



EAGLE MOUNTAIN CITY
City Council Staff Report

FEBRUARY 2, 2016

Project: **Porter's Crossing Town Center Project Entrance Sign**
Applicant: Pony Express Land Development (Agent – Larry Shelton)
Type of Action: Action Item; Recommendation to the City Council

Planning Commission Recommendation

On January 26th the Planning Commission reviewed the proposed Porter's Crossing Town Center Project Entrance sign. Ultimately the Planning Commission recommended approval of the Sign (3-0 2 commissioners were absent) with the following conditions:

1. Sign lamp/lighting be consistent with chapter **17.56 Outdoor lighting standards**
2. Sign illumination be consistent with standards in chapter **17.80 Sign regulations and sign permits**
3. The applicant enter into an agreement to lease the city's property on which the sign is built

PROPOSAL

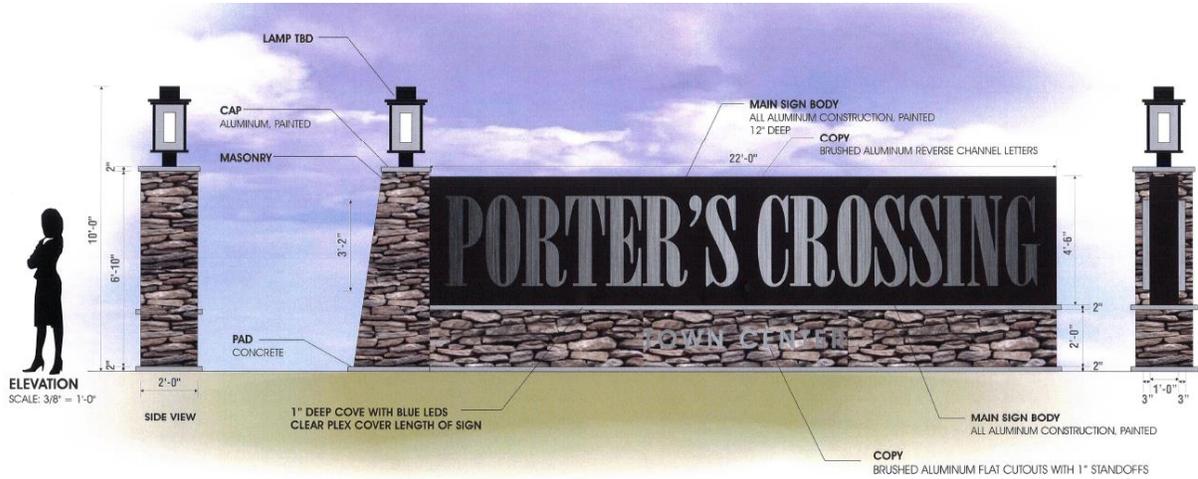
The applicant is proposing a community entrance sign for the Porter's Crossing Town Center development. Community entrance signs are approved under the following guidelines and according to the following process found in the City Code:

17.80.110 Community entrance signs.

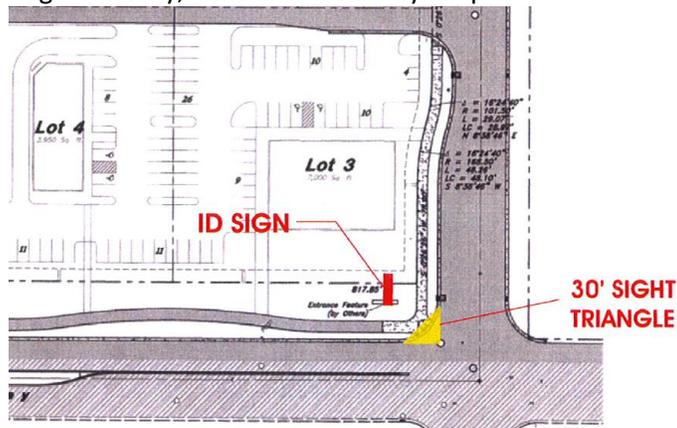
Community entrance signs located in the median or shoulder of the city's right-of-way (ROW) along streets classified as arterials or collectors shall only be allowed under specific agreement with the city. Community entrance signs shall be constructed, installed, and maintained at the expense of the original applicant in accordance with the specifications outlined in the submitted application and as determined by the city council. The exact location of each sign and the sign copy shall be subject to review and approval by the Eagle Mountain planning commission and city council.

A. Approval Process. Community entrance signage shall not be construed as an absolute right upon submission of an application and does not require the approval body to take action based upon findings of fact. At their discretion, the planning commission may recommend and the city council may approve community entrance signs along streets classified as arterials and collector roads. The placement of the signs shall not create a traffic hazard. Since these signs are within the city's right-of-way, the applicant must enter into an agreement to lease the city's property. The city council shall approve the agreement, which will detail the terms and conditions of the property lease as well as the design of the signage. The lease fee shall be equal to the fee established in the city's current consolidated fee schedule for off-premises ladder signs. [Ord. O-06-2010 § 2 (Exh. A); Ord. O-12-2009 § 2 (Exh. A); Ord. O-26-2008 § 2 (Exh. A § 16.9); Ord. O-18-2008 § 2 (Exh. A § 16.9); Ord. O-17-2006 § 2 (Exh. 1 § 16.9). Formerly 17.80.100].

The applicant is proposing a sign that is six feet ten inches tall (6'-10") from the base to the top of the sign, ten feet (10') to the top of the proposed lamp, and twenty-two feet long (22') with ninety-nine (99) square feet of sign copy area.



The sign is located at the corner of Pony Express Parkway, and Porter's Crossing Road. The sign does extend onto the public Right-Of-Way, which is allowed by chapter 17.80.110



Concerns

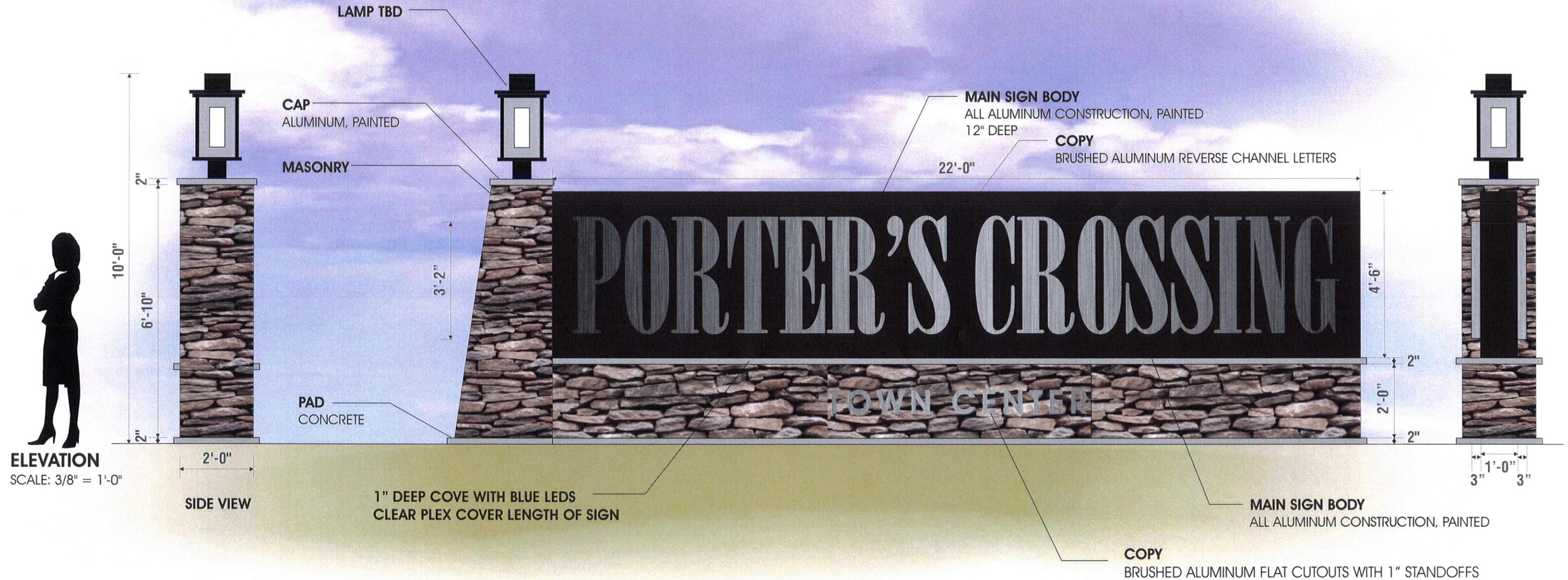
Lighting must meet dark sky standards detailed in chapter 17.56 *Outdoor lighting standards* as well as sign illumination standards found in chapter 17.80 *Sign regulations and sign permits*

ATTACHMENTS:

- Proposed Porter's Crossing project entrance sign

ID SIGN

MANUFACTURE AND INSTALL
(1) D/F MONUMENT SIGN



Utah Contractors: 375809-5501 • Nevada:60486 • Colorado:237787 • Idaho:RCE-29969

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SALT LAKE CITY:
1920 S 900 W
(801) 972-5503
WWW.ALLIED-SIGN.COM

DRAWING STEPS
 CONCEPT
 ESTIMATING
 PERMIT/LANDLORD
 PRODUCTION/INSTALL

DRAWING REVIEW
 SURVEY
 PRODUCTION REVIEW
 INSTALL REVIEW

Client: Porter's Crossing
Address: 4000 E Pony Express Pkwy
Eagle Mountain, UT
File Name: Porter's Crossing - Sign Package - 1-19-16 (REV 1)

SALES APPROVAL:
Designer: Jason (Rev Nik)
Sales: Cindy

CUSTOMER APPROVAL **REVISIONS**
SIGNATURE

UTAH COUNTY: 1852 N. Parkway Court, Springville, UT 84663 • (801) 489-3645 **OGDEN:** 2924 Pennsylvania Avenue • (801) 621-4612





NIGHT RENDERING

NTS

Utah Contractors: 375809-5501 • Nevada:60486 • Colorado:237787 • Idaho:RCE-29969

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Signs that build business!

