

### **SPECIAL SESSION**

The special session was called to order at 6: 37 p.m. by Mayor Wiggill.

### **WORK SESSION**

**1. Discuss and Work Through Comments for the Development Agreement for the Ascend Project:** Mayor Wiggill stated that the purpose of the discussion was to review certain questions, determine which items required discussion, and eliminate any uncontested issues. The first topic raised was regarding federal regulations.

Mr. Cook responded that there were no concerns with federal regulations, explaining that the reference had originated from a publication by a well-known civil libertarian and was not applicable in this instance. He stated it could stay in the document.

The next topic addressed was the terms of the agreement. Mr. Cook indicated that this was the most significant issue of the evening and requested to discuss it further. Mayor Wiggill confirmed that this matter would be discussed later in the meeting.

Discussion then turned to the terminology used in the document, specifically regarding "construction drawings" and "plats." Mr. Cook noted that the issue referenced both terms on page two, making the language sufficiently restrictive. Mr. Cook agreed that it could remain as written.

Recorder Supp clarified that the phrasing would remain as "construction drawings, a plat and plans." Director Monroe confirmed that both terms were specified in the document, and Recorder Supp reiterated that all terms would remain listed.

Mayor Wiggill then asked if there were any issues on page three. Mr. Cook reviewed the section, and Recorder Supp suggested going page by page to avoid confusion. The Council agreed to proceed in that manner.

Mr. Cook stated that the correct name of the developer was "Ascend Land Development, LLC," rather than "Ascend Ownership," and requested that this be corrected in the document. Recorder Supp confirmed the change. Mr. Cook added that certain deleted portions referred to legal descriptions that had been replaced with the correct information.

Recorder Supp asked whether the Council was comfortable with the replacement language. The Council agreed to accept the replacement. Recorder Supp also confirmed that the "construction drawings, a plat and plans" section would remain unchanged, with general agreement from all present.

Council Member Thompson asked about the section referencing “57 plus or minus residential units, either apartments or condominiums,” confirming that this language would remain. Recorder Supp confirmed that it would.

Recorder Supp then reviewed another section that had been modified, noting that the original text— “submitted by the developer subject to certain requirements”—had been replaced with a new sentence specifying that the document “shall be signed by both parties and shall be recorded by the developer upon approval of this agreement.” Recorder Supp asked whether the Council wanted to keep or replace this language.

Engineer Freeman questioned why the original text had been removed, noting that it referenced conditions related to the installation and construction of utilities and other municipal improvements. Mr. Cook explained that he wanted the plat to be approved and recorded before construction began, as had been the practice in previous projects.

Recorder Supp confirmed that they were discussing page two, paragraph four. Council Member Thompson asked for clarification, and Mr. Cook reiterated that recording the plat prior to breaking ground was consistent with past developments.

Engineer Freeman noted that improvements did not need to be completed before recording the plat but emphasized that the City would not sign the plat until it had been approved with the necessary utilities and municipal improvements reflected on the drawings. Attorney Smuin agreed, stating the removed language did not require improvements to be made before recording. It simply stated that approval and recording were subject to certain conditions.

Mr. Cook explained that the goal was to have the plat recorded to confirm entitlements before breaking ground, while acknowledging that bonding requirements would still need to be met before construction began.

Council Member Thompson asked whether recording the plat before other requirements was typical. Mr. Cook explained that it was consistent with the previous agreements. Director Monroe clarified that development agreements typically included municipal improvements and recommended keeping that language in place.

Mr. Cook agreed, suggesting that they could clarify that the plat would be recorded upon approval. Director Monroe agreed with that approach.

Recorder Supp confirmed that the Council would keep the previously stricken language and retain the requirement that the document be signed by both parties.

Engineer Freeman reviewed the section regarding the financial guarantee or performance bond, emphasizing the need to ensure protection for the City. Mr. Cook reiterated that the developer did not object to providing either a cash bond, fee-in-lieu, or performance bond, but wanted to record the plat before construction began.

Council Member Thompson asked whether there were any legal ramifications in allowing the plat to be recorded before other requirements were fulfilled. Attorney Smuin explained that recording the plat granted certain entitlements but did not authorize construction, as a building permit would still be required before any work could begin.

Recorder Supp summarized that the paragraph would read with the reinstated language and include the addition stating that the agreement “shall be signed by both parties and shall be recorded by the developer upon approval of this agreement.” Mayor Wiggill confirmed understanding and moved the discussion forward.

Recorder Supp introduced the next item, labeled B. Council Member Thompson stated that she did not believe the development agreement should allow for seven years, nor even two. She expressed that if the City’s standard was one year, there should be no reason to extend that timeframe for any developer.

Mr. Cook responded that there was no standard length for a development agreement. He explained that recent agreements in Sunset City varied significantly—one for ten years, another for seven, and another for five with three-year extensions. He noted that other cities, such as South Weber, had similar arrangements and that their most recent project there had a five-year agreement. Mr. Cook emphasized that this was one of the most significant issues of the evening and requested the opportunity to address it fully.

Mr. Cook stated that his company was currently building 61 units nearby but was not yet ready to proceed with another project due to market conditions and financing challenges. He explained that they did not want to compete with their own development and were primarily seeking to secure their entitlements. He added that the company had already invested nearly a million dollars and three years into the project. He also noted that a nearby townhouse project did not enter a development agreement until thirty days before completion, only to finalize the installation of a vinyl fence.

Mayor Wiggill asked Attorney Smuin to share thoughts on the number of years for the agreement. Attorney Smuin stated that the City needed to avoid allowing projects to remain unfinished for long periods, as that could create blight, crime, and other issues. He explained that development agreements should include a reasonable but strict timeline for completion once construction begins. He suggested that the timeline could start upon the issuance of a building permit, giving the developer a set amount of time—such as two years—to complete the project. However, Attorney Smuin noted that the total time frame should depend on the project’s size and phases, pointing out that a multi-phase development could justify a ten-year agreement, while a single-building project like this one should not.

Mr. Cook interjected, agreeing that they did not intend to take seven years to build the project. He explained that he would be comfortable with an 18-month construction window once work began but wanted up to five years to begin construction. He emphasized that this timeline would allow them to complete the other nearby project before starting this one and to secure necessary financing and investors.

Mayor Wiggill asked for input from the others.

Attorney Smuin reiterated that the City should not approve an agreement allowing seven years to complete construction, as it could allow the developer to delay the project excessively.

Engineer Freeman noted that since Mr. Cook had said the project could be built within 18 months, it might make sense to allow up to five years to begin construction and then 18 months to finish it once started.

Mr. Cook agreed that would be acceptable.

Mayor Wiggill asked how to word the agreement to ensure the City's protection, emphasizing that he did not want the developer to delay starting the project indefinitely.

Director Monroe mentioned that the City had recently changed to form-based code and asked whether extending the development agreement to seven years would exempt the project from future code changes.

Mr. Cook said he did not need seven years and would agree to five. He explained that locking in current zoning was critical, as going through new engineering and planning processes was extremely costly. He added that, under Utah law, once an application and fees were submitted, the project was vested under the existing zoning. Mr. Cook proposed that the City allow five years to begin construction and, once started, two years to complete it. If the project was not started within five years, it would revert to the new form-based code.

Mayor Wiggill reminded participants not to talk over one another and invited further comments.

Council Member Carlson said that allowing five years to start and two years to complete seemed reasonable, as other projects had been completed within two years once construction began.

Council Member Thompson disagreed, noting that this still amounted to seven years and questioned why it would take so long to begin. She asked how far along the nearby Falcon Hill project was.

Mr. Cook said it was about 95 percent complete and that he expected to finish selling the units within 10 months before breaking ground on the next phase. He stated that when the City rezoned Main Street, he had responded by investing in redevelopment. He said a two-year timeframe to complete such projects was unrealistic given the complexity and investment required.

Council Member Thompson pointed out an inconsistency, noting that Mr. Cook had said earlier the building could be completed in 18 months but was now saying it might take three years.

Mr. Cook clarified that once construction began, the building could indeed be completed in 18 months.

Council Member Thompson said she would be more comfortable allowing two years to start and two years to complete. Mr. Cook questioned why two years was the preferred limit, explaining that economic cycles could make starting a large project within that timeframe impractical. He asked if there was a specific reason other than precedent. Council Member Thompson replied that most comparable projects had two- to three-year timeframes, not seven. Mr. Cook responded that the City's recent agreements had included longer terms and distributed copies of them for review.

Mayor Wiggill asked Council Member Smalling for input. Council Member Smalling said her main concern was ensuring the project did not sit incomplete, as Main Street was a central and visible part of the City. She explained that unfinished projects could reflect



poorly on Sunset City and lead to complaints from residents. Council Member Smalling agreed that two years for construction should be sufficient.

Mr. Cook clarified that he was not trying to delay or create an eyesore. He explained that he had only just received civil engineering approval and that final building drawings would cost over \$150,000. Mr. Cook said he could not invest that amount without first securing the entitlements.

Council Member Smalling asked what would happen if the developer failed to finish within the required two years. Mr. Cook said that remedies for noncompliance were already outlined in the agreement. Council Member Smalling confirmed understanding and noted that the attorney's two-year recommendation seemed well-founded.

Mr. Cook referred to a summary sheet showing prior agreements as examples.

Mayor Wiggill asked Council Member Bartling for input. Council Member Bartling questioned why the developer was pursuing the agreement now if he did not plan to start construction soon. Mr. Cook responded that they were actively working with lenders and wanted to secure entitlements to protect their investment after three years of work on the project.

Mayor Wiggill asked for additional comments from the Council.

Engineer Freeman said that allowing two years for construction was reasonable and that the Council could decide between five or seven years for entitlements. He explained that the developer still needed to complete structural, mechanical, and electrical plans, which took time after civil engineering approval. Mr. Cook added that it had taken three years just to complete the civil engineering portion, underscoring the complexity of the process.

Mayor Wiggill asked for Attorney Smuin's final recommendation. Attorney Smuin said it was reasonable to allow a longer entitlement period to secure financing and finalize plans, suggesting a range of three to five years before construction began and two years to complete it once started.

Mayor Wiggill summarized that the proposal being discussed was three years to obtain permits and two years to complete construction. Attorney Smuin confirmed that this was accurate and reiterated that the timeframe before starting should not exceed five years.

Mayor Wiggill noted that while some of the developer's examples were written under previous legal counsel and councils, the current Council would decide what made sense now.

Council Member Carlson restated support for allowing five years to start and two years to finish.

Council Member Thompson said she could agree to three years to start and two years to build.

Council Member Smalling clarified that everyone's goal was for the developer to complete the project as soon as possible.



Mr. Cook said he still preferred five years to begin construction, with two years to finish once started, emphasizing the need to preserve entitlements during the financing and preparation process.

