

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
DECEMBER 1, 2015**

TITLE:	Wastewater Impact Fee Enactment		
FISCAL IMPACT:	N/A		
APPLICANT:	Christopher T. Trusty, City Engineer		
GENERAL PLAN DESIGNATION N/A	CURRENT ZONE N/A	ACREAGE N/A	COMMUNITY

NOTICES:

- Posted in 2 public places
- Posted on City webpage
- Notice to newspapers

REQUIRED FINDINGS:

**Public Works Board
Recommendation**

Vote: N/A

**Prepared By:
Chris T. Trusty**

NOTES/COMMENTS:

RECOMMENDATION:

That the City Council enacts the Wastewater Impact Fee ordinance and begins the 90 day grace period on assessing this impact fee.

BACKGROUND:

The Wastewater Impact Fee Enactment adopts the IFFP and IFA and implements the impact fees recommended through ordinance. Once adopted, there is a 90 day waiting period before the revised impact fees can be assessed to new building permits. The IFA recommends the maximum reasonable impact fee that could be charged to new development based on provisions in the state code. The City Council does have the discretion to reduce that fee, although other fund sources would need to be used to finance needed infrastructure, which would likely need to be done through utility fees.

In October, the City Council approved an agreement with Lewis and Young for an Impact Fee Analysis on the recently completed Wastewater Impact Fee Facilities Plan. This plan identifies City infrastructure needed for future growth. Additions to this IFA include reimbursement agreements for a sewer line through Meadow Ranch, along Ranches Parkway, and the Evans Ranch sewer trunk line which installed a gravity line through Evans Ranch and has allowed the lift station at Smith Ranch to be decommissioned. The City collects an impact fee for the NSA that is a pass through for Timpanogoes Special Service District.

Additions to this plan for the South Service Area include the construction of a solids handling facility to reduce the hauling of sludge from the treatment facility. This facilities plan also identifies infrastructure projects anticipated to be completed within the next six years.

This update will increase impact fees for the North Service Area from \$3,156 to \$3,800.79 and in the South Service Area from \$2,788.00 to \$3,462.01.

ORDINANCE NO. O __ -2015

ORDINANCE ADOPTING IMPACT FEE ENACTMENT FOR A SANITARY SEWER IMPACT FEE; PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES; PROVIDING FOR APPEAL, ACCOUNTING, AND SEVERABILITY OF THE SAME AND OTHER RELATED MATTERS

The City Council (“Council”) of Eagle Mountain City, Utah (the “City”), finds that it is in the public interest to adopt this Impact Fee Enactment to address impacts of development upon the City; impose sanitary sewer impact fees; provide for the calculation and collection of such fees; provide for appeal, accounting, and severability of the same and other related matters.

WHEREAS, the City is a local political subdivision of the State of Utah and has authority pursuant to Utah Code Ann. § 11-36a-101, *et seq.* (the “Impact Fee Act”) to mitigate the impact of new development on public facilities by enacting an impact fee; and

WHEREAS, the City has caused to be prepared a Capital Facilities Plan Including Impact Fee Facilities (the “Impact Fee Facility Plan”), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Council finds that the Impact Fee Facility Plan identifies demands placed upon existing public facilities by new development activity and proposes means by which the City will meet those demands and has generally considered all revenue sources, including impact fees, and anticipated dedication of in-system improvements to finance the impacts on system improvements; and

WHEREAS, the Council finds that the Impact Fee Analysis, a copy of which is attached hereto as Exhibit B, identifies the anticipated impacts on or consumption of existing capacity of public facilities by anticipated development activities, identifies impact on system improvements required by anticipated development activities to maintain the established level of service for each public facility, demonstrates how those anticipated impacts are reasonably related to the anticipated development activities and estimates the proportionate share of the cost for existing capacity that will be recouped and the cost of impacts on system improvements that are reasonably related to the new development activity; and

WHEREAS, the Council finds that the impact fees which are enacted pursuant to this Ordinance (“Impact Fee Enactment”) are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received; and

WHEREAS, in accordance with Utah Code Ann. § 11-36a-504, the City has complied with the notice requirements to adopt this Impact Fee Enactment; and

WHEREAS, after careful consideration and review of the comments at the public hearings, the council has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of the City to adopt this Impact Fee Enactment.

BE IT ORDAINED by the City Council of Eagle Mountain City, Utah:

Section 1. Findings; Authority; Purpose.

The Council finds and determines that growth and development activities in the City will create additional demand and need for sanitary sewer facilities, and the Council finds that persons responsible for growth and development activities should pay a proportionate share of the costs of such planned facilities needed to serve the growth and development activity. The Council further finds that based on the Impact Fee Facility Plan and Impact Fee Analysis that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received. The provisions of this Impact Fee Enactment shall be liberally construed in order to carry out the purpose and intent of the Council in establishing the impact fee program.

Section 2. Definitions.

Except as provided below, words and phrases that are defined in the Impact Fee Act shall have the same meaning in this Impact Fee Enactment.

2.1 Allowable Credits. The dollar value a developer may be allowed as an offset or a credit against an impact fee if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement, or dedicates a public facility that the City and the developer agree will reduce the need for a system improvement. A credit against an impact fee shall be granted for any dedication of real property for, improvements to, or new construction of, any system improvements provided by the developer if the facilities are system improvements, or are dedicated to the Public and offset the need for identified system improvements.

2.2 Applicant. A person or entity required to pay an impact fee under this Impact Fee Enactment.

2.3 Gross Impact Fee. The stated impact fee assessed (prior to the computation of allowable credits, exemptions, or adjustments) for system improvements based on the requirements of this Impact Fee Enactment.

2.4 Impact Fee Agent. The person or persons designated by the City Council to evaluate impact fee applications and calculate gross impact fees, allowable credits, exemptions, adjustments, and net impact fees.

2.5 Impact Fee Applicant or Impact Fee Applications. An application submitted by an applicant for development approval that is required to pay an impact fee prior to

obtaining subdivision approval or other development approval from the City Council or the building official of the City prior to issuance of a building permit.

2.6 Net Impact Fee. The gross impact fee less all allowable credits, exemptions, adjustments, and credit adjustments required by this Impact Fee Enactment.

2.7 Single Family Residential Unit or Equivalent Residential Unit or ERUs. The system improvement capacity required for a dwelling unit intended for the use and occupancy of a single family with no restriction on time of use.

Section 3. Impact Fees Imposed.

3.1 Impact Fees. Based on the Council approval and adoption of the Impact Fee Facility Plan and Impact Fee Analysis, attached hereto as Exhibits A and B, the City Council hereby adopts a Sanitary Sewer Impact Fee in the amounts set forth in the Impact Fee Analysis.

