

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
July 10, 2012 – REGULAR SESSION

City Council Chambers
55 South State Street
Third Floor
Clearfield, Utah

Mission Statement: To provide leadership in advancing core community values; sustain safety, security and health; and provide progressive, caring and effective services. We take pride in building a community where individuals, families and businesses can develop and thrive.

6:30 P.M. WORK SESSION

Discussion on the Radio Tower at the Freeport Center
Discussion on the Award of Bid for Theatre Seating

7:00 P.M. REGULAR SESSION

CALL TO ORDER:	Mayor Wood
OPENING CEREMONY:	Councilmember Murray
APPROVAL OF THE MINUTES:	June 19, 2012 – Special Session June 26, 2012 – Regular Session

PRESENTATION:

1. **PRESENTATION TO PATSY SEACH FOR HER SERVICE AS A MEMBER OF THE PARKS & RECREATION COMMISSION**

BACKGROUND: Patsy Seach has served the City as a member of the Parks & Recreation Commission and recently submitted a letter of resignation. The Mayor and City Council desire to recognize Ms. Seach for her service to the City.

2. **PRESENTATION TO KEMP SMITH FOR RECOGNITION OF RECEIVING THE RANK OF EAGLE SCOUT**

BACKGROUND: Kemp Smith has completed the requirements to receive the rank of Eagle Scout. Mayor Wood and the City Council desire to recognize Kemp and acknowledge his achievement.

3. **PRESENTATION TO SHANNON ANDERSON RECOGNIZING HER EFFORTS ASSOCIATED WITH THE IMPLEMENTATION OF CLEARFIELD UNIVERSITY**

BACKGROUND: The City recently offered an educational opportunity to residents entitled Clearfield University. Clearfield University allowed participants to attend weekly sessions which taught them how the City functions. Shannon Anderson was instrumental with the implementation of the program.

SCHEDULED ITEMS:

4. **CITIZEN COMMENTS**

5. CONSIDER APPROVAL OF A WAIVER AND SETTLEMENT AGREEMENT WITH FREEPORT CENTER ASSOCIATES REGARDING THE TOWER LOCATED NEXT TO BUILDING A-15 IN THE FREEPORT CENTER

BACKGROUND: Attorneys for the City and Freeport Center Associates respectively have been working to negotiate a settlement agreement in an ongoing dispute regarding the ownership and control over the antenna tower next to Building A-15 in the Freeport Center. This negotiated settlement would relieve the City of any liability for using the property the tower is located on since 1994 and would resolve any dispute in ownership or control of the tower between the City and Freeport Center Associates going forward.

RECOMMENDATION: Approve the negotiated Waiver and Settlement Agreement with Freeport Center Associates as proposed regarding the tower next to Building A-15 in the Freeport Center and authorize the Mayor's signature to any necessary documents.

6. CONSIDER APPROVAL OF AN AGREEMENT TO PROVIDE SUNSET CITY WITH BUILDING INSPECTION SERVICES

BACKGROUND: Sunset City recently requested proposals for the provision of building inspection and related services. Since Clearfield's building official has capacity to take on the small amount of work that would come from Sunset, we submitted a proposal based on our consolidated fee schedule. Sunset City selected Clearfield City's proposal, and this agreement has been drafted to that end.

RECOMMENDATION: Approve the agreement with Sunset City for building inspection services and authorize the Mayor's signature to any necessary documents.

7. CONSIDER APPROVAL OF THE AWARD OF BID FOR THEATRE SEATING AT THE COMMUNITY ARTS CENTER

BACKGROUND: The city solicited bids for theatre seating at the Community Arts Center. Eric Howes will be presenting the bids and his recommendation to the Council.

RECOMMENDATION: Approve the award of bid for theatre seating at the Community Arts Center and authorize the Mayor's signature to any necessary documents.

COMMUNICATION ITEMS:

Mayor's Report
City Councils' Reports
City Manager's Report
Staffs' Reports

*****COUNCIL MEETING ADJOURN*****

Dated this 5th day of July, 2012.

/s/Kimberly S. Read, Deputy City Recorder

The City of Clearfield, in accordance with the 'Americans with Disabilities Act' provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.

CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. SPECIAL SESSION
June 19, 2012

PRESIDING:	Don Wood	Mayor
PRESENT:	Kent Bush	Councilmember
	Mike LeBaron	Councilmember
	Kathryn Murray	Councilmember
	Mark Shepherd	Councilmember
	Bruce Young	Councilmember
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Scott Hodge	Public Works Director
	Eric Howes	Community Services Director
	Greg Krusi	Police Chief
	Bob Wylie	Administrative Services Director
	Jessica Hardy	Accounting Technician
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: There were no visitors.

Mayor Wood called the meeting to order at 8:33 p.m.