Director Monroe repeated that this would total seven years, five to start and two to finish, to which Mr. Cook agreed.

During the discussion, Mayor Wiggill stated that the main issue before the Council concerned the timeframe allowed before construction began. Mayor Wiggill acknowledged that the developer had successfully completed previous projects within two years and expressed confidence that the same could be accomplished for this project. Mayor Wiggill noted that most Council Members appeared to prefer a shorter timeline—closer to three years rather than five—to begin construction.

Mr. Cook suggested that they compromise and “split the difference.”

Mayor Wiggill responded that the decision ultimately rested with the Council and encouraged members to discuss the matter openly among themselves.

Mr. Cook added that the project was complex and would require thoughtful consideration. Mayor Wiggill agreed that while the project was complex, the Council was fully capable of determining a fair and balanced solution. Mayor Wiggill emphasized that both the Council’s preferences and the developer’s needs were now clear, and that it was time to determine what both parties could agree upon.

Council Member Smalling remarked that the City had learned a great deal about development over the past few years, as growth had occurred faster than anticipated. She explained that the Council’s intent was not to be difficult but to ensure decisions were made in the City’s best interest and consistent with the new form-based code. Council Member Smalling added that her goal was to ensure the project would be completed in a timely manner and stated she could support a four-year start window as a compromise, with the understanding that additional extensions should not be requested later.

Mr. Cook noted that, according to the agreement, if the development term expired, he would need to reapply under the new code provisions.

Mayor Wiggill invited additional comments, and Council Member Bartling stated support for a “two years to start and two years to complete” schedule, with the phrase “time is of the essence” added to the agreement.

Council Member Carlson indicated support for a four-year start period, explaining that previous discussions had led to middle-ground compromises in similar cases.

There was discussion from the Council on whether the proposal was for two years total or two years to start. Recorder Supp clarified that the discussion involved four years to start construction and two years to complete it, while some had suggested two years to start.

Mr. Cook then asked if his plans were deficient according to City code. Engineer Freeman confirmed that all requested items had been addressed.

Mr. Cook then asked the Public Works Director if there were any outstanding deficiencies. Director Monroe replied that it had already taken three years to reach this point in the process.

Council Member Carlson observed that since three years had already passed, the developer should now have a clear plan forward. Mr. Cook responded that he did have a plan, explaining that they needed to finish the Falcon Ridge project before moving on to this one.

Mayor Wiggill clarified that this was an entirely separate project located in a different area, though still along Main Street.

Council Member Thompson asked if the project was about half the size of the other. Mr. Cook confirmed that it was smaller, consisting of 57 units.

Mayor Wiggill stated that the Council needed to reach a decision that worked for both the City and the developer.

Mr. Cook explained that they had consulted with two other developers in the area. Those developers, who had projects on Main Street and in the town center, had agreed to shorter timeframes because they already had construction financing secured and were ready to start immediately. One had to begin phase one within two years, and another within four years. Mr. Cook said that a similar arrangement—four years to start and two years to complete—would be acceptable. He added that he had spoken with the Property Ombudsman, who advised that as long as the plans complied with City code, a development agreement was not legally required.

Council Member Thompson responded that she preferred “three years to start and two years to complete,” for a total of five years.

Recorder Supp confirmed that the proposal was three years to start and two years to build. Council Member Smalling agreed, noting that while she could be flexible, she preferred the three-year start period.

Mr. Cook urged the Council to consider four years to start and two to complete, arguing that the entitlements represented hundreds of thousands of dollars in value and had taken three years to reach this stage. He said limiting the timeframe to only two years to start seemed arbitrary and capricious.

Attorney Smuin disagreed, explaining that the City had full discretion to establish reasonable timelines for developers and that doing so was neither arbitrary nor capricious. Attorney Smuin reiterated that he had earlier suggested three to five years to begin construction and that it was up to the Council to decide the final terms.

Council Member Thompson reiterated her position in favor of three years to start and two years to complete, for a total of five years.

Council Member Carlson said he supported four years. When asked to clarify, Council Member Carlson confirmed that he meant four years to start, not total. Director Monroe stated they preferred three years to start.

Recorder Supp noted that Mayor Wiggill would need to break a tie for the language to put into the development agreement for the number of years.

Mayor Wiggill stated support for four years to start and thanked everyone for their input. Attorney Smuin asked whether the revised language should be prepared immediately, noting that it differed slightly from the prior draft. Recorder Supp said she had already added a comment to flag the section. Attorney Smuin said he would draft the language during the break or at the end of the meeting to specify that construction must begin within four years and be completed within two years following the issuance of building permits.

Recorder Supp then moved to the next section, explaining that the term "time" had been deleted from the "time limitations for improvements" clause under letter B, but the phrase should remain consistent with the newly approved schedule. Engineer Freeman confirmed there was no issue with keeping the time language.

Recorder Supp read that the following paragraph stated, "If any development improvements remain incomplete after the earlier of..." and confirmed that it tied directly to the two-year completion clause, meaning it would be updated in coordination with the new section.

Recorder Supp then reviewed letter C, which had been stricken. It concerned water and sewer capacity reservations. The modification had been flagged by Engineer Freeman, who stated that the City did not have authority over water or sewer capacity allocation and that the original wording should be restored. Engineer Freeman explained that water service came from the Weber Basin District and sewer service from North Davis Sewer District. He recommended restoring the original language because the City did not control those utilities.

Recorder Supp noted the agreement to reject the modification and restore the original language.

Engineer Freeman added that the updated version would include the appropriate utility providers. Recorder Supp confirmed acceptance of the correction.

The Council then discussed financial guarantees. Recorder Supp asked how the City wished to handle bonding and fee payments. Mr. Cook stated that the developer preferred to post a performance bond instead of a cash payment.

Attorney Smuin clarified that payment could be handled either through a bond or direct fee, depending on whether the developer installed the improvements themselves. Recorder Supp confirmed that the Council agreed to allow bonding for the required work.

Mr. Cook provided confirmation of the bond amount was estimated at was \$230,000 plus 10%, totaling approximately \$260,000, and confirmed that the figure had already been reviewed. Mr. Cook stated that he could provide updated figures the next day.

Recorder Supp moved to letter E, regarding off-site improvements, and confirmed that the existing language would remain as shown on the approved plans. Mr. Cook agreed.

Recorder Supp continued to letter F, concerning building permit issuance. Mr. Cook clarified that this section simply prevented construction from beginning before the bond

was in place. Attorney Smuin confirmed that only one building permit would be issued for the entire project and that the developer must complete the project once construction began.

Recorder Supp then reviewed letter J, which addressed conflicts between City public works standards and final construction drawings. Engineer Freeman recommended restoring the clause stating that the City's public works standards would prevail unless a written exception had been granted. The Council agreed.

On page four, letter N, Recorder Supp noted that the number of lots had been stricken and replaced with language allowing the developer to choose between apartments or condominiums. Mr. Cook explained that they were constructing a condominium project but wanted flexibility depending on market conditions.

Council Member Thompson asked if the phrase "as developer so desires" created any issue. Attorney Smuin explained that any change between apartment and condominium use would require a new county recording but would not necessarily require additional City approval, as the entitlements would remain the same under current zoning. Mayor Wiggill confirmed that the Council accepted that explanation and moved on.

Recorder Supp turned to page five regarding water lines. Engineer Freeman explained that an abandoned water line shown on the plans should be properly removed per unit requirements. The Council agreed to retain that note.

Recorder Supp then read letter B, stating that a sewer easement was required through a neighboring property to access the City sewer system. The Council confirmed agreement with that condition.

Next, Recorder Supp reviewed a section about UDOT improvements. A prior deletion had removed the phrase "outside of compliance," which Engineer Freeman recommended reinstating. Engineer Freeman explained that the UDOT plans already included a new catch basin installation at the curb and that retaining the compliance language was appropriate. The Council agreed to restore the wording and include the UDOT improvements as part of the plan.

Finally, Recorder Supp noted that the performance bond would also cover the chip seal and fog coat work required for the project. Attorney Smuin explained that the issue being discussed was the same as one addressed earlier. The fee-in-lieu option allowed a developer to pay the City instead of performing maintenance themselves. In this case, the developer proposed to post a performance bond that would pay for the required work. Mr. Cook stated that if the developer did not complete the work, the performance bond would take effect.

Council Member Thompson noted that item K specified that the bond must be in place before pulling a construction permit, but item L did not include that same language. She suggested that item L should also include that requirement. Attorney Smuin stated that it would likely be the same bond. Council Member Thompson agreed and said she would like to keep it consistent. Mayor Wiggill acknowledged the comment and indicated that the matter was resolved.

Mr. Cook added that the project was located in the BMU zone, similar to others along the same street, and that the project would include similar concrete and planter box features.

They mentioned that they were unsure if there were specific requirements for the streetlights. Director Monroe explained that the City had attempted multiple times to standardize streetlight specifications but had not yet finalized a design.

Recorder Supp noted being a comment behind and clarified the need to add curb, gutter, and sidewalk along 1675 North. Recorder Supp asked Engineer Freeman where those improvements needed to be added. Mr. Cook suggested that the language simply reference "as per the construction drawings," since contractors typically rely on those rather than the development agreement. Mayor Wiggill asked whether the date of approval on the construction drawings was significant. Mr. Cook said the date of approval should correspond to the construction drawings that had been officially approved. Attorney Smuin confirmed that the reference to the construction drawings was sufficient, as the approved plans carried an official stamp.

Recorder Supp then stated that "federal" had been previously stricken from the irrigation water section and would now be reinstated. Engineer Freeman noted that although the project would use secondary water, the City did maintain an irrigation ditch in that area, which the clause referenced. Recorder Supp added that the language also included replacing the existing irrigation pipe along Main Street. Engineer Freeman clarified that the pipe ran along Main Street rather than across it, and that the correction should be made accordingly.

Recorder Supp continued to work through the document, noting that the Council was reorganizing items as she progressed.

Recorder Supp next read a section titled "On-site Project Improvements," which referenced apartment or condominium development. Recorder Supp noted that language about "installing all project enhancements as identified on exhibit ? as part of the infrastructure" had been stricken and asked whether it should remain deleted. Council Member Thompson asked why the section had been removed in the first place. Mr. Cook questioned what "project enhancements" referred to and said he was unsure what that language meant under the BMU ordinance. Engineer Freeman speculated that it might have referred to streetscape improvements. Director Monroe clarified that such features would already be covered under the infrastructure section. Engineer Freeman added that it likely referred to Exhibit C, which contained the plat map, though it might be better to refer to the construction drawings instead. Council Member Thompson suggested the section should reference Exhibit C for infrastructure but asked whether the additional "streetscape" wording should be removed. Director Monroe recommended removing that part since it was already included in the BMU requirements. Engineer Freeman agreed and said it could be deleted because those details were addressed later in item R. Recorder Supp confirmed the removal of the "installing all project enhancements" language.