3.2 Impact Fees Accounting. The City will establish a separate interest-bearing ledger account for each type of public facility for which impact fees are collected. Interest earned on such account shall be allocated to that account.

(a) *Reporting.* At the end of each fiscal year, the City shall prepare a report on each fund or account showing the source and amount of all monies collected, earned, and received by the fund or account and each expenditure from the fund or account. The report shall identify impact fees by the year in which they were received, the project from which the funds were collected, the system improvements for which the funds were budgeted, and the projected schedule for expenditures. The report shall be in a format developed by the State Auditor that is certified by the City's Chief Financial Officer and shall be transmitted annually to the State Auditor.

(b) *Impact Fee Expenditures.* The City may expend impact fees collected pursuant to this Impact Fee Enactment only for systems improvements that are (i) public facilities identified in the Impact Fee Facility Plan; and (ii) of the specific public facilities type for which the fee was collected.

(c) *Time of Expenditure.* Impact fees collected pursuant to this Impact Fee Enactment are to be expended or encumbered for a permissible use within six (6) years of the receipt of those funds by the City. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

(d) *Extension of Time.* The City may hold unencumbered fees for longer than six (6) years if the Council identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and (ii) an absolute date by which the fees will be expended.

3.3 Refunds. The City shall refund any impact fees paid by a developer, plus interest actually earned when (i) the developer does not proceed with the building activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; (iii) the developer has contributed in excess of their proportional costs; and (iv) no impact has resulted.

3.4 Additional Fees and Costs. The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City, such as engineering and inspection fees, building permit fees, review fees, and other fees and costs that may not be included as itemized component parts of the impact fee.

3.5 Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined in accordance with the provisions of Section 5 below.

Section 4. Impact Fee Amount and Procedure.

4.1 Impact Fee Imposed. Impact fees are hereby imposed on the basis of the Impact Fee Analysis and shall be paid either as a condition of plat approval, as a condition of the issuance of a building permit, or as a condition to connecting to any current or future system improvements if a plat or building permit is not required in an amount set forth in the Impact Fee Analysis.

4.2 Application Procedure. Each Applicant for development approval shall make application in writing to the City on forms provided for the City for determination of the amount of the required impact fees payable by the Applicant. Each Applicant shall provide all information requested by the City to allow the City to verify the accuracy of the information presented by the Applicant. The Impact Fee Agent shall consider the information presented by the Applicant and determine the gross impact fee, allowable credit, exemptions, adjustments, and net impact fee.

4.3 Impact Fee Amount. The amount of the impact fees imposed hereby shall be the gross amount as set forth in the Impact Fee Analysis.

Section 5. Exemptions, Adjustments, and Credits.

5.1 Exemption. The Council may, on a project-by-project basis, authorize exemptions to the impact fee imposed for development activity that the Council determines to be of broad public purpose to justify the exception, development activities attributable to low-income housing, the state, a school district, or a charter school (the school district and charter school on the same basis).

5.2 Adjustments. The Council shall ensure that the impact fees are imposed fairly and may adjust impact fees at the time the fee is charged to (i) respond to unusual circumstances in specific cases, (ii) respond to a request for a prompt and individualized impact

review for the development activities of the state or a school district or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected, and (iii) permits adjustments of the amount of the impact fee to be imposed on a particular development based upon studies and data submitted by the developer.

5.3 Credits. A developer, including a school district or charter school, shall receive a credit against or proportionate reimbursement of an impact fee if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement, or dedicates a public facility that the City and the Developer agree will reduce the need for a system improvement. A credit against the impact fee shall also be given for any dedication of land for, improvements to, or new construction of, any system improvements provided by the developer if the facilities are system improvements, or are dedicated to the public and offset the need for identified system improvements.

Section 6. Service Area.

Service areas are hereby established as set forth on the Impact Fee Facility Plan and Impact Fee Analysis.

Section 7. Appeal Procedures.

7.1 Application. The appeal procedure applies to challenges to the legality of impact fees, the interpretation and/or application of those fees.

7.2 Request for Information Concerning the Fee. Any person or entity required to pay an impact fee pursuant to this Impact Fee Enactment may file a written request for information concerning the fee with the City. The City will provide the person or entity with the Impact Fee Analysis, Impact Fee Facility Plan, and other relevant information relating to the impact fee within two weeks after receipt of the request for information.

7.3 Appeals to City Before Payment of Impact Fees. Any affected or potentially affected person or entity who wishes to challenge an impact fee imposed pursuant to this Impact Fee Enactment prior to payment thereof may file a written request for information concerning their fee and the process under the City's appeal procedure.

7.4 Appeal to City After Payment of Impact Fees; Statute of Limitations for Failure to File. Any person or entity that has paid an impact fee pursuant to this Impact Fee Enactment and wishes to challenge the fee shall file a written request for information concerning the fee after having paid the fee and proceed under the City's appeal process. The deadline for filing an appeal shall be as follows:

(a) Within 30 days after the person making the appeal pays the impact fee, they may challenge whether the City complied with the notice requirements of the impact fee with respect to imposition of the impact and the procedure.

(b) Within 180 days after the person making the appeal pays the impact fee, they may challenge whether the city complied with other procedural requirements of the impact fee

(c) Within one (1) year after the person making the appeal pays the impact fee, they may challenge the impact fee.

7.5 Appeal to City. Any developer, landowner, or affected party desiring to challenge the legality of any impact fee, or related fees or exaction under this Impact Fee Enactment, may appeal directly to the City by filing a written challenge with the City before the deadlines provided above.

(a) *Hearing.* An informal hearing will be held not sooner than five (5) days nor more than 25 days after the written appeal to the City is filed.

(b) *Decision.* After the conclusion of the informal hearing, the City shall affirm, reverse, or take action with respect to the challenge or appeal as the City deems appropriate. The decision of the City will be issued within 30 days after the date the written challenge was filed. In light of the statutorily mandated time restrictions, the City shall not be required to provide more than three (3) working days' prior notice of the time, date, and location of the informal hearing, and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of any final determination.

7.6 Denial of Due Process. If the City for any reason fails to issue a final decision on a written challenge to an impact fee, its calculation or application, within 30 days after the filing of the challenge with the City, the challenge shall be deemed to have been denied.

7.7 Judicial Review. Nothing in this Impact Fee Enactment shall be interpreted to alter the statutory deadlines before which an action to challenge an impact fee must be initiated in the district court. After having been served with a copy of the pleadings initiating a court review, the City shall submit to the court the records of the proceedings before the City, including minutes, and if available, a true and correct transcript of any proceedings.

