

WHEN RECORDED, MAIL TO:

Payson City
City Recorder
439 W Utah Avenue
Payson, Utah 84651



ENT 38075:2023 PG 1 of 9
ANDREA ALLEN
UTAH COUNTY RECORDER
2023 Jun 13 10:49 am FEE 0.00 BY KR
RECORDED FOR PAYSON CITY CORPORATION

**SECOND AMENDMENT TO
AMENDED DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO AMENDED DEVELOPMENT AGREEMENT (this "*Amendment*"), dated June 7, 2023, is made and entered into by and between the City of Payson, a Utah municipal corporation (the "*City*"), and Arrowhead Partners, LLC, a Utah limited liability company ("*Developer*"). Capitalized terms not defined herein shall have the meanings given them in the Agreement (as defined below).

RECITALS

A. The Parties entered into that certain Amended Development Agreement, dated March 5, 2019, and recorded in the Utah County Recorder's Office on March 5, 2019, as Entry No. 18231:2019, as amended by that certain First Amendment to Amended Development Agreement (the "*First Amendment*") dated March 17, 2021, and recorded in the Utah County Recorder's Office on March 23, 2021, as Entry No. 54055:2021 (as so amended, the "*Agreement*"), which Agreement relates to the development of certain real property described on the attached Exhibit A (the "*Property*").

B. As required by the City, and as set forth in the Agreement, Developer has been required to install certain offsite infrastructure improvements, including without limitation sanitary sewer, water, and pressurized irrigation infrastructure improvements, to accommodate the development of the Property.

C. The Parties now desire to amend the Agreement to reflect the completion of certain required infrastructure improvements, to correctly reflect the costs of certain offsite improvements incurred by Developer for which other property owners will have a reimbursement obligation upon the connection to such improvements, and to clarify the timing of certain reimbursement obligations of such other property owners.

AMENDMENT

NOW, THEREFORE, for good and valuable consideration, receipt, and sufficiency of which are duly acknowledged by the Parties, the Parties agree that the Agreement is modified as follows:

1. Elimination of Residential Dwelling Unit Restrictions. The Parties acknowledge that, as of the date of this Amendment, the pressurized irrigation line required by Section VI.B.ii

of the Agreement (which requirements were modified by Section 1(b) of the First Amendment) to be constructed along Arrowhead Trail from North Blackhawk Street to 2200 West Road in Salem, Utah (as defined in the First Amendment, the “*PI Line*”) has been completed.

Accordingly, the 400 Unit Limitation described in Section VI.B.ii of the Agreement and Section 1(b) of the First Amendment is terminated and shall have no further force or effect. Neither the Property nor Developer shall be constrained by or subject to the 400 Unit Limitation, and the City shall not refuse to issue building permits, certificates of occupancy, or other permits or approvals applicable to the construction and use of residential units based on the 400 Unit Limitation. For avoidance of doubt, because of the installation of the PI Line and the other infrastructure completed by the Developer, the 200 Unit Limitation shall continue to have no force or effect and shall not be revived by reason of the elimination of the 400 Unit Limitation.

2. PI Line Reimbursement Obligations. Without limiting any right of Developer to receive reimbursement for (or the obligation of any third party to reimburse Developer for) the cost of any other utility infrastructure installed by Developer, if the City receives, within the time period described below, any development application that proposes to connect to the PI Line, the City covenants to cause approval of such development application to be conditioned upon the payment by the applicant to Developer of \$162.38 per lineal frontage foot of the proposed development along Arrowhead Trail, which payment shall be in partial reimbursement of Developer’s cost to construct the PI Line. The foregoing sentence shall modify the reimbursement amount applicable to the PI Line in the last sentence of Section VI.B.i of the Agreement but shall not limit any obligation of a third party to pay a reimbursement payment to Developer for any water line or other improvement constructed by Developer. Such reimbursement obligation for the PI Line shall apply to and shall remain in effect for all applications filed with the City during the period beginning upon the date this Amendment is recorded in the Utah County Recorder’s Office and ending on the date that is ten (10) years thereafter. In order to provide notice to third parties of the reimbursement obligations applicable to the PI Line, the City agrees to execute and record a Notice of Reimbursement Obligations in the form attached hereto as Exhibit B within ten (10) days after the recording of this Amendment.