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DRAWING STEPS
 CONCEPT
 ESTIMATING
 PERMIT/LANDLORD
 PRODUCTION/INSTALL

DRAWING REVIEW
NAME SURVEY
NAME PRODUCTION REVIEW
NAME INSTALL REVIEW

Client: Porter's Crossing
Address: 4000 E Pony Express Pkwy
Eagle Mountain, UT
File Name: Porter's Crossing - Sign Package - 1-26-16

SALES APPROVAL:
Designer: Jason (Rev Nik)
Sales: Cindy

CUSTOMER APPROVAL	REVISIONS
SIGNATURE	

UTAH COUNTY: 1852 N. Parkway Court, Springville, UT 84663 • (801) 489-3645 **OGDEN:** 2924 Pennsylvania Avenue • (801) 621-4612





EAGLE MOUNTAIN CITY
City Council Staff Report

FEBRUARY 2, 2016

Project: Silverlake Entry Sign
Applicant: Bronson Tatton
Type of Action: Action Item; Recommendation to the City Council

Planning Commission Recommendation

On January 26th the Planning Commission reviewed the proposed Porter's Crossing Town Center Project Entrance sign. Ultimately the Planning Commission recommended approval of the Sign (3-0 2 commissioners were absent) with the following condition:

1. The applicant enter into an agreement to lease the city's property on which the sign is built

PROPOSAL

The applicant is proposing a community entrance sign for the Silverlake development, more specifically Silverlake 14. Community entrance signs are approved under the following guidelines and according to the following process found in the City Code:

17.80.110 Community entrance signs.

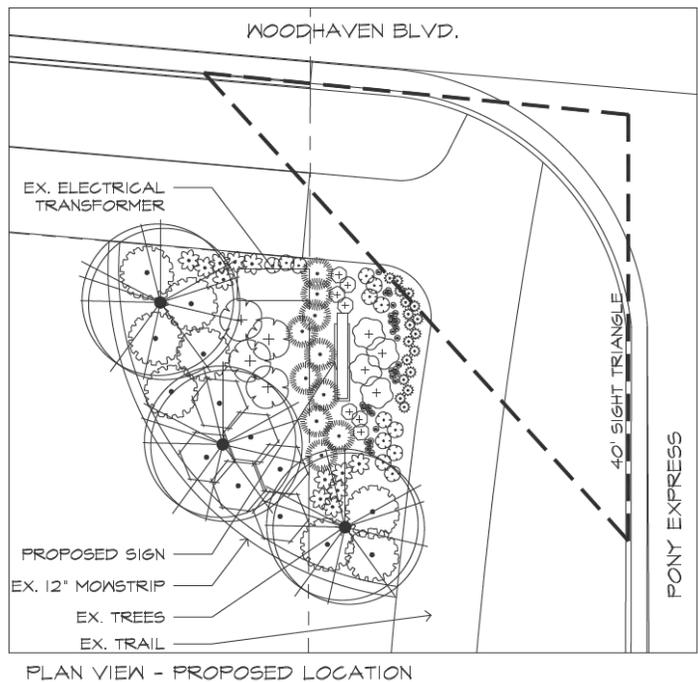
Community entrance signs located in the median or shoulder of the city's right-of-way (ROW) along streets classified as arterials or collectors shall only be allowed under specific agreement with the city. Community entrance signs shall be constructed, installed, and maintained at the expense of the original applicant in accordance with the specifications outlined in the submitted application and as determined by the city council. The exact location of each sign and the sign copy shall be subject to review and approval by the Eagle Mountain planning commission and city council.

A. Approval Process. Community entrance signage shall not be construed as an absolute right upon submission of an application and does not require the approval body to take action based upon findings of fact. At their discretion, the planning commission may recommend and the city council may approve community entrance signs along streets classified as arterials and collector roads. The placement of the signs shall not create a traffic hazard. Since these signs are within the city's right-of-way, the applicant must enter into an agreement to lease the city's property. The city council shall approve the agreement, which will detail the terms and conditions of the property lease as well as the design of the signage. The lease fee shall be equal to the fee established in the city's current consolidated fee schedule for off-premises ladder signs. [Ord. O-06-2010 § 2 (Exh. A); Ord. O-12-2009 § 2 (Exh. A); Ord. O-26-2008 § 2 (Exh. A § 16.9); Ord. O-18-2008 § 2 (Exh. A § 16.9); Ord. O-17-2006 § 2 (Exh. 1 § 16.9). Formerly 17.80.100].

The applicant is proposing a sign that is six tall (6') from the base to the top of the sign, ten foot and three inches (10'-3") long with eighteen (18) square feet of sign copy area.



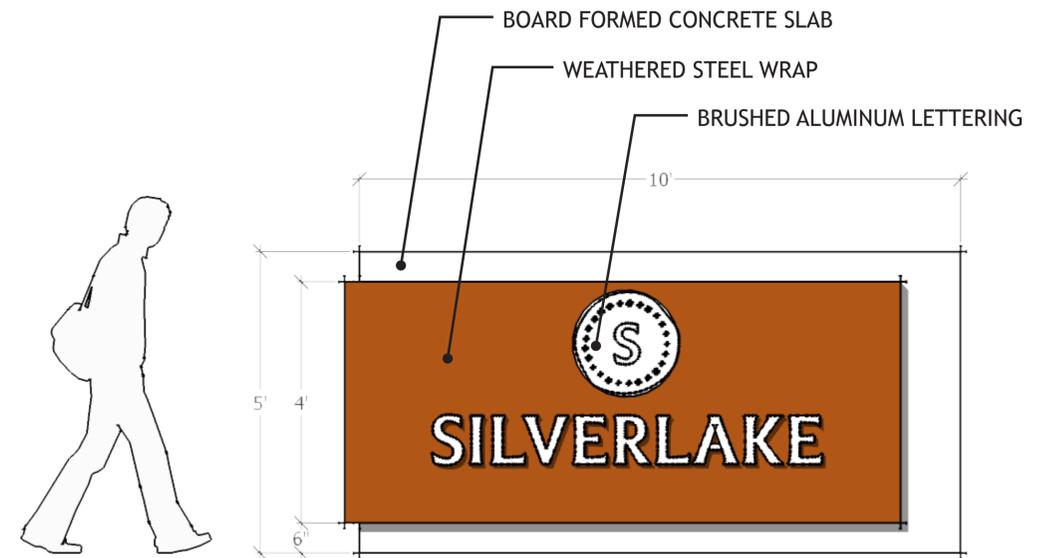
The sign is located at the corner of Pony Express Parkway, and Woodhaven Boulevard, facing toward Pony Express Parkway. The sign does not extend onto the public Right-Of-Way, which is allowed by chapter 17.80.110



PLAN VIEW - PROPOSED LOCATION

ATTACHMENTS:

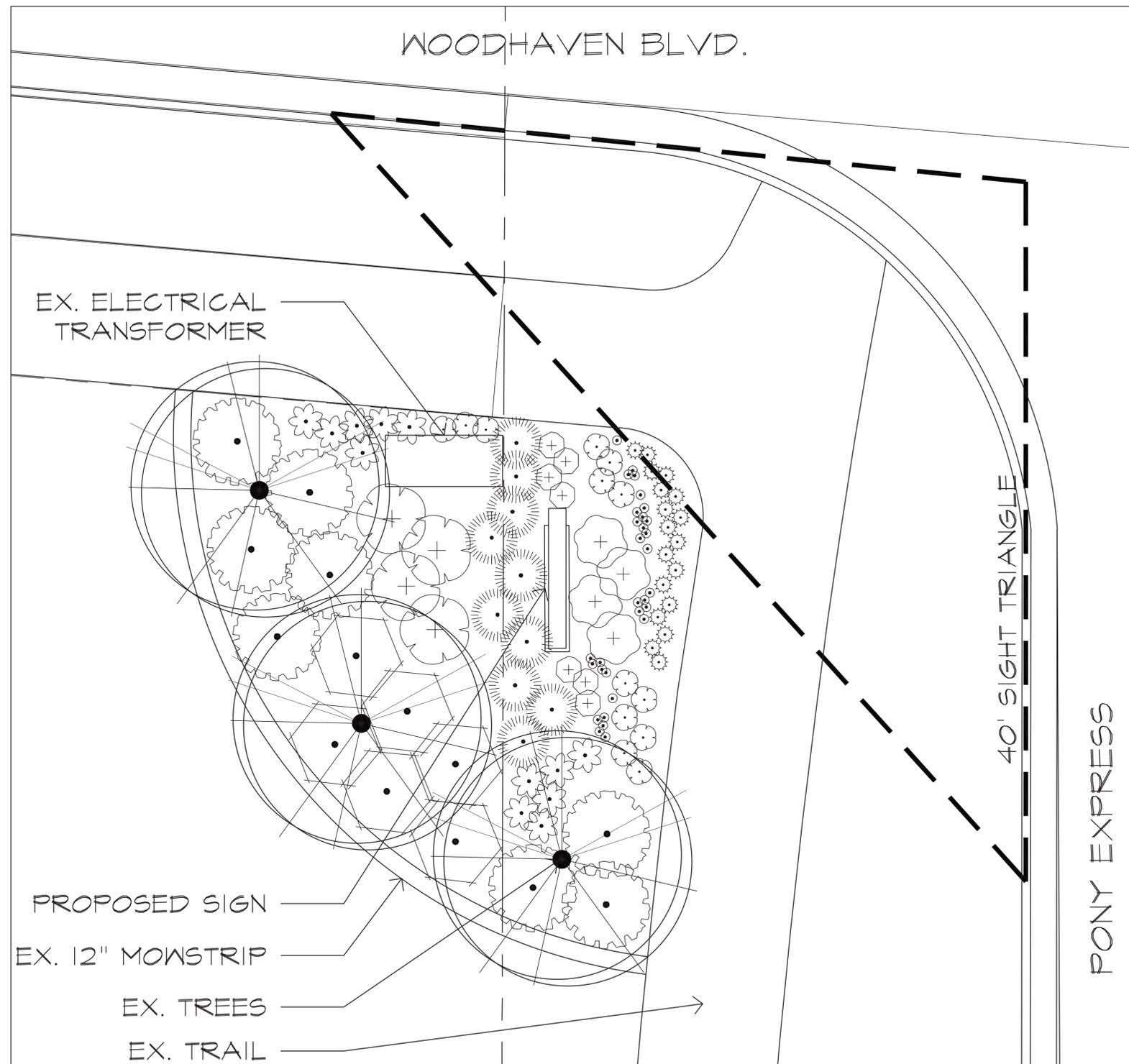
- Proposed Silverlake Entry Sign
- Proposed Location of Entry Sign



