

**After Recording, Return To:**

WHL Hiatt LLC
Attn: Tyler Horan
42 East 1100 South, Suite 1A
American Fork, Utah 84003

ENT 72420-2025 PG 1 of 11
ANDREA ALLEN
UTAH COUNTY RECORDER
2025 Sep 22 11:06 AM FEE 40.00 BY TM
RECORDED FOR PAYSON CITY

Utah County Parcel No. 29:023:0051, 29:023:0052

DEVELOPMENT AGREEMENT FOR
HIATT CREEK PHASE B-1 AND B-2 PROJECT

This *Development Agreement for Hiatt Creek Phase B-1 and B-2 Project* (“**Agreement**”) is made and entered as of the date when this Agreement has been signed by all parties, as indicated on the signature page(s) (“**Effective Date**”), by and among the PAYSON CITY, a Utah municipal corporation (“**City**”), WHL HIATT LLC, a Utah limited liability company (“**Developer**”), and HAWKMOON HOLDINGS LLC, a Utah limited liability company (“**Landowner**”).

RECITALS

A. Developer is the owner of certain land situated within the municipal boundaries of the City known as Utah County Parcel No. 29:023:0051 and Landowner is the owner of adjacent land within the City known as Utah County Parcel No. 29:023:0052, both of which are more particularly described on **Exhibit A** attached hereto (collectively, all such parcels being the “**Property**”).

B. Developer desires to develop the Property into a residential subdivision to be known as Phase B-1 and Phase B-2 of the Hiatt Creek Subdivision (“**Project**”).

C. Developer desires to construct attached or detached single family dwellings (each, a “**Residential Dwelling Unit**”) on the Property.

D. In connection with the development of the Project, Landowner and Developer are willing enter into this Agreement and to submit the Property to the covenants set forth herein.

E. The parties acknowledge and agree that development of the Property and the Project pursuant to this Agreement will result in significant benefits to both the City and Developer.

F. The parties desire to enter into this Agreement to specify the rights and responsibilities of Developer to develop the Property as expressed in this Agreement and to specify the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

G. Developer hereby represents to the City that Developer is voluntarily entering into this Agreement.

H. The parties intend this Agreement to be a “development agreement” within the meaning of Utah Code § 10-9a-532.

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

TERMS

1. Incorporation of Recitals. The foregoing recitals and the exhibits attached hereto are hereby incorporated into this Agreement.

2. Development of the Project. The parties agree that development of the Project shall be in accordance with this Agreement, the City's municipal code ("**City Code**") together with such design standards, building codes, and other regulations applicable to construction and development as have been duly adopted by the City (collectively, the foregoing being the "**Building Standards**"). Notwithstanding the foregoing, if there is a discrepancy or conflict between the terms of this Agreement and the City Code or the Building Standards, the terms of this Agreement will control with respect to all development within the Project.

3. Development by Sub-developers. Any portion of the Project may be developed by a party who takes title to some, but less than all, of the Property for purposes of development (such person, a "**Sub-developer**"). In that event, such Sub-developer will have the rights, obligations, and duties of the Developer with respect to such portions of the Property.

4. Zoning. The zoning designation for Project is RMF Multi-Family Residential Zone with a density calculation of "RMF-10" ("**Zone**").

5. Homeowners Association. The Developer has established a homeowners association for the Project, the Hiatt Creek Homeowners Association, a Utah nonprofit corporation ("**HOA**"). The HOA may maintain the Project Amenities, defined below, and also assume any other responsibilities and obligations which may be assigned to the HOA pursuant to any conditions, covenants, and restrictions ("**CC&Rs**") for the Project.

6. Construction of Amenities. Developer agrees that the amenities for the Project described below (collectively, the "**Project Amenities**") will be constructed in connection with the development of the Project. Developer will construct the Project Amenities at Developer's own cost and expense. Following completion, the Project Amenities may be dedicated to the City or owned and maintained by the HOA. To the extent the City does not accept ownership of any portion of the Project Amenities, such portion will be maintained by the HOA. As set forth below, certificates of occupancy for Residential Dwelling Units within the Project will dependent on completion of certain components of the Project Amenities.

