WHEN RECORDED, MAIL TO:
Ivins City
Attn: City Recorder
85 N. Main St.
Ivins, UT 84738

Parcel No: I-6-2-6-32401, I-6-2-6-334-A, I-6-2-6-340, I-6-2-6-320

CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT FOR THE MOJAVE VILLAGE DEVELOPMENT IN IVINS CITY, WASHINGTON COUNTY, UTAH

On ____ day of _____, 2025, the Ivins City Council approved this Conditional Use Permit for the MOJAVE VILLAGE DEVELOPMENT in Ivins City, Washington County, Utah.

Additionally, this instrument also acts as a Development Agreement ("Agreement") which is entered into as of this _____ day of _____, 2025, by and between Teancum Properties, LLC, and Platinum Strategies, LLC, known as the owners and AnA Enterprises LLC, known as the developer of certain real property located in Ivins City, Washington County, Utah, on which owner/developer proposes to develop a project known as the MOJAVE VILLAGE (the "Project"), and **IVINS CITY**, a municipality and political subdivision of the State of Utah, by and through its City Council ("City").

RECITALS AND STANDARD CONDITIONS

A. Developer desires to develop a parcel of real property approximately 9.46 acres in size located at approximately Guy Lane and Fitness Way in Ivins City, Washington County, Utah, the legal description of which is set forth on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), on which it proposes the development in the Resort Commercial Zone of a certain development known as the Mojave Village, consisting of a total of 160 resort commercial lots, as more fully reflected on Exhibit B attached hereto and incorporated herein.

B. Each unit of the project is proposed to be built in the style of attached townhomes where each unit would have a two car garage.

C. In lieu of providing any amenities, the developer has offered to pay an amount equal to the full park impact fee, which is not otherwise required by resort development.

D. The developer has also offered that the project would consist of housing that would stay less than 25 feet in height on the exterior of the project, while the remaining interior would be subject to 35 feet height restrictions.

E. The Project shall be developed in multiple phases as indicated in the attached Exhibit B.

F. Developer acknowledges that it must comply with all adopted building codes, City development standards and ordinances, including applicable zoning and subdivision ordinances, fencing regulations, design guidelines, and design and construction standards, as well as the standards and specifications set forth and/or incorporated herein.

G. Developer acknowledges the potential shortage of culinary and/or secondary water in the City and understands that building permits will be issued only upon water availability as determined by the Washington County Water Conservancy District.

H. This Conditional Use Permit and Development Agreement is intended to set forth the entire agreement between the Developer and the City regarding the development of the Project.

I. Ivins City is acting pursuant to authority under The Municipal Land Use, Development, and Management Act (U.C.A. §§10-9a-101 et. seq., as amended from time to time, hereinafter the

"Act"), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations.

J. Before any grading begins or is allowed on the Property, a Grading Permit must first be obtained from the Ivins City Public Works Department and all conditions thereof must be strictly followed and complied with throughout the duration of such permit.

K. The Project must comply with all City Master Plans, including Transportation, Culinary Water, Secondary Water (Irrigation), Sewer, Storm Drain, Parks and Public Safety.

L. The Project shall be constructed in accordance with standard construction procedures.

M. The Project must comply with the development agreement for Chinle Cliffs Subdivision dated July 17, 2025 where the owner/developer was listed as "Adjacent Landowner" and was a party to the agreement.

CONDITIONS SPECIFIC TO THE PROJECT
TO MITIGATE PROJECT IMPACTS

1. The project shall provide on-site property management with a centralized booking system.
2. The project shall provide building height buffering by limiting the height of the building structures on the perimeter of the project to 25 feet in height as measured from the approved pad elevation.
3. In lieu of providing resort hotel amenities, the project shall provide an in lieu payment of $5,224.00 per unit, paid at the time of platting for each phase based on the number of units in the phase. These funds shall be made available to the City for the completion of the adjacent City Park known as Chinle Park. See additional information below.
4. The project shall complete the full-width street improvements on Guy Lane to the far extent of their project as part of the construction improvements for the adjacent phase, including the extension of all utilities.
5. The project interior private roads shall be designated as no on-street parking with installation of all necessary signs to make such designation enforceable, to be enforced by property management. All parking shall be contained to two enclosed garage spaces per unit, driveways that are in front of the garages and 33 visitor parking spaces located on the interior of the project.
6. Garages shall not be used for storage such that it would prevent the parking of two cars.
7. The project shall ensure that upstream drainage impacts shall be mitigated as necessary. If mitigation measures require improvements to the adjacent landowner, then approvals shall first be obtained prior to the installation.
8. The project will need to provide temporary turn arounds or a temporary loop roadway until the adjacent landowner develops and connects to stub roads on Guy Lane and the Chinle Way as part of the adjacent phases. The project must obtain adjacent landowner permission prior to the installations.
9. Resort hotel buildings will be built under the 2024 IBC R-1.
10. Buildings shall meet current sprinkler, fire protection and life safety standards.
11. Resort hotel shall meet accessibility (ADA) requirements.