Section 8. Severability. If any section, subsection, paragraph, clause, or phrase of this Impact Fee Enactment shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this Impact Fee Enactment, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Enactment are declared to be severable.

Section 9. Effective Date. The Impact Fee Enactment pursuant to this Impact Fee Ordinance shall not take effect until 90 days after its enactment.

ADOPTED by the City Council of Eagle Mountain City, Utah, this _____ day of _____, 2015.

EAGLE MOUNTAIN CITY, UTAH

Chris Pengra, Mayor

ATTEST:

Fionnuala B. Kofoed, MMC
City Recorder

CERTIFICATION

The above ordinance was adopted by the City Council of Eagle Mountain City on the 1st day of December, 2015.

Those voting aye:

- Adam Bradley
- Donna Burnham
- Ryan Ireland
- Richard Steinkopf
- Tom Westmoreland

Those voting nay:

- Adam Bradley
- Donna Burnham
- Ryan Ireland
- Richard Steinkopf
- Tom Westmoreland

Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A

**IMPACT FEE REIMBURSEMENT AGREEMENT
FOR RCA65, LLC.**

(Water, Wastewater, Stormwater and Roads)

This Impact Fee Reimbursement Agreement (this "Agreement") is entered into by and among **Eagle Mountain City**, a municipal corporation of the State of Utah (the "City") and **RCA65, L.C.**, a Utah limited liability company ("Developer"). City and Developer shall collectively be referred to herein as "Parties."

RECITALS

A. Developer is in the process of developing the Ranches Parkway North Extension Project (the "Project") on approximately 66.9 acres of property owned by Developer which is designed at Utah County Parcel No. 58:033:0363 (the "Property"). A boundary description of the Property is attached hereto as Exhibit A-1.

B. In conjunction with the Project, Developer has installed certain water, wastewater (sewer), stormwater and road improvements, including the dedication of land, that are above and beyond the improvements required to be installed by Developer to service the Property (the "Improvements") and which Developer believes should be considered System Improvements and subject to reimbursement by the City from the City's collection of impact fees.

C. The Developer has requested that the City reimburse Developer for the cost of the Improvements.

D. A summary of the cost of the Improvements and the requested amount of reimbursement is attached as Exhibits B-1 through B-5c ("Cost Summary").

E. City agrees to allow the costs incurred by Developer related to such improvements to be a credit against applicable impact fees imposed by the City on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties contained herein, the parties agree as follows:

1. Developer's Obligations. Developer shall construct and install, or cause to be constructed and installed, all of the Improvements at Developer's initial sole cost and expense and in accordance with requirements of the City ordinances, including all warranty requirements. Upon completion of such Improvements and the inspection and reasonable acceptance of the same by the City, Developer shall dedicate or convey to the City such Improvements and the

City shall thereafter own such Improvements, including the lands and rights-of-way dedicated to the City by Developer, subject to reimbursement of the Improvement cost as set forth herein.

2. Impact Fee Reimbursement. Pursuant to paragraphs 4 and 5 below, the City shall reimburse Developer for the actual cost incurred by Developer for the Improvements. City has reviewed and approved the Cost Summary, which details Developer's estimate of the costs for construction and installation of the Improvements. Accordingly, except as set forth in paragraph 3, Developer and City agree that the total amount of reimbursable costs is \$198,976.00 (the "Reimbursable Costs") as shown on the Cost Summary.

3. Review of Actual Expenditures. Prior to any reimbursement by the City for the Reimbursable Cost, City may require that Developer submit a detailed cost breakdown (the "Cost Breakdown") for all work completed on the Infrastructure. The Cost Breakdown shall separately detail all material, labor and equipment costs. Developer shall include invoices or receipts from all third-parties providing material, labor or equipment for the Infrastructure. Developer, either directly or through any affiliated company or subsidiary, shall not include or be entitled to any administrative fees, management fees, mark-ups, or profits on any material, labor or equipment. If the City disputes any of the costs or amounts included in the Cost Breakdown, City may either request additional information from Developer or provide to Developer a written response detailing the costs or amounts that City disputes and an explanation for City not accepting such costs or amounts.

4. Adjustment of Reimbursable Costs. If City determines that the Cost Breakdown establishes that the actual costs of construction of the Improvements was less than the cost set forth in the Cost Summary, the City may adjust the Reimbursable Costs to correspond to the actual costs of construction as determined by the City.

5. Collection and Accounting. The period between July 1 and June 30 of each year ("Reimbursement Period") shall constitute the accounting period for determining the total amount of impact fees collected for reimbursement under this Agreement. Within thirty (30) days following the end of each Reimbursement Period, the City shall prepare and make available to Developer a report of all impact fees that were collected during the preceding accounting period that are payable to Developer under this Agreement (the "Yearly Accounting"). If City fails to provide the Yearly Accounting to Developer for any reason, Developer shall provide written request to the City for the Yearly Accounting. City shall pay the amounts to Developer within ten (10) days of written confirmation from Developer that Developer agrees with the Yearly Accounting.

6. Payments to Developer. Payments shall be made to Developer based upon the amount of Reimbursable Costs collected by the City from the water, wastewater, stormwater and road impact fees respectively within the Project during the Reimbursement Period minus any impact fees that are payable to third-parties as pass-through fees or as impact fees reimbursements. For example, if 10 building permits are issued for lots within the Project during a Reimbursement Period, and the wastewater impact fee collected for each lot is \$3,800, the City

will pay Developer the amount of \$38,000, minus any portion of the impact fee payable to TSSD or other third-parties, toward payment of the Reimbursable Costs related to wastewater Improvements. In the event that all impact fees are paid for all lots within the Project prior to the City fully reimbursing Developer for the Reimbursable Costs of any of the impact fees, City shall pay Developer the remaining Reimbursable Costs at the end of the next Reimbursement Period.

7. Cooperation and Noninterference. Developer agrees not to challenge impact fees on the Project and shall cooperate with the City in the collection of all impact fees required by the Ordinance.

8. Limitation on Payments and Damages. Developer's sole remedy under this Agreement shall be the specific performance of City's obligation to reimburse developer for the Reimbursable Costs. In no event shall Developer be entitled to interest, penalties or other damages related to City's failure to remit to Developer any payments under the terms of this Agreement.

9. Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid to the following addresses, and shall be effective three (3) days following the deposit of such mail as set forth above:

If to the City: Eagle Mountain City
1650 E. Stagecoach Run
Eagle Mountain, Utah 84005
Attn: City Recorder

With a copy to: Cohne Kinghorn
111 E. Broadway, 11th Floor
Salt Lake City, Utah 84111
Attn: Jeremy Cook

If to Developer: _____

10. General Provisions. The following provisions are also an integral part of this Agreement:

(a) Governmental Immunity. The City is a governmental entities under the "Utah Governmental Immunity Act" (Utah Code Ann. § 63-30-1, et seq.) (the "Immunity Act"). Nothing herein shall be construed as a waiver of any defenses available under the Immunity Act

nor does City waive any limits of liability provided by the Immunity Act or any other provisions of Utah law.