6.1. Phase B-1 Amenities. The following amenities will be constructed within the portion of the Project identified as Phase B-1 ("**Phase B-1 Amenities**"): a portion of the regional trail system and a landscaped detention pond with sidewalk trail and benches. The B-1 Amenities must be completed before any certificate of occupancy will be issued for a Residential Dwelling Unit within the Phase B-1 portion of the Project. Notwithstanding the foregoing, certificates of occupancy may be issued if all other conditions for issuance are satisfied but winter weather conditions do not reasonably allow Developer to complete the landscaping of the detention basin. If certificates of occupancy are issued in such

circumstances, the City may require bonding for the incomplete landscaping and the landscaping must be completed within a reasonable period after weather conditions allow such landscaping work to commence.

6.2. Phase B-2 Amenities. The following amenities will be constructed within the portion of the Project identified as Phase B-2 ("**Phase B-2 Amenities**"): a portion of the regional trail system and a pavilion. The B-2 Amenities must be completed before any certificate of occupancy will be issued for a Residential Dwelling Unit within the Phase B-2 portion of the Project.

6.3. Offsite Amenities. The following amenities will be constructed for the Project but will be located on land adjacent to, but not within, the Property ("**Offsite Amenities**"): a clubhouse (not to be less than 2000 square feet in size), a pool, and two (2) pickleball courts. The City shall not be obligated to issue certificates of occupancy for more than fifty percent (50%) of the Residential Dwelling Units within Phase B-2 of the Project. The Project is anticipated to contain approximately 100 Residential Dwelling Units whose residents will use the Offsite Amenities. However, in the event that additional Residential Dwelling Units are constructed on land adjacent to the Property and the total number of Residential Dwelling Units served by the Offsite Amenities exceeds 210, additional amenities may be required pursuant to Payson City Code 13.14.070.16.

7. Public Infrastructure. The following terms will apply to public infrastructure improvements on or associated with the Property.

7.1. Construction by Developer. Developer shall have the obligation to construct within the Project all public infrastructure, utilities, lines, facilities, and other improvements (collectively, the "**Public Infrastructure**") which are lawfully required to be constructed within the Project pursuant to the City Code or the Building Standards.

7.2. Public Streets. All streets within the Project will be dedicated to the City upon completion and acceptance by the City's public works department. Thereafter the City will own and maintain such streets. The streets must meet Payson City right of way width standards.

7.3. System Improvements. If any portion of the Public Infrastructure provides capacity for both the Project and for users at any other locations, such portion of the Public Infrastructure will be deemed a "**System Improvement**" as that term is used in the Utah Impact Fees Act, Utah Code § 11-36a-101, *et seq.* ("**Act**"). The City will reimburse Developer for the cost of constructing any System Improvements or, as applicable, the cost of upsizing or adding capacity to any "**Project Improvements**," as that term is used in the Act. For the avoidance of doubt, Developer shall pay for any Project Improvements, but shall not be required to install any System Improvements or upsize any Project Improvements until Developer and the City have entered into a reimbursement agreement acceptable to Developer identifying the terms on which the City will reimburse Developer for such System Improvements or such upsizing.

7.4. Bonding. To the extent required by the City's Laws, and unless otherwise provided by the laws of the State of Utah ("**State Law**"), Developer shall provide security

for completion of the portion of Public Infrastructure if Developer wishes to record a final plat for any portion of the Project prior to completion of the Public Infrastructure. Developer shall provide such security in a form acceptable to the City or as specified in the City's Laws or, as applicable, in the laws, ordinances, policies, and standards in effect at a future date when Developer submits a development application to the City. The City shall make proportional, partial releases of any such required security as portions of the Project Improvements are completed.

8. Vested Rights Granted by Approval of this Agreement. Develop will have the vested right to develop the Property as follow:

8.1. **Vested Rights.** in accordance with the Except as otherwise provided in this Agreement, under State Law, the laws of the United States, the parties intend for this Agreement to grant to Developer all rights to develop the Property and the Project in fulfillment of this Agreement, provided the Project adheres to the City requirements of the underlying zoning designation and other development related building requirements.