The Council then discussed changing references from Exhibit C to Exhibit D to distinguish between the plat map and the construction drawings. Recorder Supp clarified the new language, noting that the sentence would read "as identified on Exhibit D" rather than referencing both Exhibits A and D redundantly. Council Member Thompson and Council Member Bartling agreed that the section could simply end after "construction drawings."

Attorney Smuin read the finalized language aloud: the developer would construct and install all site improvements, including facilities required for the apartment or



condominium building, at the developer's sole cost and expense, in compliance with City code and state law, including but not limited to replacing the irrigation piping as shown on the construction drawings attached as Exhibit D. The on-site project improvements would be included in the developer's performance bond.

Mr. Cook noted that bonding should only cover off-site improvements since on-site items were private. Attorney Smuin and Mr. Cook agreed, stating that on-site work was the developer's responsibility. Attorney Smuin confirmed that "on-site" could be deleted from the bonding requirement.

Council members reviewed the text and agreed with the revised version, aside from the one adjustment. Engineer Freeman concluded that off-site improvements were the City's primary concern and should remain bonded.

Attorney Smuin stated that there were no changes to that section, so it would move to item Q, which involved a modification to item R.

Recorder Supp noted that item Q could be deleted and mentioned that Engineer Freeman had several comments regarding it. Engineer Freeman explained that the section involved enhancements and landscaping items. He added that the BMU zoning applied to this development. Mayor Wiggill confirmed that item Q could be eliminated. Engineer Freeman pointed out that there was no open space related to the project. Recorder Supp acknowledged that exception.

Mayor Wiggill referred to underground development, pavement, and demolition. Recorder Supp mentioned that section of the document had been highlighted but was uncertain why.

Mr. Cook explained that the highlighted text referred to constructing utilities and the building foundation simultaneously. He stated that because the building foundation was only about six feet from the retaining wall and required installation of both a sewer and storm drain along that side, the work would need to occur concurrently. He noted that this issue would be discussed further with Engineer Freeman and the contractor. Engineer Freeman asked for clarification on that point. Mr. Cook stated that the work could be done simultaneously.

Recorder Supp asked whether the reference to 1900 North should actually refer to Main Street.

Engineer Freeman clarified that the developer did not agree to upgrade certain infrastructure, including the water line along 1900 North, which was Main Street, or any secondary water pipes, except where irrigation replacement was specifically referenced. Mr. Cook said that correction could be made.

Engineer Freeman advised removing the reference to the 1900 North water line since the developer would already be installing a water line there.

Mr. Cook reiterated that they simply wanted to perform the civil work and foundation work at the same time if necessary.

Engineer Freeman explained that when the developer installed the new water line, UDOT's work would actually assist them. UDOT had already extended its pipe



approximately 20 feet onto the property and installed a 45-degree fitting, which could be removed and tied into to continue the line south, near the speed limit sign, before turning again at another 45-degree angle.

Recorder Supp stated that the highlighted portion should be stricken from the document and clarified that the civil improvement plans had been reviewed, though not all comments had been updated. Those plans would be part of the development agreement.

Recorder Supp then read a section stating that the developer was entitled to count available on-street parking. Mr. Cook clarified that the section was quoting the BMU ordinance. Engineer Freeman stated that there was no on-street parking along 1675 North and that such parking would require specific approval. Mr. Cook agreed, confirming that the language was directly from the city ordinance. Mr. Cook said it was unclear what the final layout would look like but agreed that there likely would not be on-street parking. Mr. Cook mentioned that there was on-site parking available nearby within the same zoning area.

For the next item Mr. Cook emphasized that the City had agreed in prior BMU projects to limit only certain commercial uses such as vape shops. He explained that the purpose of the language was to ensure flexibility for other commercial tenants. Recorder Supp asked if the developer was requesting that any business type be permitted. Mr. Cook explained that the ordinance already listed certain restricted uses, such as adult-oriented or other specific businesses, and those limitations were acceptable. He added that during a previous project, a potential buyer for an adult daycare facility faced difficulty obtaining approval despite being a beneficial business. He expressed concern about overly restrictive interpretation of commercial use allowances, especially given the challenges of leasing commercial space in the current market. Recorder Supp responded that the City business license ordinance governed allowed uses and sought to ensure consistency among neighboring businesses.

Mr. Cook said the zoning itself established the restrictions. Recorder Supp agreed, emphasizing that it should follow the zoning standards. Mr. Cook reiterated that the BMU zone specified which uses were not allowed. Council Member Thompson stated that anything not specifically restricted in the ordinance would therefore be allowed. Mr. Cook confirmed and offered to review the list of restricted uses. Attorney Smuin said the language was acceptable but cautioned that if the City later amended the permitted or conditional uses for that zone, those changes would apply moving forward. The development agreement could not override future zoning amendments. Mr. Cook explained that their main interest was keeping the commercial units occupied and marketable, rather than vacant. Attorney Smuin agreed but noted the risk of future disputes if a business claimed it was grandfathered under the earlier rules.

Mr. Cook stated uncertainty about how the form-based code might interact with the existing BMU zone, noting that this property had already been rezoned under the BMU designation and might not be affected by the transition to form-based code. He added that the goal was to keep the commercial spaces marketable to small business owners, even though restaurants and other intensive uses were not expected.

Council Member Thompson summarized that the developer wanted the agreement to specify that the uses permitted at the time of approval would apply, without future grandfathering beyond the project completion.

Director Monroe clarified that the property remained under the BMU zone, not the form-based code, and therefore retained existing entitlements. Even if the City later adopted more restrictive zoning, the developer's current entitlements would remain valid for the designated timeframe. Director Monroe added that the BMU zoning would continue to apply for the four-year entitlement period, after which any new code could take effect.

Attorney Smuin stated that the intent was to prevent the BMU from applying indefinitely once the project was completed and occupied. Mr. Cook said their intent was only to maintain flexibility for the initial sales and occupancy period. He shared that an adult daycare had previously faced delays in approval despite being a suitable use. Their goal was to ensure that the spaces could be marketed effectively to potential buyers or tenants.

Council Member Smalling summarized the issue, clarifying that once construction was complete, future owners or tenants would be subject to the City's zoning code as it existed at the time of their business application.

Mr. Cook agreed, explaining that he wanted to avoid situations where the City might deny a future buyer's business use after code changes.

Recorder Supp asked if the section was acceptable as written. Attorney Smuin suggested adding limiting language to prevent future property owners from claiming rights under outdated zoning. Mr. Cook responded that only the developer and the City were parties to the agreement, not future third parties. Attorney Smuin explained that successors in interest to the property would inherit certain rights unless specified otherwise, so clarification in the agreement was necessary.

Mr. Cook commented that the issue might only apply if the new business were of a similar type to the original. Attorney Smuin emphasized that successor rights could extend beyond the developer's ownership.

Mr. Cook clarified that new business owners would still need their own occupancy and business permits, and that different business types—such as those involving alcohol or adult entertainment—would require separate review and approval. He stated that the intent was to cover only the developer and the first buyer. Attorney Smuin agreed to add clarifying language addressing marketability while ensuring that subsequent owners would need to comply with current zoning. Mr. Cook agreed that the language would be acceptable as long as it supported both the project's market viability and the City's ability to review future uses. Engineer Freeman suggested referencing "current zoning" to make the intent clear.

Recorder Supp moved to the next section regarding construction site safety, noting that a reference to the "Manual on Uniform Traffic Control Devices" had been struck out. Director Monroe recommended keeping that reference, noting that UDOT required compliance with MUTCD standards for any work along 1675 North.

Recorder Supp noted another section about site inspection frequency. Director Monroe added that the same requirements would apply under the project's stormwater permit, ensuring compliance with safety and environmental standards.

Recorder Supp proceeded to the section titled "Consequences of Developer Non-Compliance with Final Plan."

Recorder Supp read a clause stating that, in the event of default by either party, the default provisions contained in the agreement would apply. Recorder Supp asked whether the section should be removed or retained.

Mr. Cook stated that the default provisions were already included elsewhere in the document. Attorney Smuin recommended keeping the section, noting it might be redundant but was still necessary. Engineer Freeman agreed that it should remain. Recorder Supp confirmed that both sections would be kept. Attorney Smuin reiterated that although redundant, keeping both would avoid confusion.

Recorder Supp then read a section allowing the developer to assign the agreement to a successor in interest. Mr. Cook stated that this was standard language included in all City development agreements.

Attorney Smuin explained that restrictive language could be added to the agreement, but stated it was acceptable to include a clause for a successor in interest. He noted that sometimes ownership needed to be reorganized or transferred within the same core group, and in such cases, that would be appropriate. However, they suggested making the language slightly more precise.

Mr. Cook stated that the agreement would run with the land, meaning if the property were sold, the agreement would still apply to the new owner, who would be bound by the same terms. Director Monroe agreed and said the same situation had occurred before with another property that changed ownership several times. Eventually, the original developer returned and had to revalidate the same agreement, which would also apply here if the developer changed. Mr. Cook emphasized that the agreement would bind the property regardless of who owned it. Attorney Smuin agreed with that statement.

Mr. Cook added that there was no need for the language to be any more restrictive. Council Member Thompson began to speak, but Attorney Smuin continued, suggesting that the wording could remove the phrase "others, choice, success, and interest," since the intent was simply to allow the developer the right to freely assign the agreement.

Mayor Wiggill acknowledged the point and indicated the discussion would move forward.

Recorder Supp shifted the topic to greenbelt taxes. Attorney Smuin said that related to what had just been discussed and clarified that the agreement would remain under its current tax status until the developer pulled the building permit. He stated that approach made sense if the property was still entitled to greenbelt status. Mr. Cook agreed and said the Council could delete the entire paragraph. Recorder Supp asked to confirm whether the whole section should be removed. Council Member Smalling disagreed, stating that the entire paragraph should not be deleted. Council Member Thompson said they could remove the greenbelt portion but keep the language stating that the City would still require payment. Director Monroe added that the developer would be paying those costs regardless, so the language might not be necessary. Recorder Supp asked whether the Council wanted to delete the paragraph altogether. Attorney Smuin recommended following standard legal practice by replacing the section with the phrase "intentionally omitted," so no further changes would be required elsewhere in the document.

Recorder Supp then moved on to the section regarding Exhibit A, which covered the construction improvement guarantee. She stated that the reference “is stricken” should instead read “should be.”

Recorder Supp clarified that the period should be one year, not multiple years, and confirmed they would make that correction.

Mayor Wiggill asked if there were any additional questions or concerns from the Council. Hearing none, he thanked everyone and expressed appreciation for their efforts. Mr. Cook thanked the Council for meeting halfway on several points and expressed appreciation for the collaboration.

Council Member Carlson made a motion to adjourn and Council Member Bartling seconded the motion. The motion passed unanimously with Council Members Bartling, Carlson, Smalling and Thompson voting yes.