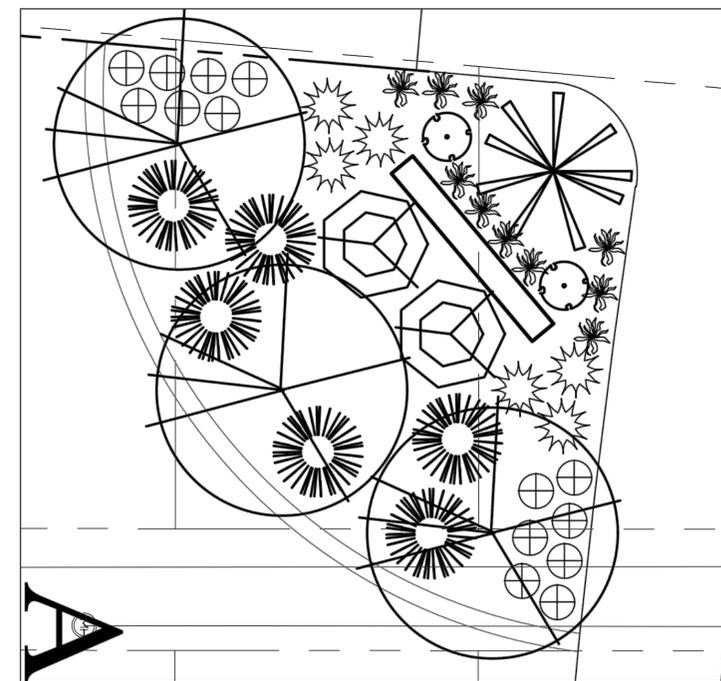
SILVER LAKE SECONDARY ENTRY SIGN | Eagle Mountain, Utah

Conceptual Rendering, prepared by Flagship Homes





PLAN VIEW - PROPOSED LOCATION



PLAN VIEW - EXISTING PLANTING

PLANT SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	CONT.	QTY.
	Existing Tree - Malus sp. / Estimated size	--	3
SHRUBS	BOTANICAL NAME / COMMON NAME	SIZE	QTY.
	Rhus aromatica 'Gro-Low' / Gro-Low Fragrant Sumac Mature Size: H3' W3'	5 gal	8
	Taxus x media 'Dark Green Spreading' / Dark Green Spreader Yew Mature Size: H3-4' W4-6'	5 gal	6
ANNUALS/BULBS	BOTANICAL NAME / COMMON NAME	SIZE	QTY.
	Allium aflatanense 'Purple Sensation' / Purple Sensation Ornamental Onion Mature Size: H20-30"	Bulb	31
GRASSES	BOTANICAL NAME / COMMON NAME	SIZE	QTY.
	Calamagrostis x acutiflora 'Karl Foerster' / Feather Reed Grass Mature Size: H3-5' W2-3'	1 gal	10
	Festuca glauca 'Boulder Blue' / Boulder Blue Fescue Mature Size:	1 gal	18
PERENNIALS	BOTANICAL NAME / COMMON NAME	SIZE	QTY.
	Agastache aurantiaca 'Apricot Sprite' / Apricot Sprite Hyssop	1 gal	12
	Hemerocallis x 'Stella de Oro' / Stella de Oro Daylily	1 gal	13
	Oenothera missouriensis 'Ozark Sundrops' / Missouri Primrose	1 gal	4
	Perovskia atriplicifolia / Russian Sage Mature Size: H3-4' W3-4'	1 gal	4
	Perovskia atriplicifolia 'Little Lace' / Little Lace Russian Sage Mature Size: H12-14' W12-14'	1 gal	7

SILVER LAKE SECONDARY ENTRY SIGN | Eagle Mountain, Utah

Planting Concept, prepared by Flagship Homes



SILVERLAKE



**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
FEBRUARY 2, 2016**

TITLE:	<u>AGREEMENT – Consideration of an Impact Fee Reimbursement Agreement for RCA65, LLC.</u>		
FISCAL IMPACT:	\$186,566.00		
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 SR 73 and adjacent to the lower section of the Spring Run Drive extension. As part of the Spring Run Drive extension, RCA65 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 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.

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 \$186,566.00 (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 _____, 2016.

EAGLE MOUNTAIN CITY

Christopher Pengra, Mayor

ATTEST:

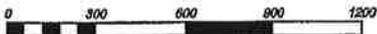
Fionnuala B Kofoed, City Recorder

RCA65, LLC

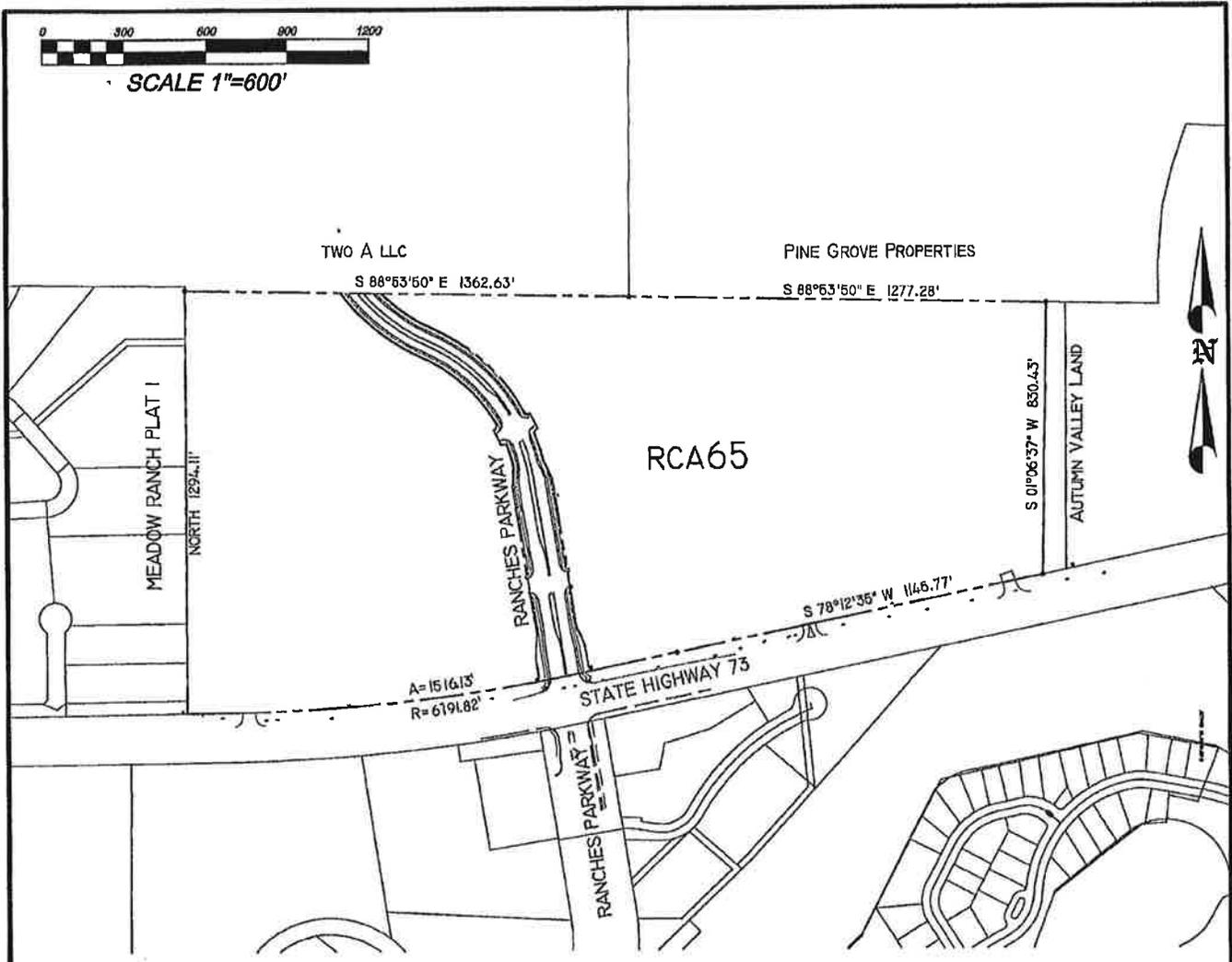
By: _____

Print Name: _____

Title: _____



SCALE 1"=600'



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.