8.2. Exceptions.

8.2.1. Compliance with State and Federal Law. Any City Ordinance which is generally applicable to all properties in the City and which is necessary and required to comply with State Law or federal laws will apply to the Property.

8.2.2. Taxes. The Property will be subject to taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by any taxing entity to all properties, applications, persons, and entities similarly situated.

8.2.3. Fees. The Property will be subject to changes to the amounts of fees for the processing of development applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted by the City pursuant to State Law.

8.2.4. Impact Fees. The Property will be subject to impact fees or modifications thereto which are lawfully adopted and imposed by the City pursuant to Utah Code § 11-36a-101 *et seq.* Notwithstanding the foregoing, Developer may receive credits toward the payment of any impact fees ("**Impact Fee Credits**") in connection with the City's reimbursement for Developer's construction of System Improvements. Any reimbursement with Impact Fees must be pursuant to a separate agreement between Developer and the City.

8.2.5. Compelling, Countervailing Interest. Any laws, rules, or regulations that the City's land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code § 10-9a-509, or any successor provision, will apply to the Property.

9. Term of Agreement. Subject to the zoning contingency, this Agreement shall remain in full force and effect for ten (10) years after this Agreement is recorded in the office of the Utah County Recorder.

10. Default. The parties will address any failure to comply with the terms or provisions of this Agreement (each such failure, an “**Event of Default**”) as follows:

10.1. **Notice.** Neither party will be deemed in default under this Agreement unless: (a) such party has failed to perform any of its duties or obligations under this Agreement; (b) the other party has provided written notice of the alleged default (“**Notice of Default**”) containing the contents identified below and delivered in the manner provided by this Agreement; and (c) the alleged default remains uncured for thirty (30) days after receipt of the Notice of Default.

10.2. **Remedies.** If the parties are not able to resolve the Event of Default by “Meet and Confer” or by mediation, and if the Event of Default is not subject to arbitration, then the parties may have the following remedies, except as specifically limited herein:

10.2.1. **Equity.** All rights and remedies available in equity, including, but not limited to, injunctive relief and/or specific performance.

10.2.2. **Security.** The right to draw on any security posted or provided in connection with the Property if the security which been provided relates to the remedying of the particular Event of Default.

10.2.3. **Future Approvals.** In the case of an Event of Default on the part of Developer, the City will have the right to withhold all further reviews, approvals, licenses, building permits, certificates of occupancy, and/or other permits for development activities within the Property.

10.3. **Public Meeting.** Before any of the foregoing remedies may be imposed by the City, the party alleged to have committed an Event of Default shall be afforded the right to attend a public meeting before the City Council and dispute the alleged Event of Default. Such party will have the right to present evidence and witnesses and may be represented by legal counsel. The City will have the right to rebut the alleged defaulting party’s evidence and cross-examine witnesses. If, after hearing all of the evidence, the City Council finds that an Event of Default has occurred, the City Council shall make such finding on the record, by majority vote.

10.4. **Extended Cure Period.** If an Event of Default cannot be reasonably cured within thirty (30) days, then the cure period hereunder shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

10.5. **Limitation on Recovery for Default – No Damages.** Except as provided in Section 8.6, no party shall be entitled to any claim for any monetary damages as a result of any breach of this Agreement and each party waives any claims thereto, except that the City may unilaterally withhold all further reviews, approvals, licenses, building permits, certificates of occupancy, and/or other permits for development of the Property in the case of an Event of Default by Developer or any assignee, and may seek payment of any unpaid fees for outsourcing.