The meeting adjourned at 8:08 p.m.

Approved – November 5, 2025

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Scott Wiggill, Mayor

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Nicole Supp, Recorder

ING BUILDING LOT 2 OF LOFTS AT FALCON RIDGE 2ND AMENDMENT  
LOCATED IN THE NE 1/4 OF SEC. 26, T.5N., R.2W., S.1.B.&M.  
SUNSET CITY, DAVIS COUNTY, UTAH  
FINAL PLAT, AUGUST 2025

FINAL PLAT, AUGUST 2025



**CONTACT: Joseph Cook**  
Phone # 801-330-7713  
Address: P.O. BOX 549195  
North Salt Lake, Utah 84054  
Email: [samebuilders1@gmail.com](mailto:samebuilders1@gmail.com)

**BUILDABLE AREA**  
TOTAL SQUARE LOT = 16,412 SQ. FT.

Check this out for free info: [www.samebuilders1.com](http://www.samebuilders1.com)  
Free Builder's Kit: 150 and 111 sq ft  
Free Builder's Inventory: 18, 144 sq ft

NORTH DAKOTA SLOPE DISTRICT

DATE \_\_\_\_\_

POSITION ENERGY \_\_\_\_\_

DATE \_\_\_\_\_

CENTURY INC \_\_\_\_\_

DATE \_\_\_\_\_

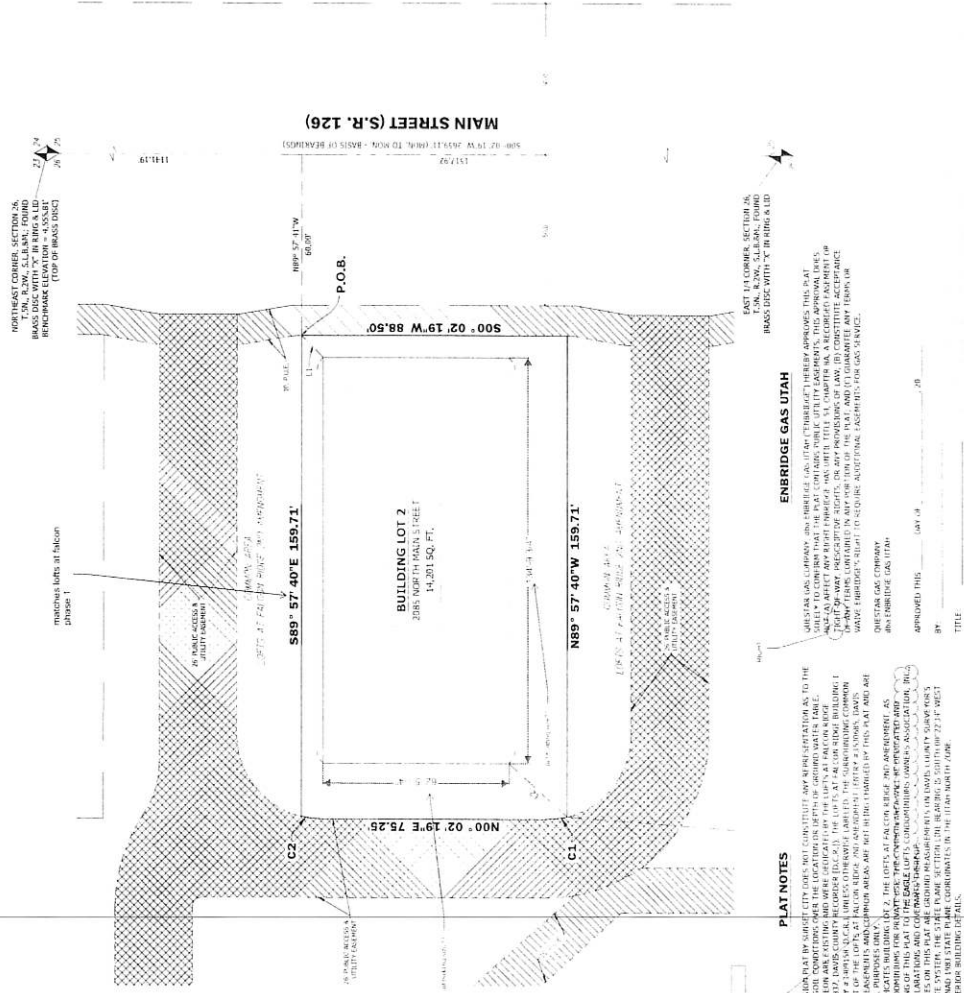
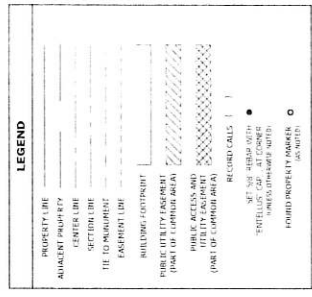
FORECAST \_\_\_\_\_

ROCKY MOUNTAIN POWER \_\_\_\_\_

DATE \_\_\_\_\_

CURVE #	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	25.00'	5.57	012° 41' 04"	N06° 18' 11"W	5.57
C2	25.00'	5.03	012° 41' 18"	N06° 51' 38"E	6.67

TABLE 1	
Symbol	Definition
$\alpha$	$0.05$
$\beta$	$0.05$
$\gamma$	$0.05$
$\delta$	$0.05$
$\epsilon$	$0.05$
$\zeta$	$0.05$
$\eta$	$0.05$
$\theta$	$0.05$
$\iota$	$0.05$
$\kappa$	$0.05$
$\lambda$	$0.05$
$\mu$	$0.05$
$\nu$	$0.05$
$\xi$	$0.05$
$\omicron$	$0.05$
$\pi$	$0.05$
$\rho$	$0.05$
$\sigma$	$0.05$
$\tau$	$0.05$
$\upsilon$	$0.05$
$\phi$	$0.05$
$\chi$	$0.05$
$\psi$	$0.05$
$\omega$	$0.05$

[illegible]

1. AUTHOR (LAST, FIRST, MIDDLE) \_\_\_\_\_  
 2. TITLE \_\_\_\_\_  
 3. JOURNAL \_\_\_\_\_  
 4. VOLUME \_\_\_\_\_  
 5. NUMBER \_\_\_\_\_  
 6. YEAR \_\_\_\_\_  
 7. PAGES \_\_\_\_\_  
 8. ABSTRACT \_\_\_\_\_  
 9. KEYWORDS \_\_\_\_\_  
 10. INDEXING \_\_\_\_\_  
 11. NOTES \_\_\_\_\_  
 12. REFERENCES \_\_\_\_\_  
 13. COMMENTS \_\_\_\_\_  
 14. OTHER \_\_\_\_\_  
 15. TOTAL \_\_\_\_\_

1. I, **TERESA H. CUNNINGHAM**, A PROFESSIONAL LAND SURVEYOR, CERTIFY THAT I HOLD LICENSE NO. **3192-007** IN ACCORDANCE WITH TITLE 36, CHAPTER 22, PROFESSIONAL ENGINEERS AND SURVEYORS, AND I HAVE FILED WITH DAVID COUNTY, AND HAVE VERIFIED THAT THE LOCATIONS OF PROFESSIONAL LAND SURVEYORS LICENSING ACT, I HAVE PLACED MONUMENTS ON THE BOUNDARIES ON SAID SURVEY REPRESENT THE EXISTING PROPERTY BOUNDARIES SHOWN ON THIS PLAN, CERTIFYING THE AUTHORITY OF THE OWNERS. I HAVE PLACED MONUMENTS ON THE BOUNDARIES OF THE TRACTS OF LAND SHOWN ON THIS PLAN, AND THE TRACTS OF LAND DESCRIBED HEREWITH SHALL BE SUBDIVIDED INTO LOTS AND STREETS HEREAFTER TO BE KNOWN AS **DEACON BERRY BUILDING LOT 2, COMBINATION.**

JEREMIAH R. CUNNINGHAM, P.A.S., UT 29182-497

BEGINNING AT A POINT THAT IS SOUTH 97° 31' 14" WEST 6.00 FEET ALONG THE SECTION LINE, BEING THE BASE OF BLANKING, AND RUN N 97° 31' 14" WEST 60.00 FEET TO THE NORTHEAST CORNER OF THE 1/4 SECTION, 1/4 SECTION 36, TOWNSHIP 36 NORTH, RANGE 10 WEST, COUNTY OF DAVALL COUNTY, UTAH, SAID CORNER BEING THE NORTH CORNER OF "BLANKING OF 7' LOTS AT PALCOS CROSS ROAD, 200 AMMUNITION DRIVE, DAVALL COUNTY, COLORADO, AND RUNNING SOUTH 97° 31' 14" WEST 60.00 FEET TO THE POINT OF BEGINNING, THERE BEING A PUBLIC EASEMENT 100 FEET WIDE TO THE WEST SIDE OF MAIN STREET.

THENCE ALONG A PORTION OF SAID STREET, BEING A PORTION OF A PUBLIC EASEMENT AND UTILITY RIGHT-OF-WAY, TO A POINT OF BEGINNING, BEING THE INTERSECTION OF SAID STREET WITH THE 1/4 SECTION LINE, BEING THE BASE OF BLANKING, AND THE FOLLOWING (THREE) LOTS CORNERS:

1) NORTHEAST 1/4, SECTION 36, TOWNSHIP 36 NORTH, RANGE 10 WEST, 6.00 FEET TO A POINT OF INTERSECTION, BEING 17.50 FEET, CHORD BEING 18.00 FEET, ANGLE BEING 90° 00' 00" TO THE SOUTH.

2) NORTHEAST 1/4, SECTION 36, TOWNSHIP 36 NORTH, RANGE 10 WEST, 6.00 FEET TO THE RIGHT CORNER OF THE 1/4 SECTION, 1/4 SECTION 36, TOWNSHIP 36 NORTH, RANGE 10 WEST, 6.00 FEET, CHORD BEING 18.00 FEET, ANGLE BEING 90° 00' 00" TO THE POINT OF BEGINNING.

THENCE, SOUTH 97° 31' 14" WEST, 180.00 FEET TO THE POINT OF BEGINNING.

THE UNDERSIGNED CERTIFY OF THE ABOVE DESCRIBED LAND, HAVING CAUSED THE SAME TO BE SURVEYED BY A COMPETENT SURVEYOR, AND SPECIFICALLY TO BE KNOWN AS SETS AT FAIR CONVEYANCE, BUILDING LOT 2 CONDOMINIUM, TO HEREIN DESIGNATED FOR THE ESSENTIAL USE OF THE PUBLIC PARCELS OF LAND OWNED ON THIS DATE AS EVIDENCED BY THE PLAT OF THE WARRANT TO THE CITY THAT THE SAME ARE PART OF ALL ENCUMBRANCES THAT COULD INTERFERE WITH THEIR USE AS HEREIN INDICATED.