CIVIL ENGINEERING

11038 N Highland Blvd
 Suite 400
 Highland UT, 84003
 office (801) 482-1277
 cell (801) 616-1677

**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	\$0.00	\$0.00	(Less 140 ft of UDOT Purchase)
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					\$11,897.20	
<u>City Oversize</u>						
5	Land Dedication 156' ROW	0.50	AC	\$0.00	\$0.00	(Less 140 ft of UDOT Purchase)
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					\$42,103.60	
MAJOR ARTERIAL REIMBURSEMENT						\$30,206.40

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						
<u>Required for Project</u>						
1	Land Dedication 77' ROW	0.54	AC	\$55,000.00	\$29,944.44	(Less 154 ft of UDOT Purchase)
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					\$69,205.20	
<u>City Oversize</u>						
5	Land Dedication 124' ROW	0.88	AC	\$55,000.00	\$48,222.22	(Less 154 ft of UDOT Purchase)
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					\$166,623.58	
MINOR ARTERIAL REIMBURSEMENT						\$97,418.38

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	\$55,000.00	\$78,944.44	
				PROJECT SUBTOTAL	\$78,944.44	
	<u>City Oversize</u>					
2	Land Dedication 94' ROW	1.75	AC	\$55,000.00	\$96,373.74	
				OVERSIZE SUBTOTAL	\$96,373.74	
				MAJOR COLLECTOR REIMBURSEMENT		\$17,429.29

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
February 2, 2016**

TITLE:	Amended and Restated CWP FY2009 A and CWP FY2010 A2 Water Supply Agreements for Sale of CWP Municipal and Industrial Water		
FISCAL IMPACT:			
APPLICANT:	Staff		
GENERAL PLAN DESIGNATION	CURRENT ZONE	ACREAGE	COMMUNITY
N/A	N/A	N/A	Citywide

NOTICES:

- Posted in 2 public places
- Posted on City webpage

REQUIRED FINDINGS:

Planning Commission Action / Recommendation
Vote: N/A

Prepared By: Jeremy R. Cook
--

NOTES/COMMENTS:

RECOMMENDATION:

Amended and Restated CWP FY2009 A and CWP FY2010 A2 Water Supply Agreements for Sale of CP Municipal and Industrial Water

BACKGROUND:

The City previously entered into the CWP FY2009 A (the "2009 Agreement") and CWP FY2010 A2 (the "2010 Agreement") Water Supply Agreements for Sale of CWP Municipal and Industrial Water. The 2009 Agreement is for the purchase of 2,500 acre-feet of CWP water and the 2010 Agreement is for the purchase of 11,500 acre-feet of CWP water. The amendments to the 2009 and 2010 Agreements primarily amend the take-down schedules in the Agreements and correspondingly increase the cost per acre-foot of the water in conjunction with the delay in the take-down schedule.

**AMENDED AND RESTATED WATER SUPPLY AGREEMENT
BETWEEN CENTRAL UTAH WATER CONSERVANCY DISTRICT
AND
EAGLE MOUNTAIN CITY, UTAH
FOR SALE OF CWP MUNICIPAL AND INDUSTRIAL WATER**

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~~This Water Supply Agreement~~ **THIS AMENDED AND RESTATED WATER SUPPLY AGREEMENT** ("Agreement") is made **effective** as of this ____ day of **September,** ~~2008,~~ **2016 (the "Effective Date")**, by and between the Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah ("District"), and Eagle Mountain City, a municipal corporation, ("Purchaser"). The District and the Purchaser are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. The District is organized and exists pursuant to the Utah Water Conservancy Act, Utah Code Annotated §17B-2a-1001, et seq., and those provisions of §17B-1-101, et seq., applicable to all local districts, both sections as amended (collectively, the "Act"), for the purpose, among others, of making water available to contract holders residing within its boundaries and of entering into agreements with public and private water users for the purchase and sale of water and its delivery.

B. The Purchaser is a water user organized under the laws of the State of Utah that utilizes and/or provides water service to its customers within its boundaries, and which desires to purchase an additional supply of municipal and industrial ("M&I") water from the District.

C. The District shall design, construct, operate, maintain, repair and replace the Central Utah Water Conservancy District Water Development Project ("CWP"), and has developed and obtained and will

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²¹ ~~CWP - Final Amended and Restated Eagle Mountain City - 2500 Water Sales Supply Agreement - 29 Sept 2008 - 2016~~

develop and obtain sources of water supply for sale and delivery to contract purchasers through the CWP.

D. The Parties enter into this Agreement to set amend and restate that certain Water Supply Agreement between Central Utah Water Conservancy District and Eagle Mountain City For the Sale of CWP Municipal and Industrial Water, dated September 30, 2008 (the "Initial Agreement"), as amended by the Parties pursuant to that certain letter agreement dated April 27, 2011 (the "First Amendment"), as further amended by the Parties pursuant to that certain letter agreement dated August 11, 2013 (the "Second Amendment") (the Initial Agreement, the First Amendment and the Second Amendment being sometimes referred to herein collectively as the "Original Agreement"). for the purpose of setting forth the terms and conditions pursuant to which CWP water may be reserved by, purchased by and delivered to the Purchaser at the point or points designated herein, for sale and distribution by the Purchaser to meet a portion of the needs of its customers.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, the Parties agree as follows:

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TERMS

i. Sale and Purchase of CWP Water

(a) The District hereby agrees to sell and the Purchaser hereby agrees to purchase annually, or in any event pay for, as described herein, two thousand five hundred (2,500) acre-feet of M&I water developed from the CWP ("Purchased Water"), consisting of Two thousand Five hundred (2,500) acre-feet of Deliverable Water, as defined in Paragraph 2(b)(1)(B) below, delivered using CWP or District operated infrastructure ("CWP Infrastructure Water") and Zero (0) -acre-feet of Deliverable Water

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delivered to Purchaser by means other than CWP or District operated infrastructure ("CWP Non-Infrastructure Water").

(b) Subject to the terms and conditions of this Agreement, the Purchased Water shall be reserved and made available by the District to the Purchaser in accordance with the Take-down Schedule attached as Exhibit "A" hereto. The Deliverable Water shall then be delivered to the Purchaser at the specified point or points of delivery, and within the maximum daily flow rates ("Contract Capacity") set forth on the Delivery Schedule attached as Exhibit "B" hereto. The Parties hereby understand and acknowledge that in establishing the Contract Capacity, the District must consider both the capacity of the available CWP water supply and the capacity of the available CWP infrastructure, including the capacity of all available reservoirs, wells, treatment plants, transmission lines, meters and meter stations, and pumps and pump stations within the CWP system (collectively, the "CWP System Capacity").

(c) The District and the Purchaser agree and understand that the sale of Purchased Water under this Agreement, as amended and restated, is under terms and conditions that are the same for similarly situated customers entering into CWP water supply agreements during the period July 1, 2008 through September, 30, 2008 (said grouping of water supply agreements being referred to for purpose of identification as "CWP FY2009 A") and offered to all existing CWP Water Supply Agreement Customers as of January 1, 2016.

(d) In the event the District shall enter into any CWP supply agreement(s) having a pricing structure or terms of sale more favorable to the purchaser therein than those set forth in Paragraph 2 below, the Parties agree that this Agreement shall be amended so as to apply the same pricing structure or terms of sale herein.

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2. Sales Price of Purchased Water

(a) General.

(1) CWP water is sold and delivered pursuant to a pricing structure containing the following four components: (i) a One-time Development Charge; (ii) an Annual Reservation Fee, (iii) an Annual Water Fee, and (iv) an Annual Service Fee, all as described in Paragraph 2(b) below. (The One-time Development Charge, the Annual Reservation Fee, the Annual Water Fee and the Annual Service Fee are sometimes referred to herein collectively as the "CWP Fees").

(2) Factors that will influence the amount for each of the four components of the pricing structure may include: (i) whether a purchaser uses or does not use any of the District's infrastructure; and (ii) the grouping, by year, of water purchase agreements for CWP water. At the sole discretion of the District, the cost of some of the four components of the pricing structure may be zero based on the factors described above.

(3) The CWP Fees set forth herein are imposed for the sole purpose of developing and providing the CWP water supply and providing the infrastructure necessary to deliver the Purchased Water to the Purchaser and other water users and customer agencies that enter into similarly situated and dated CWP water supply agreements. CWP Fees will not include District costs from projects not directly related to the CWP. The District shall treat all CWP water purchasers, similarly situated within water sales agreements grouped according to the effective dates of said agreements as may be determined by the District, in an equal, fair and non-discriminatory manner.

(4) CWP Fees under this Agreement shall be due and payable by the Purchaser, as provided herein, regardless of whether the Purchaser calls for or uses any of the Purchased Water in any given year, subject to annual adjustment as provided in Paragraph 7 herein. Notwithstanding the

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foregoing, in the unlikely event the CWP infrastructure is not capable of delivering Purchased water to Purchaser in the fiscal year first set forth in the Take Down Schedule, Exhibit "A" hereto, the obligation of the Purchaser to pay the One-time Development Charge and the Reservation Fee shall be suspended, the volume of water scheduled to be removed from reserved status and become Deliverable Water, as defined in Paragraph 2(b)(1)(B), in that fiscal year shall be set back and added onto the next succeeding year, until Purchased water is available for delivery, at which time payment of the One-time Development Charge, as provided herein, shall be due for the fiscal year in which Purchased Water first becomes Deliverable Water and for each fiscal year added on thereto.

