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After recording, please send to:

Wade R. Budge
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

E# 3315737 PG 1 OF 11
Leann H. Kilts, WEBER COUNTY RECORDER
26-Feb-24 0350 PM FEE \$40.00 DEP SD
REC FOR: SNELL & WILMER LLP
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MCKAY MEADOWS ANNEXATION AND DEVELOPMENT AGREEMENT

This ANNEXATION AND DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the Effective Date (defined below), by and between MCKAY MEADOWS LLC, a Utah limited liability company, (the “Owner”), and the TOWN OF HUNTSVILLE, a municipality and political subdivision of the State of Utah (the “Town”). Town and Owner are jointly referred to as the “Parties” and each individually as a “Party.”

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RECITALS:

A. Owner is the owner and developer of the real property more particularly described on **Exhibit A** (the “Property”). A portion of the Property is currently located within the Town (“Huntsville Property”).

B. Owner has submitted two petitions to annex the remainder of the Property into the Town. The first petition is for Weber County Tax Parcel Nos. 24-013-0015 and 24-020-0005, and the second petition is for Weber County Tax Parcel No. 21-007-0012 (collectively, the “Annexation Property”). The Town accepted the first petition on September 21, 2023, and accepted the second petition on January 4, 2024. The statutorily-required hearings on both petitions is scheduled for February 13, 2024 before the Town Council (defined below).

C. Concurrently with or after the approval of this Agreement, the Annexation Property will be annexed into the Town (each annexation collectively referred to herein in the singular as the “Annexation”) and after the Annexation is completed, the Property will be both subject to and benefitted by this Agreement. The Annexation Property will be annexed into the Town’s Agricultural Zone (A-3).

D. The Huntsville Property is currently in the Town’s Residential Zone (R-1) but Owner has agreed to downzone the Huntsville Property to the Town’s Agricultural Zone (A-3) as part of the annexation of the Annexation Property. Concurrently with or after the approval of this Agreement and the Annexation, the Town will enact an ordinance and adopt a zoning map amendment to reflect the zoning of the Annexation Property and to facilitate the rezone of the Huntsville Property.

E. The Town Council (defined below), acting pursuant to its authority under Utah Code § 10-9a-102(2) *et seq.*, as amended, and the Town Code (defined below), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has elected to enter into this Agreement, conditioned upon the successful completion of the Annexation. The Town Council authorizes the mayor of the Town to execute and deliver this Agreement on behalf of the Town.

F. By this Agreement, Town and Owner confirm the Property's vested entitlements for development of the Project. The Town has determined that entering into this Agreement furthers the purposes of the Utah Municipal Land Use, Development, and Management Act, the Town's General Plan, and the Town's land use ordinances. As a result of such determination, the Town has elected to move forward with the approvals necessary to approve the development of the Project (defined below) in accordance with the terms and provisions of this Agreement. This Agreement is a "development agreement" within the meaning of and entered into pursuant to the terms of Utah Code §10-9a-102(2).

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Town hereby agree to the following:

1. **Recitals; Definitions.**

1.1. **Recitals.** The Recitals set forth above are incorporated herein by this reference.

1.2. **Defined Terms.** Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized has the meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including the exhibits. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Town Code.

1.2.1. "Agreement" means this Agreement including all of its exhibits.

1.2.2. "Annexation" has the meaning set forth above in Recital B.

1.2.3. "Applicable Law" has the meaning set forth in Subsection 13.1.

1.2.4. "Applicable Zoning" means the requirements of the Town's Agricultural Zone (A-3) that are in effect as of the Effective Date.

1.2.5. "Town" means the Town of Huntsville, and includes, unless otherwise provided, any and all of the Town's agencies, departments, officials, employees or agents.

1.2.6. "Town Code" means the Huntsville Town Code in effect as of Effective Date.

1.2.7. "Town Council" means the town council of the Town.

1.2.8. "Dwelling Units" means a permanent structure designed and capable of daily residential occupancy. A Dwelling Unit contains at least one kitchen and one bathroom.

1.2.9. "Effective Date" has the meaning set forth in the Section 2 below.

1.2.10. "Future Law" means the laws, ordinances, policies, standards, guidelines, directives, procedures and processing fee schedules of the Town which are

in effect after the Effective Date and may or may not be applicable as provided in Section 4.2 below.

1.2.11. “Land Use Application” means an application that is required to subdivide and develop land and/or construct improvements thereon.

1.2.12. “System Improvement” means an improvement that is designed to serve areas within the community at large and which may serve the Project as a part of the community at large.