APPROVAL OF RESOLUTION 2012R-09 SETTING THE CERTIFIED TAX RATE AND
RESOLUTION 2012R-10 ADOPTING THE FISCAL YEAR 2012/2013 BUDGET

The Clearfield City Council held a public hearing on the proposed budget on June 12, 2012. Utah Code required cities to hold a public hearing relating to the approval of the upcoming fiscal year budget. City staff prepared and submitted to the Council a balanced final budget for fiscal year 2012/2013 which would begin July 1, 2012 and ends June 30, 2013.

Adam Lenhard, City Manager, reported the proposed budget was balanced and he complimented staff members for their efficiency in their work to provide the Council a balanced budget. He complimented all City staff members for their efforts to accomplish the Council's goals for the City. He stated he recommended approval of the proposed budget.

Councilmember Young moved to approve Resolution 2012R-09 setting the certified tax rate and Resolution 2012R-10 adopting the fiscal year budget for 2012/2013 and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Murray, Shepherd and Young. Voting NAY – None.

There being no further business to come before the Council **Councilmember LeBaron moved to adjourn at 8:45 p.m., seconded by Councilmember Bush. All voting AYE.**

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CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 P.M. REGULAR SESSION
June 26, 2012

PRESIDING:	Don Wood	Mayor
PRESENT:	Kent Bush	Councilmember
	Mike LeBaron	Councilmember
	Mark Shepherd	Councilmember
	Bruce Young	Councilmember
EXCUSED:	Kathryn Murray	Councilmember
STAFF PRESENT:	Adam Lenhard	City Manager
	JJ Allen	Assistant City Manager
	Brian Brower	City Attorney
	Greg Krusi	Police Chief
	Scott Hodge	Public Works Director
	Bob Wylie	Administrative Services Director
	Nancy Dean	City Recorder
	Kim Read	Deputy City Recorder

VISITORS: Megan Dean, Rachell Atwood, Michelle Dean, Jonathan Dean, Nancy Dean

Mayor Wood informed the citizens present that if they would like to comment during Citizen Comments or the Public Hearing there were forms to fill out by the door.

Councilmember LeBaron conducted the Opening Ceremony.

APPROVAL OF THE MINUTES FROM THE MAY 1, 2012 WORK SESSION, THE JUNE 12, 2012 WORK SESSION AND THE JUNE 12, 2012 POLICY SESSION

Councilmember LeBaron moved to approve the minutes from the May 1, 2012 work session, the June 12, 2012 work session and the June 12, 2012 policy session, as written, seconded by Councilmember Shepherd. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Shepherd and Young. Voting NAY – None. Councilmember Murray was not present for the vote.

PRESENTATION TO JONATHAN DEAN FOR RECOGNITION OF RECEIVING THE RANK OF EAGLE SCOUT

Jonathan Dean completed the requirements to receive the rank of Eagle Scout. Mayor Wood and the City Council desired to recognize Jonathan and acknowledge his achievement.

Councilmember Young presented a certificate of achievement to Jonathan Dean and his parents and commended him for his work in achieving the rank of Eagle Scout. Mayor Wood commented Jonathan had previously served on the Youth City Council.

CITIZEN COMMENTS

There were no citizen comments.

APPROVAL OF ORDINANCE 2012-05 AMENDING TITLE 4, BUSINESS LICENSING

This ordinance provided further clarification on business license appeal procedures and notification practices associated therewith.

Councilmember Bush moved to approve Ordinance 2012-05 Amending Title 4, Business Licensing, and authorize the Mayor's signature to any necessary documents, seconded by Councilmember LeBaron. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Shepherd and Young. Voting NAY – None.

Councilmember Murray was not present for the vote.

APPROVAL OF 2012R-11 ACTING AS THE GOVERNING AUTHORITY OF THE NORTH DAVIS FIRE DISTRICT ADOPTING AND CERTIFYING ITS TAX RATE FOR THE 2012 TAXABLE YEAR

The Clearfield City Council acted as the governing authority for the North Davis Fire District (NDFD). The Administrative Control Board of the NDFD desired to establish a certified tax rate of .001400 for the 2012 taxable year for the purpose of funding operating expenses and capital improvements and to provide fire protection, emergency medical and ambulance services and consolidated 911 and emergency dispatch services.

Adam Lenhard, City Manager, explained when the NDFD was created language was included specific to the certified tax rate which reflected it could not exceed a certified tax rate of .001400. He reported the rate proposed for the NDFD by the Davis County Assessor was .001467 which would have maintained the property tax revenue for the District; however, that rate was above the cap established during the election in 2005.

Councilmember Shepherd reported the NDFD made some significant cuts in order to not exceed the designated certified tax rate cap of .001400. He indicated the NDFD would be receiving less than what they had previously received from Davis County from property taxes. He continued there was some confusion on whether the designated rate was meant to be a cap and suggested the Council and the NDFD would need to revisit the issue to determine whether the cap should be removed. He explained the reason for the designated verbiage related to the cap was to ensure no increase in taxes would happen during the creation of the NDFD.