(b) CWP Pricing Structure. The pricing structure for the CWP FY2009 A water supply agreements is as follows:

(1) One-time Development Charge.

(A) The District must recover from all purchasers that enter into water supply agreements the costs of the District to develop the CWP, including the acquisition and development of the CWP water supply and the planning, design and construction of the CWP infrastructure ("CWP Development Cost"). The One-time Development Charge is charged on a per acre-foot basis as provided in Paragraph 2(c) below, and covers the majority of the Purchaser's proportionate share of the CWP Development Cost. The respective One-time Development ChargeCharges to be paid by Purchaser for the CWP Infrastructure Water reserved under this Agreement is fixed by this Agreement and in the amounts shown in the Take Down Schedule, Exhibit A hereto, during the term of this Agreement for each block of CWP water ("Block"), taken out of reserved status under the schedule set forth in the Take Down Schedule and is not subject to change for CWP water reserved under this Agreement, except for provisions contained in Paragraph 4.

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CWP-Final Amended and Restated Eagle Mtn Mountain City- 2500 Water Sales Supply Agreement-29 Sept-2008 - 2016

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(B) The One-time Development Charge designated for each Block is paid one-time only by the Purchaser for the ~~total~~that volume of Purchased Water under each Block, and is due and payable on July 1 of the fiscal year in which the Block of Purchased Water is removed from reserved status as provided in Paragraph 2(b)(2)(A) below and made available to the Purchaser for delivery ~~each year~~ (“Deliverable Water”) in accordance with the Take-down Schedule, ~~Exhibit A.~~

~~(C) The One-time Development Charge for the CWP Infrastructure Water [CWP Non-Infrastructure Water] reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the table under Paragraph 2 (e)(1).~~

(2) Annual Reservation Fee.

(A) The Annual Reservation Fee applies to Purchased Water held in reserve status for the Purchaser pursuant to the provisions of Paragraph 4 (“Reserved Water”), and is imposed inasmuch as the CWP Development Cost must be paid by the District regardless of whether the Purchaser takes delivery of Purchased Water or not. The Annual Reservation Fee is charged on a per acre-foot basis as provided in Paragraph 2(b)(3) below and covers an additional portion of the Purchaser’s proportionate share of the CWP Development Cost during the period the Purchased Water remains in reserved status. As Purchased Water is removed from its reserved status and becomes Deliverable Water pursuant to the Take-down Schedule, Exhibit A, the District will no longer impose an Annual Reservation Fee on said water. The Purchaser will then pay the One-time Development Charge on the Deliverable Water as provided in Paragraph 2(b)(1) and commence payment of the Annual Water Fee as provided in Paragraph 2(b)(3) and the Annual Service Fee as provided in

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Paragraph 2(b)(4). The District will continue to impose the Annual Reservation Fee on any and all Purchased Water that remains in Reserved Water status for the Purchaser.

(B) The Annual Reservation Fee is charged on a per acre-foot basis for each acre-foot of Purchased Water held in reserved status for the Purchaser pursuant to Paragraph 4 as of December 31st of the preceding calendar year, and is due and payable annually on or before February 15th of the current year.

(C) The Annual Reservation Fee for the CWP Infrastructure Water [~~CWP Non-Infrastructure Water~~] reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the table under Paragraph 2(e)(1): Take Down Schedule, Exhibit "A" hereto.

(3) Annual Water Fee.

(A) The Annual Water Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover costs associated with the operation, maintenance, repair and replacement ("O&M") of the CWP infrastructure, to fund O&M reserves for the CWP, to pay the remaining portion of the Purchaser's proportionate share of the CWP Development Cost not covered by the One-time Development Charge and the Annual Reservation Fee (proportionate share for this purpose being defined as Purchaser's total volume of CWP Infrastructure Water under this Agreement divided by the total capacity of the CWP attributable to CWP Infrastructure Water, estimated by the Parties as of the date hereof to be 54,940,53,312 acre-feet, averaged over a five-year rolling period), and to cover other related costs of the District pertaining solely to the CWP infrastructure. —The amount of the Annual Water Fee to be charged is set annually by the District's board of trustees, and may change from year-to-year.

(B) In payment of the Annual Water Fee, the Purchaser will only pay that

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amount attributed to a proportionate share of costs incurred for O&M, to fund the O&M Reserve and other related costs pertaining to CWP infrastructure, apportioned to the Purchaser based upon the annual cumulative volume of Deliverable Water, in acre-feet.

(C) The ~~initial~~ amount of the Annual Water Fee for the CWP Infrastructure Water ~~[CWP Non-Infrastructure Water]~~ reserved for Purchaser hereunder, in place as of the Effective Date of this Agreement, is set forth in the ~~table under Paragraph 2 (e)(1)~~:

Take Down Schedule, Exhibit "A" hereto.¹ Payment shall be made in conformance with the following:

(i) The District will invoice the Purchaser for the Annual Water Fee commencing the end of the month following the payment of the One-time Development Charge.

(ii) Subject to the provisions of Paragraph 2(b)(3)(D) below, the Annual Water Fee is payable by the Purchaser on a monthly basis within 30 days of the date of the District's invoice for actual water deliveries made in months prior to the date of the invoice.

(iii) Subject to the provisions of Paragraph 7 below, the Annual Water Fee is to be paid by the Purchaser as provided herein regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year. In the event the amount paid by the Purchaser under invoices for actual water delivered in conformance with Paragraph 2(b)(3)(C)(ii) is less than the total Annual Water Fee due hereunder, the remaining balance shall be invoiced by the District in the June billing each fiscal year.

(D) Notwithstanding the provisions of Paragraph 2(b)(3)(C) above, the Purchaser, at its option, may give written notice to the District that it desires to capitalize the Annual

¹ The amount of the Annual Water Fee as set forth in the Original Agreement and each past and current year, as well as the estimated future amounts is also shown.

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Water Fee. The District is willing to accept an up-front capitalized payment (“Capitalized Annual Water Fee”), for a period of not to exceed five years (“Capitalization Period”), under terms and conditions established by the District in its sole discretion, subject to the following:

(i) Upon receipt of notice from the Purchaser, the District will calculate the total estimated amount of the Capitalized Annual Water Fee to be due and payable over the Capitalization Period commencing the date Deliverable Water becomes available to the Purchaser. The District will thereupon notify the Purchaser, in writing, of the amount of the Capitalized Annual Water Fee to be charged, which shall be due and payable by the Purchaser within thirty (30) days from the date it receives said notice.

(ii) Within sixty (60) days of the end of the Capitalization Period, the District shall reconcile with the Purchaser the difference between the Capitalized Annual Water Fee paid by the Purchaser and the actual amount that would have been paid had the Purchaser paid the Annual Water Fee on an annual basis. If the Capitalized Annual Water Fee paid by the Purchaser is higher than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the District shall credit the difference to the Purchaser against future Annual Water Fees payable by the Purchaser as determined by the District. If the Capitalized Annual Water Fee paid by the Purchaser is lower than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the Purchaser shall pay the difference to the District within ninety (90) days from the end of the Capitalization Period.

(4) Annual Service Fee.

(A) The Annual Service Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover a portion of the District’s CWP administrative costs and expenses.

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(B) The Annual Service Fee is due and payable annually on or before February 15th of the current year for the annual cumulative volume, in acre-feet, of Deliverable Water pursuant to this Agreement as of December 31st of the preceding year. The Annual Service Fee will be due and payable regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year.

(C) The initial amount of the Annual Service Fee for the CWP Infrastructure Water [~~CWP Non-Infrastructure Water~~] reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the ~~table under Paragraph 2-(e)(1): Take Down Schedule, Exhibit "A" hereto.~~

(c) Pricing Structure Applicable to the Purchaser Hereunder. -

~~(1) The pricing structure for each of the components of the CWP 2009A water supply agreements purchased hereunder is as follows:~~

~~(A) For CWP Infrastructure Water Delivered to the Point(s) of Delivery Identified set forth in the Take Down Schedule, Exhibit B: "A" hereto.~~

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<u>Price Component</u>	<u>Price per acre-foot</u>
(i) One-time Development Charge	\$5,850
(ii) Annual Reservation Fee	\$ 0
(iii) Annual Water Fee	\$ 300**
(iv) Annual Service Fee	\$ 0

~~** Subject to change. The amount to be charged under the Annual Water Fee is anticipated to fluctuate based upon the District's actual costs, and as such, the amount to be charged for the Annual Water Fee will be set annually by the District.~~

~~(B) For CWP Non-Infrastructure Water Delivered to the Point(s) of Delivery Identified in Exhibit B:~~

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<u>Price Component</u>	<u>Price per acre-foot</u>
(i) One-time Development Charge	\$4,500
(ii) Annual Reservation Fee	\$ 0
(iii) Annual Water Fee	\$ 0
(iv) Annual Service Fee	\$ 20**

~~** Subject to change. The amount to be charged under the Annual Service Fee is anticipated to fluctuate based upon the District's actual costs, and as such, the amount to be charged for the Annual Service Fee will be set annually by the District.~~

(2) Interest on Delinquent Accounts. Any CWP Fee that remains unpaid after it shall have become due and payable as provided herein shall be subject to simple interest at the rate of one and one-half percent (1.5%) of the delinquent amount per month. Interest will begin to accrue from the date of delinquency and will continue to accrue until such time as the delinquent CWP Fees and all accrued interest have been paid in full; provided, however, that no interest shall be charged to or paid by the Purchaser unless such delinquency continues for more than thirty (30) days or more beyond the date of delinquency.

