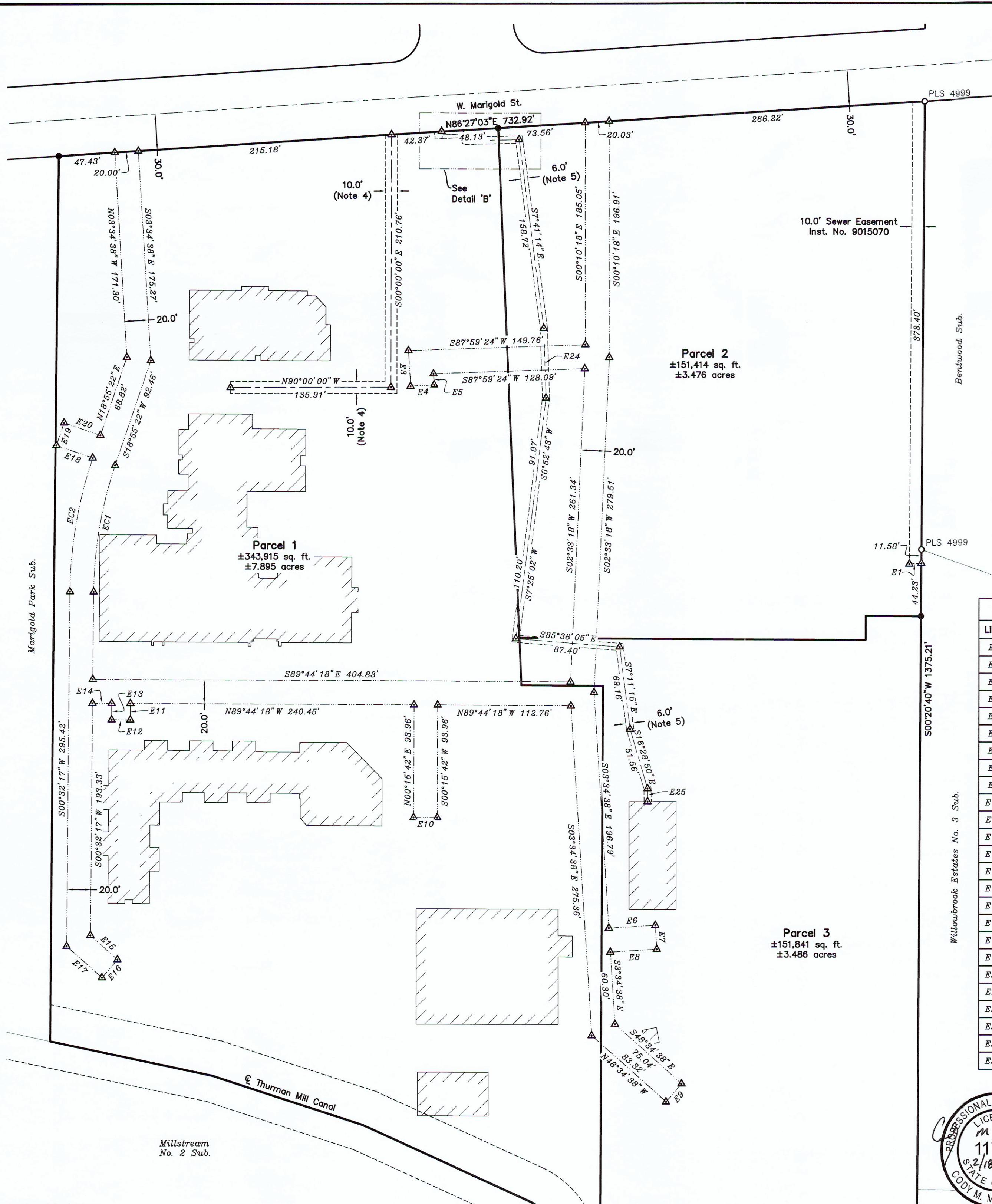


Minor Land Division Record of Survey for
Boise Bible College Inc.

Situated in the Southwest 1/4 of the Northwest 1/4
and the Northwest 1/4 of the Southwest 1/4 of
Section 25, Township 4 North, Range 1 East, Boise
Meridian, Garden City, Ada County, Idaho.
2025



Description for
Parcel 3
February 18, 2025

A parcel of land located in the Southwest 1/4 of the Northwest 1/4 of Section 25, Township 4 North, Range 1 East, Boise Meridian, Garden City, Ada County, Idaho being more particularly described as follows:

Commencing at the Section corner common to Sections 23, 24, 25 and 26, T.4N., R.1E., B.M., from which the 1/4 corner common to said Sections 25 and 26 bears South 00°31'25" West, 2639.49 feet; thence on the west boundary line of said Section 25, South 00°31'25" West, 1,448.75 feet to the centerline of W. Marigold Street; thence on said centerline, North 86°25'53" East, 575.58 feet; thence leaving said centerline South 00°31'25" West, 30.08 feet to the southeasterly right-of-way line of W. Marigold Street; thence on said southeasterly right-of-way line, North 86°27'03" East, 732.92 feet to the Northwest corner of Bentwood Subdivision as filed in Book 91 of Plats at Pages 10803 and 10804, records of Ada County, Idaho; thence on the west boundary lines of said Bentwood Subdivision and Willowbrook Estates No. 3 Subdivision as filed in Book 59 of Plats at Page 5730 through 5732, records of Ada County, Idaho, South 00°20'40" West, 429.21 feet to the **POINT OF BEGINNING**;

thence continuing on the west boundary line of said Willowbrook Estates No. 3 Subdivision and on the west boundary line of Willowbrook Estates No. 2 Subdivision as filed in Book 57 of Plats at Page 5404 and 5405, records of Ada County, Idaho, South 00°20'40" West, 574.50 feet;

thence leaving said west boundary lines, North 89°39'20" West, 267.21 feet;

thence North 00°20'40" East, 515.00 feet;

thence North 89°39'20" West, 68.48 feet;

thence North 02°31'37" West, 39.55 feet;

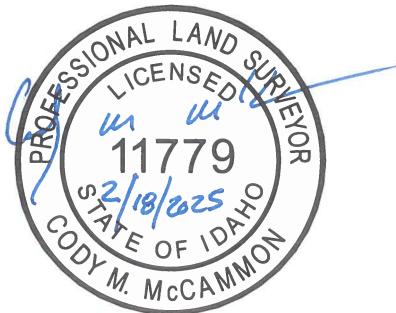
thence South 89°39'20" East, 291.17 feet;

thence North 00°20'40" East, 20.00 feet;

thence South 89°39'20" East, 46.50 feet to the **POINT OF BEGINNING**.

Containing 151,841 square feet or 3.486 acres, more or less.

End of Description.



Description for
Parcel 4
February 18, 2025

A parcel of land located in the Southwest 1/4 of the Northwest 1/4 and the Northwest 1/4 of the Southwest 1/4 of Section 25, Township 4 North, Range 1 East, Boise Meridian, Garden City, Ada County, Idaho being more particularly described as follows:

Commencing at the Section corner common to Sections 23, 24, 25 and 26, T.4N., R.1E., B.M., from which the 1/4 corner common to said Sections 25 and 26 bears South 00°31'25" West, 2639.49 feet; thence on the west boundary line of said Section 25, South 00°31'25" West, 1,448.75 feet to the centerline of W. Marigold Street; thence on said centerline, North 86°25'53" East, 575.58 feet; thence leaving said centerline South 00°31'25" West, 30.08 feet to the southeasterly right-of-way line of W. Marigold Street; thence on said southeasterly right-of-way line, North 86°27'03" East, 732.92 feet to the Northwest corner of Bentwood Subdivision as filed in Book 91 of Plats at Pages 10803 and 10804, records of Ada County, Idaho; thence on the west boundary line of said Bentwood Subdivision and on the west boundary lines Willowbrook Estates No. 2 Subdivision as filed in Book 57 of Plats at Page 5404 and 5405 and Willowbrook Estates No. 3 Subdivision as filed in Book 59 of Plats at Page 5730 through 5732, records of Ada County, Idaho, South 00°20'40" West, 1003.71 feet to the **POINT OF BEGINNING**;

thence continuing on the west boundary line of said Willowbrook Estates No. 2 Subdivision and the west boundary line of Willowbrook Estates No. 1 Subdivision as filed in Book 53 of Plats at Page 4620 and 4621, records of Ada County, Idaho, South 00°20'40" West, 371.50 feet to the centerline of the Thurman Mill Canal, said point being coincident with the Northeast corner of the Millstream No. 2 Subdivision as filed in Book 44 of Plats at Page 3532 and 3533, records of Ada County, Idaho;

thence leaving said west boundary lines on the centerline of the Thurman Mill Canal, coincident with the north boundary line of said Millstream No. 2 Subdivision the following seven (7) courses and distances:

North 47°44'49" West, 158.12 feet

93.61 feet along the arc of curve to the right having a radius of 356.00 feet, a central angle of 15°04'00" and a long chord which bears North 40°12'49" West, 93.35 feet;

North 32°40'49" West, 126.94 feet;

North 33°51'25" West, 73.65 feet;

36.26 feet along the arc of curve to the right having a radius of 57.00 feet, a central angle of 36°26'45" and a long chord which bears North 15°38'03" West, 35.65 feet;



North 02°35'20" East, 29.72 feet;

36.09 feet along the arc of curve to the left having a radius of 51.50 feet, a central angle of 40°09'06" and a long chord which bears North 17°29'13" West, 35.36 feet;

thence leaving said centerline, South 89°39'20" East, 41.22 feet;

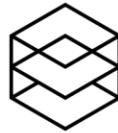
thence South 00°20'40" West, 70.00 feet;

thence South 89°39'20" East, 267.21 feet to the **POINT OF BEGINNING**.