Commented [A1]: Developer is requesting to remove this requirement. Instead they request that it be subject to: **16.07.806: APPROVAL CRITERIA: Short term Overlay**

All approved short term residential properties are managed by either an onsite Property Manager or an offsite property manager which is located within twenty (20) minutes (commute time) of the development. The Property Manager shall be the 'Responsible Party' for the entire development and shall provide information on current occupants to police, emergency, or city personnel as needed. The Property Manager shall be available twenty-four (24) hours a day and shall respond to complaints and concerns within one (1) hour of any phone call. The Property Manager shall maintain a Utah sales tax license, and shall collect and submit to the State Tax Commission the required transient room tax for all short-term residential rental units.

With the following change:
Delete: either an onsite Property Manager or
Change: (20) to (30) Because of all the new stop lights.

12. During the permitting process, other code compliance requirements may occur.

13. Construction phasing may be varied based on assurances that any phases that go out of order shall account for ensuring that access meets fire codes with appropriate turn-arounds using hammerheads or cul-de-sacs and secondary accesses where required by the code and that utilities provide adequate service and are looped when the cost to complete the loop is reasonable and provides a substantial benefit to the operation of the system as determined by the City Engineer.

14. No construction of utilities shall occur until there is an approved final plat map or equivalent that assures that utilities are going to placed in the proper right-of-way and/or municipal utility easements.

Payment in Lieu Conditions (Specific Condition No. 3 above)

The City acknowledges the potential adverse impacts of a project with density as high as proposed in the Project. In other zones in the City where a project of this density could be proposed the City would otherwise require improved open space and private amenities to be constructed as project improvements. As the Project is being approved pursuant to the City's conditional use regulations, the City could condition approval of the Project on similar required improved open space and private amenities. Such conditions would mitigate the adverse impacts associated with such high density.

However, Developer has indicated that Developer is materially opposed to any such required conditions. In lieu of such conditions, Developer has proposed that the City accept payment from Developer of $5,224 per unit (the "Payment in Lieu") for the City to use to develop a public park adjacent to the Project (the "Park") which would have a similar effect of providing space for outdoor activities for the residents of the Project. The Payment in Lieu for any unit shall be due before any final plat is approved that contains that unit.

The City is willing to accept this proposal in lieu of otherwise requiring improved open space and private amenities, conditioned upon Developer waiving any claim that such payments are impact fees subject to the Utah Impact Fee Act in any manner and waiving any claim that such payments are an unconstitutional exaction in any manner. By executing this document below, Developer is hereby waiving such claims and acknowledging that the payments required hereby are constitutional and are a "fee for project improvements" excluded from the definition of an impact fee by UCA 11-36A-102(9)(b) (2025). To ensure that any such payments are proportional, the City shall return any portion of such payments not timely used by the City to the then current owners of any units for which such payment was made when approved. The City will be deemed to have timely used such payments if the funds received thereby are used within 5 years of receipt by the City of the first Payments in Lieu.

The City may use such funds for any purpose related to the development of the Park, including entitlements, design or any other reasonable pre-construction or construction expenses incurred by the City related to the Park, before using any impact fees or other funding. The City shall pay any such refund to the then current recorded owners of any units for which the original Payment in Lieu was made, with each such owner receiving an amount equal to the total amount not used, divided by the total number of units for which the original Payment in Lieu was paid.

If Developer or any successor in interest refuses to make any required payment hereunder for any reason, including but not limited to a claim that the payment is an improper impact fee and/or an unconstitutional exaction, this conditional use permit shall terminate and the City shall have no obligation to allow any of the uses approved hereby to continue or to issue any building permits for any structures otherwise allowed hereby.

AGREEMENT

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

1. Recitals; Findings. The foregoing recitals are incorporated and made an integral part of this Agreement by this reference. The City finds that the development of the Property pursuant to this Agreement and applicable City ordinances will result in meaningful planning and economic benefits to, and shall further the health, safety and welfare of the City and its residents by, among other things: (i) requiring development of the Property in a manner consistent with the applicable rules, regulations and policies of the City; (ii) providing for the dedication of infrastructure improvements to be completed as set forth herein and/or as consistent with current State or City regulations; and (iii) preserving the natural beauty and view of the surrounding environment through agreed upon construction materials and building height limitations. The City is entering into and approving this Agreement pursuant to its authority under the Act and City ordinances, policies and regulations and has made certain determinations with respect to the Property and, in the exercise of its legislative discretion, has elected to approve this Agreement as an agreement, compromise, and settlement as to the matters covered by this Agreement.