IN VITRO'S, WHERE WE HAVE REFUSED TO LET OUR NAMES THIN

IN THE STATE OF \_\_\_\_\_, I, \_\_\_\_\_, COUNTY OF \_\_\_\_\_, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS THE SAME APPEARS TO ME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Notary Public for Oregon  
 Commission Expires \_\_\_\_\_  
 Commission Number \_\_\_\_\_  
 My Comm. Exp. Date \_\_\_\_\_

[illegible]

THIS IS TO CERTIFY THAT THIS DEED AND DECLARATION OF THIS PLAT  
ALONG WITH THE DEDICATION OF THE STREETS AND EASEMENTS, WERE  
DULY APPROVED AND ACCEPTED BY THE CITY COUNCIL OF SIOUX CITY  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
WATSON \_\_\_\_\_  
ATTEST \_\_\_\_\_

THIS IS TO CERTIFY THAT I HAVE EXAMINED THE FOREGOING PLAT AND DISCREPANCIES AND IN MY JUDGMENT IT CONFORMS WITH THE CITY ORDINANCES, THIRTY TO AND NINETY IN FORCE AND EFFECT.

Signed C. T. Hays. 1887-128 70

POSTAGE IS BY THE SUBSCRIBER CITY PLANNING COMMISSION

IT IS TO CERTIFY THAT THIS OFFICE HAS EXAMINED THIS PLAN AND IT IS CORRECT IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE, PREREQUISITE TO CITY ENGINEER'S APPROVAL.

DATE: THIS DAY OF 20



**Emelius**  
FISH

1470 South 600 West  
Woods Cross, UT 84010  
Phone 801 298 2246  
www.Emelius.com  
jeanette@emelius.com

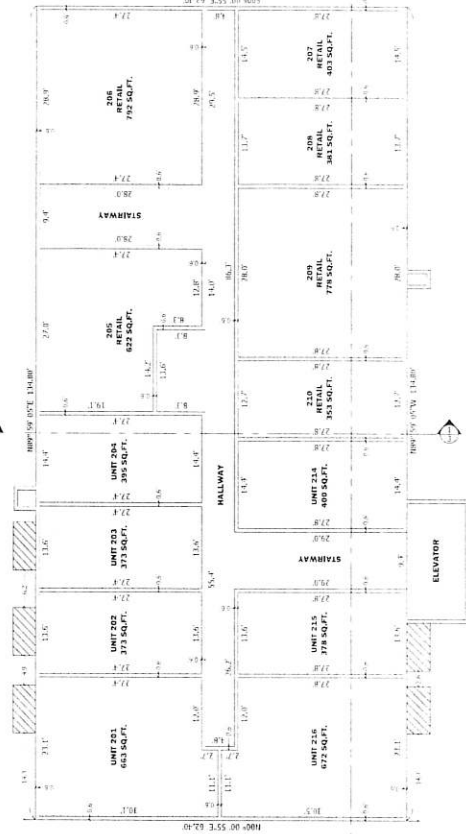
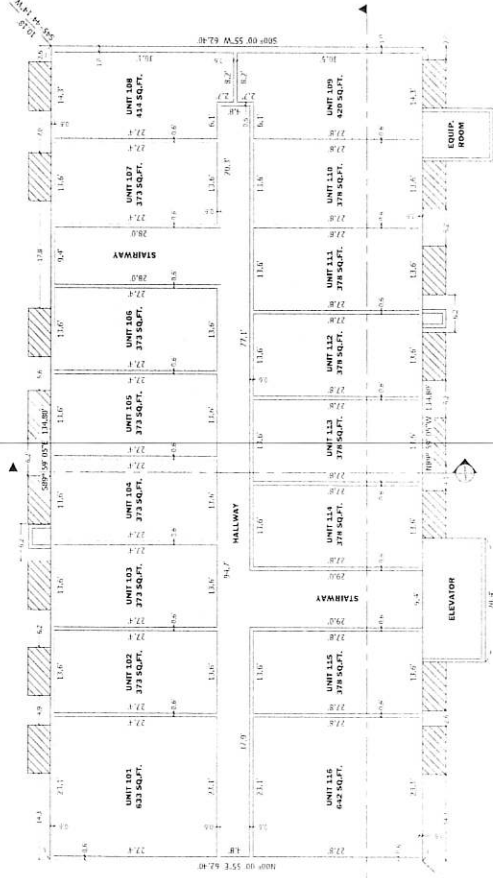


# LOFTS AT FALCON RIDGE BUILDING LOT 2 CONDOMINIUMS

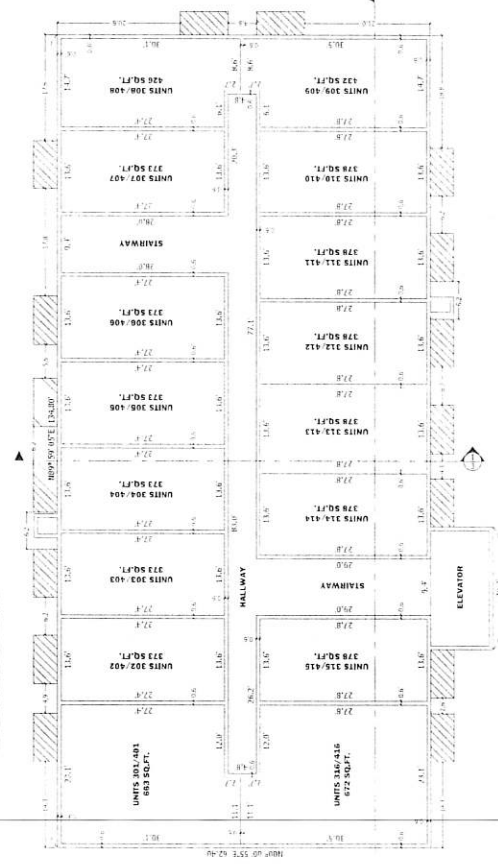
AMENDING BUILDING LOT 2 OF LOFTS AT FALCON RIDGE 2ND AMENDMENT  
LOCATED IN THE NE 1/4 OF SEC. 26, T5N, R24W, S46.8M.  
SUNSET CITY, DAVIS COUNTY, UTAH  
FINAL PLAT, AUGUST 2025

1ST FLOOR

2ND FLOOR



3RD & 4TH FLOORS



LEGEND	
[Symbol]	UNITED LEASING AREA
[Symbol]	PRIVATE AREA
[Symbol]	COMMON AREA

NOTE: SEE SHEET 3 FOR PROFILE VIEWS AND CROSS-SECTIONS

DAVIS COUNTY RECORDER

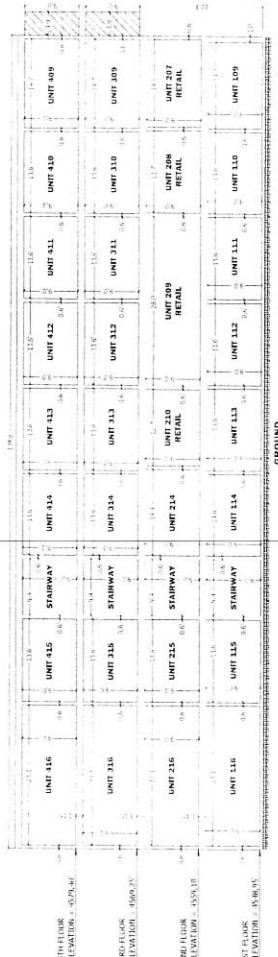
14th South Ave West  
Woods Cross, UT 84010  
Phone 801.268.2216  
www.falconsouth.com  
SUNSET CITY, DAVIS COUNTY, UTAH



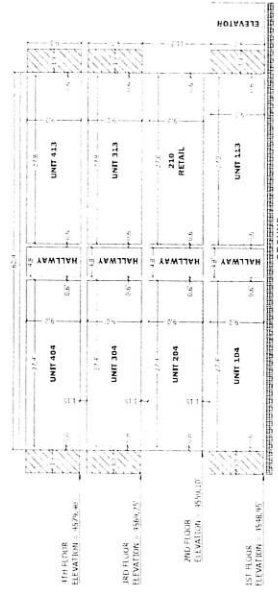
# LOFTS AT FALCON RIDGE BUILDING LOT 2 CONDOMINIUMS

AMENDING BUILDING LOT 2 OF LOFTS AT FALCON RIDGE 2ND AMENDMENT  
 LOCATED IN THE NE 1/4 OF SEC 16, T.5N., R.2W., S.15.5M.  
 SUNSET CITY, DAVIS COUNTY, IOWA  
 FINAL PLAT, AUGUST 2025

SECTION VIEW A



SECTION VIEW 1



PROJECT BENCHMARK BRASS DISC AT NORTHEAST CORNER SECTION 26, T.5N., R.2W., S.15.5M.  
 BENCHMARK ELEVATION = 4555.43' (TOP OF BRASS DISC)



LEGEND	
UNIT WALL LINE	---
11' TO ADJACENT	---
PRIVATE AREA	---
COMMON AREA	---
UNITED COMMON AREA	---

**United**  
 1177 South 4th Ave.  
 Ames, IA 50010  
 Phone: 515.281.1111  
 Fax: 515.281.1112  
 Email: info@united.com  
 Website: www.united.com

**DAVIS COUNTY RECORDER**

FILE NO. \_\_\_\_\_ DATE \_\_\_\_\_  
 FILED IN \_\_\_\_\_  
 COUNTY \_\_\_\_\_  
 RECORDER \_\_\_\_\_

**ASCEND MIXED USE  
SUBDIVISION DEVELOPMENT AGREEMENT**

THIS SUBDIVISION DEVELOPMENT AGREEMENT (hereinafter "Agreement"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025 ("Effective Date"), by and between SUNSET CITY, a body corporate and politic of the State of Utah, (hereinafter the "City") and ASCEND Land Development LLC, (hereinafter "Developer") the City or Developer may be referred to individually as "Party" or collectively as Parties:

**RECITALS**

WHEREAS, Developer desires to develop certain real property situated in the corporate city limits of Sunset City, Davis County, State of Utah (hereinafter sometimes referred to as the "Property" or "Development") and legally described as follows, to wit:

A parcel of land lying and situate in the Southeast Quarter of Section 26, Township 5 North, Range 2 West, Salt Lake Base and Meridian for which the Basis of Bearing is North 00°13'23" West 2654.50 feet measured between found Davis County brass caps monumentalizing the East line of the Southeast Quarter of Section 26, Township 5 North, Range 2 West, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the Westerly Right-of-way line of Sunset Main Street said point being North 00°13'23" West 1953.84 feet coincident with the East line of the Southeast Quarter of Section 26, Township 5 North, Range 2 West, Salt Lake Base and Meridian and WEST 50.00 feet from the Southeast Corner of said Section 26 and running; THENCE coincident with the Westerly Right-of-way line of Sunset Main Street, South 00°13'23" East 196.00 feet; THENCE South 89°46'37" West 235.60 feet; THENCE North 00°13'23" West 118.00 feet; THENCE North 89°46'37" East 159.60 feet; THENCE North 00°13'23" West 78.00 feet; THENCE North 89°46'37" East 76.00 feet more or less to the Westerly Right-of-way line of Sunset Main Street and the point of beginning. The above-described parcel contains an area of 33,728.80 square feet, or 0.774 acres more or less.