Containing 66,322 square feet or 1.523 acres, more or less.

End of Description.





RENNISON

D E S I G N

February 4, 2025

Delivered via Email

Garden City

**Attn: Jenah Thornborrow, Director, and Hanna Veal, Associate Planner
Development Services Dept.**

6015 Glenwood Street

Garden City, ID 83714

hveal@gardencityidaho.org

**Re: Boise Bible College, Inc. – Garden City, Idaho
City of Garden City Case Number MLDFY2024-0001
Response to Planning Office Report #2 for the Minor Land Division Application**

Dear Hanna,

In response to your plan review report dated 12/31/2024, please find the following resubmittal documents related to Minor Land Division at Boise Bible College for City review and approval.

- Updated “Minor Land Division Record of Survey” will be forwarded separately.

The *italicized text* shown below are the plan review comments. Our responses follow each comment in *blue text*.

Code and Policy Review – Garden City Title 8 Applicable Code Sections

1. 8-1B-2 Nonconforming Structures

The trailer adjacent to Building D encroaches upon the side setback of Parcels 1 & 3, this is not code compliant. Will the trailer be removed?

a. The Storage Shed structure between Parcel 1 & 3 is crossing proposed property boundary lines. This is not code compliant. Removal or relocation of shed will be required prior to signature of the record of survey. What is the plan with this storage shed?

The shed has been demolished, the trailer has been relocated, and the record of survey has been updated to indicate the changes. See the updated ROS, Exhibit A. See photos, Exhibit B.

2. 8-2B-3 Form Standards

The required setbacks are:

Front: 5'/20'

Interior Side: 0'/5'

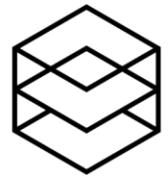
Rear: 15'

Street side: 5'

The allowable maximum height is: n/a The minimum lot size is: n/a

There are encroachments. See GCC 8-1B-2 analysis.

The shed has been demolished, the trailer has been relocated, and the record of survey has been updated to indicate the changes. See the updated ROS, Exhibit A. See photos, Exhibit B.



3. 8-4A-8 Utilities

Refer to City Engineer's comments.

1. N/A - Addressed
2. N/A - Resolved
3. Updated sealed, signed and dated ROS provided. See Exhibit A.
4. N/A - Addressed
5. Sewer License Agreement is attached. See Exhibit D.
6. N/A - Addressed
7. N/A - Addressed

4. 8-4E-7 Pedestrian and Bicycle Accessibility Standards

A pathway system shall extend through the development site and connect the street sidewalk to all primary building entrances. The site plans do not show a pedestrian pathway system linking the primary entrance of each building to an internal system that connects to the public sidewalk.

The developer and City will enter into a Restricted Build Agreement. Please see Exhibit C.

5. 8-4I-4 Perimeter Landscaping Provisions

A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.

- a. *Required landscaping: 35,676sqft; Provided: 496,538sqft*

A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.

- b. *Trees required: 36; Trees provided: ~126*

- c. *Shrubs required: 238; Shrubs provided: unknown. Please clarify.*

A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.

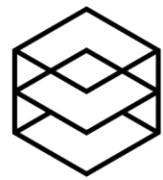
- a. *Marigold Street Trees Required (732.92LF): 16 Trees provided: 13 (Deficient 3)*

New plans shall be submitted showing the required improvements and installation of such improvements will be required prior to the city signing the survey. Or a restricted build agreement between the owner and the city may be recorded and noted on the survey. The developer and City will enter into a Restricted Build Agreement. Please see Exhibit C.

6. 8-4I-5 Perimeter Landscaping Provisions

Perimeter landscaping is required along the common property line between an adjacent nonresidential use and a residential use. Perimeter landscaping is required along the eastern and western property boundary lines.

- a. *Landscape plans appear to show some areas containing perimeter landscaping along the western property boundary line. More information is required.*
- b. *There is no perimeter landscaping along the eastern property boundary line. However, Parcels 2, 3, & 4 consist primarily of landscaping due to the nature of the use (sports fields) and thus meet the intent of perimeter landscaping by creating a visual barrier and buffer between the residential neighborhood and the school.*
- c. *Perimeter landscaping will be required along the eastern property boundary line if multi-family dwelling units are developed on Parcels 2, 3, & 4.*
- d. *Perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot and contain at least one tree shall be planted for every fifteen (15) linear feet of*



perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage. If the eastern property boundary line does not currently meet this requirement, new plans shall be submitted showing the required improvements and installation of such improvements will be required prior to the city signing the survey. Or a restricted build agreement between the owner and the city may be recorded and noted on the survey.

The developer and City will enter into a Restricted Build Agreement. Please see Exhibit C.

Thank you for your assistance with this project. Please contact me with any questions.

Sincerely,

Rennison Design

Zachary Turner
Development Manager

Cc: Joe Canning, PE/PLS, Centurion Engineers

Attachments:

- Exhibit A – Updated Record of Survey (*will be provided separately*)
- Exhibit B – Photos of Trailer and Shed
- Exhibit C – Restricted Build Agreement – *DRAFT sent 1/29/25 via email*
- Exhibit D – Sewer License Agreement

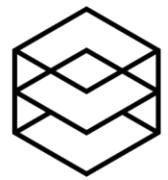


EXHIBIT A – Updated Record of Survey

(will be provided separately)

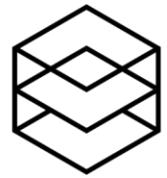


EXHIBIT B – Photo of Trailer Removed



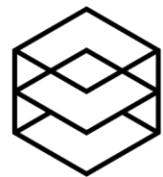


EXHIBIT B – Photo of Shed Removed



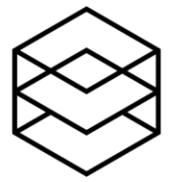


EXHIBIT C – Restricted Build Agreement - *DRAFT*

After
Recording
Return to:

City of Garden City
6015 N. Glenwood Street
Garden City, ID 83714

FOR RECORDING INFORMATION

RESTRICTED BUILD AGREEMENT

THE CITY OF GARDEN CITY (hereinafter the “**City**”), and jointly Pacific West Communities, Inc. (hereinafter the “**Developer**”) and Boise Bible College Inc. an Idaho nonprofit corporation (hereinafter the “**Landowner**”), who may each individually be referred to herein as a “**Party**” and collectively as the “**Parties**,” as appropriate under the circumstances, enter into this Agreement effective the _____ day of _____ 2025, respecting the development of Boise Bible College Apartments (hereinafter the “**Project**”), affecting systems, equipment, and/or property within the City of Garden City. This Restricted Build Agreement (hereinafter the “**Agreement**”) provides for construction of minor land division improvements to support the development in accordance with the Development Code of the City of Garden City.