Mayor Wood believed the reason the Assessor suggested the tax rate of .001467 was due to property tax values being assessed at a lower rate.

Councilmember LeBaron commented Councilmember Shepherd summarized the issue well. Nancy Dean, City Recorder, clarified the verbiage had been included on the ballot with the designation of the District. Adam Lenhard, City Manager, added the resolution at the time of the election stated the tax rate could not exceed .001400 and believed the language would need to be addressed.

Councilmember Shepherd moved to approve Resolution 2012R-11 acting as the governing authority of the North Davis Fire District (NDFD) and adopting and certifying a tax rate of .001400 for the Fire District 2012 taxable year and authorize the Mayor's signature to any necessary documents, seconded by Councilmember LeBaron. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Shepherd and Young. Voting NAY – None. Councilmember Murray was not present for the vote.

CONSENT ITEMS

APPROVAL OF THE AWARD OF BID FOR CONSTABLE SERVICES

The current contract for constable services would end on June 30, 2012. The City recently issued a Request For Proposals (RFP), and two proposals were submitted. However, one proposal was deemed non-responsive. The lone responsive proposal was submitted by Court Services of Utah, the City's current provider, and the fees were very similar to those currently in place.

APPROVAL OF RESOLUTION 2012R-12 AUTHORIZING AN INTERLOCAL AGREEMENT WITH LAYTON, CLINTON AND SYRACUSE CITIES FOR PARTICIPATION ON THE METRO SWAT TEAM

Clearfield City intended to supply police personnel to a multi-agency Metro SWAT Team that was administered by Layton City Police Department.

APPROVAL OF ORDINANCE 2012-06 UPDATING THE CONSOLIDATED FEE SCHEDULE

The Board of the North Davis Sewer District recently adopted an increase to provide sewer services for customers of Clearfield City. These fees are collected in the City's utility bill and the increase will be passed through to the customers.

Mayor Wood asked the Council if there were any items which needed to be removed from the consent agenda. There were no items removed.

Councilmember LeBaron moved to approve the consent agenda items presented by staff as listed above and authorize the Mayor's signature to any necessary documents, seconded by Councilmember Young. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Shepherd and Young. Voting NAY – None.

Councilmember Murray was not present for the vote.

COMMUNICATION ITEMS:

Mayor Wood

1. Informed the Council an invitation had been extended to the students attending Job Corps for a light dinner and concert in conjunction with the Fourth of July activities. He encouraged members of the Council to stop by around 8:00 p.m. and interact with the invited youth.
2. Reported he had attended a reception for General Litchfield from HAFB regarding his promotion to that of a three star general. He stated his attendance had allowed him the opportunity to express the City's support for HAFB.
3. Mentioned he had the opportunity to share presentations at two separate sessions, two different days at Boys State at Weber State University. He commented Officers Pledger and Swenson also participated and mentioned the Boys State faculty was so appreciative of the police department's support of the program and participation.

Councilmember Bush

1. Expressed appreciation to Officer Potts for his efforts in assisting a stranded motorist on the interstate. He reported he assisted in securing a hotel room and arranging for towing of the vehicle. He requested Chief Krusi compliment Officer Potts for his actions.
2. Reported he toured the North Davis Sewer District (NDSD) and attended its Board meeting on Thursday, June 14, 2012 and commented it was very informative.
3. Informed the Council he also attended an American Planning Association (APA) meeting on Thursday, June 14, 2012 at Young Electric Sign Company during which a discussion regarding electric signs took place. He commented valuable information had been provided. He stated Valerie Claussen, Development Services Manager, was also in attendance.

Councilmember LeBaron – nothing to report.

Councilmember Shepherd – nothing to report.

Councilmember Young – nothing to report.

Adam Lenhard, City Manager – nothing to report.

STAFF REPORTS

Nancy Dean, City Recorder – Reminded the Council of the following meeting schedule:

- Special session scheduled for Thursday, June 28, 2012, 6:00 p.m. to adopt amendments to the 2012 Fiscal Year Budget.
- No meeting on Tuesday, July 3, 2012
- Complete the float for the Fourth of July Parade on Saturday, June 30, 2012 at the Public Works Shop.
- Policy Session on July 10, 2012
- Work Session scheduled for July 17, 2012.
- No meeting was scheduled for Tuesday, July 24, 2012

Councilmember Bush moved to adjourn as the City Council and reconvene as the Community Development and Renewal Agency at 7:31 p.m., seconded by Councilmember LeBaron . The motion carried upon the following vote: Voting AYE – Councilmembers Bush, LeBaron, Shepherd and Young. Voting NAY – None. Councilmember Murray was not present for the vote.

The minutes for the CDRA are in a separate location

**DISCLAIMER, WAIVER AND SETTLEMENT AGREEMENT
REGARDING CELL TOWER**

This Settlement Agreement (the “Agreement”) is entered into between Freeport Center Associates, L.L.P. (“Freeport”) and Clearfield City (the “City”) to be effective as of June 27, 2012. Freeport and the City may be collectively referred to as the “Parties” or individually referred to as a “Party.”