(b) Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(c) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(d) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(e) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(f) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to any subsequent breach of this Agreement.

(g) Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of any other right, remedy or priority allowed by law.

(h) Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(i) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Attorneys' Fees. In the event any action or proceeding is brought by either party regarding this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial or on appeal.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Recitals. All recitals are expressly made a part of this Agreement as though completely set forth in the body of this Agreement.

(m) No Partnership. The Parties do not by this Agreement in any way or for any purpose become partners or joint venturers with each other.

DATED this _____ day of _____, 2015.

EAGLE MOUNTAIN CITY

Christopher Pengra, Mayor

ATTEST:

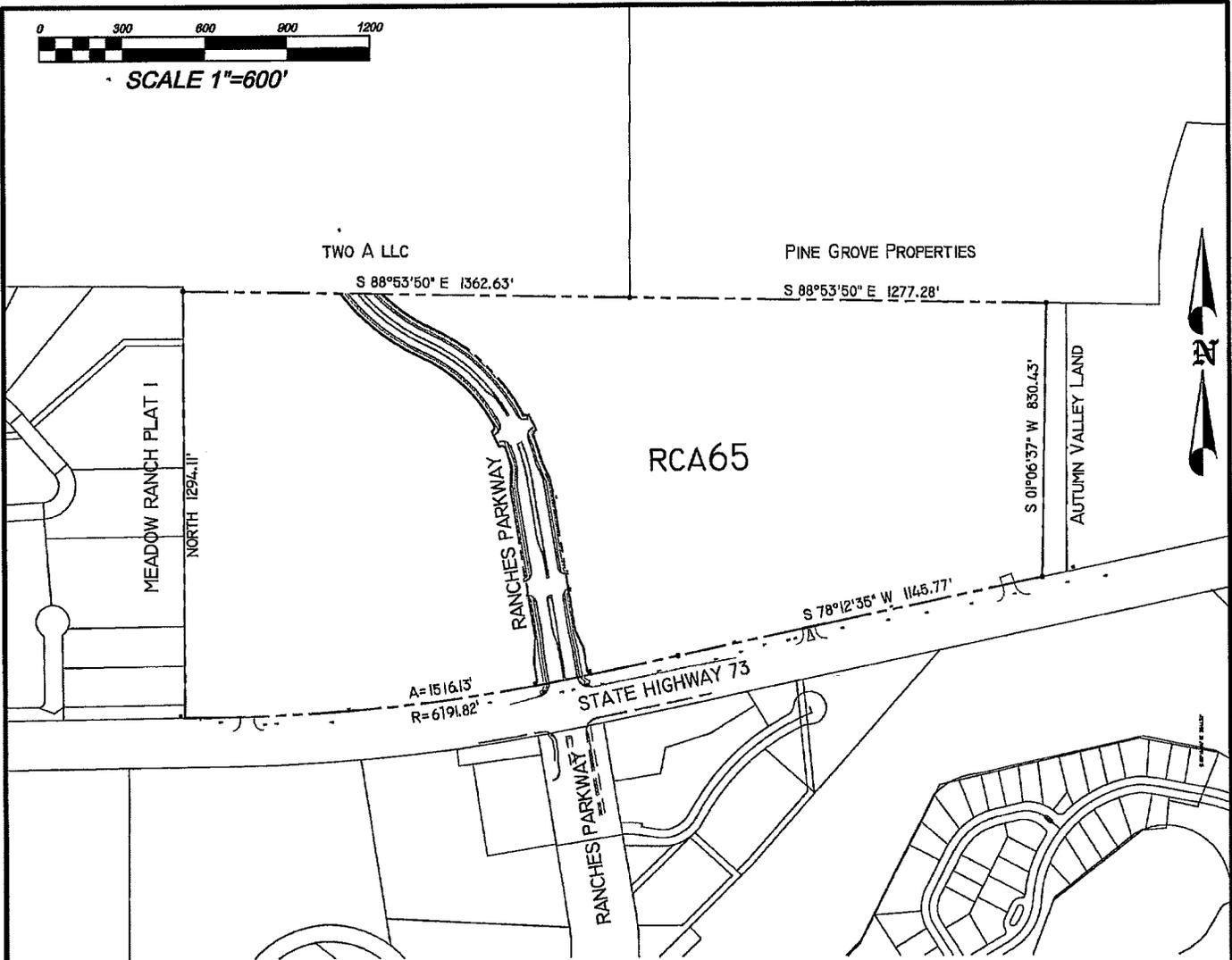
Fionnuala B Kofoed, City Recorder

RCA65, LLC

By: _____

Print Name: _____

Title: _____



BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS S88°53'50"E, 1320.09 FEET ALONG THE MID-SECTION LINE FROM THE WEST ¼ CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN;

THENCE S 88°53'50" E 1362.63 FEET ALONG SAID MID-SECTION LINE TO THE CENTER OF SECTION; THENCE S 88°53'50" E 1277.28 FEET ALONG SAID MID-SECTION LINE; THENCE S 01°06'37" W 830.43 FEET TO THE NORTH RIGHT OF WAY LINE OF HIGHWAY 73; THENCE S 78°12'35" W 1145.77 FEET ALONG SAID NORTH LINE; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 1516.13', WITH A RADIUS OF 6191.82', WITH A CHORD BEARING OF S 83°12'22" W, WITH A CHORD LENGTH OF 1512.35' TO THE EAST BOUNDARY LINE OF MEADOW RANCH PLAT 1 SUBDIVISION, THENCE NORTH 1294.11 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING, HAVING AN AREA OF 2915794.65 SQUARE FEET, 66.937 ACRES.