3. **Quality of Water Delivered**

CWP culinary water shall be delivered to the Purchaser in conformance with standards for public drinking water set by applicable law and regulation, including the Utah Division of Drinking Water and/or the Utah Drinking Water Board of the Department of Environmental Quality; provided, however, that the District shall not be liable, or otherwise in breach of this Agreement, for failure to meet those standards unless the failure is due to the District's willful misconduct or gross negligence. The District and Purchaser ~~contemplateagrec~~ that the CWP water sources will be Provo River water, high quality deep groundwater from a well field in or near Vineyard, Utah, or other sources of comparable quality. Deliveries from any other sources shall be of comparable quality.

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4. **Reservation of Water**

(a) The District shall hold Purchased Water in reserve for the Purchaser pursuant to the Take-down Schedule, Exhibit A. Purchased Water must be removed from Reserved Water status based on said schedule. As Reserved Water is removed from reserved status, payments will be required for each acre-foot of Deliverable Water as set forth in Paragraph 2.

(b) The Purchaser may conclude that it has reserved more Purchased Water than it will eventually require. The District may consider an application from the Purchaser to reduce the amount of CWP water contracted for hereunder; however, the District will not approve the application unless and until another private or public water user in North Utah County or Salt Lake County ("Replacement Purchaser") applies for a new contract, or a contract increase, in an equal or greater quantity to simultaneously replace the reduction hereunder. In such event, the District may approve such a simultaneous reduction and increase if it finds that the replacement transaction is in the best interest of the District. Limitations and conditions to such a reduction and replacement transaction include the following:

(1) A reduction in contract volume to be taken down by Purchaser as set forth in Exhibit A hereto must include a corresponding, proportional reduction in Contract Capacity under Exhibit B hereto.

(2) The reduction of contract volume under Exhibit A hereto is limited to the corresponding amount of the new or increased contract volume of the Replacement Purchaser.

(3) The reduction of Contract Capacity under Exhibit B hereto must be at least as great as the Contract Capacity increase of the new or increased contract of the Replacement Purchaser, except for variations in maximum daily delivery as between the Purchaser and the Replacement

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Purchaser.

(c) At the Purchaser’s request, and provided that the District has developed the required CWP System Capacity:

(1) Purchased Water may become deliverable to the Purchaser on a year-to-year basis according to an accelerated schedule from that shown in Exhibit A, subject to terms and conditions mutually agreed to in writing by the Parties, or

(2) Purchased Water may become deliverable on a permanent basis according to an accelerated schedule from that shown in Exhibit A pursuant to the terms and conditions set forth in this Agreement;

(d) In the event of a reduction in the take-down of Purchased Water by the Purchaser as provided in subparagraph 4 (b) above, or an acceleration in the delivery of the Purchased Water as provided in subparagraph 4 (c) above, the applicable CWP Fees due and payable by the Purchaser to the District as provided in Paragraph 2 shall be correspondingly accelerated or reduced as the case may be, as determined in the sole discretion of the District in conformance with the provisions of Paragraph 2(b).

5. Point of Delivery

(a) The District will deliver the Purchased Water to the Purchaser in conformance with the following:

(1) For CWP Infrastructure Water: CWP Infrastructure Water will be measured and delivered to the Purchaser only at the point or points of delivery identified in Exhibit B. The infrastructure to be constructed by the District for the purpose of delivering CWP Infrastructure Water from its main transmission lines at said point(s) of delivery include a vault, valve(s), meter(s), piping

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and related facilities and equipment (“Delivery Infrastructure”), as determined to be necessary by the District to deliver and measure the CWP Infrastructure Water at said point(s). The Delivery Infrastructure will be constructed and installed at the District’s sole expense in connection with the development of the CWP, and the District shall own, operate, maintain, repair and replace the same for the term of this Agreement.

(2) For CWP Non-Infrastructure Water: CWP Non-infrastructure Water will be measured and delivered by the Purchaser at its infrastructure. The District will administer water right change applications as necessary to designate points of diversion for delivery of CWP Non-infrastructure Water to the Purchaser at the Purchaser’s sources. The Purchaser will meter and tabulate totals of CWP water delivered on a monthly basis from Purchasers sources and report that to the District for each contract year.

(b) Once the District delivers CWP Infrastructure Water to the point(s) of delivery, or CWP Non-infrastructure water is delivered at the Purchaser’s sources, it shall be the responsibility of the Purchaser to provide its own facilities as needed to take this water from the Delivery Infrastructure or Purchasers sources into the Purchaser’s own delivery and/or distribution system for its use. No new points of delivery will be allowed without the prior written approval of the District. All Purchased Water delivered by the District under this Agreement will be measured through measuring devices installed in the Delivery Infrastructure or the Purchasers infrastructure at its sources.

6. System Capacity

(a) It is understood by the Purchaser that the delivery of Deliverable Water by the District to the Purchaser is limited to the Contract Capacity set forth in Exhibit B.

(b) If CWP System Capacity is available to deliver water beyond the Contract Capacity, and

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the Purchaser so requests, the Purchaser may, with the prior written approval of the District, receive delivery of Deliverable Water at a flow rate higher than the Contract Capacity provided in Exhibit B, subject to the following:

(1) The maximum flow rate at which the Deliverable Water shall be delivered and resulting adjustments in the applicable CWP Fees set forth in Paragraph 2 (c) herein for said year or other costs to be applied, if any, shall be negotiated and agreed upon by the Parties prior to the delivery of Deliverable Water in the increased amount.

(2) A request by the Purchaser to exceed the Contract Capacity shall be made on an annual basis no later than April 30th.

(3) Notwithstanding the foregoing, if the Contract Capacity is exceeded by the Purchaser without receiving the prior written approval of the District, then a monthly surcharge will be assessed to the Purchaser in an amount per acre-foot set annually by the District for each acre-foot of water exceeding Contract Capacity or Contract Capacity modified in accordance with Paragraph 6(b)(1), calculated on a daily basis.

7. Quantity of Water Delivered

(a) The District is not a guarantor of CWP water supply or of CWP delivery capacity. It is understood by the Parties that the District's ability to deliver CWP water to the Purchaser depends, in part, on the available CWP System Capacity. Therefore, in its reasonable discretion and pursuant to its interpretation and the application of its policies, rules, and procedures as they may be amended periodically:

(1) in times of CWP water shortage due to lack of runoff or other conditions which may be beyond the control of the District, the District may make a ratable allocation of CWP water among

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the various CWP purchasers, which allocation shall be based on the then-current amount of Deliverable Water in proportion to the District's CWP water purchase commitments under all of its CWP water supply agreements, and the ~~Annual amount of Deliverable Water Fee for that year shall be reduced pro-rated accordingly~~; and

(2) in the event of CWP System Capacity shortages due to potential failures of equipment and infrastructure, and limitations in water source and infrastructure capacities, and in peak demand periods and other times of limited delivery capacity, the District may allocate the available CWP System Capacity among the District's CWP purchasers, which allocation shall be based on the then-current amount of CWP System Capacity available in proportion to the total CWP delivery capacity set forth in Exhibit B, ~~and the Annual Water Fee shall be pro-rated accordingly.~~

(b) No liability shall accrue against the District or any of its trustees, officers, agents, or employees, for any damages, direct or indirect, sustained by the Purchaser and/or its customers in the event of shortages of CWP System Capacity, or the District's inability to deliver the Purchased Water to the Purchaser not resulting from the District's own negligence, or due to shortages caused by drought, hostile diversion, prior or superior claims, or other similar causes not within the control of the District.

(c) In the event the Purchaser does not take delivery during any contract year of all of the Deliverable Water for which the One-time Development Fee has been paid in conformance with the provisions of Paragraph 2 (b) (1), the Purchaser may take delivery in the immediately following contract year of so much of the Deliverable Water not taken as does not exceed five percent (5%) of the total Deliverable Water for that year ("Deferred Water"), subject to the following:

(1) Calculation of the amount of Deferred Water shall not include any water besides Deliverable Water as of the end of the previous contract year.

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(2) Deferred Water cannot be accumulated on a multi-year basis.

(3) Deferral is subject to the availability of CWP System Capacity, as reasonably determined by the District;

(4) Delivery of Deferred Water shall have a lower priority than delivery of Deliverable Water for that year;

(5) The Purchaser may take delivery of Deferred Water only after it has taken delivery of all of the Deliverable Water for the contract year in which the Deferred Water is to be taken.

8. Use and Delivery of Purchased Water by the Purchaser

(a) The Purchaser shall use the Purchased Water made available to it under this Agreement only for M&I purposes. No other use of Purchased Water shall be made without the prior written consent of the District.

(b) The portfolio of water rights the District has acquired for the CWP requires that a percentage of water represented by the CWP water rights be returned to the hydrologic system in Utah and Salt Lake counties in order to avoid interference with other water right appropriators and with other District water supply operations. As such, the Purchaser shall not recycle nor otherwise utilize the Purchased Water in a manner that depletes the Purchased Water in amounts greater than fifty percent (50%). without the prior written consent of the District.

(c) Subject to the prior written consent of the District, all or some portion of the CWP Non-infrastructure Water may be utilized by the Purchaser by change application or exchange application under Utah law filed by the District. The Purchaser shall reimburse the District for any legal, engineering or other professional and consulting fees and all related costs and expenses it reasonably incurs in prosecuting any such change or exchange application to decision before the State Engineer,

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and through any subsequent judicial or administrative review proceedings or appeal.