I, Caleb Roope, execute this Agreement as the Developer with responsibility for the proper development of the Project in accordance with provisions of the law and the specific terms and conditions made applicable to the Project in the course of project review by the City of Garden City, as applicable. It is understood that the person(s) who execute this Agreement on behalf of the Developer does so in the capacity of Developer, and that they represent that they have full legal authority to do so. The parties to this Agreement shall accept notices at the below respective addresses and telephone numbers:

I, _____, execute this Agreement as the Landowner with responsibility for the proper development of the Project in accordance with provisions of the law and the specific terms and conditions made applicable to the Project in the course of project review by the City of Garden City, as applicable. It is understood that the person(s) who execute this Agreement on behalf of the Landowner does so in the capacity of Landowner, and that they represent that they have full legal authority to do so. The parties to this Agreement shall accept notices at the following respective addresses and telephone numbers:

DEVELOPER

Email: _____

CITY

Jenah Thornborrow,
Development Services Director
City of Garden City
6015 Glenwood
Garden City, Idaho 83714
(208) 472-2921

LANDOWNER

Email:

WHEREAS, the City Council for the City reviewed the Restricted Build Agreement process at a Council Meeting on February 10, 2025; and

WHEREAS, if a Developer and/or Landowner desire to record a new project record of survey while the minor land division is being constructed in the City without bonding, no building construction of the Project shall be allowed until this Agreement has been signed; and

WHEREAS, the Project is described in **Exhibit A** attached hereto and incorporated herein; and

WHEREAS, the real property which is the subject of this Agreement (hereinafter the **“Property”**) is located in the City of Garden City and is described in **Exhibit B** attached hereto and incorporated herein (legal description of external boundaries of lands subject to this agreement); and

WHEREAS, this Agreement encumbers the real property which is described in Exhibit B and creates a restrictive covenant thereon, which runs with the land and binds any successors; and

WHEREAS, Title 8, Subdivisions, of the City of Garden City Code requires certain common improvements and public infrastructure to be provided by the Developer and/or Landowner prior to issuance of a building permit within a development project or acceptance of improvements for maintenance, or a surety is provided to the City by the Developer for the work described in Exhibit C, and upon payment of the surety the Developer will follow the standard City permitting, oversight, inspection, and approval process rather than the tiered process described in Section 1.04; and

WHEREAS, minor land divisions and their inclusive lots must be provided with survey monuments, street surfacing, curbs and gutters, drainage systems, sidewalks, street name signs, street lighting, public water supply, fire hydrants and sanitary sewer system, among others; and

WHEREAS, no building permits will be issued until the record of survey has been recorded and all improvements necessary for public health and safety are constructed and substantially complete. Said requirement shall not prohibit construction provided that the Project is not intended for occupancy before all minor land division improvements are substantially complete and adequate life safety measures are addressed; and

WHEREAS, an approved Restricted Build Agreement has the following three general

RESTRICTED BUILD AGREEMENT - 2

steps: (1) signing of the Agreement by the Parties, and recording of the Agreement; (2) signing and recording of the record of survey; and (3) releasing the Agreement wholly or in part when appropriate by recording a release(s) when all improvements required have been constructed, or a surety is provided to the City by the Developer for the work described in Exhibit C; and

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, and upon representations made in application documents and presentations before the City's deliberative bodies, the Parties agree as follows:

The Developer and/or Landowner seeks the City's permission to enter into an Agreement to construct and install the improvements listed in the approved Project in accordance with all terms, covenants and conditions of this Agreement.

ARTICLE I

IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURES

1.01 OBLIGATIONS REGARDING MINOR LAND DIVISION

City, in exchange for Developer and/or Landowner's agreement not to build structures within the above-named Project until requirements are met, will sign the record of survey of the above-mentioned minor land division on the basis that the minor land division criteria have been met, provided:

- A. The minor land division has been approved by the Garden City Engineer and Planning Official;
- B. Construction plans for the minor land division have been reviewed and approved by the City;
- C. Easement agreements have been reviewed and accepted by the City;
- D. All other applicable agreements have been submitted, and if applicable, recorded;
- E. The Developer and/or Landowner recorded the Agreement, and provided a record copy of the Agreement to City;
- F. A note is placed on the face of the final record of survey referencing the Agreement by name and Instrument Number.

1.02 DEVELOPER AND/OR LANDOWNER OBLIGATIONS REGARDING PERMITS

Developer and/or Landowner agrees that no building permits will be applied for and the City will not issue any such permits in the Project until such time as the above-mentioned conditions have been met.

1.03 DEVELOPER AND/OR LANDOWNER OBLIGATIONS REGARDING

RESTRICTED BUILD AGREEMENT - 3

RESTRICTIONS

Developer and/or Landowner agree to the following restrictions on building permits:

- A. The Agreement will be recorded in Ada County and will remain as a building restriction on all the land described in **Exhibit B** until this agreement is released by a subsequent recording authorized and executed by the City. Said recording may name all lots or any combination of lots or lot;
- B. No building permits will be issued until the Project infrastructure construction completion certifications, applicable testing results and field survey verification of sanitary sewer manhole invert elevations are received and approved by the City, or a surety is provided to the City by the Developer for the work described in Exhibit C;
- C. Building permit(s) will not be issued until certain improvements are completed and accepted by the City as noted herein in Section 1.04, or a surety is provided to the City by the Developer for the work described in Exhibit C;
- D. Only non-combustible work (utilities, footings, and foundations) will be allowed until after fire approved roads and hydrants have been installed and accepted by the City, or otherwise approved by the North Ada County Fire & Rescue District, or a surety is provided to the City by the Developer for the work described in Exhibit C;
- E. No Certificates of Occupancy will be issued until the Project is complete in its entirety; or a surety is in place for common area landscape, other common area improvements as permissible by Garde City Code, and all other components of the Project is complete.
- F. Lot improvements specific to individual parcels that are not common lots may be provided in conjunction with the redevelopment of the parcel.

1.04 PARTIES AGREE THAT THE AGREEMENT HAS TIERS

The Parties agree on the following tiers that are to be sequentially completed and procedure to be followed, or a surety is provided to the City by the Developer for the work described in Exhibit C, and upon payment of the surety the Developer will follow the standard City permitting, oversight, inspection and approval process rather than the tiered process described in Section 1.04:

- A. The Parties are entering into the following "Tiered" Agreement:
 1. Tier 1: Infrastructure Construction Only (no other construction allowed)

Tier 1 construction will not be allowed to begin until all associated fees

are paid.

Tier 1 shall be considered complete when the following occurs:

- (a) Water and sewer for the minor land division has been inspected and approved by the City;
- (b) All necessary water and sewer system quality control tests, reports and field survey verification of sanitary sewer manhole invert elevations are provided to and approved by the City;
- (c) Drainage (or temporary drainage) is installed, inspected, and approved by the City;
- (d) Developer and/or Landowner submit a copy of recorded record of survey (with instrument number); and
- (e) Ada County approved addresses are submitted to City.

2. Tier 2: Limited Construction Building Permits (permits may be issued by the City for only non-combustible work - footings and foundations)

Tier 2 construction will not be allowed to begin until all associated building permit fees are paid.

Tier 2 shall be considered complete when the following occurs:

- (a) All fire access roads, fire hydrants, and joint trench utilities are installed and approved by the City;
- (b) All necessary road and fire hydrant quality control tests and reports are provided to and approved by the City and the North Ada County Fire & Rescue District; and
- (c) Record construction plans for infrastructure are provided to and have been approved by the City.

3. Tier 3: Full Building Permits (building permits may be submitted by Developer and/or Landowner to City for the entire structure and lot)

Tier 3 construction will not be allowed to begin until all associated building permit fees are paid. Building permits may be issued for any individual lot or all lots within the Project.

Tier 3 shall be considered complete when the following occurs:

- (a) All construction authorized by the building permit has been

completed and approved by the City;

- (b) All required landscaping of individual lots and any common areas has been completed and approved by the City;
- (c) Certificates of Occupancy are issued by the City (certificates will not occur until the work authorized by the building permit is complete in its entirety); and
- (d) Any sureties covering items within the Project are released.

B. Release of the Agreement and Notification of Completion issued:

1. When all requirements of Tiers 1 and 2 are completed, and any final access roads and drainage improvements are completed and accepted for the entire project, the City shall fully release the Agreement and a Notification of Project Completion shall be issued. Said Project Completion notice will not cover or include the completion of building permits or any required landscaping. Should landscaping not be completed, an additional surety will be required.

1.05 RECORDING OF RECORD OF SURVEY

Developer and/or Landowner shall be solely responsible for recording the record of survey.

1.06 TERMS

The term of this Agreement shall commence as of the date hereof, and shall continue in perpetuity until it is released.

1.07 TERMINATION

This Agreement may be terminated upon mutual agreement of the parties upon ninety ("90") days written notice. The City has the right to terminate this Agreement upon written notice if the Developer and/or Landowner are in Default under Section 2.12 of this Agreement.

1.08 GUARANTEE

The Developer and/or Landowner shall guarantee, for the sole benefit of the City that the Developer and/or Landowner will perform all of its obligations not yet completed under this Agreement.

1.09 PREREQUISITES TO CONSTRUCTION

The Developer and/or Landowner shall not obtain permits for the construction of improvements or commence the construction of improvements until approval by all

other agencies as required to construct the required improvements have been obtained and this Agreement has been completed and signed by the Developer, the Landowner, and the City, and all Engineering Inspection Fees have been paid as required by City ordinance or resolution.