11038 N Highland Blvd
 Suite 400
 Highland UT, 84003
 office (801) 492-1277
 cell (801) 818-1877

**RANCHES
 PARKWAY**

SHEET NUMBER

A-1

Exhibit B-2 Culinary Water System Improvements Reimbursement

RCA65 Reimbursement/Improvement Costs Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension						
Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
Water						
<u>Required for Project</u>						
1	8" DIP Culinary Water	769.00	L.F.	\$32.10	\$24,684.90	
2	8" Water MJ Fittings	4.00	Each	\$413.00	\$1,652.00	
3	8" Gate Valves	4.00	Each	\$1,383.00	\$5,532.00	
PROJECT SUBTOTAL					\$31,868.90	
<u>City Oversize</u>						
4	10" DIP Culinary Water	769.00	L.F.	\$41.90	\$32,221.10	
5	10" Water MJ Fittings	4.00	Each	\$925.00	\$3,700.00	
6	10" Valves	4.00	Each	\$1,900.00	\$7,600.00	
OVERSIZE SUBTOTAL					\$43,521.10	
CULINARY WATER REIMBURSEMENT						\$11,652.20
TOTAL WATER REIMBURSEMENT						\$11,652

Exhibit B-3 Sewer System Improvements Reimbursement

RCA65 Reimbursement/Improvement Costs Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension						
Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
SEWER						
<u>Required for Project</u>						
1	8" PVC Sewer	1489.00	L.F.	\$25.10	\$37,373.90	
2	4' Dia Manholes	2.00	Each	\$2,610.00	\$5,220.00	
3	5' Dia Manholes	3.00	Each	\$3,208.00	\$9,624.00	
PROJECT SUBTOTAL					\$52,217.90	
<u>City Oversize</u>						
4	12" PVC Sewer	1489.00	L.F.	\$36.10	\$53,752.90	
5	4' Dia Manholes	0.00	Each	\$2,610.00	\$0.00	
6	5' Dia Manholes	5.00	Each	\$3,208.00	\$16,040.00	
OVERSIZE SUBTOTAL					\$69,792.90	
SEWER REIMBURSEMENT						\$17,575.00
TOTAL SEWER REIMBURSEMENT						\$17,575

Exhibit B-4 Storm Drain System Improvements Reimbursement

RCA65

Reimbursement/Improvement Costs

Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension

Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
STORM DRAIN						
<u>Required for Project</u>						
1	15" RCP Storm Drain	601.00	L.F.	\$32.80	\$19,712.80	
2	24" RCP Storm Drain	1059.00	L.F.	\$40.50	\$42,889.50	
					PROJECT SUBTOTAL	\$62,602.30
<u>City Oversize</u>						
3	24" RCP Storm Drain	601.00	L.F.	\$32.80	\$19,712.80	
4	36" RCP Storm Drain	1059.00	L.F.	\$52.10	\$55,173.90	
					OVERSIZE SUBTOTAL	\$74,886.70
STORM DRAIN REIMBURSEMENT						\$12,284.40

TOTAL STORM DRAIN REIMBURSEMENT

\$12,284

Exhibit B-5a Major Arterial Oversize Roadway System Improvements Reimbursement

RCA65 Reimbursement/Improvement Costs Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension						
Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
MAJOR ARTERIAL						
<u>Required for Project</u>						
1	Land Dedication 77' ROW	0.25	AC	\$45,000.00	\$11,136.36	
2	Engineered Fill 9"	6440	S.F.	\$0.28	\$1,803.20	
3	Road Base Course 6"	6440	S.F.	\$0.55	\$3,542.00	
4	Asphalt 3" Installed	5600	S.F.	\$1.17	\$6,552.00	
PROJECT SUBTOTAL					\$23,033.56	
<u>City Oversize</u>						
5	Land Dedication 156' ROW	0.50	AC	\$45,000.00	\$22,561.98	
6	Engineered Fill 13"	13160	S.F.	\$0.56	\$7,369.60	
7	Road Base Course 6"	13160	S.F.	\$0.55	\$7,238.00	
8	Asphalt 4.5" Installed	11480	S.F.	\$2.10	\$24,108.00	
9	Median Curbing	280.00	S.F.	\$12.10	\$3,388.00	
OVERSIZE SUBTOTAL					\$64,665.58	
MAJOR ARTERIAL REIMBURSEMENT						\$41,632.02

Exhibit B-5b Minor Arterial Oversize Roadway System Improvements Reimbursement

RCA65 Reimbursement/Improvement Costs Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension						
Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
MINOR ARTERIAL						
Required for Project						
1	Land Dedication 77' ROW	0.82	AC	\$45,000.00	\$36,750.00	
2	Engineered Fill 9"	21252	S.F.	\$0.28	\$5,950.56	
3	Road Base Course 6"	21252	S.F.	\$0.55	\$11,688.60	
4	Asphalt 3" Installed	18480	S.F.	\$1.17	\$21,621.60	
				PROJECT SUBTOTAL	\$76,010.76	
City Oversize						
5	Land Dedication 124' ROW	1.32	AC	\$45,000.00	\$59,181.82	
6	Engineered Fill 13"	40656	S.F.	\$0.56	\$22,767.36	
7	Road Base Course 6"	40656	S.F.	\$0.55	\$22,360.80	
8	Asphalt 4.5" Installed	29568	S.F.	\$2.10	\$62,092.80	
9	Median Curbing	924.00	S.F.	\$12.10	\$11,180.40	
				OVERSIZE SUBTOTAL	\$177,583.18	
				MINOR ARTERIAL REIMBURSEMENT		\$101,572.42

Exhibit B-5c Major Collector Oversize Roadway System Improvements Reimbursement

RCA65 Reimbursement/Improvement Costs Description: Furnish & Install Project & Non-project Improvements as part of the Ranches Parkway Extension						
Item	Description	Quantity	Unit	Unit Cost	Total Cost	Reimbursement
MAJOR COLLECTOR						
	<u>Required for Project</u>					
1	Land Dedication 77' ROW	1.44	AC	\$45,000.00	\$64,590.91	
				PROJECT SUBTOTAL	\$64,590.91	
	<u>City Oversize</u>					
2	Land Dedication 94' ROW	1.75	AC	\$45,000.00	\$78,851.24	
				OVERSIZE SUBTOTAL	\$78,851.24	
				MAJOR COLLECTOR REIMBURSEMENT		\$14,260.33

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
DECEMBER 1, 2015**

TITLE:	AGREEMENT – Consideration of an Impact Fee Reimbursement Agreement for RCA65, LLC		
FISCAL IMPACT:	\$198,976.00		
APPLICANT:	Eagle Mountain City		
GENERAL PLAN DESIGNATION	CURRENT ZONE	ACREAGE	COMMUNITY
N/A	N/A	N/A	

NOTICES:

- Posted in 2 public places
- Posted on City webpage
- Public Notice Webpage

REQUIRED FINDINGS:

**Public Works Board
Recommendation**

Vote: N/A

**Prepared By:
Jeremy Cook**

NOTES/COMMENTS:

RECOMMENDATION:

That the City Council approves the Impact Fee Reimbursement Agreement with RCA65, LLC.