WHEREAS, Developer desires to develop the Property and Developer has submitted to the City all Construction Drawings, a plat, plans (including utility plans), reports, and other documents required for the approval of 57 +/- residential units (either apartments or condominiums, to be determined by Developer) plus approximately 3,500 square feet of commercial space, according to the City's outlined policies, procedures, and code; and

WHEREAS, the Parties hereto have agreed that the development of the Property will require municipal services from the City in order to serve such area and will further require the installation of certain improvements primarily of benefit to the lands to be developed and not to the City of Sunset as a whole; and

WHEREAS, the City has approved or will approve the Final Plat for recording with the Recorder's Office of Davis County, Utah, which was submitted by the Developer subject to certain requirements and conditions, which involved the installation of and construction of

utilities and other municipal improvements in connection with the Property; and shall be signed by both parties and shall be recorded by the Developer upon approval of this Agreement; and

WHEREAS, Utah Code 10-9a-102 provides the City's general land use authority to adopt ordinances, resolutions, rules, and may enter into development agreements.

NOW, THEREFORE, in consideration of the promises of the Parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

### **SECTION 1. GENERAL CONDITIONS**

A. **Development Activities.** The terms of this Agreement shall govern all development activities of the Developer pertaining to the Property. For the purposes of this Agreement, "development activities" shall include, pursuant to Utah Code Annotated (hereinafter "U.C.A.") § 10-9a-103(8), but be not limited to, the following: any change in the use of land that creates additional demand and needs for public facilities. Furthermore, for purposes of this agreement only, "development activities" shall also include the following: (1) the actual construction of improvements, (2) obtaining a permit therefore, or (3) any change in grade, contour, or appearance of the Property caused by, or on behalf of, the Developer with the intent to construct improvements thereon, none of which shall occur until execution of the Agreement and City approval of the Final Plat.

B. **Time Limitations for Improvements.** All water lines, sanitary sewer collection lines, storm sewer lines and facilities, streets, curbs, gutters, sidewalks, streetlights, and trails shall be installed as shown on the Final Plat, Construction Drawings and in full compliance with the standards and specification of the City, at the time of approval of the Final Plat, within two (2) years within the issuance of a building permit. This Agreement shall expire after (4) four years of Effective Date. In the event the Developer commences or performs any construction pursuant hereto after the passage of two (2) years from the date of issuance of the building permit, the Developer shall resubmit the Final Plat, documentation supporting a new guaranty bond to the City Engineer for reexamination, and obtain new agreement. Pursuant to U.C.A. § 10-9a-603, the City may then require the Developer to comply with the approved standards and specifications of the City at the time of resubmission.

If any Development Improvements remain incomplete after the earlier of (a) two (2) years from the commencement of construction or (b) four (4) years from the Effective Date, the City may, in its sole discretion, draw upon the guaranty bond funds to complete the remaining improvements or take any action authorized by law or this Agreement.

C. **Culinary Water and Sewer Treatment Capacity.** The City, which includes the Sunset City Culinary Water Authority and Sunset City Sanitary Sewer Authority, does not reserve or warrant water capacity or sewer treatment capacity until the issuance of a building permit. Recording of the Final Plat, execution of this Agreement, and/or recording of any lot within the Development does not constitute a reservation or warranty for water capacity and/or sewer treatment capacity

D. **Bonding for Work in the Public Right-of-Way.** Pursuant to the Sunset City Code, Developer shall pay for a completion bond, or other financial guarantee, acceptable by Sunset City code, in the amount of 110% of the value of the proposed work in the Public Right of Way. The City agrees that the value of the proposed work equals \$264,874.90 including the 15% contingency (the "ROW Cost"). Upon satisfactory inspection of the work in the public right-of-way, the ROW Cost shall be regularly disbursed to the Developer. The City shall not delay disbursement of the ROW Cost for any reason other than an inspection found to be not in conformity with the plans as approved by the City Engineer.

E. **Off-Site Project Improvements.** Other than the payment of impact fees, there are no off-site project improvements contemplated by this Agreement or the Construction Drawings.

F. **Building Permit Issuance.** No building permit for the construction of any structure within the development shall be issued by the City a performance bond has been issued for the same.

G. **Certificate of Occupancy.** No Certificates of Occupancy shall be issued by the City for any structure within the development until gas lines to the structure are installed, street signs are installed, and all electrical lines are installed.

H. **Financial Responsibilities of Developer.** Except as otherwise herein specifically agreed, the Developer agrees to install and pay for all water, sanitary sewer, and storm drainage facilities and appurtenances, and all streets, curbs, gutters, sidewalks, trails, and other public improvements required by this Development as shown on the Final Plat, Construction Drawings and other approved documents pertaining to this Development on file with the City.

I. **Utility Line Installments.** Street improvements shall not be installed until all utility lines to be placed therein have been completely installed, including all individual lot service lines (water and sewer) leading in and from the main to the property line, all electrical lines, and all communication conduits.

J. **Inspection by City Officials.** The installation of all utilities shown on the Final Plat and Construction Drawings shall be inspected by the Engineering Department and/or Public Works Department of the City and shall be subject to such department's approval. The Developer agrees to correct any deficiencies in such installations to meet the requirements of the plans and/or specifications applicable to such installation. In case of conflict, the Sunset City Public Works Standards shall supersede the Final Plat and Construction Drawings, unless written exceptions have been made.

K. **Form of Recorded Drawings.** The Developer shall provide the City Engineer with two (2) certified Record Plan Drawings upon completion of each phase of the construction. Utilities will not be initially accepted prior to as-built drawings being submitted to and approved by the City of Sunset. The City reserves the right to request alternative forms of plans (i.e., CAD drawings, GIS images, etc.).



L. **Developer Compliance with EPA and other Regulations.** The Developer specifically represents that to the best of its knowledge, all property dedicated (both in fee simple and as easements) to the City associated with this Development (whether on or off-site) is in compliance with all environmental protection and anti-pollution laws, rules, regulations, orders or requirements, including solid waste requirements, as defined by the U.S. Environmental Protection Agency Regulations at 40 C.F.R. Part 261, and that such property as is dedicated to the City pursuant to this Development, is in compliance with all such requirements pertaining to the disposal or existence in or on such dedicated property of any hazardous substances, pollutants or contaminants, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. The Developer, for itself and its successor(s) in interest, does hereby indemnify and hold harmless the City from any liability whatsoever that may be imposed upon the City by any governmental authority or any third Party, pertaining to the disposal of hazardous substances, pollutants or contaminants, and cleanup necessitated by leaking underground storage tanks, excavation and/or backfill of hazardous substances, pollutants or contaminants, or environmental cleanup responsibilities of any nature whatsoever on, of, or related to any property dedicated to the City in connection with this Development, provided that such damages or liability are not caused by circumstances arising entirely after the date of acceptance by the City of the public improvements constructed on the dedicated property, except to the extent that such circumstances are the result of the acts or omissions of the Developer. Said indemnification shall not extend to claims, actions or other liability arising as a result of any hazardous substance, pollutant or contaminant generated or deposited by the City, its agents or representatives, upon the property dedicated to the City in connection with this Development. The City agrees to give notice to the Developer that he must obtain a complete discharge of all City liability through such settlement. Failure of the City to give notice of any such claim to the Developer within ninety (90) days after the City of first receives a notice of such claim under the Utah Governmental Immunity Act for the same, shall cause this indemnity and hold harmless agreement by the Developer to not apply to such claim and such failure shall constitute a release of this indemnity and hold harmless agreement as to such claim.

M. **City Ownership Rights.** The Developer acknowledges and agrees that the City, as the owner of any adjacent property (the "City Property") on which off-site improvements may be constructed, or that may be damaged by the Developer's activities hereunder, expressly retains (and does not by this Development Agreement waive) its rights as the property owner. The City's rights as an owner may include without limitation those rights associated with the protection of the City Property from damage, and/or the enforcement of restrictions, limitations, and requirements associated with activities on the City Property by the Developer as an easement recipient.

N. **Developer Vesting.** Developer, by and through execution of this agreement, receives a vested right to develop the apartments or condominiums (as Developer so desires) shown and configured on the Final Plat, without interference from the City, so long as development is completed in accordance with the plans specifically shown on the Final Plat, Construction Drawings and pursuant to the statutory requirements codified by Utah State and Sunset City Codes. Furthermore, following the execution of the Agreement, the Developer's

right to develop and construct in accordance with the statutory requirements at the time of execution of the Agreement shall be deemed vested.

## **SECTION 2. SPECIAL CONDITIONS**

**A. Water Lines.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to the water lines. The existing 8" water pipe being abandoned shall be abandoned per UDOT standards.

**B. Sewer Lines.**

1. Developer must show compliance with all applicable federal, state and city ordinances as it relates to all sewer lines and appurtenances. A sewer easement is required through the neighboring property to access the city sewer system.

**C. Storm Drainage Facilities, Lines, and Appurtenances.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to storm drainage facilities, lines, and appurtenances. UDOT improvement plans show a new catch basin being installed in the curb and gutter along the frontage of the project. The construction of your project shall not inhibit the construction of the catch basin. If the installation of the catch basin cannot be coordinated between your project and UDOT, your contractor will install the catch basin at your cost.

**D. Streets.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to the streets.

**E. Natural Resources.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to natural resources.

**F. Ground Water, Subdrains, and Water Rights.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to ground water, subdrains, and water rights.

**G. Hazards and Emergency Access.**

1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to hazards and emergency access.