RECITALS

A. Freeport owns real property referred to as the Freeport Center, and more specifically, the land adjacent to Building A-15 (the “Land”) on which a certain cell/microwave tower is located on the Land (the “Tower”).

B. At all times relevant hereto, including prior to, during and after 1994, Freeport has owned and leased the Land to ATK (formerly known as the Hercules Aerospace Company, and referred to hereafter as “ATK”).

C. In a letter to the City dated May 23, 1994, ATK advised that it was donating the Tower to the City (the “1994 Conveyance”).

D. The City claims that the 1994 Conveyance is a valid conveyance of the Tower, and as a result thereof, has full ownership of the Tower.

E. Freeport asserts that pursuant to the then existent lease with ATK and because Freeport at all relevant times has been the owner of the Land on which the Tower is located, that the Tower is owned and controlled by Freeport and that the 1994 Conveyance is invalid and without effect.

F. Since the 1994 Conveyance, the City has exercised control over the Tower and received some benefit from the use of the Tower and the Land, including but not limited to some monetary payments from the City’s lessees on the Tower (the “Post Conveyance Benefits”).

G. Based on Freeport’s ownership of the Land and its asserted claim of ownership and control over the Tower, Freeport claims an entitlement to the Post Conveyance Benefits (“Freeport’s Claims”).

H. Accordingly, a dispute has arisen between Freeport and the City as to the ownership of the Tower and the Post Conveyance Benefits.

I. The Parties desire to resolve this dispute, have agreed to certain terms of such resolution and have memorialized the same below.

J. Therefore, for good and valid consideration, the sufficiency of which the Parties hereby acknowledge, the Parties agree to be bound by the following disclaimer, waiver and settlement pursuant to the terms and conditions set forth below.

AGREEMENT

1. The City's Release. Conditioned upon Freeport's Release as set forth below, the City) hereby irrevocably and permanently disclaims, waives and releases all interest, ownership or claims the City has or may have, whether known or not, whether asserted or not, in or against the Land, the Tower or any equipment located thereon (the "Tower Equipment") and against Freeport, its successors, agents, principals and employees.

2. Freeport's Release. Conditioned upon the City's Release set forth above, Freeport hereby irrevocably and permanently disclaims, waives and releases all claims Freeport has or may have, whether known or not, whether asserted or not, in or against the City related to the City's use of the Land, the Tower or the Tower Equipment and against the City, its successors, agents, principals and employees.

3. Removal of Tower Equipment. The City specifically authorizes Freeport to remove and dispose, at Freeport's sole discretion, any Tower Equipment in or to which the City may have otherwise had any claim or interest, provided that Freeport does so at Freeport's own expense.

4. City's Warranty. The City hereby warrants that it has not conveyed or encumbered, caused to be encumbered or allowed to be encumbered the Tower or the Land or any interest therein since the 1994 Conveyance with the exception of an existent lease with Western PCS/T-Mobile.

5. Miscellaneous.

a. Documentation of Intent. The Parties agree to respond to any reasonable request to facilitate the performance and accomplishment of this Agreement, including but not limited to executing a conveyance, bill of sale or other proof of ownership and control.

b. Attorney Fees. Except as provided below, each Party shall bear its own costs and attorney fees in connection with this resolution and this Agreement. The prevailing Party in any litigation or other enforcement action concerning, related to, or arising out of this Agreement shall be awarded its reasonable attorney fees and costs incurred in connection with such litigation or other enforcement.

c. Choice of Venue and Law. This Agreement and any issue arising under or relating to it shall be construed under the law of the State of Utah, without resort to its choice of laws or other conflicts of laws principles and shall be heard by the Third District Court, residing in Salt Lake County.

d. Integration. This Agreement contains the entire understanding of the Parties, and no other prior or contemporaneous agreement, statement, promise or conduct (whether oral or written) by any Party hereto shall have any legal force or effect or be used in any way to vary, explain, modify or abrogate any of the terms of this Agreement. All negotiations relating to this Agreement are hereby superseded.

e. Construction of Agreement. The Parties acknowledge and agree that they have mutually contributed to the drafting of this Agreement. No provision of this Agreement shall be construed against any Party on the ground that such Party or its counsel drafted the provision at issue or that the provision at issue contains a covenant of such Party.

f. Advice of Counsel. Each of the Parties hereto acknowledges that he or she has obtained the advice of experienced legal counsel of their own choosing in connection with the negotiations and execution of this Agreement and with respect to all matters set forth in this Agreement or that otherwise relate to this Agreement.

g. Counterparts. This Agreement may be executed in two or more counterparts, and shall be deemed to be fully executed when signed by all Parties to the Agreement.

h. No Admissions or Concessions. Nothing in this Agreement or in the fact or amount of payment reflects an acknowledgment by any Party of any fault or wrongdoing.

i. Authority to Bind. Each Party represents and warrants to each of the other Parties that the person executing this Agreement for such Party has authority and/or authorization to execute this Agreement and to bind such Party to the covenants, terms, and conditions of this Agreement.