1.2.13. “Term” has the meaning set forth in Subsection 13.2 below.

2. **Effective Date.** This Agreement is effective as of February 13, 2024 (the “Effective Date”).

3. **Conditions Precedent.** The Parties enter this Agreement in anticipation of the satisfaction of certain conditions precedent, which if not satisfied, will frustrate the purposes of this Agreement. Owner’s obligations under this Agreement are expressly contingent upon the following (collectively, “Conditions Precedent”):

3.1. The Town Council approves, and the Mayor acknowledges, an ordinance approving the Annexation.

3.2. The Town Council approves, and the Mayor acknowledges, an ordinance approving this Agreement, and this Agreement is executed by the Town and Owner.

If the Conditions Precedent are not satisfied within thirty (30) days from the Effective Date, then Owner or Town may elect to terminate this Agreement by delivering a notice of termination to the Town and upon the Town’s receipt of such notice, this Agreement shall be terminated and neither of the Parties shall have any further obligation to the other arising out of this Agreement. The Parties acknowledge that a termination would effect a withdrawal of Owner’s consent and petition for Annexation.

4. **Vested Rights and Legislative Powers.**

4.1. **Vested Rights.** As of the Effective Date, Owner has the vested right to proceed with the development of the Property in accordance with this Agreement and Applicable Law. Specifically, Owner is vested with the right to: (i) to develop and construct the up to four (4) Dwelling Units, with such rights to accessory uses as allowed under Applicable Law; (ii) connect to existing public roads; and (iii) connect to existing public infrastructure, upon the payment of generally applicable fees. The Parties specifically intend that this Agreement grants the Property “vested rights” as that term is construed in Utah’s common law and pursuant to Utah Code §10-9a-509. To the maximum extent permissible under the laws of Utah and at equity, the Town and Owner intend that this Agreement be construed to grant Owner all vested rights to develop up to four (4) Dwelling Units, as described above, on the

Property in fulfillment of the terms and provisions of this Agreement and the laws and ordinances that apply to the Property as of the Effective Date of this Agreement. The Parties intend that the rights granted to Owner under this Agreement are contractual and are in addition to those rights that exist under statute, common law and at equity.

4.2. **Future Laws.** The Town's Future Laws with respect to the Project or the Property shall not apply except as follows:

4.2.1. **Owner Agreement.** Future Laws that Owner agrees in writing to the application thereof to the Project;

4.2.2. **Compliance with State and Federal Laws.** Future Laws which are generally applicable to all properties in the Town and which are required to comply with State and Federal laws and regulations affecting the Project and do not effect a taking of the right to develop the uses and the densities described in this Agreement;

4.2.3. **Safety Code Updates.** Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, or by the state or federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

4.2.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the Town to all properties, applications, persons and entities similarly situated; and

4.2.5. **Fees.** Changes to the amounts of fees, except for impact fees which are discussed in Section 7.3 below, for the processing of Land Use Applications that are generally applicable to all development within the Town and which are adopted pursuant to State law.

5. **Obligations.**

5.1. **Consent to Downzone.** Owner shall not challenge and hereby consents to the Town downzoning the Huntsville Property from its current zoning to the Applicable Zoning.

5.2. **Conditions of Approval.** The Town shall (a) promptly review, consider and execute all consents, submittals or other documents as may be required in connection with any Land Use Application, or other required governmental approvals; (b) promptly meet and consider such actions as required by the Utah Code and applicable Town ordinances to provide all appropriate consents, approvals and opinions as requested by Owner from time to time.

5.3. **System Improvements.** The Town shall not require Owner to construct any System Improvements or upsize any other improvements for the Project unless the Town and Owner execute a reimbursement agreement on terms acceptable to Owner.

5.4. **Impact Fees.** The Town may charge generally applicable impact fees for each Dwelling Unit constructed on the Property at the time that a building permit application is submitted for each Dwelling Unit. The amount of the impact fees that the Town may charge for each Dwelling Unit is the amount that the Town charges for impact fees as of the Effective Date. The Town shall not charge any impact fees that are not set forth in the Town's impact fee schedule effective as of the Effective Date.

5.5. **Water Connections.** Subject only to Owner paying a reasonable and uniformly charged water connection fee, which shall not exceed the then current in-Town connection fee at the time of the purchase of the water connection. The Town shall provide a maximum of five (5) water connections for the Dwelling Units and/or accessory building(s) to be constructed on the Property.