- H. **Footing and Foundation Permits.**
  - 1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to footing and foundation permits.
- I. **Development Construction Permit.**
  - 1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to development construction permits.
- J. **Maintenance and Repair Guarantees**
  - 1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to maintenance and repair guarantees.
- K. **Performance Bond for Chip Seal and Fog Coat.**
  - 1. That the Developer shall secure a performance bond for chip seal and fog coat prior to pulling a construction permit.
- L. **Performance Bond for Certain Improvements.**
  - 1. That the Developer shall secure a performance bond for Curb, Storm Drain, Gutter, and Sidewalk as shown in the Construction Drawings prior to pulling a construction permit.
- M. **Curb, Gutter and Sidewalk**
  - 1. The Curb gutter and sidewalk will be removed and constructed along the frontage of main street (SR-126) to align with UDOT most recent improvement plans. The improvements shall be in compliance with all applicable federal, state and city ordinances. The cost to replace these improvements will be included in the construction estimate bond amount for this project per the construction drawings.
- N. **Streetlights.**
  - 1. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to streetlights.
- O. **Irrigation Water.**
  - 1. There is no secondary water in Sunset City. Outside of compliance with all applicable federal, state and city ordinances, there are no special conditions as it relates to secondary water. The existing irrigation pipe will be replaced along Main Street (SR-126) frontage with black corrugated pipe. The cost to replace this pipe will be included in the construction estimate bond amount for this project.
- P. **On-Site Project Improvements.**

1. Developer shall construct and install all site improvements, including utilities, required for the apartment or condominium building, at Developer's sole cost and expense in compliance with approval and in accord with the City Code and the State of Utah, including, but not limited to, replacing the irrigation piping as shown on the Construction Drawings attached hereto as Exhibit D.

**Q. Off-Site Project Improvements.**

1. In accordance with applicable standards and subject to the design approval of the City Engineer and Utah Department of Transportation, Developer shall construct and install improvements which requires curb and gutter, sidewalks, utilities, and drainage improvements along 1600 North and Main Street (SR-126).

**R. Street Scape/Landscaping/Sidewalks.**

1. Pursuant to the Boulevard Mixed Use Zoning. Along Main Street, all mixed use developments shall incorporate combinations of the following, which combinations are depicted in the Construction Drawings attached as Exhibit A:
  - a. Street Trees in grates or Raised Planters;
  - b. Lamp posts every 100 feet (100');
  - c. Ten foot (10') wide sidewalks with five feet (5') being on owner's property and five feet (5') being on city right of way;
  - d. Patterns scored sidewalk in the concrete;
  - e. Bollards; and
  - f. Parking lot/parking garage screening and/or vegetative screening.

**S. Advertising.**

1. Developer may erect tasteful signage for the purposes of advertising units for sale or lease and may also utilize any and all existing billboards, placards, and signage for the purposes of tasteful advertising.

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**T. Covenants and Restrictions.**

1. At Developer's discretion he may rent the units as apartments, or he may record condominium covenants, conditions and restrictions ("CC&Rs") and a condominium plat against the property prior to the sale of any units. The Developer hereby agrees to use its best efforts to enforce the CC&Rs during all such periods during which the Developer has control of the Development. Prior to recording the CC&Rs, Developer shall submit the same to the City for approval, which approval shall not be unreasonably withheld or unreasonably delayed. In the event that approval of the CCR's has not been granted by the city within 90 days of submittal to the City, Developer shall have the right to record the draft CC&Rs as submitted. In the event of any occurrence on the property which affects or threatens the

health, safety or welfare of the City or its residents, the City shall notify the Developer or the Homeowners Association (HOA), of such condition. If the condition is not remediated within ten (10) days or less if the condition constitutes a bona fide emergency, the City may enter upon the property and remediate the condition and assess the cost to the HOA.

**U. Underground Development, Pavement and Demolition.**

1. The City understands and agrees that vertical construction shall proceed simultaneously with the underground development of the Property. Except for the issuance of a performance bond (the amount as specified herein), the issuance of building permits and scheduled inspections (other than the certificate of occupancy) shall not be delayed by the fact that underground development of utilities or curbs, sidewalks or pavement has not been completed. The City agrees that architectural and structural plan review shall not exceed 21 business days from the date of complete submittal. Developer is permitted to use, upgrade, access and/or improve to all city sewer lines and/or or water lines as may be deemed necessary by their civil engineering drawings, as approved by the City; however, Developer is not required to upgrade the City's infrastructure, except where the civil plans explicitly show connection points.

**V. Parking & Shared Use.**

1. Pursuant to paragraph 10-5F-4A of the BMU ordinance, the required amount of parking for the project shall be reduced in relation to the "amount of off-street parking" that "can be demonstrated may be in demand at different intervals of time throughout the day." The shared parking stalls shall be governed by the owner and shall include the use of signage to designate shared stalls, towing, and parking stickers to enforce the share parking rules.

**W. Commercial Uses.**

1. In order to increase the market viability of the commercial space along Main Street, the City agrees that any and all businesses not specifically restricted in the relevant current zoning ordinance are hereby permitted.

**X. Permanent Signage; Entry Monument.**

1. Developer may, at its discretion, place an entry monument or signage on the building so long as it conforms with Sunset City standards. Approval of the actual design of the entry monument or building signage shall not delay the issuance of building permits or certificates of occupancy by the City.

**Y. Phasing.**

1. Either the residential or commercial aspect of this project may be developed or constructed first at Developer's sole discretion.

**SECTION 3. MISCELLANEOUS**



A. **Construction Site Safety.** The Developer agrees to provide and install, at its expense, adequate barricades, flaggers, warning signs, and similar safety devices at all construction sites within the public right-of-way and/or other areas as deemed necessary by the City Engineer, City Public Works Department, and Traffic Engineer in accordance with any and all Federal Regulations, the City's Policies and Procedures, Utah Department of Transportation Requirements, OSHA, and Manual of Uniform Traffic Control Devices ("MUTCD") and shall not remove said safety devices until the construction has been completed.

B. **Construction Site Waste.** The Developer shall, at all times, keep the public right-of-way free from accumulation of waste material, rubbish, or building materials caused by the Developer's operation, or the activities of individual builders and/or subcontractors; shall remove such rubbish as often as necessary, but no less than daily and; at the completion of the work, shall remove all such waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the public right-of-way. The Developer further agrees to maintain the finished street surfaces so that they are free from dirt caused by the Developer's operation or as a result of building activity. Any excessive accumulation of dirt and/or construction materials shall be considered sufficient cause for the City to withhold building permits and/or certificates of occupancy until the problem is corrected to the satisfaction of the City Building Inspector and/or the City Public Works Director. If the Developer fails to adequately clean such streets within two (2) days after receipt of written notice, the City may have the streets cleaned at the Developer's expense, and the Developer shall be responsible for prompt payment of all such costs. The Developer also agrees to require all contractors within the Development to keep the public right-of-way clean and free from the accumulation of dirt, rubbish, and building materials. Under no circumstances shall the Developer or any sub-contractors use open burning procedures to dispose of waste materials.

C. **Compliance with City Building Inspector, City Engineer, and City Public Works Director.** The Developer hereby agrees that it will require its contractors and subcontractors to cooperate with the City's Building Inspector, City Engineer, or City Public Works Director by ceasing operations when winds are of sufficient velocity to create blowing dust, which, in the inspector's opinion, is hazardous to the public health and welfare.

D. **Protection Strips and Undevelopable Lots.** Developer covenants and warrants that they have not, or will not in the future, unlawfully divide real property in such a way that a parcel of property is created or left behind that cannot be developed according to the requirements of Sunset City Land Use Ordinances, or other applicable laws. Examples of a parcel of property that is created or left behind that cannot be developed include, but are not limited to, spite strips or protection strips, which are parcels created or left for the sole purpose of denying another property owner access to their property, parcels with insufficient square footage, parcels with insufficient buildable area, parcels that do not meet the requirements of Sunset City Land Use Ordinances, and parcels that do not abut on a dedicated street. When a Developer unlawfully divides property, the Developer agrees, as a remedy, to dedicate and otherwise deed ownership of these undevelopable parcels of land to the City within thirty (30) days of the City's written request.

E. **Consequences of Developer non-compliance with Final Plat and the Agreement.** The Developer shall, pursuant to the terms of this Agreement, complete all improvements and perform all other obligations required herein, for such improvements or obligations that may be shown on the Final Plat and Construction Drawings, or required within this Agreement or any document executed in the future that are required by the City for amending the Development's Final Plat, Construction Drawings, or this Agreement. In the event of default by either party, the default provisions contained herein shall govern.

In addition to the other remedies contained within this Agreement for the Developer's non-compliance or default with the obligations required herein, the Parties agree that the City may delay the processing of any future land use applications, land use decisions, and/or land use permits submitted to the City for projects in which the Developer may have an ownership interest until the Developer non-compliance or default has been cured. The Developer acknowledges and agrees to waive any time constraints applicable in Utah Code, with which the City would otherwise be required to comply for the processing of land use applications, land use decisions, and land use permits for the Developer's non-compliance or default. Any future land use applications, land use decisions, and/or land use permits may include, but are not limited to, preliminary plats, final plats, site plans, building permits, certificates of occupancy, sign permits, zoning, rezoning, and annexations within the Development or outside of the boundaries of the Development, for which Sunset City is Land Use Authority. An ownership interest in a future land use application, land use decision, and/or land use permit includes the Developer, Developer's spouse, and/or Developer's minor children ownership as an individual or a member of a corporation with assets that are the subject to the future land use application. If the City suspects that the Developer may have ownership in the future land use application, it is the Developer's burden to prove the contrary. The City may also place liens on vacant lots still owned by the Developer as it deems necessary to ensure performance in accordance with the terms of the Agreement.

F. **No Waiver of Regulation(s).** Nothing herein contained shall be construed as a waiver of any requirements of the City Code or the Utah Code Annotated, in its current form as of the date of approval of the Final Plat, and the Developer agrees to comply with all requirements of the same.

G. **Severability of Waivers.** A waiver by any party of any provision hereof, whether in writing or by course of conduct or otherwise, shall be valid only in the instance for which it is given, and shall not be deemed a continuing waiver of said provision, nor shall it be construed as a waiver of any other provision hereof.

H. **City Council Budgetary Discretion.** All financial obligations of the City arising under this Agreement that are payable after the current fiscal year are contingent upon funds for the purpose being annually appropriated, budgeted, and otherwise made available by the Sunset City Council, in its discretion.

I. **Covenants Run with the Land.** This Agreement shall run with the Property, including any subsequent, approved amendments to the Final Plat of all or a portion of the Property. This Agreement shall also be binding upon and inure to the benefit of the Parties

hereto, their respective personal representatives, heirs, successors, grantees, and assigns. It is agreed that all improvements required pursuant to this Agreement touch and concern the Property regardless of whether such improvements are located on the Property. Assignment of interest within the meaning of this paragraph shall specifically include, but not be limited to, a conveyance or assignment of any portion of the Developer's legal or equitable interest in the Property, as well as any assignment of the Developer's rights to develop the Property under the terms and conditions of this Agreement. Developer shall have the right to freely assign this Agreement to the successor in interest.

J. **Liability Release.** With limitations pursuant to Utah Code Annotated § 10-9a-607, in the event the Developer transfers title to the Property and is thereby divested of all equitable and legal interest in the Property, the Developer shall be released from liability under this Agreement with respect to any breach of the terms and conditions of this Agreement occurring after the date of any such transfer of interest. In such an event, the succeeding property owner shall be bound by the terms of this Agreement.