CLEARFIELD CITY

FREEMPORT CENTER ASSOCIATES, LLP

By _____
Its _____

By: _____
Its: _____

Memo



To: Mayor Wood and City Council Members
From: JJ Allen, Assistant City Manager
Date: July 5, 2012
Re: Agreement to provide Sunset City with building inspection services

I. RECOMMENDED ACTION

Approve the agreement with Sunset City for building inspection services, and authorize the Mayor's signature to any necessary documents.

II. DESCRIPTION / BACKGROUND

Sunset City recently lost its building official to retirement, and for the past couple months, Clearfield has provided building inspection and related services to Sunset on an interim basis, while they undertook a formal procurement process. Since Clearfield's building official has capacity to take on the small amount of work that would come from Sunset, we submitted a proposal based on our consolidated fee schedule. Sunset City selected Clearfield City's proposal, and this agreement has been drafted to that end.

III. IMPACT

a. Fiscal

The minimal amount of additional work will not have a significant impact on expenditures. The workload can be absorbed in the Building Official's current schedule, so wages and benefits should not increase at all. There might be a negligible increase in the amount of fuel and other supplies consumed.

On the revenue side of the ledger, the fees generated through these services are estimated to generate about \$5,000 in revenue for the General Fund. The amount we charge Sunset may change from time to time, consistent with our consolidated fee schedule.

b. Operations / Service Delivery

Currently, there is not so much building activity that taking on this contract would impair our ability to serve the Clearfield building community. We expect to continue providing the same high level of service through our Building

Division, even with this additional workload. If building activity were to increase substantially, to the point that we were too busy to handle both Clearfield and Sunset, we could exercise our ability to terminate the agreement, or we could make appropriate staffing adjustments.

IV. ALTERNATIVES

- Approve the agreement as presented (it has already been reviewed by legal counsel for both cities)
- Propose a modified agreement for Sunset's consideration

V. SCHEDULE / TIME CONSTRAINTS

Sunset City is expecting to act on the agreement at their July 17 meeting.

VI. LIST OF ATTACHMENTS

- Agreement for Building Inspection Services
- Sunset RFP
- Clearfield Proposal

AGREEMENT FOR BUILDING INSPECTION SERVICES

THIS AGREEMENT, made and entered in this ___ day of June, 2012 by and between Sunset City, a municipal corporation, of 200 West 1300 North, Sunset City, Davis County, State of Utah, hereinafter referred to as "Sunset" and Clearfield City, a municipal corporation, of 55 South State Street, Clearfield City, Davis County, State of Utah, hereinafter referred to as "Clearfield," as follows:

RECITALS

1. Sunset and Clearfield are municipalities located in Davis County, State of Utah sharing a contiguous boundary.
2. On May 21, 2012 Sunset issued a "Request for Proposal/Building Inspection and Related Services" (the "RFP"). A copy of the RFP is attached.
3. On May 31, 2012 Clearfield submitted to Sunset a "Proposal for Building Inspection and Related Services" (the "Proposal"). A copy of the Proposal is attached hereto.
4. On June 5, 2012 Sunset accepted the Proposal.
5. Sunset and Clearfield now desire to enter into an Agreement under the terms of which Clearfield will provide building inspection and related services to Sunset in accordance with the provisions of the RFP and Proposal.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions hereinafter set forth and other good and valuable consideration Sunset and Clearfield agree as follows:

AGREEMENT

Section One. Incorporation of Recitals

All of the above and foregoing recitals including the attached RFP and Proposal are incorporated into and made a part of this Agreement.

Section Two. Building Inspection and Related Services

Sunset hereby retains Clearfield to provide building inspection and related services in accordance with the terms and provisions set forth in the RFP and the Proposal and Clearfield agrees to perform and provide such services in accordance with the terms and conditions of the RFP and Proposal.

Section Three. Duration of Agreement

Irrespective of any language to the contrary in either the RFP or the Proposal, this Agreement shall remain in full force and effect unless and until terminated by either party or modified by mutual agreement of the parties. Either party desiring to terminate the agreement shall give the other party at least 90 days written notice of the desire to terminate. Modifications to the Agreement may be made at any time by mutual consent of the parties.

Section Four. Compensation

Payment for the services to be provided by Clearfield shall be made on the basis and in the manner set forth in the Proposal.

Section Five. Indemnification and Agreement

Each party shall indemnify and hold the other party harmless for any loss, damage, or claims resulting from the errors or omissions or negligence of the other party or its employees. All actions by either party shall be considered governmental actions subject to the defenses provided under the Utah Governmental Immunity Act.