BACKGROUND:

RCA65, LLC owns property located north of SR73 and adjacent to the lower section of the Spring Run Drive extension. As part of the Spring Run Drive extension, RCA installed water, wastewater (sewer), stormwater, and road improvements that were larger than necessary to service RCA65's property. The improvements were paid through an assessment area bond, but RCA65 has paid off its portion of the bond. The Impact Fee Reimbursement Agreement would reimburse RCA65 for the cost of the improvements through a yearly reimbursement based upon impact fees collected for development within the property. A presentation on the advantages and disadvantages to the City and the Developers of different reimbursement schemes will be provided at the council meeting.

**IMPACT FEE REIMBURSEMENT AGREEMENT
FOR SILVER LAKE LAND, LLC**

This Impact Fee Reimbursement Agreement (this “Agreement”) is entered into by and among **Eagle Mountain City**, a municipal corporation of the State of Utah (the “City”) and **Silver Lake Land, LLC**, a Utah limited liability company (“Developer”). City and Developer shall collectively be referred to herein as “Parties.”

RECITALS

- A. Developer is in the process of developing a portion of the Silver Lake development project that is owned by Developer (the “Project”).
- B. In conjunction with the Project, Developer upsized a portion of the Evan Ranch Sewer Trunkline within the Project from an eight inch sewer line to a fifteen inch wastewater (sewer) line (the “Improvements”) which additional cost to upsize the sewer line Developer believes should be considered a System Improvement and subject to reimbursement by the City from the City’s collection of impact fees.
- C. The Developer has requested that the City reimburse Developer for the cost of the Improvements.
- D. The City Engineer has reviewed the costs to upsize and construct the Improvements and determined that the reasonable cost of the Improvements is \$28,620.00.
- E. City agrees to allow the costs incurred by Developer related to such improvements to be reimbursed on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties contained herein, the parties agree as follows:

1. Developer’s Obligations. Developer shall construct and install, or cause to be constructed and installed, all of the Improvements at Developer’s initial sole cost and expense and in accordance with requirements of the City ordinances, including all warranty requirements. Upon completion of such Improvements and the inspection and reasonable acceptance of the same by the City, Developer shall dedicate or convey to the City such Improvements and the City shall thereafter own such Improvements, including the lands and rights-of-way dedicated to the City by Developer, subject to reimbursement of the Improvement cost as set forth herein.
2. Impact Fee Reimbursement. Pursuant to paragraphs 4 and 5 below, the City shall reimburse Developer for the actual cost incurred by Developer for the Improvements. City has

reviewed the estimated costs of the Improvements and City agrees that the total amount of reimbursable costs is \$28,620.00 (the “Reimbursable Costs”).

3. Review of Actual Expenditures. Prior to any reimbursement by the City for the Reimbursable Cost, City may require that Developer submit additional information or detail regarding all material, labor and equipment costs (the “Cost Breakdown”). Developer shall include invoices or receipts from all third-parties providing material, labor or equipment for the Infrastructure. Developer, either directly or through any affiliated company or subsidiary, shall not include or be entitled to any administrative fees, management fees, mark-ups, or profits on any material, labor or equipment. If the City disputes any of the costs or amounts included in the Cost Breakdown, City may either request additional information from Developer or provide to Developer a written response detailing the costs or amounts that City disputes and an explanation for City not accepting such costs or amounts.

4. Adjustment of Reimbursable Costs. If City determines that the Cost Breakdown establishes that the actual cost of construction of the Improvements was less than the Reimbursable Costs, the City may adjust the Reimbursable Costs to correspond to the actual costs of construction of the Improvements as determined by the City.

5. Collection and Accounting. The period between July 1 and June 30 of each year (“Reimbursement Period”) shall constitute the accounting period for determining the total amount of impact fees collected for reimbursement under this Agreement. Within thirty (30) days following the end of each Reimbursement Period, the City shall prepare and make available to Developer a report of all impact fees that were collected during the preceding accounting period that are payable to Developer under this Agreement (the “Yearly Accounting”). If City fails to provide the Yearly Accounting to Developer for any reason, Developer shall provide written request to the City for the Yearly Accounting. City shall pay the amounts to Developer within ten (10) days of written confirmation from Developer that Developer agrees with the Yearly Accounting.

6. Payments to Developer. Payments shall be made to Developer based upon the amount of Reimbursable Costs collected by the City from the sewer impact fees within the areas of the Project owned and developed by Developer during the Reimbursement Period minus any impact fees that are payable to TSSD or other third-parties as pass-through fees or as impact fees reimbursements. For example, if 10 building permits are issued for lots within the Project during a Reimbursement Period, and the sewer impact fee collected for each lot is \$3,800, the City will pay Developer the amount of \$38,000, minus any portion of the impact fee payable to TSSD or other third-parties, toward payment of the Reimbursable Costs related to wastewater Improvements. In the event that all impact fees are paid for all lots within the Project prior to the City fully reimbursing Developer for the Reimbursable Costs of any of the impact fees, City shall pay Developer the remaining Reimbursable Costs at the end of the next Reimbursement Period.

7. Cooperation and Noninterference. Developer agrees not to challenge impact fees on the Project and shall cooperate with the City in the collection of all impact fees required by the Ordinance.

8. Limitation on Payments and Damages. Developer's sole remedy under this Agreement shall be the specific performance of City's obligation to reimburse developer for the Reimbursable Costs. In no event shall Developer be entitled to interest, penalties or other damages related to City's failure to remit to Developer any payments under the terms of this Agreement.

9. Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid to the following addresses, and shall be effective three (3) days following the deposit of such mail as set forth above:

If to the City: Eagle Mountain City
1650 E. Stagecoach Run
Eagle Mountain, Utah 84005
Attn: City Recorder

With a copy to: Cohne Kinghorn
111 E. Broadway, 11th Floor
Salt Lake City, Utah 84111
Attn: Jeremy Cook

If to Developer: _____

10. General Provisions. The following provisions are also an integral part of this Agreement:

(a) Governmental Immunity. The City is a governmental entities under the "Utah Governmental Immunity Act" (Utah Code Ann. § 63-30-1, et seq.) (the "Immunity Act"). Nothing herein shall be construed as a waiver of any defenses available under the Immunity Act nor does City waive any limits of liability provided by the Immunity Act or any other provisions of Utah law.

(b) Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(c) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(d) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(e) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(f) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to any subsequent breach of this Agreement.

(g) Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of any other right, remedy or priority allowed by law.

(h) Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(i) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Attorneys' Fees. In the event any action or proceeding is brought by either party regarding this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial or on appeal.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Recitals. All recitals are expressly made a part of this Agreement as though completely set forth in the body of this Agreement.

(m) No Partnership. The Parties do not by this Agreement in any way or for any purpose become partners or joint venturers with each other.

DATED this _____ day of _____, 2015.