1.10 ENGINEER

- A. The Developer and/or Landowner shall retain an Engineer of Record, licensed as a professional engineer under the laws of the State of Idaho, to design and administer the construction of the improvements, including preparing plans and specifications, inspecting and controlling the quality of work and preparing the record construction data. The Engineer shall perform the work described herein in accordance with the City's required procedures for the Engineer of Record.
- B. The Developer and/or Landowner shall inform the City of the name and mailing address of the Engineer of Record it has retained to perform the duties described in Subsection A of this section. Developer and/or Landowner agrees that notice to the Developer and/or Landowner and engineer at the addresses so specified regarding the performance of such duties shall constitute notice to the Developer and/or Landowner. The Developer and/or Landowner shall promptly inform the City of any change in the information required under this subsection.

1.11 PLANS AND SPECIFICATIONS

- A. The Developer and/or Landowner shall submit to the City, in such form as the City may specify, all plans and specifications pertaining to the construction of the improvements.
- B. If the City requires soil tests, traffic studies, or other tests and studies pertaining to the design of improvements, the Developer and/or Landowner shall submit reports of the test results with the plans and specifications.
- C. The City may approve the plans and specifications as submitted, or indicate to the Developer and/or Landowner deficiencies to be corrected to secure approval, within a reasonable time from the submission of all plans and specifications for the improvements. The City's approval of the plans and specifications is for general conformance with City Standards. The City will endeavor to provide a complete and thorough review of all plans and specifications; however, ultimate design and function remains the responsibility of the Developer and/or Landowner. It shall be the responsibility of the Developer and/or Landowner to correct errors and omissions found prior to Final Acceptance as provided in Section 3.01 of this Agreement.

1.12 GENERAL STANDARDS OF WORKMANSHIP

- A. The Developer and/or Landowner shall construct all improvements in

accordance with plans and specifications approved by the City, and with the terms, covenants, and conditions of this Agreement, including installation of landscaping. The Developer and/or Landowner shall not incorporate any material or equipment into an improvement unless the City has approved its use. Unless the City specifically agrees otherwise in writing, all materials, supplies, and equipment incorporated into an improvement shall be new.

- B. If, in the course of construction, conditions appear, which, in the exercise of reasonable engineering judgment, require a modification of, or substitution for, approved materials, equipment, plans, specifications or contracts to meet an acceptable standard of performance, the Developer and/or Landowner shall make the modification or substitution. The City must approve all such substitutions prior to their installation if acceptable to the City.
- C. The Developer and/or Landowner shall construct all facilities in the minor land division not otherwise subject to this Agreement in accordance with applicable statutes, ordinances, and specifications.

1.13 **WORK IN RIGHTS-OF-WAY**

The Developer and/or Landowner shall comply with all ordinances and secure all necessary permits and authorizations pertaining to work in public rights-of-way. The Developer and/or Landowner shall coordinate and supervise the installation and construction of all utility improvements, including those not otherwise covered by this Agreement, in a manner that will prevent delays in City construction or other damage to the City and that will permit the City to properly schedule work that it will perform. The Contractor's offsite work schedule and efforts shall be to expedite the work, to minimize the inconvenience towards the public.

1.14 **SURVEYOR**

A person licensed as a professional land surveyor under the laws of the State of Idaho shall make all land surveys required for the completion of the improvements under this Agreement.

1.15 **PROGRESS PAYMENTS**

The Developer and/or Landowner shall hold the City harmless against any claims made by Developer or Landowner's contractors for nonpayment.

1.16 **STOP WORK ORDERS**

- A. If the Developer and/or Landowner fail to comply with this Agreement, the City may stop all further construction of improvements by issuing a stop work order regarding the nonconforming construction and notifying the Developer and/or Landowner and its Engineer of the order.
- B. A stop work order shall remain in effect until the City approves:

1. Arrangements made by the Developer and/or Landowner to remedy the nonconformity; and
2. Assurances by the Developer and/or Landowner that future nonconformities will not occur.

C. The issuance of a stop work order under this section is solely for the benefit of the City. The City does not undertake to supervise the work for the benefit of the Developer and/or Landowner or any other person. No suspension of work under this section shall be grounds for any action or claim against the City or for an extension of time to perform the work.

D. The Developer and/or Landowner shall include in all contracts for work to be performed, or materials to be used under this Agreement, the following provision:

The City of Garden City, pursuant to a Restricted Build Agreement on file with the City Clerk and incorporated by reference herein, has the authority to inspect all work or materials under this contract and to stop work in the event that the work performed under this Agreement fails to comply with any provision of the Restricted Build Agreement. In the event that the City issues a stop work order, the contractor shall immediately cease all work and await further instructions from the Developer and/or Landowner and City. Site safety is the Developer and/or Landowner's responsibility.

1.17 ACCESS

The City shall have access to all parts of the Project necessary or convenient for monitoring the Developer and/or Landowner's performance, inspecting, surveying, testing, or performing any other work.

1.18 MAINTENANCE

A. The Developer and/or Landowner shall repair or pay the cost of repairing damage to any improvement that occurs prior to completion of the terms of this Agreement, except for damage caused solely by the City, its agents, employees, or contractors. The Developer and/or Landowner shall give reasonable notice to the City before undertaking the repair of any damaged improvement.

1.19 OPERATION OF IMPROVEMENTS PRIOR TO FINAL ACCEPTANCE

A. Before completion of the terms of this Agreement, the City may enter upon, inspect, control, and operate any improvement if the City determines that such action is necessary to protect the public's health, safety, and welfare.

B. The action described in subsection A of this section shall not affect in any way the Developer and/or Landowner's guarantee under this Agreement.

C. The Developer and/or Landowner or his agents may not connect to or operate any City utilities without written consent from the City. No structure shall be occupied, nor shall any land use be established which requires a building or construction permit, until the improvements required by this Agreement or by applicable provisions of law have been accepted by the City or other responsible public agency or have been completed as required by this Agreement.

ARTICLE II

GENERAL PROVISIONS

2.01 APPLICATION OF ARTICLE

Unless this Agreement expressly provides otherwise, all provisions of this Article applies to every part of this Agreement.

2.02 PERMITS, LAWS, AND FEES

The Developer and/or Landowner shall acquire and maintain in good standing all permits, licenses, application approvals, and other requirements necessary to its performance under this Agreement. All actions taken by the Developer and/or Landowner under this Agreement shall comply with all applicable statutes, ordinances, rules, and regulations. The Developer and/or Landowner shall pay all fees pertaining to its performance under this Agreement in accordance with this Agreement or with laws applicable to actions contemplated. Applicable fees shall be required by Garden City Municipal Code and/or resolutions adopted by the City Council implementing Code requirements.

2.03 RELATIONSHIP OF PARTIES

Neither by entering into this Agreement, nor by doing any act hereunder, may the Developer or Landowner, or any contractor or subcontractor of the Developer or Landowner, be deemed an agent, employee, or partner of the City, nor otherwise associated with the City other than, in the case of Developer or Landowner, as an independent contractor. The Developer and Landowner, and its contractors and subcontractors shall not represent themselves to be agents, employees or partners of the City, or otherwise associated with the City other than, in the case of the Developer or Landowner, as an independent contractor. The Developer and/or Landowner shall notify all its contractors and subcontractors of the provision of this section.

2.04 ENGINEER'S AND LAND SURVEYOR'S RELATION TO THE CITY

Notwithstanding any other agreement, an engineer and/or land surveyor retained by the Developer or Landowner to perform work under this Agreement shall not be deemed an agent, employee, partner, or contractor of the City, or otherwise associated with the City. The parties agree that the engineer and/or land surveyor retained by the Developer or Landowner to supervise the construction and inspection

of the Project is doing so for the benefit of the Developer, Landowner, and City. Engineer's duties include responsible and in- charge, fair, honest, and competent inspection of the work undertaken pursuant to this Agreement in accordance with standards of practice in the engineering profession.

2.05 DEVELOPER AND/OR LANDOWNER'S RESPONSIBILITY

The Developer and/or Landowner shall be ultimately responsible for the faithful performance of all terms, covenants, and conditions of this Agreement, notwithstanding the Developer and Landowner's delegation to another of the actual performance of any terms, covenants or conditions hereof. The Developer and/or Landowner shall notify all contractors, subcontractors, or agents providing professional services of conditions and requirements of this Agreement.

2.06 DISCLAIMER OF WARRANTY

Notwithstanding this Agreement or any action taken by any person hereunder, neither the City nor any City officer, agent or employee warrants or represents the fitness, suitability or merchantability of a property, plan, design, material, workmanship or structure for any purpose.

2.07 NON-DISCRIMINATION

- A. In performing its obligations under this Agreement, the Developer and/or Landowner shall not discriminate against any person on the basis of disability, race, creed, color, national origin, sex, marital status, or age.
- B. In selling property or improvements in the minor land division, the Developer and/or Landowner shall not discriminate against any person on the basis of disability, race, creed, color, national origin, sex, marital status, or age.