(d) The Purchaser shall build its own infrastructure as required by it to take delivery of the Purchased Water from the District and utilize and distribute the same to its customers. All cost for O&M of the Purchaser’s facilities shall be paid by the Purchaser and not the District.

(e) The Purchaser shall not use, deliver for use, sell, lease or otherwise dispose of any Purchased Water outside Purchaser’s political boundaries or its recognized service area, without the prior written consent of the District. No user of the Purchased Water will use the Purchased Water on any basis other than the same basis as the general public.

9. Water Conservation

The Purchaser covenants that it shall prepare and file with the District a water conservation plan promulgated by the Purchaser which addresses, among other things, pricing, technical assistance and public education as components of the water conservation plan. Such plan shall be submitted to the District within one year of first delivery of Purchased Water to the Purchaser and shall be updated biennially.

10. Collection of Fees and Charges

In order to assure full and continuous performance of the Purchaser’s obligations as set forth herein, the Purchaser hereby covenants and agrees that it will levy and collect all necessary fees, charges and assessments and reasonable contingencies in amounts which, together with other legally available funds, are sufficient to pay in full to the District all of its CWP Fee obligations under this Agreement. The Purchaser shall timely pay to the District the full amount of CWP Fees as they become due regardless of whether the Purchaser collects the full amount of its fees, charges, and assessments from its customers.

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11. Refusal of Water in the Event of Default and Termination

(a) The District may withhold the delivery of all or any portion of the Purchased Water to the Purchaser if the Purchaser is in arrears for more than sixty (60) days in the payment to the District of any CWP Fee to be paid pursuant to Paragraph 2(b). Deliveries shall resume upon payment in full of any such arrearage including any and all accrued interest imposed by the District pursuant to this Agreement. Funds received to cure any arrearage shall be first applied by the District to payment of accrued interest and then towards the reduction of the principal on any such outstanding CWP Fee.

(b) If the Purchaser is in default under any provision of this Agreement and the default remains uncured for more than sixty (60) days after the date of written notice of default, the Parties shall reasonably mediate the dispute. However, if the dispute remains unresolved for more than one (1) year after the date of written notice of default, this Agreement may be terminated at the sole discretion of the District. Upon such action, the Purchased Water will revert to the District for reallocation to other purchasers as determined by the District. Termination will not relieve the Purchaser of its obligations to pay any past due CWP Fees, together with any and all accrued interest; however, the Purchaser will be relieved of any future payment obligations after the termination of this Agreement.

12. Term of Agreement

The term of this Agreement shall be perpetual so long as the required payments are paid in accordance with the terms of this Agreement. However, nothing herein shall prohibit the Parties from amending or terminating this Agreement if the Parties mutually agree to do so. There are no third party beneficiaries of this Agreement, and no one other than the Parties hereto may enforce its terms and conditions.

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13. **Assignment Limited**

Neither Party may assign this Agreement or any of its rights under it without the prior written consent of the other Party; provided, however, that the District may pledge and assign any monies received pursuant to this Agreement to the payment of the District's bonds.

14. **Exhibits**

All exhibits attached to this Agreement are incorporated into and made a part of this Agreement as though fully set forth herein.

15. — **Original Agreement Superseded: Binding Effect**

~~This Agreement~~ This Agreement, as of the Effective Date, shall amend, and supersede, in their entirety, each of the Agreements and amendments comprising the Original Agreement, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. **Severability**

If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

17. **Construction**

This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions

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should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

18. Further Action

The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

19. Business Relationship

This Agreement neither acknowledges the existence of nor is it intended nor shall it be construed to establish, create or organize any principal-agent relationship, partnership, joint venture, or any other legal entity or form of business relationship between the Parties, and is limited solely to the purposes and interests expressed herein.

20. Entire Agreement

This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof.

21. Warranty of Authority

Each individual executing this Agreement does hereby represent and warrant that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified herein. The District and the Purchaser each represent and warrant that it has full legal right and authority to enter into this Agreement.

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22. Notices

Notices given by or to the Parties shall be in writing and may be served personally or served by depositing them in the United States mail, postage prepaid, certified or registered mail with return receipt requested, addressed to the Parties at the addresses set forth below, or at such other addresses as the Parties may designate in writing:

DISTRICT:

Central Utah Water Conservancy District
Attention: General Manager
355 West University Parkway
Orem, Utah 84058

PURCHASER:

Eagle Mountain City
Attention: Mayor ~~Heather Anne Jackson~~
-and to:
Attention: ~~Fionnuala B. Kofoed~~, City Recorder-
1680 Heritage Drive,
Eagle Mountain ~~City, Utah, UT~~ 84005

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23. Rules and Regulations Governing Service

Subject to the terms and conditions of this Agreement, the District reserves the right to adopt rules and regulations governing the delivery of water under this Agreement, and to exercise its full statutory powers, including specifically the right to amend its rates, fees, charges, and its rules and regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future. It is expressly agreed that the District, by signing this Agreement, has not surrendered any of its rights in this regard.

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24. Subject to Act

Subject to the terms and conditions of this Agreement, any commitment of CWP water, and

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payment to the District for CWP water so committed pursuant to this Agreement, shall be subject to the Act and the rules and regulations of the District's Board of Trustees now existing or hereafter legally promulgated, as the same may be supplemented or amended.

IN WITNESS WHEREOFF, the Parties hereto have executed this Agreement effective as of the day and year first written above.

CENTRAL UTAH WATER
CONSERVANCY DISTRICT

EAGLE MOUNTAIN CITY, UTAH

By:

By:

Its: President

Its: Mayor ~~Heather Anne Jackson~~

Attest: _____

Attest: _____

Secretary

~~Fionnuala B. Kofoed~~, City Recorder

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EXHIBIT A

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

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FISCAL YEAR - (eg. FY 2009 = July 1, 2008 - through June 30, 2009)	ANNUAL VOLUME OF CWP INFRASTRUCTURE WATER REMOVED FROM RESERVED STATUS - DELIVERABLE WATER - (AF)	CUMULATIVE ANNUAL VOLUME OF CWP INFRASTRUCTURE WATER DELIVERED (AF)
2009	250	250
2010	0	250
2011	250	500
2012	0	750
2013	250	750
2014	250	1000
2015	0	1000
2016	500	1500
2017	500	2000
2018	500	2500
2019	0	2500
2020	0	2500
2021 and thereafter		
TOTAL VOLUME OF CWP INFRASTRUCTURE WATER RESERVED UNDER THIS AGREEMENT (AF)	2500	

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FY2009 A (Eagle Mountain City 2016 Amended and Restated)

Fiscal Year (ie FY2008-09 = July 1, 2008 - June 30, 2009)	Annual Volume of CWP Infrastructure Water Removed from Reserved Status - Deliverable Water (AF)	CWP One Time Development Charge for Block of Water Removed from Reserved Status (AF)	Cumulative Annual Volume of CWP Infrastructure Water Deliveries - Deliverable Water (AF)	Actual and Estimated Future Reservation Fee (\$/AF of Annual Reserved Water)	Actual and Estimated Future Annual Water Fee (As set annually by the District) (\$/AF of Annual Deliverable Water)
2008-09	0	<i>\$5,850</i>	0	\$0	<i>\$300.00</i>
2009-10	0	<i>\$5,850</i>	0	\$0	<i>\$314.00</i>
2010-11	0	<i>\$5,850</i>	0	\$0	<i>\$328.00</i>
2011-12	250	<i>\$5,850</i>	250	\$0	<i>\$343.00</i>
2012-13	250	<i>\$5,850</i>	500	\$0	<i>\$358.00</i>
2013-14	0	<i>\$5,850</i>	500	\$0	<i>\$374.00</i>
2014-15	250	<i>\$5,850</i>	750	\$0	<i>\$391.00</i>
2015-16	0	<i>\$9,370</i>	750	\$0	<i>\$408.00</i>
2016-17	0	\$9,600	750	\$0	\$427.00
2017-18	470	\$9,840	1220	\$0	\$446.00
2018-19	470	\$10,090	1690	\$0	\$466.00
2019-20	470	\$10,340	2,160	\$0	\$487.00
2020-21	340	\$10,600	2,500	\$0	\$509.00
2021-22	0	\$10,870	2,500	\$0	\$532.00
2022-23	0	\$11,140	2,500	\$0	\$556.00
2023-24	0	\$11,420	2,500	\$0	\$581.00
2024-25	0	\$11,710	Continues as provided in agreement	Continues to be \$0/AF	Rate continues to be adopted by District Board

Numbers in Italics and in Blue are past actual and present Fees amounts.

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**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP NON-INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

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CALENDER YEAR	ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER REMOVED FROM RESERVED STATUS (AF)	CUMULATIVE ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER DELIVERED (AF)
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021 and thereafter		
TOTAL VOLUME OF CWP NON-INFRASTRUCTURE WATER RESERVED UNDER THIS AGREEMENT(AF)	<u>None</u>	

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EXHIBIT B

DELIVERY LOCATION AND RATE OF DELIVERY CAPACITY UNDER THIS AGREEMENT

I. FOR CWP INFRASTRUCTURE WATER

Delivery Location See Note (Figure 1)	Ultimate Contract Capacity (Maximum Daily Flow Rate in GPM But Limited by Annual Deliverable Volume) See Note (21)
---	---

- ~~1.~~
- ~~2.~~

- 1. Turnout at approximately Pony Express Parkway and 800 West Saratoga Springs
- 2. Turnout at the North Shore Terminal Reservoir located approximately one quarter mile North of 400 West and SR-73 Saratoga Springs

See attached Figure 1 For Combined Total of up to 3,285 GPM

II. FOR CWP NON-INFRASTRUCTURE WATER

Delivery Location See Note (42)	Contract Capacity (Maximum Daily Flow Rate in GPM) See Note (32)
------------------------------------	--

- 1. None None
- ~~2.~~

Notes:

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~~CWP- Final Amended and Restated Eagle Mtn Mountain City- 2500 Water Sales Supply Agreement- 29 Sept 2008 - 2016~~

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~~(1) The delivery location referenced herein is preliminary. A final delivery location or locations will be determined by the Parties and designated herein after final design and prior to the commencement of construction of the CWP infrastructure or approval of water right change application.~~

~~(2) (1)~~

The total Contract Capacity corresponds to the Cumulative Annual Volume Delivered shown in Exhibit A in each year multiplied by 18% and divided by 31 days and converted to a gallons per minute flow rate, i.e. Delivered Water amount in AF multiplied by 0.18 divided by 31 days multiplied by 325,829 gallons per AF divided by 24 hours per day divided by 60 minutes per hour.