Section Six. Entire Agreement

This Agreement contains the entire agreement between the parties and no statements, promises, or inducements made by either party that are not contained into this Agreement shall be valid or binding. Any subsequent modifications to this Agreement must be in writing in order to be enforceable and binding.

Section Seven. Disputes

In event of any dispute arising out of the terms of this Agreement which cannot be resolved by negotiation between the parties such dispute shall be the subject of a good faith mediation between the parties with a mediator to be selected by the parties prior to any enforcement action being taken by either party.

Section Eight. No Assignment

This Agreement may not be assigned by either party.

Section Nine. Attorney's Fees

In the event either party should be required to retain the services of an attorney to resolve a dispute the prevailing party may be awarded attorney's fees and, if appropriate, court costs from the defaulting party.

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

SUNSET CITY

CLEARFIELD CITY

Chad Bangerter, Mayor

Don W. Wood, Mayor

Attest:

Attest:

Sue Hale, City Recorder

Nancy R. Dean, City Recorder

**REQUEST FOR PROPOSALS
BUILDING INSPECTION AND RELATED SERVICES**

**City of Sunset
Davis County
State of Utah**

**Issued: May 21, 2012
Response Deadline: June 1, 2012**

Contact:
Susan R. Hale, Sunset City Recorder
200 West 1300 North
Sunset, UT 84105
(801) 614-9103 – direct
(801) 775-0971 – fax
shale@sunset-ut.com

I. SUMMARY

The City of Sunset, Utah ("City") is requesting proposals to provide part-time building inspection and plan review services to the City. **Proposals must be received by the City no later than 3:00 p.m. on Friday, June 1, 2012 and should be addressed to:**

**Sunset City Corporation
Attn: Susan Hale, City Recorder
200 W. 1300 N.
Sunset, UT 84015**

Each proposal submitted shall be valid for ninety (90) days.

The proposals will be reviewed at the Council meeting to be held on Tuesday, June 5, 2012.

II. GENERAL INFORMATION

The City has a population of approximately 5,100 and is 99% built out. The City issues an average of 50 building permits per year. The bulk of the building permits are for remodels on residential and commercial buildings, therefore the candidate must be experienced in both residential and commercial inspection and plan review procedures. The candidate will perform the duties of the City Building Official.

III. GENERAL CONDITIONS

The City reserves the right to reject any or all proposals, to waive any irregularity in a proposal, to accept a proposal that is not the lowest proposal based on fees, and to accept or reject any item or a combination of items. The City further reserves the right to reject the proposals that do not contain all elements and information requested in this document. The City shall not be liable for any losses incurred by any Consultants submitting proposals. All services will be provided pursuant to a written contract between the City and the Consultant, which shall be negotiated and mutually acceptable to both parties.

IV. TERM OF CONTRACT

The initial term of the proposed contract shall be a period of one (1) year commencing on or around July 1, 2012 and shall automatically renew for successive one (1) year terms unless either party gives the other not less than forty five (45) days prior written notice before the expiration of the then current term that it does not want the contract to renew further. In addition, the City will be allowed to terminate if the Consultant does not perform services in a satisfactory manner, loses its license to perform any of the services, becomes insolvent or other similar reasons.

The Consultant selected to perform residential and commercial inspections for the City of Sunset will be available to work an average of 5-10 hours per week, however that amount of hours is not guaranteed.

V. SCOPE OF SERVICES

The City wishes to contract with a Consultant on a part-time basis to provide the following services:

Codes: The Consultant will be responsible for inspecting properties and enforcing the Sunset City Zoning Ordinance, International Building Code, International Residential Code, National Electrical Code, International Fuel Gas Code, International Mechanical Code and International Plumbing Code as amended from time to time by the proper officials.

Work regarding the above referenced codes and ordinances involves responsibility for plan review, scheduling and inspection of residential and commercial buildings and other structures in regard to conformity with code requirements and technical standards and enforcement. Work also includes complaint investigations, hazardous building inspections and assistance with the prosecution of building code and hazardous building violations.

Business Licensing: Prior to the issuance of a new business license, the Consultant shall inspect prospective places of businesses to ensure compliance with building codes. Infrequently, the Consultant will be required to attend Planning Commission and/or City Council meetings in the evenings.

Summary of Expected Performance Standards: This subsection provides a summary of the minimum expectations of the firm. Final provisions shall be worked out during contract negotiations.

1. Qualified personnel shall perform all services and shall maintain all necessary certificates and licenses required to perform such services.
2. Except when, and if, the workload demands otherwise, all inspections shall be conducted within the normal business hours of 8:00 am to 4:30 pm, Monday through Friday.
3. The applicant shall establish and maintain an office with a mailing address and a telephone number for scheduling inspections, accepting complaints and for general inquiries.
4. The applicant shall develop and continuously upgrade a program of disseminating information to keep the City aware of any and all code changes.
5. The Building Inspector shall have, or in the case of the City ordinances acquire, expert knowledge of, and comply with, Ordinances of the City and the laws and regulations of the State of Utah and its agencies relating to the enforcement of adopted Building Codes.
6. The Consultant shall carry not less than the following insurance and shall provide verification to the City upon request:
 - a. Professional Liability Errors and Omissions Insurance in an amount of at least \$500,000 single limit coverage, covering all personnel employed by the Building Official in the capacity of acting as the Agent of the City.