2. Development.

a. Project Plans. Any construction plans approved by the City related hereto, the Preliminary Plan as reflected in Exhibit B and the Final Plat to be approved, as well as any exhibits attached hereto (collectively the "Project Plans"), are integral parts of this Agreement. The City's approval of the Project is based upon the City's reliance that the Project will be developed in accordance with the standard and quality of improvements, unit densities, dedication of easements, roadways, and other improvements, as represented in the Project Plans and this Agreement.

b. Development Guidelines. The following development guidelines shall be part of the Project Plans:

i. Exterior materials shall only be stucco, stone, brick, exposed concrete or concrete block.

ii. All exterior colors shall be in compliance with City Code;

iii. No metal or vinyl siding shall be allowed, however metal detailing and accent may be on a case by case basis, i.e. copper, rusted steel patina.

iv. All exterior lighting shall be in compliance with City Code.

v. All fencing within or around the Project shall be constructed of colored masonry, rock, stucco, and/or exposed colored concrete throughout the Project; and

vi. No metal roofing materials shall be allowed; however metal detailing and accent may be on a case by case basis. All other roofing material shall be in compliance with City Code.

vii. Fire access / turnaround and fire hydrant shall be installed in compliance with the Fire Code adopted by Ivins City.

c. Development. Upon execution of this Agreement by the City, the Developer is authorized to develop the Property as set forth in this Agreement and in accordance with the types, densities and intents of the land uses set forth in the Project Plans and this Agreement.

3. Documentation Supporting Provisions Herein. If the City determines that any provision of this Agreement requires a separate (recordable or otherwise) document/agreement to protect or clarify

the City's rights pursuant to the intent of the parties under this Agreement, both parties shall cooperate in preparing and completing such documents.

4. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by Ivins City in enacting zoning, subdivision, development, transportation, environment, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement.

5. Subdivision Plat Approvals and Compliance with City Design and Construction Standards. Developer expressly acknowledges and agrees that nothing in this Development Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of Ivins City necessary for approval and recordation of subdivision plats for the Project, including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of Ivins City, including but not limited to, the Ivins City Subdivision Ordinance and Standards and Specifications for Design and Construction.

6. Agreement to Run with the Land. This Agreement shall be recorded against the Property described in Exhibit A and shall be deemed to run with the land and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property. Additionally, Developer shall provide appropriate notes upon the Final Plat prior to recordation giving notice of the primary provisions of this Agreement.

7. Assignment. Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent signed by the Mayor with the approval of the City Council, which consent shall not be unreasonably withheld.

8. Binding Effect. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. However, in the event Developer fails to proceed in a timely fashion resulting in the revocation or loss of Final Plat or Preliminary Plan approvals for the Project, the City may terminate this Agreement and require a new Development Agreement as part of any future approval process.

9. No Joint Venture, Partnership or Third-Party Rights. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Developer and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

10. Integration. This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understanding of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

11. Severability. If any part or provision of this Agreement shall be determined to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid, or unenforceable. If any condition, covenant, or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

12. Previous Agreements. Except as otherwise expressly provided herein, this Agreement is the exclusive agreement of the parties and replaces and supersedes all prior agreements between the parties pertaining to this Project.

13. Moratoria. No City moratorium or other City ordinance, resolution, rule, or regulation (a "Moratorium Ordinance") enacted after the date of this Agreement that prohibits or regulates the erection,

construction, reconstruction, or alteration of any building or structure, or affects the City's approval process for subdivisions in a manner inconsistent with the terms of this agreement, shall apply to or govern the development of the Property during the term of this Agreement unless the Moratorium Ordinance complies in all respects with applicable state law.

14. Amendments. The Developer and the City agree to cooperate and pursue and amendments to this Agreement that are reasonably necessary to accomplish the goals expressed in this Agreement and the development of the Property in light of any changes in market conditions or development requirements. All amendments shall be in writing and shall be approved and signed by both the Developer and the City. Any amendment to this Agreement shall be recorded.

15. Miscellaneous.

a. Legal Fees. Should any party default in any of the covenants or agreements herein contained, that 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 applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting party to pay costs and expenses includes, without limitation, all costs, and expenses, including a reasonable attorney's fee, incurred on appeal and in bankruptcy proceedings.

b. Survival. It is expressly agreed that the terms, covenants, and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.

c. Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

d. Plat Notes. Primary provisions of this Agreement, as determined by the City, shall be included as notes on any Final Plat of the Project, as well as incorporated into the Project Restrictive Covenants documents.

IN WITNESS WHEREOF, the parties have executed this Development Agreement the day and year first above written.

IVINS CITY:

_____
Chris Hart, Mayor

Attest:

_____
Kari D. Jimenez, Ivins City Recorder

STATE OF UTAH)
ss.
COUNTY OF WASHINGTON)

On this ___ day of _____, _____, before me personally appeared CHRIS HART and KARI JIMENEZ whose identities are personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that they are respectively

the Mayor and Recorder of Ivins City, and that the foregoing document was signed by them by authority, and they acknowledged before me that Ivins City executed the document and the document was the act of Ivins City for its stated purpose.

_____
Notary Public

OWNER / DEVELOPER:

XXXXXX

_____

XXXXXX

STATE OF UTAH)
ss.
COUNTY OF WASHINGTON)

On the ___ day of _____, _____, personally appeared before me _____, whose identity is Personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that _____ is the Owner of the _____ SUBDIVISION and that the foregoing document was signed by _____ by authority, and _____ acknowledged before me that _____ executed the document for its stated purpose.

_____

Notary Public

EXHIBIT A - LEGAL DESCRIPTION

EXHIBIT B – Preliminary Plan