2.08 COST OF DOCUMENTS

All plans, reports, drawings, or other documents that this Agreement requires to be provided to the City by the Developer and/or Landowner shall be furnished at the Developer and/or Landowner's expense.

2.09 CITY AND PUBLIC UTILITIES

- A. Any city and public utility service contemplated by this Agreement shall be provided only to areas where the service is allowed by applicable law. All utility service shall conform to the rules, regulations, and tariffs of the State of Idaho to the extent they may apply.
- B. If the State of Idaho or other agency having authority disallows any utility service to be provided by the City or any utility following execution of this Agreement, requirements of this Agreement relating to the disallowed service shall be deleted from the requirements of the Developer and/or Landowner

under this Agreement. The disallowance shall not be grounds for any claim, action, or demand against the City.

C. The Developer and/or Landowner shall bear all costs associated with the installation of all utilities. These installation costs shall not be passed on to the City unless provided for otherwise within an appendix to this Agreement.

2.10 TIME IS OF THE ESSENCE

Unless otherwise expressly provided herein, time is of the essence of each and every term, covenant, and condition of this Agreement.

2.11 ASSIGNMENTS

A. Except insofar as Subsection B of this section specifically permits assignments, any assignment by the Developer and/or Landowner of its interest in any part of this Agreement or any delegation of duties under this Agreement shall be void and any attempt by the Developer and/or Landowner to assign any part of its interest or delegate any duty under this Agreement shall constitute a default entitling the City to invoke any remedy available to it under Section 2.12.

B. This Agreement encumbers the real property which is described in Exhibit B and creates a restrictive covenant thereon, which runs with the land and binds any successors.

C. The Developer and/or Landowner may assign its interest or delegate its duties under this Agreement:

1. To the extent that applicable codes require that assignments of contract rights be allowed;
2. To contractors and subcontractors, or to partnerships, limited liability companies or corporations in which the Developer and/or Landowner may have a substantial interest, subject to Section 1.09, provided that guaranties can be provided or maintained;
3. As expressly permitted in writing by the City. The City will not unreasonably deny assignment if security of performance is provided.

2.12 DEFAULT – CITY'S REMEDIES

A. The City may declare the Developer and/or Landowner to be in default:

1. If the Developer and/or Landowner is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed on account of insolvency, takes advantage of any

law for the benefit of insolvent debtors; or

2. Except as provided in subsections 3 and 4 below, if the Developer and/or Landowner has failed in any measurable way to perform its obligations under this Agreement, except if delayed by an act or omission of the City, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials, sabotage or freight embargoes, provided the City gives the Developer and/or Landowner notice of the failure to perform and the Developer and/or Landowner fails to correct the failure within twenty-eight (28) days of receiving the notice; or if the failure requires more than twenty-eight (28) days to cure, the Developer and/or Landowner fails within twenty-eight (28) days of receiving the notice to commence and proceed with diligence to prosecute the cure. All such notices to the Developer and/or Landowner shall be in writing by certified mail, return receipt requested.
3. If the Developer and/or Landowner fails to continue with sustained effort, and the City provides twenty-four (24) hours' notice of this default and the Developer and/or Landowner fails to correct the failure within that time period.
4. If the actions of the Developer and/or Landowner have created a public hazard or conditions deemed an emergency by the City, the City may declare the Developer and/or Landowner in default without providing prior notice and opportunity to cure.

B. Upon a declaration of default, and failure to cure under Section 2.12, the City may do any one or more of the following:

1. Perform any act required of the Developer and/or Landowner under this Agreement, including drawing surety and construction of all or any part of the improvements after giving formal notice in writing to the Developer and/or Landowner. The Developer and/or Landowner shall be liable to the City for any costs thus incurred. The City may deduct any costs incurred from the surety, if any, or any payments then or thereafter due the Developer and/or Landowner from the City whether under this Agreement or otherwise. No advance notice shall be required by the City to the Developer and/or Landowner to corrective actions to remedy any items that fall under Section 2.12.A.4.
2. Exercise its rights under any provision of this Agreement.
3. Pursue any appropriate judicial remedy including, but not limited to, an action for specific performance, injunction, and civil penalties. City shall be entitled to its attorney's fees in any enforcement action necessary to enforce the terms of this

Agreement.

2.13 NON-WAIVER

The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of the City thereafter to enforce each and every provision hereof.

2.14 INTERPRETATION

- A. Each document incorporated by reference herein is an essential part of this Agreement, and any requirement, duty or obligation stated in one document is as binding as if stated in all. All documents shall be construed to operate in a complementary manner and to provide for a complete project. Unless stated otherwise in express terms, the duties to complete the Project in compliance with the approved plans is the sole responsibility of the Developer and/or Landowner.
- B. If the terms of any of the documents and amendments thereto comprising this Agreement conflict, the conflict shall be resolved by giving the conflicting documents and amendments thereto the following order of preference:
 1. Documents, appendixes, or sections titled "SPECIAL PROVISIONS".
 2. Article I of this Agreement, titled "IMPROVEMENT CONSTRUCTION STANDARDS AND PROCEDURES" and Article III of this Agreement titled "FINAL ACCEPTANCE OF IMPROVMENTS".
 3. Article II of this Agreement titled "GENERAL PROVISIONS".
 4. Any other documents incorporated by reference herein.

2.15 AMENDMENT

The parties may amend this Agreement only by written agreement, which shall be attached as an appendix hereto and recorded.

2.16 JURISDICTION – CHOICE OF LAW

Any civil action arising from this Agreement shall be brought in the District Court of the Fourth Judicial District; venue shall be in Ada County. The law of the State of Idaho shall govern the rights and duties of the parties under this Agreement.

2.17 SEVERABILITY

Any provision of this Agreement that may be declared invalid or otherwise unenforceable by a Court of competent jurisdiction shall not affect the validity or enforceability of any other part of this Agreement, so long as the remainder of the Agreement is reasonably capable of completion.

2.18 INTEGRATION

This instrument, including Exhibits and Appendices and any writings incorporated by reference herein, embody the entire Agreement of the parties. This Agreement shall supersede all previous communications, representations or agreements, whether written or oral, between the parties hereto.

2.19 DEFINITIONS

Unless this Agreement expressly provides otherwise, the following definitions shall apply herein:

- A. **“Improvements”** mean all work, which the Developer and/or Landowner are required to perform by this Agreement.
- B. **“City”**, for the purpose of administering this Agreement, means the City of Garden City, or its chief executive or his/her administrative designee.
- C. **“Final Acceptance”** by the City means that the City is satisfied that all improvements required by this Agreement and Titles 7 and 8 of the Garden City Municipal Code, or as a result of the procedures required thereby, have been constructed in a satisfactory manner to comply with the specifications.

2.20 APPROVALS AND CONSENTS

Wherever in the Agreement consents or approvals of either party are required, they shall not be unreasonably withheld. Nothing in this provision shall compromise the general police power authority in the City in matters governmental in nature.

2.21 ATTORNEY FEES – MEET AND CONFER

Should either party need to resort to Court proceedings to interpret or enforce provisions of this Agreement, the prevailing party in any such action shall be entitled to recovery of its reasonable attorney fees. No legal action shall begin, nor shall any attorney fees be recoverable, unless the parties have first met and conferred regarding the contested issues. Any party, which refuses to meet and confer in good faith, shall not be entitled to recovery of its attorney fees.

ARTICLE III

FINAL ACCEPTANCE OF IMPROVEMENTS

3.01 PREREQUISITES TO ACCEPTANCE

The City shall not accept the improvements until all the requirements of Section 3.02 and 3.03 have been met.

3.02 CERTIFICATE OF COMPLIANCE

The Developer and/or Landowner shall furnish the City with a Certificate of Compliance for the work performed under this Agreement. Developer and/or Landowner shall also certify that all utility installation has been completed according to plan.

3.03 INSPECTION

- A. Upon receiving notice that the Developer and/or Landowner have completed the improvements, the City shall schedule inspections of the improvements. The City may inspect all improvements and any other work in dedicated easements or rights-of-way.
- B. The City may inspect any phase of work on an improvement of which it is to assume control.
- C. The City shall inform the Developer and/or Landowner in writing of any deficiencies in the work found in the course of the inspection.
- D. The Developer and/or Landowner shall, at its own expense, correct all deficiencies found by inspections under Subsection A or B of this section. Upon receiving notice that the deficiencies have been corrected, the City, or appropriate privately owned utility shall re-inspect the improvements.
- E. The City or appropriate privately owned utility may continue to re-inspect an improvement until the Developer and/or Landowner has corrected all deficiencies in the improvement.
- F. After final inspection has revealed that all improvements and other work in dedicated easements and rights-of-way meet City standards and the Developer and/or Landowner has furnished the record construction drawings and project certification required by Section 3.02, and upon written request by the Developer and/or Landowner, the City Engineer shall submit to the City a recommendation for Final Acceptance of the improvements.