K. **Default and Mediation.** Each and every term of this Agreement shall be deemed to be a material element hereof. In the event that either Party shall fail to perform according to the terms of this Agreement, such Party may be declared in default. In the event that a Party has been declared in default hereof, such defaulting Party shall be given written notice specifying such default and shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to: (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance or; (c) avail itself of any other remedy at law or equity.

In the event of the default of any of the provisions hereof by either Party, which shall give rise to commencement of legal or equitable action against said defaulting Party, the Parties hereby agree to submit to non-binding mediation before the commencement of an action in any Court of law. In any such event, the defaulting Party shall be liable to the non-defaulting Party for the non-defaulting Party's reasonable attorney's fees and costs incurred by reason of the default. Nothing herein shall be construed to prevent or interfere with the City's rights and remedies specified in Paragraph III.D of this Agreement.

L. **No Third-Party Beneficiaries.** Except as may be otherwise expressly provided herein, this Agreement shall not be construed as or deemed to be an agreement for the benefit of any third Party or Parties, and no third Party or Parties shall have any right of action hereunder for any cause whatsoever.

M. **Applicable Laws.** It is expressly understood and agreed by and between the Parties hereto that this Agreement shall be governed by and its terms construed under the laws of the State of Utah and the City of Sunset, Utah.

N. **Notice.** Any notice or other communication given by any Party hereto to any other Party relating to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, addressed to such other Party at their respective addresses as set forth below;

and such notice or other communication shall be deemed given when so hand-delivered or three (3) days after so mailed:

If to the City:                Sunset City  
                                      200 West 1300 North  
                                      Sunset, Utah 84015

With a copy to:               Daines & Jenkins, LLP  
                                      108 North Main Street  
                                      Logan, UT 84321

If to the Developer:        ASCEND Land Development LLC  
                                      784 S Parkway Drive  
                                      North Salt Lake City, Utah 84054

Notwithstanding the foregoing, if any Party to this Agreement, or its successors, grantees or assigns, wishes to change the person, entity, or address to which notices under this Agreement are to be sent as provided above, such Party shall do so by giving the other Parties to this Agreement written notice of such change.

O.     **Word Meanings.** When used in this Agreement, words of the masculine gender shall include the feminine and neutral gender, and when the sentence so indicates, words of the neutral gender shall refer to any gender; and words in the singular shall include the plural and vice versa. This Agreement shall be construed according to its fair meaning and as if prepared by all Parties hereto, and shall be deemed to be and contain the entire understanding and agreement between the Parties hereto pertaining to the matters addressed in this Agreement.

P.     **Complete Agreement.** There shall be deemed to be no other terms, conditions, promises, understandings, statements, representations, expressed or implied, concerning this Agreement, unless set forth in writing signed by all of the Parties hereto. Further, paragraph headings used herein are for convenience of reference and shall in no way define, limit, or prescribe the scope or intent of any provision under this Agreement.

Q.     **Property Owner as Party.** The Owner is made a Party to this Agreement solely for the purpose of subjecting the Property to the covenants contained in this Agreement. The City and the Developer expressly acknowledge and agree that the Owner shall not be liable for any obligations of the Developer under this Agreement, unless the Owner were to exercise any of the rights of the Developer in which event the obligations of the Developer shall become those of the Owner.

Developer expressly acknowledges and agrees that the Owner shall not be liable for any obligations of the Developer under this Agreement, unless the Owner were to exercise any of the rights of the Developer in which event the obligations of the Developer shall become those of the Owner.

R. **Recording.** The City and Developer/Owner are authorized to record or file any notices or instruments with the Davis County Recorder's Office appropriate to assuring the perpetual enforceability of the Agreement, and the Developer/Owner agrees to execute any such instruments upon reasonable request.

S. **"Arm's Length" Transaction.** The Parties hereto expressly disclaim and disavow any partnership, joint venture or fiduciary status, or relationship between them and expressly affirm that they have entered into this Agreement as independent Parties and that the same is in all respects an "arms-length" transaction.

T. **Severability.** Should any portion of this Agreement be deemed invalid or unenforceable by the rule of law or otherwise, all other aspects of the Agreement shall remain enforceable and in full effect.

U. **Incorporation of Recitals and Exhibits.** The above recitals and all exhibits attached hereto are incorporated herein by this reference and expressly made a part of this Agreement.

V. **Preparation of Agreement.** The Parties hereto acknowledge that they have both participated in the preparation of this Agreement and, if any question arises regarding its interpretation, no presumption shall be drawn in favor of or against any Party hereto with respect to the drafting hereof.

W. **Amendments.** This Agreement may be amended at any time upon unanimous agreement of the Parties hereto, which amendment(s) must be reduced to writing and signed by all Parties in order to become effective.

X. **Further Instruments.** The Parties hereto agree that they will execute any and all other documents or legal instruments that may be necessary or required to carry out and effectuate all of the provisions hereof.



THE CITY OF SUNSET, UTAH

By: \_\_\_\_\_  
Mayor Scott Wiggill, Sunset City

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO CONTENT:

\_\_\_\_\_  
City Engineer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DEVELOPER:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

OWNER: ASCEND Land Development LLC

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Developer/Owner Acknowledgment

State of Utah )

§

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me \_\_\_\_\_  
a notary public, personally appeared \_\_\_\_\_,  
and proved on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to  
this instrument, and acknowledge executing the same.

\_\_\_\_\_  
Notary Public



State of Utah )  
County of \_\_\_\_\_) §

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me \_\_\_\_\_  
a notary public, personally appeared \_\_\_\_\_,  
and proved on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to  
this instrument, and acknowledge executing the same.

Notary Public

EXHIBIT "A"

CONSTRUCTION/IMPROVEMENT GUARANTEE:

The Bond guaranteeing the Developer's timely and proper installation and warranty of required improvements shall be equal in value to at least one hundred-ten (110) percent of the cost of the required improvements, as estimated by the City Engineer contained in Exhibit "B." The purpose of the bond is to enable the City to make or complete the required improvements in the event of the developer's inability or failure to do so. The City need not complete the required improvements before collecting on the bond. The City may, in its sole discretion, delay taking action on the bond and allow the developer to complete the improvements if it receives adequate assurances that the improvements shall be completed in a timely and proper manner. The additional ten (10) percent shall be used to make up any deficiencies in the bond amount and to reimburse the City for collection costs, including attorney's fees, inflationary costs, etc.

All required improvements shall be completed and pass City inspections within two (2) years of the commencement of construction. A written agreement to extend the completion of the improvements may be granted by the Land Use Authority Board, where due to circumstances as determined by the Land Use Authority Board would delay the completion of required improvements.

All subdivision improvements shall be completed by qualified contractors in accordance with Title III General Public Works Construction Standards and Specifications. No work may be commenced on improvements intended to be dedicated to the City without approved construction drawings and a pre-construction meeting with the City.

The Bond shall be a performance bond in favor of the City. The requirements relating to each of these types of bonds are detailed below. The City Attorney shall approve any bond submitted pursuant to this section. The City Attorney reserves the right to reject any of the bond types if it has a rational basis for doing so. Escrow bonds shall be held by a federally insured bank, savings and loan or credit union, or a title insurance underwriter authorized to do business in the State of Utah. A developer may use a performance or a cash bond by tendering the required bond amount in cash or certified funds to the City, partial releases may be made from the cash bond as allowed for other bond types, but shall retain ten (10) percent of the bond through the warranty period for any repairs necessary prior to final approval at the end of the warranty period. If no repairs are required at the end of the warranty period, the remaining portion of the bond shall be released to the Developer. The City shall not pay any interest on funds held as a cash bond.

#### MAINTENANCE GUARANTEE:

The Developer hereby warrants and guarantees to the City for a period of one (1) year from the date of completion and final inspection by the City of the public improvements warranted hereunder, the full and complete maintenance and repair of the public improvements constructed for this Development. This warranty and guarantee are made in accordance with the Sunset City Land Use Code and/or the Utah Code Annotated, as applicable. This guarantee applies to the streets and all other appurtenant structures and amenities lying within the rights-of-way, easements, and other public properties, including, without limitation, all curbing, sidewalks, trails, drainage pipes, culverts, catch basins, drainage ditches, and landscaping and all other improvements contained in Exhibit "B" of this Agreement. Any maintenance and/or repair required on utilities shall be coordinated with the owning utility company or city department.

The Developer shall maintain said public improvements in a manner that will assure compliance on a consistent basis with all construction standards, safety requirements, and environmental protection requirements of the City until one (1) year following the final inspection. The Developer shall also correct and repair or cause to be corrected and repaired, all damages to said public improvements resulting from development-related or building-related activities. The City may require the Developer to guarantee and warrant that any repairs remain free from defect for a period of one (1) year following the date that the repairs pass City inspection. The City may retain the Developer's guarantee until the repairs have lasted through the warranty period, and may take action on the bond if necessary to properly complete the repairs. In the event, the Developer fails to correct any damages within thirty (30) days after written notice thereof, then said damages may be corrected by the City and all costs and charges billed to and paid by the Developer. The City shall also have any other remedies available to it as authorized by this Agreement. Any damages which occurred prior to the end of said one (1) year period, which are unrepaired at the termination of said period, shall remain the responsibility of the Developer.

#### REPAIR GUARANTEE:

The Developer agrees to hold the City harmless for a one (1) year period, commencing upon the date of completion and final inspection by the City of the public improvements constructed for this Development, from any and all claims, damages, or demands arising on account of the design and construction of public improvements of the Property shown on the approved plans and documents for this Development; and the Developer furthermore commits to make necessary repairs to said public improvements, to include, without limitation, all improvements contained in Exhibit "B" of this Agreement, roads, streets, fills, embankments, ditches, cross pans, sub-drains, culverts, walls and bridges within the right-of-way easements and other public properties, resulting from failures caused by design and/or construction defects. This agreement to hold the City harmless includes defects in materials and workmanship, as well as defects caused by or consisting of settling trenches, fills, or excavations.

Further, the Developer agrees that the City shall not be liable to the Developer during the warranty period, for any claim of damages resulting from negligence in exercising engineering techniques and due caution in the construction of cross drains, drives, structures or buildings, the changing of courses of streams and rivers, flooding from natural creeks and rivers, and any other



matter whatsoever on private property. Any and all monetary liability occurring under this paragraph shall be the liability of the Developer.

The obligations of the Developer pursuant to the “maintenance guarantee” and “repair guarantee” provisions set forth above may not be assigned or transferred to any other person or entity unless the warranted improvements are completed by, and a letter of acceptance of the warranted improvements is received from the City by, such other person or entity.

EXHIBIT "B" CITY ENGINEER'S ESTIMATE FOR COST OF IMPROVEMENTS

EXHIBIT "C" PLAT MAP

EXHIBIT "D" CONSTRUCTION DRAWINGS