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

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

8. **Notices.**

Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be (a) served personally upon the Party for whom intended, (b) sent by nationally recognized express delivery service, or (c) if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at its address shown below. Additionally, any such notices, requests and demands may be sent by electronic mail, so long as such notice is also delivered by one of the methods described above.

To Owner:

McKay Meadows LLC
Attn: Steve Starks
10652 Iron Mountain Dr.
South Jordan, Utah 84095
Email: stevestarks@gmail.com

With a copy to:

Snell & Wilmer LLP

Attn: Wade Budge
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Email: wbudge@swlaw.com

To the City:

Huntsville Town
7381 East 200 South
PO Box 267
Huntsville, Utah 84317
Email: _____

With a copy to:

Huntsville Town
Attn: City Attorney
7381 East 200 South
Huntsville, Utah 84317

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

9. **Amendment.**

The Parties or their successors in interest may, by written agreement, choose to amend this Agreement at any time. Any amendment must be recorded in the Weber County Recorder's Office to be effective. An amendment to this Agreement need only be executed by Owner and the Town to be effective. The consent of an owner of the Property is not required to amend this Agreement.

10. **General Terms and Conditions.**

10.1. **Applicable Law.** This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the rules, regulations, official policies, standards and specifications applicable to the development of the Project in effect on the Effective Date, including the applicable Town Code, resolutions, state law, and federal law (the "Applicable Law").

10.2. **Termination of Agreement.** The term of this Agreement shall commence on the Effective Date of this Agreement and shall continue in full force and effect until the earlier of the following events: (i) certificates of occupancy have been issued for all Dwelling Units to be constructed in the Project, or (ii) twenty (20) years from the date on which this Agreement is recorded with the Weber County Recorder's Office; provided, however, that if Owner is not in breach of any material provisions of this Agreement when said 20-year period expires, and any portions of the Project have not been completely built-out, then this

Agreement shall automatically be extended for an additional like period or periods, until such time as all four (4) Dwelling Units are constructed (as applicable, the “Term”).

10.3. **Run with the Land.** This Agreement shall be recorded against the Project. The agreements, benefits, burdens, rights and responsibilities contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors in ownership of the Property, or portion thereof, as applicable, with respect to that portion of the Project owned by such successors in ownership. Nothing in this Agreement shall apply to residents or property owners who purchase or occupy developed lots or Dwelling Units within the Project, it being the intent of this Agreement that it governs the development of the Property, not the use by subsequent owners or residents.

10.4. **Default & Remedies.** If either the Owner or the Town fails to perform their respective obligations under the terms of this Agreement (as applicable, the “Defaulting Party”), the non-defaulting Party shall provide written notice to the Defaulting Party specifically identifying the claimed event of default and the applicable provisions of this Agreement claimed to be in default. The Defaulting Party shall immediately proceed to cure or remedy such default or breach within sixty (60) calendar days after receipt of such notice. The Parties shall meet and confer in an attempt to resolve the default but if they are not able to do so the Parties shall have the rights and remedies available at law and in equity, including injunctive relief or specific performance. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights. If the Town elects to consider terminating this Agreement due to an uncured default by Owner, then the Town shall give to Owner written notice of Town’s intent to terminate this Agreement and the matter shall be scheduled for consideration and review by Town’s legislative body at a duly noticed public meeting. Owner shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If Town’s legislative body determines that a material uncured default has occurred and is continuing, Town may thereafter pursue the remedy of termination through an appropriate judicial proceeding.

10.5. **Non-liability of Town Officials or Employees.** No officer, representative, agent, or employee of the Town shall be personally liable to the Owner or any successor-in-interest or assignee of the Owner, in the event of any default or breach by the Town or for any amount which may become due, the Owner, or its successors or assignee, for any obligation arising out of the terms of this Agreement.

10.6. **Ethical Standards.** The Owner represents that it has not: (a) provided an illegal gift or payoff to any officer or employee of the Town, or former officer or employee of the Town, or to any relative or business entity of an officer or employee of the Town; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in Utah Code §§ 10-3-1301 et seq. and 67-16-3 et seq.; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any

officer or employee of the Town or former officer or employee of the Town to breach any of the ethical standards set forth in State statute or Town ordinances.

10.7. **No Officer or Employee Interest**. It is agreed that no officer or employee of the Town has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Owner, or any member of any such persons' families shall serve on any Town board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Owner's operations, or authorizes funding or payments to the Owner. This section does not apply to elected offices.