3.04 DEVELOPER AND/OR LANDOWNER ONE-YEAR WARRANTY

Final Acceptance does not waive the requirement of the Developer and/or Landowner to provide a one-year warranty on the installation of City water and sanitary sewer following the Final Acceptance provided for the purposes of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the City has executed this Agreement effective as of the Effective Date.

CITY:

City of Garden City,
an Idaho municipal corporation

By: _____
Name: Jenah Thornborrow
Its: Development Services Director

On this _____ day of _____, 20_____, before me a Notary Public, personally appeared Jenah Thornborrow, known or identified to me (or proved to me on the oath of _____) to be the Development Services Director of the City of Garden City, who executed the said instrument, and acknowledged to me that the City of Garden City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR _____
Residing at _____
My Commission Expires _____

IN WITNESS WHEREOF, the City has executed this Agreement effective as of the Effective Date.

DEVELOPER

Signature:

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____, 20____, before me a Notary Public, personally appeared _____, known or identified to me (or proved to me on the oath of _____).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR _____
Residing at _____
My Commission Expires _____

IN WITNESS WHEREOF, the City has executed this Agreement effective as of the Effective Date.

LANDOWNER

Signature:

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____, 20____, before me a Notary Public,
personally appeared _____, known or identified to me (or proved to me on the oath
of _____)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR _____
Residing at _____
My Commission Expires _____

EXHIBIT A

Description of the Project

The Developer plans to build two apartment buildings. The northern building will include 117 apartments, and the southern building will include 119 apartments.

EXHIBIT B

Legal Description of External Boundaries of Lands

A parcel of land in the SW 1/4 of the NW 1/4 of Sec. 25, T. 4 N., R. 1 E., B.M., Ada County, Idaho, and further described as follows: Commencing at the 1/4 corner common to Secs. 25 and 26 of aforementioned Township and Range, and thence S. on a section line common to Secs. 25 and 26, a distance of 295.79 ft to a point; thence N. 70° 08'45" W. a distance of 1,339.95 ft to a point; thence N. 18°49'48" E. 1008.79 ft to a point; thence N. 89°51'18" E. a distance of 934.75 ft to a point, said point being on section line common to Secs. 25 and 26; thence N. 85°51'51" E., a distance of 575.21 ft to the Real Point of Beginning; thence continuing N. 85°51'51" E. a distance of 738.46 ft to a point; thence S. 0°01'14" E. to a point on the centerline of Thurman Mill Ditch; thence Northwesterly along the centerline of Thurman Mill Ditch, to a point which is directly S. 0°01'14" E. from the Point of Beginning; thence N. 0°01'14" W. to the Real Point of Beginning. EXCEPT: Thurman Mill Ditch right-of-way.

EXHIBIT C

Surety Scope of Work

1. Private sewer pump station and forced main service line connecting the Project to the gravity sewer system within Willowdale Dr.
2. Pathways identified in the Garden City Minor Land Division Report, code section 8-4E-7 "Pedestrian and Bicycle Accessibility Standards," and located within Parcel 1 of the Record of Survey.
3. Landscaping identified in the Garden City Minor Land Division Report, code section 8-4I-4 "Perimeter Landscaping Provisions," and located within Parcel 1 of the Record of Survey.
4. Landscaping identified in the Garden City Minor Land Division Report, code section 8-4I-5 "Perimeter Landscaping Provisions," and located within Parcel 1 of the Record of Survey.

Schematic Plan for New Forced Main Sewer:

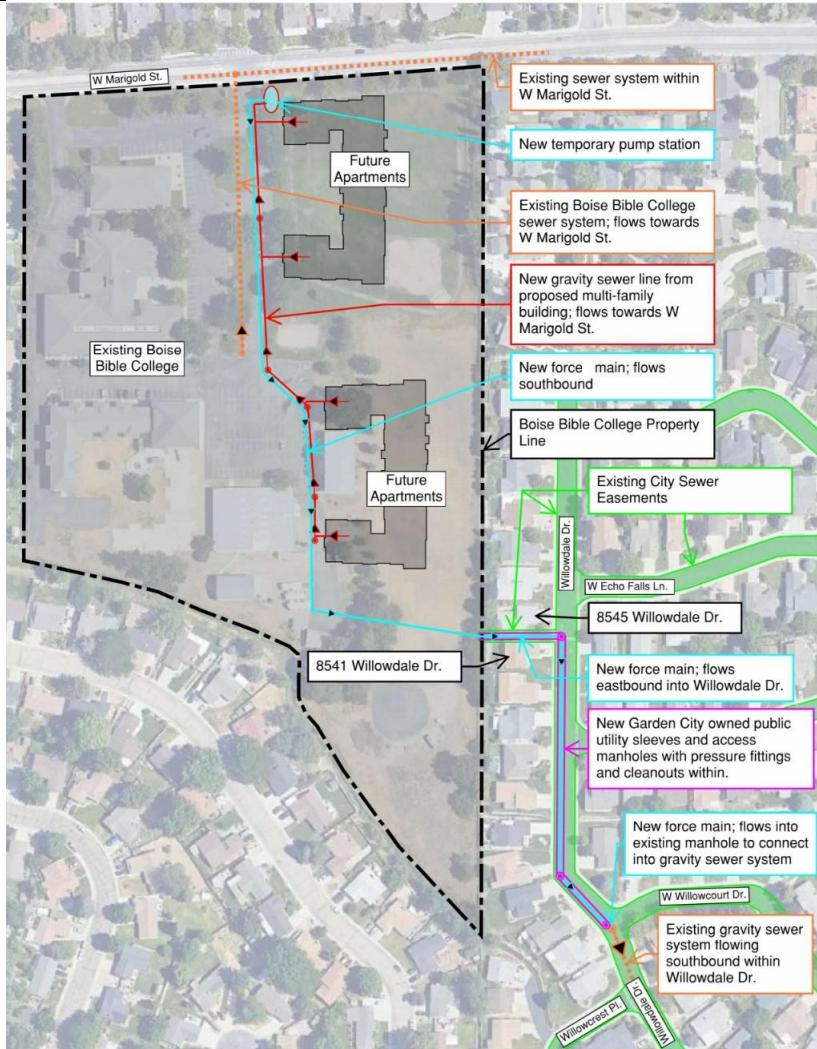


EXHIBIT C

Surety Scope of Work

Excerpts from the Garden City Minor Land Division Report:

<u>8-4E-7 Pedestrian and Bicycle Accessibility Standards</u>	Not Determined	<p>A pathway system shall extend through the development site and connect the street sidewalk to all primary building entrances. The site plans do not show a pedestrian pathway system linking the primary entrance of each building to an internal system that connects to the public sidewalk.</p> <p>The applicant has stated that paved surfaces connect the buildings to the existing sidewalk on Marigold. However, code requires that the pathways be concrete, pavers, brick, or other ornamental paving be used so long as it has a smooth finish. The pathways shall be a minimum of 4' wide, or a width appropriate for the function, as well as ADA compliant. The pathways shall be free from hazards, meaning separate in function and not within the drive isles unless for traversing common drives and parking lots.</p> <p>New plans shall be submitted showing the required improvements and installation of such improvements will be required prior to the city signing the survey. Or a Restricted Build Agreement between the owner and the city may be recorded and noted on the survey. Or a surety bond agreement may be made between the owner and the city. Please clarify which option you intend to pursue.</p>
		Otherwise, A condition has been drafted requiring pathways be constructed in accordance with this section of code. Additional permits may be required for the construction.