- b. General Liability Insurance in an amount of at least \$1,000,000 single limit coverage, covering all personnel employed by the Building Official in the capacity of acting as an Agent of the City.

VI. CONTENT OF PROPOSAL

The purpose of this section is to identify the information that should be submitted.

- A. **Consultant Information Sheet:** A Consultant Information Sheet should provide the City with the name of the firm, the address of the firm, a general telephone number, a fax number, a contact name, the contact's direct telephone number or extension and the contact's email address.
- B. **Summary of Understanding of Proposed Services:** A prospective consultant should indicate an understanding of the requested services as described in Section V. Scope of Services, and describe how it proposes to service the City of Sunset in these aspects.
- C. **List of Qualified Inspectors:** A list of qualified individuals and their certifications that can fulfill the various services described in Section V. Scope of Services. The individual(s) designated as the "Building Official" shall be licensed as a combination inspector by the State of Utah.
- D. **References:** A list of all building inspection contracts held during the last five (5) years, and a municipal representative from each location that the City may contact. The list of references should specify whether each municipality is a current or past client.
- E. **Other Activities:** Please indicate if your firm is willing/able to provide any additional services.
- F. **Cost of Services and Billing Methods:** The proposal must provide an hourly rate. The applicant shall also describe the billing method.
- G. **Signed Statement of Understanding:** The proposal should contain the following statement and must be signed by the individual authorized to represent the firm:
We/I have read the City's Request for Proposal (RFP) for part-time consulting services and fully understand its intent. We/I certify that we have adequate personnel, equipment and facilities to provide the City's requested services. We/I have thoroughly examined the RFP requirements and our proposed fees cover all the services that we have indicated we can provide.

VII. INQUIRIES

Inquiries into this proposal may be submitted by mail, e-mail, fax or telephone to:

Susan R. Hale, City Recorder
Sunset City Corporation
200 W. 1300 N.
Sunset, UT 84015
(801) 614-9103 – direct
(801) 775-0971 – fax
shale@sunset-ut.com

Please include a contact name and telephone number, fax number or email address for the City to use in responding to questions.

Thank you for taking the time to consider a proposal to the City of Sunset.

Proposal for Building Inspection and Related Services

Provided to

Sunset City



by

Clearfield City



May 31, 2012

Consultant Information Sheet

Firm Name: Clearfield City
Address: 55 S. State Street, Clearfield, UT 84015
Phone: (801) 525-2700
Fax: (801) 525-2869
Contact Name: JJ Allen, Assistant City Manager
Contact Phone: (801) 525-2788
Contact Email: jj.allen@clearfieldcity.org

Summary of Understanding of Proposed Services

Clearfield City has maintained in-house plan review and building inspection services for decades (at least as long as current institutional memory can recall), and has been providing these services to Sunset City on an interim basis since late April 2012. As a result, we understand very well the services that Sunset desires to receive.

Codes

Clearfield City currently utilizes the 2009 codes from the International Code Council (ICC). Our building official is experienced, qualified, and licensed to review plans and inspect structures under these codes. In fact, he sits on the board of directors for the Utah Chapter of the ICC. Our office also includes a permit technician who would assist with scheduling Sunset's inspections and other appointments for the building official. Over the past several weeks, as we have been serving Sunset on an interim basis, these individuals have been able to coordinate with the Sunset City staff to keep Sunset permitting services operational.

We are also experienced in applying building codes to violations, such as unpermitted work and hazardous building situations, to bring the situation into compliance (as provided by the Clearfield City Code). We would be happy to provide similar services to Sunset by investigating complaints, inspecting the premises, issuing stop work orders, and utilizing Sunset's provisions to enforce compliance. This type of service would likely be provided on an hourly basis, and would include only the expertise of the building official. Overall management of the enforcement action (e.g. tracking deadlines, correspondence, developing documentation for the file, etc.) would be the responsibility of Sunset staff. Likewise, obtaining legal counsel for such matters, if necessary, would be Sunset's responsibility.

Business Licensing

Clearfield requires a building inspection for a home daycare, preschool, or basement rental dwelling applying for a business license. However, other businesses locating in existing buildings in Clearfield are not required to have a pre-license building inspection (unless a permit is involved due to a change in use or construction activity). If Sunset so desires, we will be able to perform a pre-license inspection of businesses proposing to locate in Sunset to ensure that there are no building code violations.