11. Notices. All notices required or permitted under this Agreement shall, in addition to any other means of transmission, be given in writing by personal delivery, national overnight delivery service, or Certified U.S. Mail. Notice shall be delivered to the parties at the following addresses:

To Developer:
 WHL Hiatt, LLC
 Attn: Tyler Horan
 42 E. 1100 S., Suite 1A
 American Fork, Utah 84003
 Email: tyler@whitehorseland.com

With a copy to:
 Kirton | McConkie
 Attn: Daniel C. Dansie
 50 E. South Temple Street, Suite 400
 Salt Lake City, 84111
 Email: ddansie@kmclaw.com

To the City:
 Payson City
 Attn: City Recorder
 439 West Utah Avenue
 Payson, UT 84651
 Email: kimh@paysonutah.gov

With a copy to:
 City Attorney
 Attn: Brandon Dalley
 439 West Utah Avenue
 Payson, UT 84651
 Email: brandond@paysonutah.gov

12. Assignment and Parties Bound. The duties and obligations arising under this Agreement will run with the land.

12.1. Sub-Developers. In the event Developer conveys a portion or portions of the Property to a Sub-Developer, each Sub-Developer, upon taking title to a portion of the Property, will be deemed to have assumed the obligations, rights, and duties of Developer with respect to the portion of the Property. An Event of Default on the part of Developer will **not** be deemed an Event of Default on the part of a Sub-Developer and any remedies available for such Event of Default will be exercised solely against Developer. An Event of Default on the part of a Sub-Developer will **not** be deemed an Event of Default on the part of Developer or any other Sub-Developer and any remedies available for such Event of Default will be exercised solely against the defaulting Sub-Developer.

12.2. Recorded Against the Property. This Agreement shall be recorded against the Property in the office of the Utah County Recorder. All persons taking title to any

portion of the Property shall be deemed to have received notice of the terms and provisions hereof.

12.3. No Obligation for Residential Owners. Notwithstanding the foregoing, any person acquiring a Residential Dwelling Unit will **not** be deemed a Sub-Developer and will not be deemed to have assumed the obligations of Developer hereunder.

13. Miscellaneous Provisions.

13.1. Headings. The captions used in this Agreement are for convenience only and are not intended to be substantive provisions or evidence of the parties' intent.

13.2. No Third-Party Rights and No Joint Venture. This Agreement does not create a joint venture relationship, partnership, or agency relationship between the City or Developer. Further, except in the case of Sub-Developers as provided herein, the parties do not intend for this Agreement to create any third-party beneficiary rights.

13.3. No Waiver. The failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

13.4. Severability. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of the remaining provisions hereof. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

13.5. Force Majeure. Any delay or stoppage in the performance of any obligation under this Agreement which is due to events beyond the reasonable control of the party affected thereby ("**Force Majeure Event**") will be dealt with as provided for in this Section. For purposes of this Agreement, Force Majeure Events include: pandemics or widespread health crises; strikes; labor disputes; the inability to obtain labor, materials, equipment, or reasonable substitutes therefor; fires; earthquakes, floods, unreasonably severe weather, and other acts of God; governmental restrictions, regulations, or controls; judicial orders; enemy or hostile government actions; wars; civil commotions; or other casualties or other causes beyond the reasonable control of the party obligated to perform. Upon the occurrence of a Force Majeure Event, the affected party shall give written notice thereof to the other party and, thereafter, the party giving notice shall be relieved of the obligation to perform while the circumstances giving rise to the Force Majeure Event persist, and for a reasonable amount of time thereafter.

13.6. Time is of the Essence. Time is of the essence as to this Agreement and every right or responsibility shall be performed within the times specified.

13.7. Applicable Law. This Agreement is entered into in the State of Utah and shall be construed in accordance with the procedural and substantive provisions of the laws of the State of Utah.

13.8. **Venue.** Any action to interpret or enforce this Agreement shall be brought only in the district court for the judicial district where the Property is located.

13.9. **Entire Agreement and Amendment.** This Agreement and all exhibits hereto constitute the entire agreement between the parties and may not be amended, modified, or supplemented except in a written instrument signed by both Developer and the City. The City and a Sub-Developer may modify the provisions of this Agreement **but only** to the extent they affect the portion of the Property owned by such Sub-Developer.

13.10. **Mutual Drafting.** Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against any party based on which party drafted any particular portion of this Agreement.