EXHIBIT C

Surety Scope of Work

<u>8-4I-4</u> <u>Landscaping</u> <u>Provisions for</u> <u>Specific Uses</u>	Not Compliant	<p>A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping. Required landscaping: 35,676sqft Provided: 496,538sqft</p> <p>A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted. Trees required: 36 Trees provided: ~126 Shrubs required: 238 Shrubs provided: Unknown. Please clarify. Review of this section of code is required as a minor land division application. If the site is deficient, installation of landscaping will be required prior to signature of the survey.</p> <p>A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage. Marigold Street Trees Required (732.92LF): 16 Trees provided: 13 (Deficient 3)</p> <p>New plans shall be submitted showing the required improvements and installation of such improvements will be required prior to the city signing the survey. Or a Restricted Build Agreement between the owner and the city may be recorded and noted on the survey. Or a surety bond agreement may be made between the owner and the city. Please clarify which option you intend to pursue.</p>
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EXHIBIT C

Surety Scope of Work

<u>8-4I-5</u> <u>Perimeter</u> <u>Landscaping</u> <u>Provisions</u>	Not Determined	<p>Perimeter landscaping is required along the common property line between an adjacent nonresidential use and a residential use. Perimeter landscaping is required along the eastern and western property boundary lines.</p> <p>Landscape plans appear to show some areas containing perimeter landscaping along the western property boundary line. More information is required.</p> <p>There is no perimeter landscaping along the eastern property boundary line. However, Parcels 2, 3, & 4 consist primarily of landscaping due to the nature of the use (sports fields) and thus meet the intent of perimeter landscaping by creating a visual barrier and buffer between the residential neighborhood and the school. However, based on the use being commercial, perimeter landscaping is still required.</p> <p>Perimeter landscaping will also be required along the eastern property boundary line if multi-family dwelling units are developed on Parcels 2, 3, & 4.</p> <p>Perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot and contain at least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage. If the eastern and western property boundary lines do not currently meet this requirement, new plans shall be submitted showing the required improvements and installation of such improvements will be required prior to the city signing the survey. Or a Restricted Build Agreement between the owner and the city may be recorded and noted on the survey. Or a surety bond agreement may be made between the owner and the city. Please clarify which option you intend to pursue.</p>
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EXHIBIT C
Surety Scope of Work

Record of Survey: REPLACE WITH UPDATE

RESTRICTED BUILD AGREEMENT - 27

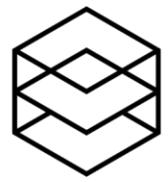


EXHIBIT D – Sewer License Agreement

SEWER LICENSE AGREEMENT

This Sewer License Agreement (the “**Agreement**”) is made and entered into this _____ day of February, 2025 (the “**Effective Date**”), by and between Pacific West Communities, Inc., an Idaho corporation (“**Developer**”) and City of Garden City, Idaho, an Idaho municipal corporation (“**City**”).

RECITALS

- A. Developer is the 50-year ground lessee of that certain +/- 6.519 acre parcel of real property in City of Garden City that is legally described and graphically depicted on Exhibit A (the “**Property**”) pursuant to that certain Ground Lease dated January 1, 2023 (the “**Ground Lease**”).
- B. City owns and operates a municipal wastewater system throughout City that is a public utility (the “**Municipal Sewer System**”). The Municipal Sewer System includes an existing sewer main located in N. Willowdale Drive (the “**Existing Sewer Main**”).
- C. There exists (1) a 10 foot wide public utility easement that runs along the south boundary of Lot 50 in Block 2 of Willowbrook Estates No. 3 (i.e., 8545 N. Willowdale Drive); and (2) a blanket public utility easement through Lot 1 in Block C of Willowbrook Estates No. 3 and Lot 1 in Block B of Willowbrook Estates No. 2 (i.e., N. Willowdale Drive) (the “**Public Utility Easements**”).
- D. Developer will be developing the Property in accordance with the development approvals issued by City.
- E. Developer desires to install a sewer line and related facilities from the Property through the Public Utility Easements to the Existing Sewer Main to provide sewer service to the Property (the “**Sewer Extension Facilities**”). The Sewer Extension Facilities will include (1) sewer sleeves, manholes and related facilities that will be installed by Developer and dedicated to City as part of the Municipal Sewer System (the “**City Facilities**”) and (2) the sewer connection lines from the Property to the point of intercept with the Existing Sewer Main, that will be installed, owned and maintained by Developer, and that are the subject of this Agreement (the “**Licensed Facilities**”).
- F. The purpose of this Agreement is for the City to provide Developer with a non-exclusive license to use the Public Utility Easements to construct, use, operate, maintain and repair the Sewer Extension Facilities.
- G. The Property, the Public Utility Easements, the Existing Sewer Main and the Sewer Extension Facilities are all depicted on the Schematic Plan attached hereto as Exhibit B (the “**Schematic Plan**”).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer agree as follows:

1. **Grant of License.** City hereby grants and conveys to Developer a non-exclusive license over, under, through, and within the Public Utility Easements for the purpose of the constructing, operating, maintaining and repairing the Sewer Extension Facilities (the “**License**”). City further grants to Developer the right to ingress and egress over reasonable routes across the Public Utility Easements for the purposes set forth in this Agreement. The License shall be for use by Developer and its employees, agents and contractors (“**Developer Parties**”).
2. **Construction and Maintenance.** Developer shall be solely responsible for the cost of the construction, operation, maintenance and repair of the Sewer Extension Facilities. Developer shall cause the Sewer Extension Facilities to be constructed in a good and workmanlike manner and shall thereafter cause the Sewer Extension Facilities to be operated, maintained and repaired so as to keep the same in good operating condition and repair. The initial construction of the portion of the Sewer Extension Facilities located in the 10 foot wide easement located on Lot 50 in Block 2 of Willowbrook Estates No. 3 (i.e., 8545 N. Willowdale Drive) will be completed via boring under the surface of the ground. If Developer hereinafter disturbs or damages any improvements located in the Public Utility Easements, then Developer shall repair and restore the damaged or disturbed improvements to a condition substantially similar to that as existed prior to such damage or disturbance. If City elects to repair or restore any such damage or disturbance, then Developer will promptly reimburse City for the out-of-pocket expenses City incurs in such repair or restoration.
3. **Revocation of License.** The License is revocable by City only upon notification from City to Developer that sufficient sewer capacity is available to serve Developer’s development on the Property at an alternative location adjacent to the Property. Such notice must provide Developer at least twelve (12) months’ time to connect to the Municipal Sewer System via the alternative location. Upon revocation of the License, Developer will take those actions necessary to decommission the Licensed Facilities, but will not be required to remove any of the Sewer Connection Facilities from the Public Utility Easements.
4. **Indemnification.** Except to the extent of any claims, liabilities or damages arising from the negligent or intentional acts or omissions of City or its employees, agents or contractors (“**City Parties**”), Developer shall indemnify, defend, and hold harmless City Parties from and against any and all claims, losses, liabilities, damages and/or costs (including attorneys’ fees) arising from: (a) construction, operation, maintenance and repair of the Sewer Extension Facilities by Developer Parties pursuant to the License; (b) default under the terms of this Agreement; (c) negligent or intentional acts or omissions of Developer Parties pursuant to the License; or (d) failure of Developer Parties to comply with any applicable federal, state or local laws, rules, regulations or ordinances as they relate to the Sewer Extension Facilities. Additionally, Developer agrees and covenants to indemnify, defend, and hold harmless City Parties for, and against flooding, erosion, and other impacts harmful to the Municipal Sewer System and/or other real or personal property located within and adjacent to the Sewer Extension Facilities, including damages to the existing structures and direct impacts to the Municipal Sewer System, caused by the construction, operation, maintenance and repair of the Sewer Extension Facilities.
5. **Insurance.** Developer will maintain, at its expense, and keep in force at all times during the term of this Agreement, a policy of general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate.
6. **Successors and Assigns.** This Agreement will be binding upon, and run to the benefit of, the parties thereto and their successors and permitted assigns. Developer may assign this Agreement only to the then current holder of the fee simple interest of the Property or the ground lessee thereof.

7. **Waiver.** The failure of any party to insist upon strict performance of any of the provisions contained herein shall not be deemed a waiver of any rights or remedies that said party may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the provisions contained herein by the same or any other party.
8. **Recording.** City will record this Agreement in the land records of Ada County, Idaho.
9. **Extent of City Rights.** Developer recognizes and acknowledges that the License pertains only to the rights of City as a public utility with the right to use the Public Utility Easements. City has no right or power to create rights in Developer with respect to the holder(s) of fee title to any property that is subject to the Public Utility Easements. Any such rights affecting fee title desired by Developer (if any) must be acquired by the Developer from the holder of fee title to the affected property. Should Developer fail to obtain any rights from the holder of fee title to any affected property that are required (if any) for Developer's activities on such affected property, or should the rights obtained prove legally ineffectual, Developer shall hold harmless, indemnify and defend City from any claim by any party arising out of or related to such failure of rights.
10. **Existing Facilities.** Nothing in this Agreement will affect any existing sewer facilities owned or maintained by the City, either on the Property or elsewhere, except as expressly contemplated herein (e.g., the proposed connection to the Existing Sewer Main). The Sewer Extension Facilities must remain separate and independent any other sewer facilities owned or maintained by City, except as may be expressly approved by City.
11. **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person or entity, other than the parties hereto, any remedy or claim under or by reason of this Agreement or any term, covenant or condition hereof, as third-party beneficiary or otherwise, and all of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto.
12. **Commencement of Work.** Developer shall not commence any work within the Public Utility Easements and will not construct the Sewer Extension Facilities until such time as Developer has received all necessary construction approvals from City.
13. **No Liens.** Developer represents to City that the general contractor(s) for the construction of the Sewer Extension Facilities will be fully funded and paid, and that the Public Utility Easements and underlying real property will be kept lien free.
14. **Compliance with all Laws.** Developer represents that in constructing and installing the Sewer Extension Facilities referenced in this Agreement, it shall comply with all laws, orders and regulations of federal, state and municipal authorities and will have all licenses or permits which are required for the construction and installation of the Sewer Extension Facilities.
15. **Damage to Facilities.** Should any of the Sewer Extension Facilities or the Municipal Sewer System be damaged or injured, whether by act or omission to act on the part of Developer Parties or proximately damaged or injured by any property or instrumentality under the care, custody or control of Developer Parties, Developer shall: (a) immediately notify City of the damage; and (b) forthwith, at its own expense, either repair the damage and restore the aforesaid to as good condition as existed prior to the time of the said injury or damage, or Developer shall make other arrangements that are acceptable to City for accomplishing said repair. Developer shall keep City informed of all repairs being performed to allow City to perform inspection of the repair work. All of the work done for the construction, maintenance, operation and location, and the repair and

restoration of any damage or injury, shall be done in accordance with the standards of any affected owner and/or City as well and the provision of any and all general regulations of City governing excavation in and repair of said streets, roads, sidewalks and other places.