EAGLE MOUNTAIN CITY

Christopher Pengra, Mayor

ATTEST:

Fionnuala B Kofoed, City Recorder

SILVER LAKE LAND, LLC

By: _____

Print Name: _____

Title: _____

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
DECEMBER 1, 2015**

TITLE:	AGREEMENT – Consideration of an Impact Fee Reimbursement Agreement for Silver Lake Land, LLC		
FISCAL IMPACT:	\$28,620.00		
APPLICANT:	Eagle Mountain City		
GENERAL PLAN DESIGNATION	CURRENT ZONE	ACREAGE	COMMUNITY
N/A	N/A	N/A	

NOTICES:

- Posted in 2 public places
- Posted on City webpage
- Public Notice Webpage

REQUIRED FINDINGS:

**Public Works Board
Recommendation**

Vote: N/A

Prepared By:
Jeremy Cook
City Attorney

NOTES/COMMENTS:

RECOMMENDATION:

That the City Council approves the Impact Fee Reimbursement Agreement with Silver Lake Land, LLC.

BACKGROUND:

Silver Lake Land, LLC owns property located north of the SilverLake project. As part of the project, Silver Lake Land, LLC upsized a wastewater line from an eight inch line to a fifteen inch line. The Impact Fee Reimbursement Agreement would reimburse Silver Lake Land, LLC for the cost of the improvements through a yearly reimbursement based upon impact fees collected for development within the project area. A presentation on the advantages and disadvantages to the City and the developers of different reimbursement schemes will be provided at the Council meeting.

**IMPACT FEE REIMBURSEMENT AGREEMENT
FOR EAGLE12, LLC**

This Impact Fee Reimbursement Agreement (this “Agreement”) is entered into by and among **Eagle Mountain City**, a municipal corporation of the State of Utah (the “City”) and **Eagle12, LLC**, a Utah limited liability company (“Developer”). City and Developer shall collectively be referred to herein as “Parties.”

RECITALS

A. Developer is in the process of developing the Sunset Ridge development project (the “Project”).

B. In conjunction with the Project, Developer upsized a water line from an eight inch water line to a twelve inch water line (the “Improvements”) which additional cost to upsize the line Developer believes should be considered a System Improvement and subject to reimbursement by the City from the City’s collection of impact fees.

C. The Developer has requested that the City reimburse Developer for the cost of the Improvements.

D. A summary of the cost of the Improvements and the requested amount of reimbursement is attached hereto as Exhibit A (“Cost Summary”).

E. City agrees to allow the costs incurred by Developer related to such improvements to be reimbursed on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties contained herein, the parties agree as follows:

1. Developer’s Obligations. Developer shall construct and install, or cause to be constructed and installed, all of the Improvements at Developer’s initial sole cost and expense and in accordance with requirements of the City ordinances, including all warranty requirements. Upon completion of such Improvements and the inspection and reasonable acceptance of the same by the City, Developer shall dedicate or convey to the City such Improvements and the City shall thereafter own such Improvements, including the lands and rights-of-way dedicated to the City by Developer, subject to reimbursement of the Improvement cost as set forth herein.

2. Impact Fee Reimbursement. Pursuant to paragraphs 4 and 5 below, the City shall reimburse Developer for the actual cost incurred by Developer for the Improvements. City has reviewed and approved the Cost Summary, which details Developer’s estimate of the costs for

construction and installation of the Improvements. Accordingly, except as set forth in paragraph 3, Developer and City agree that the total amount of reimbursable costs is \$37,658.03 (the “Reimbursable Costs”) as shown on the Cost Summary.

3. Review of Actual Expenditures. Prior to any reimbursement by the City for the Reimbursable Cost, City may require that Developer submit additional information or detail regarding all material, labor and equipment costs (the “Cost Breakdown”). Developer shall include invoices or receipts from all third-parties providing material, labor or equipment for the Infrastructure. Developer, either directly or through any affiliated company or subsidiary, shall not include or be entitled to any administrative fees, management fees, mark-ups, or profits on any material, labor or equipment. If the City disputes any of the costs or amounts included in the Cost Breakdown, City may either request additional information from Developer or provide to Developer a written response detailing the costs or amounts that City disputes and an explanation for City not accepting such costs or amounts.

4. Adjustment of Reimbursable Costs. If City determines that the Cost Breakdown establishes that the actual costs of construction of the Improvements was less than the cost set forth in the Cost Summary, the City may adjust the Reimbursable Costs to correspond to the actual costs of construction of the Improvements as determined by the City.

5. Collection and Accounting. The period between July 1 and June 30 of each year (“Reimbursement Period”) shall constitute the accounting period for determining the total amount of impact fees collected for reimbursement under this Agreement. Within thirty (30) days following the end of each Reimbursement Period, the City shall prepare and make available to Developer a report of all impact fees that were collected during the preceding accounting period that are payable to Developer under this Agreement (the “Yearly Accounting”). If City fails to provide the Yearly Accounting to Developer for any reason, Developer shall provide written request to the City for the Yearly Accounting. City shall pay the amounts to Developer within ten (10) days of written confirmation from Developer that Developer agrees with the Yearly Accounting.

6. Payments to Developer. Payments shall be made to Developer based upon the amount of Reimbursable Costs collected by the City from the water impact fees within the Project during the Reimbursement Period minus any impact fees that are payable to third-parties as pass-through fees or as impact fees reimbursements. For example, if 10 building permits are issued for lots within the Project during a Reimbursement Period, and the water impact fee collected for each lot is \$3,800, the City will pay Developer the amount of \$38,000, minus any portion of the impact fee payable to other third-parties, toward payment of the Reimbursable Costs related to wastewater Improvements. In the event that all impact fees are paid for all lots within the Project prior to the City fully reimbursing Developer for the Reimbursable Costs of any of the impact fees, City shall pay Developer the remaining Reimbursable Costs at the end of the next Reimbursement Period.

7. Cooperation and Noninterference. Developer agrees not to challenge impact fees on the Project and shall cooperate with the City in the collection of all impact fees required by the Ordinance.

8. Limitation on Payments and Damages. Developer's sole remedy under this Agreement shall be the specific performance of City's obligation to reimburse developer for the Reimbursable Costs. In no event shall Developer be entitled to interest, penalties or other damages related to City's failure to remit to Developer any payments under the terms of this Agreement.

9. Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid to the following addresses, and shall be effective three (3) days following the deposit of such mail as set forth above:

If to the City: Eagle Mountain City
1650 E. Stagecoach Run
Eagle Mountain, Utah 84005
Attn: City Recorder

With a copy to: Cohne Kinghorn
111 E. Broadway, 11th Floor
Salt Lake City, Utah 84111
Attn: Jeremy Cook

If to Developer: _____

10. General Provisions. The following provisions are also an integral part of this Agreement:

(a) Governmental Immunity. The City is a governmental entities under the "Utah Governmental Immunity Act" (Utah Code Ann. § 63-30-1, et seq.) (the "Immunity Act"). Nothing herein shall be construed as a waiver of any defenses available under the Immunity Act nor does City waive any limits of liability provided by the Immunity Act or any other provisions of Utah law.