10.8. **Performance**. Each Party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt, or inconvenience any other Party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy, or other approvals associated therewith. This section shall not be construed to require a Party or its representatives to provide an approval contrary to Applicable Law, regulations, or this Agreement.

10.9. **Governing Law & Venue**. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. Any action taken to enforce the provisions of this Agreement shall have exclusive venue in the Second Judicial District Court of the State of Utah.

10.10. **Third Party Rights**. The Parties to this Agreement are the Owner and Town. There are no intended third-party beneficiaries of this Agreement. The Parties acknowledge that this Agreement refers to a private development and that the Town has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property.

10.11. **Further Documentation**. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

10.12. **Force Majeure**. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; pandemics; fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

10.13. **Relationship of Parties.** This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the Town and the Owner.

10.14. **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

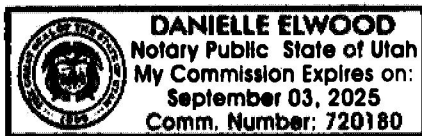
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first written above.

MCKAY MEADOWS LLC,
a Utah limited liability company

By: Steve Starks
Name: Steve Starks
Its: Manager

STATE OF UTAH)
)
) : SS.
COUNTY OF SALT LAKE)

On this 26 day of February, 2024, personally appeared before me Steve Starks, the Manager of McKay Meadows LLC, a Utah limited liability company, whose identity is personally known to me, or proven on the basis of satisfactory evidence, to be the person who executed the Agreement on behalf of said company and who duly acknowledged to me that he/she executed the same for the purposes therein stated.





Notary Public

EXHIBIT A-1**Description of the Property****Huntsville Property**

A parcel of real property located in the Town of Huntsville, State of Utah as more particularly described as follows:

PART OF LOT 4, BLOCK 3, PLAT B, HUNTSVILLE SURVEY, WEBERCOUNTY, UTAH, LYING INSIDE THE CORPORATE LIMITS OF HUNTSVILLE TOWNSITE (BEING PART OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN) EXCEPT 0.778 ACRE DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF 2 FENCES, SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 3, PLAT B, HUNTSVILLE TOWNSITE; THENCE NORTH 154 FEET ALONG A FENCE; THENCE EAST 220 FEET; THENCE SOUTH 154 FEET TO A FENCE; THENCE WEST 220 FEET ALONG THE SAID FENCE TO THE POINT OF BEGINNING.

Together with a parcel of real property located in the town of Huntsville, State of Utah as more particularly described as follows:

ALL OF THAT PORTION OF LOT 3, BLOCK 3, PLAT B, HUNTSVILLE SURVEY, LYING INSIDE THE CORPORATE LIMITS OF HUNTSVILLE TOWNSITE.

Annexation Property

A parcel of real property located in Weber County, State of Utah as more particularly described as follows:

Commencing at the South Quarter corner of Section 7, Township 6 North, Range 2 East, Salt Lake Base & Meridian, U.S. Survey; thence 588.96 feet North 89°05'15" East along the section line to the POINT OF BEGINNING; thence North 89°05'15" East along said line 540.82 feet; thence South 01°55'17" East 231.43 feet; thence South 88°16'17" East 629.36 feet to the West right of way line of 7800 East Street; thence South 01°32'27" East 410.06 feet along said West right of way line to the Existing corporate limits of Huntsville Town; thence four (4) courses along said corporate limits as follows: (1) North 88°05'29" West 410.00 feet; (2) North 00°36'31" East 380.34 feet; (3) South 88°44'31" West 786.16 feet; and (4) North 00°38'31" East 274.88 feet to the POINT OF BEGINNING.

*Containing 321,734 square feet
or 7.3860 acres, more or less.*

Together with a parcel of real property located in Weber County, State of Utah as more particularly described as follows:

*Commencing at the South Quarter corner of Section 7, Township 6 North, Range 2 East, Salt Lake Base & Meridian, U.S. Survey; thence 588.96 feet North 89°05'15" East along the section line to the POINT OF BEGINNING; thence North 00°40'44" East along said line 1227.39 feet; thence North 89°01'48" East 594.79 feet to a point of curvature; Southeasterly along the arc of a 533.69 foot radius curve to the right a distance of 823.72 feet (Central Angle Equals 88°25'59" and Long Chord bears South 46°45'12" East 744.36 feet); thence North 87°06'58" West 636.68 feet; thence South 1°55'17" East 751.22 feet; thence South 89°05'15" West 540.82 feet to the point of beginning.
Contains 20.352 Acres*