16. **General.** This Agreement and any exhibits hereto constitute the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreement, representations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the parties hereto. This Agreement shall be governed by the laws of the State of Idaho. This Agreement may be executed in counterparts, each of which shall be an original, but all of which taken together shall constitute the whole.

[End of text. Signatures to follow.]

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed as of the Effective Date.

CITY:

CITY OF GARDEN CITY, an Idaho municipal corporation

By: John Evans, Mayor

ATTEST:

Lisa M. Leiby, City Clerk

This record was acknowledged before me on _____, 2025 by John Evans and Lisa M. Leiby as Mayor and City Clerk, respectively, of City of Garden City.

Signature of Notary Public

My commission expires: _____

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed as of the Effective Date.

Developer:

PACIFIC WEST COMMUNITIES, INC., an Idaho corporation

By:

Caleb Roope
President and CEO

STATE OF IDAHO)
) ss.
County of Ada)

This record was acknowledged before me on _____, 2025 by Caleb Roope as President and CEO of Pacific West Communities, Inc.

Signature of Notary Public

My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION AND GRAPHIC DEPICTION OF THE PROPERTY

A parcel of land located in the Southwest 1/4 of the Northwest 1/4 of Section 25, Township 4 North, Range 1 East, Boise Meridian, Garden City, Ada County, Idaho being more particularly described as follows:

Commencing at a point marking the Section corner common to Sections 23, 24, 25 and 26, T.4N., R.1E., B.M., from which the 1/4 corner common to said Sections 25 and 26 bears thence South 00°31'25" West, 2639.49 feet; thence on the west boundary line of said Section 25, South 00°31'25" West, 104.52 feet to an aluminum cap reference monument; thence continuing South 00°31'25" West, 1,344.23 feet to the centerline of W. Marigold Street; thence on said centerline, North 86°25'53" East, 575.58 feet; thence continuing on said centerline, North 86°27'03" East, 371.51 feet; thence leaving said centerline South 02°31'37" East, 30.01 feet to the southeasterly right-of-way line of W. Marigold Street and the POINT OF BEGINNING;

thence on said southeasterly right-of-way line, North 86°27'03" East, 359.81 feet to the Northwest corner of Bentwood Subdivision as filed in Book 91 of Plats at Pages 10803 and 10804, records of Ada County, Idaho;

thence on the west boundary lines of said Bentwood Subdivision, Willowbrook Estates No. 2 Subdivision as filed in Book 57 of Plats at Page 5404 and 5405 and Willowbrook Estates No. 3 Subdivision as filed in Book 59 of Plats at Page 5730 through 5732, records of Ada County, Idaho, South 00°20'40" West, 924.21 feet;

thence leaving said west boundary lines, North 89°41'15" West, 257.33 feet;

thence North 44°41'13" West, 19.00 feet;

thence North 00°18'48" East, 104.17 feet;

thence North 89°41'12" West, 12.14 feet;

thence North 00°05'26" East, 176.10 feet;

thence South 89°41'12" East, 20.76 feet;

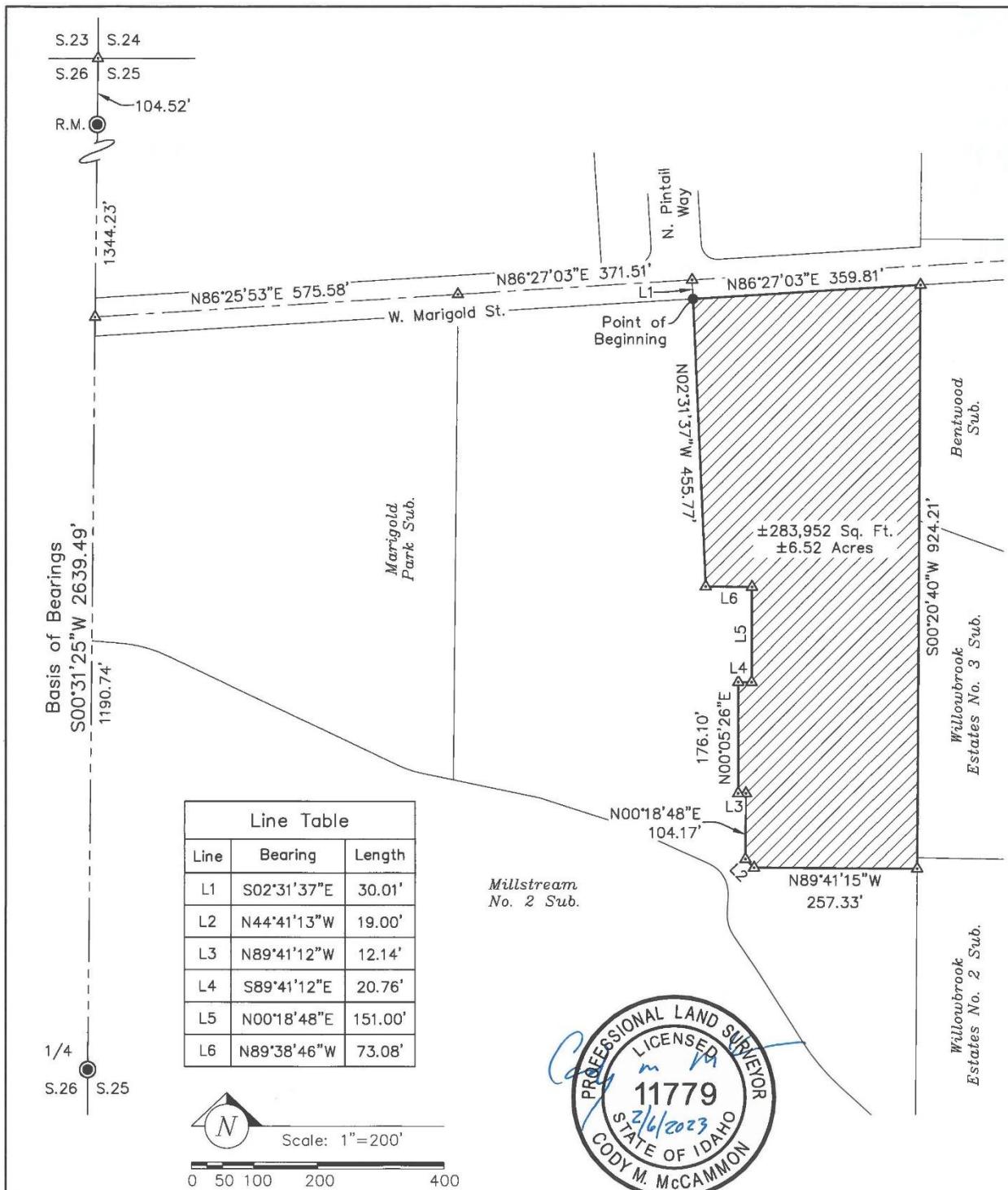
thence North 00°18'48" East, 151.00 feet;

thence North 89°38'46" West, 73.08 feet;

thence North 02°31'37" West, 455.77 feet to the POINT OF BEGINNING.

Containing 283,952 square feet or 6.519 acres, more or less.

End of Description



The logo for Marigold St 22-141.dwg, featuring a stylized 'i' and 's' in a blue square, followed by the text 'Marigold St 22-141.dwg Lease Ex.dwg 2/6/2023 6:47:12 PM'.

Exhibit Drawing for
Boise Bible College Lease Parcel

Located in the SW1/4 of the NW1/4 of Section 25,
T.4N., R.1E., B.M., Garden City, Ada County, Idaho.

Job No.
22-141

Sheet No. 1

Dwg. Date
2/6/2023

EXHIBIT B
SCHEMATIC PLAN