(b) Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(c) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(d) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(e) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(f) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to any subsequent breach of this Agreement.

(g) Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of any other right, remedy or priority allowed by law.

(h) Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(i) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Attorneys' Fees. In the event any action or proceeding is brought by either party regarding this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial or on appeal.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Recitals. All recitals are expressly made a part of this Agreement as though completely set forth in the body of this Agreement.

(m) No Partnership. The Parties do not by this Agreement in any way or for any purpose become partners or joint venturers with each other.

DATED this _____ day of _____, 2015.

EAGLE MOUNTAIN CITY

Christopher Pengra, Mayor

ATTEST:

Fionnuala B Kofoed, City Recorder

EAGLE12, LLC

By: _____

Print Name: _____

Title: _____

Exhibit A

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
DECEMBER 1, 2015**

TITLE:	AGREEMENT – Consideration of an Impact Fee Reimbursement Agreement for Eagle12, LLC		
FISCAL IMPACT:	\$37,658.03		
APPLICANT:	Eagle Mountain City		
GENERAL PLAN DESIGNATION	CURRENT ZONE	ACREAGE	COMMUNITY
N/A	N/A	N/A	

NOTICES:

- Posted in 2 public places
- Posted on City webpage
- Public Notice Webpage

REQUIRED FINDINGS:

**Public Works Board
Recommendation**

Vote: N/A

**Prepared By:
Jeremy Cook**

NOTES/COMMENTS:

RECOMMENDATION:

That the City Council approves the Impact Fee Reimbursement Agreement with Eagle12, LLC.

BACKGROUND:

Eagle12, LLC owns property located north of Sunset Ridge project (formerly known as Lone Tree West). As part of the Project, Eagle12, LLC upsized a water line from an eight inch line to a 12 inch line. The Impact Fee Reimbursement Agreement would reimburse Eagle12, LLC for the cost of the improvements through a yearly reimbursement based upon impact fees collected for development within the Project area. A presentation on the advantages and disadvantages to the City and the Developers of different reimbursement schemes will be provided at the council meeting.



CHANGE ORDER REQUEST FOR CHANGE ORDER

RFCO NUMBER: 13018-07
DATE: 11/27/2013

TO: Eagle 12, LLC
1099 W. South Jordan Parkway
South Jordan, UT 84095

PROJECT: Lone Tree Plat A
NUMBER: 13018
ADDRESS:

We hereby agree to make the change(s) as specified below:

DESCRIPTION: As per the plan revision date 9/18/13 by LEI, GCI made the following changes to the water line installation. The largest change was the upsizing of the 8" lines going East to West to 12" PVC, adding construction valves, and the addition of 1 Fire Hydrant.

Items:

1. Deduct 8" PVC C-900 -510 LF @ \$22.61 = \$-11,531.10
2. Deduct 8" Gate Valve -6 EA @ \$1,331.66 = \$-7,989.96
3. Deduct 8"x8"x8"x8" Cross -2 EA @ \$1,450.04 = \$-2,900.08
4. Deduct Fire Hydrant -3 EA @ \$4,614.56 = \$-13,843.68
5. Add 12"x8"x12"x8" Cross 2 EA @ \$2,509.26 = \$5,018.52
6. Add Fire Hydrant 4 EA @ \$5,428.48 = \$21,713.92
7. Add 12" PVC C-900 510 LF @ \$34.11 = \$17,396.10
8. Add 12" Butterfly Valve 8 EA @ \$2,944.57 = \$23,556.56
9. Add 12"x8" Reducer 2 EA @ \$1,277.25 = \$2,554.50

TOTAL THIS CHANGE: \$33,974.78

Upon approval the sum of \$33,974.78 will be added to the contract price.

ACCEPTED – The above prices and specifications of this Change order are satisfactory and are hereby accepted. All work to be performed under same terms and conditions as specified in otherwise stipulated.

Response to this change order must be received within ten (10) working days. If no response is received by Green Construction, Inc. within this time, it will be construed that lack of response as agreement to this Change Order as described.

Authorized Signature: _____ Date: _____

Green Construction, Inc.

Eagle 12, LLC
Fire Dept manager, LLC

Authorized Signature: _____ Date: _____

By: *[Signature]*
Eagle 12, LLC





CHANGE ORDER REQUEST FOR CHANGE ORDER

RFCO NUMBER: 13018-09
DATE: 11/27/2013

TO: Eagle 12, LLC
1099 W. South Jordan Parkway
South Jordan, UT 84095

PROJECT: Lone Tree Plat A
NUMBER: 13018
ADDRESS:

We hereby agree to make the change(s) as specified below:

DESCRIPTION: As directed by Chris Cozens, GCI changed the configuraion at the connections to existing waterlines to an 8" Gate Valve then reducer, rather than a reducer then a 12" Butterfly Valve, which is how the plans are drawn.

Items:

1. Deduct 12" Butterfly Valve – Material Only -2 EA @ \$1,302.87 = \$-2,605.74
2. Deduct 8"x12" PExMJ Reducer – Material Only -2 EA @ \$566.98 = \$-1,133.96
3. Add 8" Gate Valve – Material Only 2 EA @ \$1,116.43 = \$2,232.86
4. Add 12" PVC C-900 – Material Only 20 LF @ \$18.03 = \$360.60
5. Add 12" MJxFL Adapter – Material Only 2 EA @ 322.04 = \$644.08
6. Add 8"x12" FLxFL Reducer – Material Only 2 EA @ \$780.41 = \$1,560.82
7. Add 12" Sleeve – Material Only 2 EA @ \$516.18 = \$1,032.36
8. Labor & Equipment to Excavate, Change the Fittings, and Backfill 1 LS @ \$3,412.50 = \$3,412.50

TOTAL THIS CHANGE: \$5,503.52

Upon approval the sum of \$5,503.52 will be added to the contract price.

ACCEPTED – The above prices and specifications of this Change order are satisfactory and are hereby accepted. All work to be performed under same terms and conditions as specified in otherwise stipulated.

Response to this change order must be received within ten (10) working days. If no response is received by Green Construction, Inc. within this time, it will be construed that lack of response as agreement to this Change Order as described.

Authorized Signature: _____ Date: _____
Green Construction, Inc.

Authorized Signature: _____ Date: _____
Eagle 12, LLC By: *[Signature]*

