

DEVELOPMENT AGREEMENT
For Sunpro Core 3 Project – Pleasant View

This Development Agreement ("Agreement") regarding Sunpro Core 3 Project – Pleasant View ("Project," as further described and depicted in Exhibit A) is made and entered into this 12th day of October 2021 ("Effective Date") by and between Pleasant View City, a municipal corporation of the State of Utah ("City"), and Sunpro Corporation of Orem, Utah ("Developer"). City and Developer may be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS this Agreement is intended to specify the conditions under which the Project will be completed and the roles of the Parties;

WHEREAS Developer will complete the installation of certain public improvements which provide access, infrastructure, and municipal services to the Project area as further described in Exhibit A ("Project Improvements");

WHEREAS 1000 West Street between 2550 North Street and SR 134 (2700 North Street) ("1000 West") is currently a one-way road, with a south-to-north traffic flow, and Developer desires for 1000 West to be converted to two-way traffic;

WHEREAS Developer, with coordination with the City, has created a preliminary plan for the aforementioned conversion and has received Utah Department of Transportation ("UDOT") approval for such plan, a copy of which is attached hereto at Exhibit B;

WHEREAS City acknowledges the benefit of the 1000 W conversion and is willing to participate in the design and construction of the additional improvements required for such road conversion ("Offsite Improvements") (Project improvements and Offsite Improvements are delineated in Exhibit A);

WHEREAS City's Municipal Code allows City to enter into an agreement with developers for offsite improvements;

WHEREAS Developer is agreeable to designing such improvements with reimbursement from City;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms as more fully set forth below, Developer and City hereby agree as follows:

AGREEMENT

1. **Property Affected by this Agreement.** The following properties are considered the Project area: Weber County Parcel Number 17-066-0094 ("Site"), the adjacent rights-of-way of 1000 West and 2550 North Streets, and the intersection of US 89/1000 West/2550 North.
2. **City Approvals.** Normal City approval process shall apply in accordance with Pleasant View City Ordinances.

3. **Developer's Obligations.**

- 3.1. Offsite Improvements Design. In addition to the Project Improvements, Developer shall design/have designed the Offsite Improvements, as set forth in Exhibit A and in accordance with the requirements of the City code, ordinances, and standards, the requirements of the City Engineer, and the requirements of the approved UDOT plan attached hereto as Exhibit B.
- 3.2. Design Deliverables: The final deliverable shall be an engineer signed and sealed set of construction plans along with applicable technical specifications. Developer shall provide one (1) hard copy and (1) electronic copy in pdf format.

4. **City's Obligations.**

- 4.1. Reimbursement. In accordance with the cost proposal contained as Exhibit C ("Design Cost"), within sixty (60) days of City and UDOT approvals of the design of the Offsite Improvements, City shall pay Developer the Design Cost.
- 4.2. **Construction.** City shall prepare contract documents and bid the Offsite Improvements construction project in accordance with City code. Construction is anticipated to occur in Spring 2022 with completion on or around May 15.

5. **Property Dedication and Easement.**

5.1. Developer shall dedicate to City any and all property necessary for the Site-side public improvements, as depicted in Exhibit A.

5.2. Developer shall dedicate a 10-ft wide public utility easement along and contiguous to the 1000 West and 2550 North sides of the Project area

5.3. Timing of Dedication and Easement Grant. The property dedication and easement grant as found in this Section 5 may be completed at such time as the proper descriptions have been prepared or at the time of development of the portions of the Project at the locations of the exchange. At such time, Developer and the City shall execute (1) a quitclaim deed conveying the dedication parcel to the City, and (2) an easement agreement granting the utility easement to the City, in a form agreed to by the Parties.

5.4. Reversion. Should the property dedication occur and subsequently the Project fail to be completed, the Parties agree that the dedication shall become null and void and the dedicated property shall revert back to the Developer. Parties agree to cooperate in reverting property(ies) to original owners.

6. **Default.**

6.1. An "Event of Default" shall occur under the Agreement if any Party fails to perform its obligations hereunder where those obligations are due, and the defaulting Party has not performed the delinquent obligations within 30 days following delivery of written notice of such delinquency ("Notice

of Default") to the delinquent Party. Notwithstanding the foregoing, if the default cannot be reasonably cured within that 30-day period, a Party shall not be in default so long as that Party commences to cure the default within that 30-day period and diligently continues such cure in good faith until complete.

6.2. Parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, whether such costs and expenses are incurred with or without suit or before or after judgment.

7. **Remedies.** Upon the occurrence of an Event of Default the non-defaulting Party shall have the right to exercise all of the following rights and remedies:

7.1. All rights and remedies available at law and in equity, including injunctive relief, specific performance and/or damages.

7.2. The right to withhold reasonably related approvals, licenses, permits, or other rights associated with the Project or any development described in this Agreement until such default has been cured.

7.3. The right to draw upon any security posted or provided in connection with the Project.

8. **Notice and Cure.** Once an Event of Default has occurred and following the cure period set forth in Section 6.1 above, the noticing Party shall have the right to cure the default and seek reimbursement from the defaulting Party for the costs incurred in effecting such cure. Notwithstanding any provision herein to the contrary, the defaulting Party shall reimburse the curing Party for such costs of curing a default within 15 days following delivery to the defaulting Party of a written notice of such costs along with reasonable support documentation.

9. **Conflicts.** This Agreement is intended to be in harmony with all Federal and State laws, and City ordinances, codes, procedures, regulations, and rules ("Laws"). If any provision herein is contrary to or inconsistent with any Laws, the provisions of Laws shall govern. In the event of any conflict between the terms of this Agreement and those of any document entered into prior to this Agreement, this Agreement shall govern.

10. **Severability.** If any portion of this Agreement is held to be unenforceable, any enforceable portion thereof and the remaining provisions shall continue in full force and effect. No rule of strict construction shall be applied against any Party. Any Party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision.

11. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties hereto relative to the subject matter hereof and shall not be modified or amended except by a written instrument executed by all the Parties.

12. **Contact Information.** Any notices, requests, or demands required or desired to be given hereunder shall be made to the Parties as follows:

For Developer: Sunpro Corporation
482 West 800 North
Orem, Utah 84057

For City: Amy Sue Mabey, City Administrator
Pleasant View City
520 W. Elberta Dr.
Pleasant View, UT 84414

Any party may change its address by giving written notice to the other parties in accordance with the provisions of this section.

13. **Exhibits to this Agreement.** Exhibits to this Agreement are enumerated as follows:

13.1. Exhibit A – Project improvements and Offsite Improvements

13.2. Exhibit B – UDOT Project Approval

13.3. Exhibit C – Design Cost Proposal

14. **Assignment.** This Agreement shall not be further assigned or in any way transferred without first obtaining the written consent of the non-assigning Party, which consent shall not be unreasonably withheld.

(continued on next page)

IN WITNESS WHEREOF, Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

DEVELOPER:

SUNPRO CORPORATION

By: _____
Its: _____

THE CITY:

PLEASANT VIEW CITY, UTAH

By: Leonard Call
Its: Mayor

Attest:

City Recorder

EXHIBIT A
PROJECT IMPROVEMENTS AND OFFSITE IMPROVEMENTS

Project Improvements by Developer

Includes all improvements on-site-side of roads (sidewalk, curb, gutter, up to 12' of asphalt pavement)

Off-site Improvements by City

Includes all signing and striping, opposite side road work and all UDOT road work

EXHIBIT B
UDOT APPROVAL

EXHIBIT C
DESIGN COST PROPOSAL