3. Sewage Lift Station. The Parties further acknowledge that the new sewage treatment facility located in Salem, Utah, is in service and is servicing the Property via gravity-flow sanitary sewer lines. As such, the private sewage lift station described in Section VI.b.iii of the Agreement is no longer necessary and maybe removed by Developer.

4. Ratification; Control of Conflicting Provisions. The Agreement, as modified by this Amendment, is and shall remain in full force and effect and is hereby ratified by the Parties. To the extent that there is any conflict between the provisions of the Agreement and the provisions set forth in this Amendment, the provisions set forth in this Amendment shall control and supersede such conflicting terms in the Agreement. Except as expressly stated otherwise, the term “Agreement” shall refer to the Agreement as modified by this Amendment. All other provisions of the Agreement shall remain and are hereby affirmed.

5. Counterparts. This Amendment may be executed in separate counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail or electronic signature

(including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), or any other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

[Remainder of page intentionally left blank. Signature page follows immediately.]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to Amended Development Agreement to be effective as of the date first written above.

THE CITY:

ATTEST:

CITY OF PAYSON,
a Utah municipal corporation

Kim E Holindrake
Kim E. Holindrake, City Recorder

By: William R. Wright
William R. Wright, Mayor

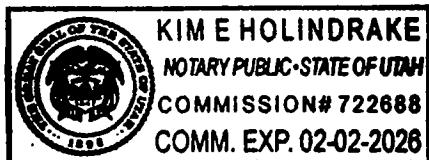
APPROVED AS TO FORM:

Jason Sant
Jason Sant, City Attorney



STATE OF UTAH)
:ss
COUNTY OF UTAH)

On June 7, 2023, before me, a notary public in and for the State of Utah, personally appeared William W. Wright, known or identified to me to be the Mayor of the City of Payson and the person who executed the foregoing instrument on behalf of said city, who duly acknowledged to me that he executed the same in such capacity.



Karen E. Goldmire
Notary Public

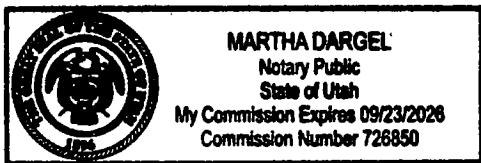
DEVELOPER:

**ARROWHEAD PARTNERS, LLC,
a Utah limited liability company**

By: Terry C. Harward
Terry C. Harward, Manager

STATE OF UTAH)
COUNTY OF UTAH)

On June 12, 2023, before me, a notary public in and for the State of Utah, personally appeared Terry C. Harward, a Manager of Arrowhead Partners, LLC, a Utah limited liability company, a signer of the foregoing instrument, who duly acknowledged to me that he executed the same in such capacity on behalf of such limited liability company.



Notary Public

EXHIBIT A**LEGAL DESCRIPTION OF THE PROPERTY****Tax Parcel No. 30:009:0037:**

COM N 419.92 FT & W 1627.78 FT FR SE COR. SEC. 3, T9S, R2E, SLB&M.; N 0 DEG 46' 35" E 1421.58 FT; W 728.98 FT; S 88 DEG 58' 46" W 181.62 FT; S 88 DEG 55' 53" W 1177.89 FT; S 89 DEG 0' 15" W 1794.45 FT; S 43 DEG 18' 25" W 47.57 FT; N 89 DEG 0' 28" E 1827.5 FT; S 1 DEG 21' 3" E 493.07 FT; S 2 DEG 15' 23" W 856.37 FT; S 89 DEG 37' 53" E 2090.71 FT TO BEG. AREA 68.564 AC.

Tax Parcel No. 30:009:0071:

COM N 2.96 FT & E 701.56 FT FR W 1/4 COR. SEC. 3, T9S, R2E, SLB&M.; N 89 DEG 49' 31" E 764.53 FT; N 89 DEG 52' 3" E 669.67 FT; N 89 DEG 29' 8" E 303.02 FT; N 88 DEG 48' 5" E 547.41 FT; N 88 DEG 50' 14" E 786.17 FT; S 0 DEG 46' 35" W 840.03 FT; S 88 DEG 58' 46" W 912.07 FT; S 88 DEG 55' 53" W 1177.89 FT; S 89 DEG 0' 15" W 1794.45 FT; N 43 DEG 17' 32" E 1202.63 FT TO BEG. AREA 67.484 AC.