13.11. **Authority.** The parties to this Agreement each warrant that they have the necessary authority to execute this Agreement. By its execution of this Agreement, the City represents and warrants that this Agreement and the execution and recording hereof have been approved by the vote of the City Council at a duly noticed meeting held for that purpose.

[End of Agreement. Signature Pages Follow.]

The parties hereto have executed the foregoing Agreement by and through their respective, duly authorized representatives as of the day and year last written below.

CITY:

Payson City,
a Utah municipal corporation

By: William R Wright

Printed Name: William R. Wright

Title: Mayor

Date: September 3, 2025



Approved as to form:

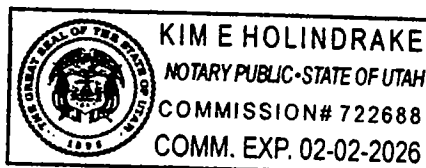
Attest:

Brandon Dalley
Brandon Dalley, City Attorney

Kim E Holindrake
Kim E. Holindrake, City Recorder

STATE OF UTAH)
 §
COUNTY OF UTAH)

On this 3rd day of September, 2025, personally appeared before me, William R. Wright, the signer of the foregoing instrument, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn/affirmed, did say that he is the Mayor of Payson City, a Utah municipal corporation, and that said document was signed by him on behalf of said Corporation, and who duly acknowledged to me that he executed the same.



Kim E Holindrake
Notary Public

DEVELOPER:

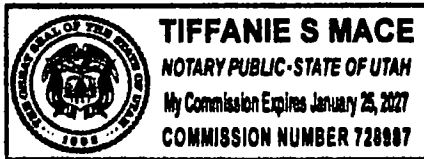
WHL Hiatt, LLC,
a Utah limited liability company

By: [Signature]
Printed Name: Tyler Horan
Title: Manager
Date: 9-4-25

DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 4th day of September, 2025, by Tyler Horan as the manager of WHL Hiatt, LLC.



[Signature]
Notary Public

EXHIBIT A

(Legal Description of the Property)

BOUNDARY DESCRIPTION

A PORTION OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN DESCRIBED AS FOLLOWS:

CORNER BEGINNING AT A POINT LOCATED S89°41'05"W ALONG THE SECTION LINE 14.50 FEET FROM THE NORTHEAST ~~QUARTER~~ OF SECTION 24, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN; THENCE SOUTH 312.76 FEET; THENCE WEST 844.82 FEET; THENCE NORTH 21.17 FEET; THENCE N27°53'27"E 75.16 FEET; THENCE N06°51'22"E 90.60 FEET; THENCE N27°52'47"E 30.74 FEET; THENCE N00°09'01"W 57.49 FEET; THENCE N70°27'34"E 59.06 FEET; THENCE N00°10'49"W 26.78 FEET TO THE SECTION LINE; THENCE N89°41'05"E ALONG THE SECTION LINE 729.06 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±247,735 SQ. FT.
±5.69 ACRES

BOUNDARY DESCRIPTION

A PORTION OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN DESCRIBED AS FOLLOWS:

CORNER BEGINNING AT A POINT LOCATED S00°13'38"E ALONG THE SECTION LINE 312.85 FEET AND WEST 15.74 FEET FROM THE NORTHEAST ~~QUARTER~~ OF SECTION 24, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN (BASIS OF BEARING: S89°41'05"W BETWEEN THE NORTHEAST CORNER AND THE NORTH QUARTER CORNER OF SECTION 24, T9S, R1E, SLB&M); THENCE SOUTH 244.86 FEET; THENCE S89°31'47"W 35.17 FEET; THENCE S00°37'36"E 2.95 FEET; THENCE S89°24'50"W 420.78 FEET; THENCE S89°44'37"W 350.42 FEET; THENCE N03°01'04"E 110.32 FEET; THENCE N00°51'20"W 87.92 FEET; THENCE N49°29'30"W 56.56 FEET; THENCE NORTH 19.15 FEET; THENCE EAST 844.82 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±4.67 ACRES
203,211 SQ. FT.