Performance Standards

Clearfield City intends to provide services to Sunset within our current staffing levels and hours of operation. Clearfield City maintains office hours from 8:00 a.m. to 5:00 p.m., Monday – Friday, but to accommodate the typical early morning schedule of contractors, the building official will occasionally

start his day earlier than 8:00 a.m. Over-the-counter plan reviews (small residential projects) can be handled at the Sunset offices, and will simply need to be scheduled with the building official. For standard plan reviews, the building official will check the plans out from the Sunset offices and perform the review at Clearfield City Hall. Most plans can be reviewed and returned to Sunset within 10 days.

As mentioned previously, Clearfield City is currently using the 2009 codes. However, in 2013, we expect to implement the 2012 codes, and we reserve the ability to update and amend the codes as Clearfield City deems necessary.

List of Qualified Inspectors

Building Official: Michael A. McDonald

License: Combination Inspector

Certifications: Building Inspector

Building Inspector UBC

Commercial Electrical Inspector

Residential Electrical Inspector

Mechanical Inspector

Mechanical Inspector UMC

Plumbing Inspector

Plumbing Inspector UPC

A copy of Mr. McDonald's license and certifications is attached.

References

Approximately 20 years ago, Clearfield City did provide building inspection services to Davis County and Clinton City. Other than the interim services we are currently providing to Sunset City, Clearfield does not currently provide any other entities with inspection services, nor has it within the last five years.

Other Activities

Clearfield City is not currently proposing to provide any services beyond those identified in this document. If there are other services that Sunset may wish to outsource, we may be interested in discussing those possibilities.

Cost of Services and Billing Methods

The following fees are consistent with Clearfield City's current consolidated fee schedule, which is amended from time to time. Therefore, these fees are subject to change.

Permit Inspection Fees

Any of the following scheduled inspections

(normal business hours): \$47 per hour (1 hour minimum)

- Footing
- Foundation
- Underground plumbing
- Sewer and water
- Power to panel
- Rough electrical, mechanical, plumbing, and framing
- Gas clearance
- Stucco
- Final
- Furnace replacement
- Water heater replacement
- A/C install or replacement

Outside normal business hours..... \$47 per hour (2 hour minimum)

Re-inspection.....\$47 per hour

Inspections for which no
fee is specifically indicated\$47 per hour (½ hour minimum)

Plan Review Fees

- Residential/ Pools: 20% of building permit fee
- Commercial: 65% of the building permit fee for building value of \$1 - \$100,000
- 60% of the building permit fee for building value of \$100,001 - \$500,000
- 50% of the building permit fee for building value of \$500,001 and greater

Additional plan review required by revisions.....\$47 per hour (½ hour minimum)

Residential "identical plans" \$47 each

Use of outside consultants
for plan review.....Actual cost (including 10% administrative and overhead costs)

Business Licensing

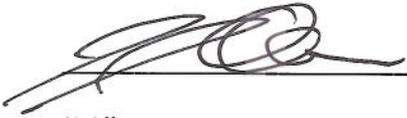
Pre-license inspection fee\$47 per hour (½ hour minimum)

Billing

Clearfield City will invoice Sunset City on a monthly basis (following the end of each calendar month). The invoice will include a detailed list of the plans reviewed, inspections made, and other services provided with date, address, and task time. Payment will be due within 30 days of the invoice date.

Signed Statement of Understanding

We/I have read Sunset City's Request for Proposal (RFP) for part-time consulting services and fully understand its intent. We/I certify that we have adequate personnel, equipment and facilities to provide Sunset City's requested services. We/I have thoroughly examined the RFP requirements and our proposed fees cover all the services that we have indicated we can provide.



JJ Allen
Clearfield City
Assistant City Manager

Contract Approval

Should Sunset City select Clearfield City to provide these services, the agreement / contract will be subject to approval by the Clearfield City Council.

STATE OF UTAH
DEPARTMENT OF COMMERCE

DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

ACTIVE LICENSE



EFFECTIVE DATE: 03/19/2007
EXPIRATION DATE: 11/30/2013
ISSUED TO: Michael A McDonald

REFERENCE NUMBER(S), CLASSIFICATION(S) & DETAIL(S)
335095-5601 Combination Inspector

Michael A McDonald

SIGNATURE OF HOLDER



International Code Council
500 New Jersey Avenue, NW
Washington, DC 20001

The individual named hereon is CERTIFIED in the categories shown, having been so certified pursuant to successful completion of the prescribed written examinations.

Michael A McDonald

Not valid unless signed by certificate holder.
ICC Certification attests to competent knowledge of codes and standards.



International Code Council
500 New Jersey Avenue, NW
Washington, DC 20001

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Combination Inspector

SIGNATURE OF HOLDER

Michael A McDonald - 1028218
Building Inspector UBC - Exp. 11/12/2013
Mechanical Inspector - Exp. 11/12/2013
Plumbing Inspector - Exp. 11/12/2013
Residential Electrical Inspector - Exp. 11/12/2013

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