Tax Parcel No. 30:009:0074:

COM N 1289.06 FT & W 3684.72 FT FR SE COR. SEC. 3, T9S, R2E, SLB&M.; N 1 DEG 21' 3" W 493.07 FT; S 89 DEG 0' 28" W 1827.5 FT; S 43 DEG 18' 25" W 700.02 FT; N 88 DEG 48' 41" E 2319.5 FT TO BEG. AREA 23.623 AC.

Tax Parcel No. 30:009:0075:

COM AT W 1/4 COR. SEC. 3, T9S, R2E, SLB&M.; S 0 DEG 29' 25" E 642.72 FT ALONG SEC. LINE; N 43 DEG 13' 16" E 618.67 FT; N 39 DEG 3' 28" E 71.2 FT; N 43 DEG 17' 5" E 190.42 FT; S 89 DEG 48' 23" W 604.59 FT ALONG 1/4 SEC. LINE TO BEG. AREA 4.481 AC.

Tax Parcel No. 30:010:0052:

COM N 0 DEG 29' 25" W 1107.7 FT & W 251.51 FT FR SE COR. SEC. 4, T9S, R2E, SLB&M.; S 88 DEG 54' 30" W 290.4 FT; N 1 DEG 5' 30" W 150 FT; N 88 DEG 54' 30" E 290.4 FT; S 1 DEG 5' 30" E 150 FT TO BEG. AREA 1.000 AC.

Tax Parcel No. 30:010:0053:

COM N 464.28 FT & W 3.97 FT FR SE COR. SEC. 4, T9S, R2E, SLB&M.; N 88 DEG 43' 35" W 211.34 FT; N 89 DEG 10' 24" W 674.65 FT; N 89 DEG 30' 33" W 448.89 FT; N 85 DEG 44' 35" W 37.58 FT; N 43 DEG 21' 5" E 1050.38 FT; N 88 DEG 58' 0" E 100.99 FT; S 1 DEG 5' 30" E 148.89 FT; N 88 DEG 54' 30" E 290.39 FT; N 1 DEG 5' 30" W 146.71 FT; S 89 DEG 40' 0" W 253.52 FT; N 43 DEG 30' 30" E .99 FT; N 88 DEG 48' 41" E 2177.64 FT; S 2 DEG 15' 23" W 52.09 FT; N 7 DEG 8' 51" W .94 FT; S 2 DEG 14' 0" W 805.05 FT; N 89 DEG 10' 12" W 750.16 FT; N 89 DEG 25' 14" W 452.71 FT; N 88 DEG 59' 36" W 237.61 FT; N 89 DEG 33' 23" W 190.67 FT TO BEG. AREA 48.447 AC.

EXHIBIT B

FORM OF NOTICE OF REIMBURSEMENT OBLIGATIONS

(See attached.)

WHEN RECORDED, MAIL TO:

**Payson City
City Recorder
439 W Utah Avenue
Payson, Utah 84651**

NOTICE OF REIMBURSEMENT OBLIGATIONS

Notice is hereby given of a REIMBURSEMENT REQUIREMENT until _____, 2033, upon development of the parcel of real property described below, for pressurized irrigation infrastructure improvements benefitting such parcel of real property. Such parcel of real property is described as follows:

See Exhibit A attached hereto and incorporated herein.

Details of the reimbursement obligations are available at the Payson City Engineer's Office, located at 439 W Utah Avenue, Payson, Utah 84651. Please check here for details on obligations to pay a fair share of public improvement costs as a condition of development approval.

Dated THE TWENTY-THREE (23)rd DAY OF MARCH, 2023.

PAYSON CITY

By: _____
Name: _____
Title: _____

STATE OF UTAH)
COUNTY OF UTAH)

On _____, 2023, before me, a notary public in and for the State of Utah, personally appeared _____, known or identified to me to be the _____ of Payson City and the person who executed the foregoing instrument on behalf of said city, who duly acknowledged to me that he executed the same in such capacity.

Notary Public

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TO
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