~~(2) The location and total Contract Capacity would be identified in the approved water right change application.~~

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~~CWP-Final Amended and Restated Eagle Mtn Mountain City- 2500 Water Sales Supply Agreement-29 Sept 2008 - 2016~~

**AMENDED AND RESTATED WATER SUPPLY AGREEMENT
BETWEEN CENTRAL UTAH WATER CONSERVANCY DISTRICT
AND EAGLE MOUNTAIN CITY
FOR SALE OF CWP MUNICIPAL AND INDUSTRIAL WATER**

THIS AMENDED AND RESTATED WATER SUPPLY AGREEMENT (“Agreement”) is made effective as of this ____ day of _____, 2016 (the “Effective Date”), by and between the Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah (“District”), and Eagle Mountain City, a municipal corporation (“Purchaser”). The District and the Purchaser are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. The District is organized and exists pursuant to the Utah Water Conservancy Act, Utah Code Annotated §17B-2a-1001, et seq., and those provisions of §17B-1-101, et seq., applicable to all local districts, both sections as amended (collectively, the "Act"), for the purpose, among others, of making water available to contract holders residing within its boundaries and of entering into agreements with public and private water users for the purchase and sale of water and its delivery.
- B. The Purchaser is a water user organized under the laws of the State of Utah that utilizes and/or provides water service to its customers within its boundaries, and which desires to purchase an additional supply of municipal and industrial (“M&I”) water from the District.
- C. The District shall design, construct, operate, maintain, repair and replace the Central Utah Water Conservancy District Water Development Project (“CWP”), and has developed and obtained and will develop and obtain sources of water supply for sale and delivery to contract purchasers through the CWP.

D. The Parties enter into this Agreement to amend and restate that certain Water Supply Agreement between Central Utah Water Conservancy District and Eagle Mountain City For the Sale of CWP Municipal and Industrial Water, dated September 30, 2008 (the “Initial Agreement”), as amended by the Parties pursuant to that certain letter agreement dated April 27, 2011 (the “First Amendment”), as further amended by the Parties pursuant to that certain letter agreement dated August 11, 2013 (the “Second Amendment”) (the Initial Agreement, the First Amendment and the Second Amendment being sometimes referred to herein collectively as the “Original Agreement”), for the purpose of setting forth the terms and conditions pursuant to which CWP water may be reserved by, purchased by and delivered to the Purchaser at the point or points designated herein, for sale and distribution by the Purchaser to meet a portion of the needs of its customers.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, the Parties agree as follows:

TERMS

I. Sale and Purchase of CWP Water

(a) The District hereby agrees to sell and the Purchaser hereby agrees to purchase annually, or in any event pay for, as described herein, two thousand five hundred (2,500) acre-feet of M&I water developed from the CWP (“Purchased Water”), consisting of Two thousand Five hundred (2,500) acre-feet of Deliverable Water, as defined in Paragraph 2(b)(1)(B) below, delivered using CWP or District operated infrastructure (“CWP Infrastructure Water”) and Zero (0) acre-feet of Deliverable Water delivered to Purchaser by means other than CWP or District operated infrastructure (“CWP Non-Infrastructure Water”).

(b) Subject to the terms and conditions of this Agreement, the Purchased Water shall be reserved and made available by the District to the Purchaser in accordance with the Take-down Schedule attached as Exhibit "A" hereto. The Deliverable Water shall then be delivered to the Purchaser at the specified point or points of delivery, and within the maximum daily flow rates ("Contract Capacity") set forth on the Delivery Schedule attached as Exhibit "B" hereto. The Parties hereby understand and acknowledge that in establishing the Contract Capacity, the District must consider both the capacity of the available CWP water supply and the capacity of the available CWP infrastructure, including the capacity of all available reservoirs, wells, treatment plants, transmission lines, meters and meter stations, and pumps and pump stations within the CWP system (collectively, the "CWP System Capacity").

(c) The District and the Purchaser agree and understand that the sale of Purchased Water under this Agreement, as amended and restated, is under terms and conditions that are the same for similarly situated customers entering into CWP water supply agreements during the period July 1, 2008 through September, 30, 2008 (said grouping of water supply agreements being referred to for purpose of identification as "CWP FY2009 A") and offered to all existing CWP Water Supply Agreement Customers as of January 1, 2016.

(d) In the event the District shall enter into any CWP supply agreement(s) having a pricing structure or terms of sale more favorable to the purchaser therein than those set forth in Paragraph 2 below, the Parties agree that this Agreement shall be amended so as to apply the same pricing structure or terms of sale herein.

2. Sales Price of Purchased Water

(a) General.

(1) CWP water is sold and delivered pursuant to a pricing structure containing the following four components: (i) a One-time Development Charge; (ii) an Annual Reservation Fee, (iii) an Annual Water Fee, and (iv) an Annual Service Fee, all as described in Paragraph 2(b) below. (The One-time Development Charge, the Annual Reservation Fee, the Annual Water Fee and the Annual Service Fee are sometimes referred to herein collectively as the “CWP Fees”).

(2) Factors that will influence the amount for each of the four components of the pricing structure may include: (i) whether a purchaser uses or does not use any of the District’s infrastructure; and (ii) the grouping, by year, of water purchase agreements for CWP water. At the sole discretion of the District, the cost of some of the four components of the pricing structure may be zero based on the factors described above.

(3) The CWP Fees set forth herein are imposed for the sole purpose of developing and providing the CWP water supply and providing the infrastructure necessary to deliver the Purchased Water to the Purchaser and other water users and customer agencies that enter into similarly situated and dated CWP water supply agreements. CWP Fees will not include District costs from projects not directly related to the CWP. The District shall treat all CWP water purchasers, similarly situated within water sales agreements grouped according to the effective dates of said agreements as may be determined by the District, in an equal, fair and non-discriminatory manner.

(4) CWP Fees under this Agreement shall be due and payable by the Purchaser, as provided herein, regardless of whether the Purchaser calls for or uses any of the Purchased Water in any given year, subject to annual adjustment as provided in Paragraph 7 herein. Notwithstanding the foregoing, in the unlikely event the CWP infrastructure is not capable of delivering Purchased water to Purchaser in the fiscal year first set forth in the Take Down Schedule, Exhibit “A” hereto, the

obligation of the Purchaser to pay the One-time Development Charge and the Reservation Fee shall be suspended, the volume of water scheduled to be removed from reserved status and become Deliverable Water, as defined in Paragraph 2(b)(1)(B), in that fiscal year shall be set back and added onto the next succeeding year, until Purchased water is available for delivery, at which time payment of the One-time Development Charge, as provided herein, shall be due for the fiscal year in which Purchased Water first becomes Deliverable Water and for each fiscal year added on thereto.

(b) CWP Pricing Structure. The pricing structure for the CWP FY2009 A water supply agreements is as follows:

(1) One-time Development Charge.

(A) The District must recover from all purchasers that enter into water supply agreements the costs of the District to develop the CWP, including the acquisition and development of the CWP water supply and the planning, design and construction of the CWP infrastructure (“CWP Development Cost”). The One-time Development Charge is charged on a per acre-foot basis as provided in Paragraph 2(c) below, and covers the majority of the Purchaser’s proportionate share of the CWP Development Cost. The respective One-time Development Charges to be paid by Purchaser for the CWP Infrastructure Water reserved under this Agreement is fixed in the amounts shown in the Take Down Schedule, Exhibit A hereto, during the term of this Agreement for each block of CWP water (“Block”), taken out of reserved status under the schedule set forth in the Take Down Schedule and is not subject to change for CWP water reserved under this Agreement, except for provisions contained in Paragraph 4.

(B) The One-time Development Charge designated for each Block is paid one-time only by the Purchaser for the that volume of Purchased Water under each Block, and is due

and payable on July 1 of the fiscal year in which the Block of Purchased Water is removed from reserved status as provided in Paragraph 2(b)(2)(A) below and made available to the Purchaser for delivery (“Deliverable Water”) in accordance with the Take-down Schedule.

(2) Annual Reservation Fee.

(A) The Annual Reservation Fee applies to Purchased Water held in reserve status for the Purchaser pursuant to the provisions of Paragraph 4 (“Reserved Water”), and is imposed inasmuch as the CWP Development Cost must be paid by the District regardless of whether the Purchaser takes delivery of Purchased Water or not. The Annual Reservation Fee is charged on a per acre-foot basis as provided in Paragraph 2(B) below and covers an additional portion of the Purchaser’s proportionate share of the CWP Development Cost during the period the Purchased Water remains in reserved status. As Purchased Water is removed from its reserved status and becomes Deliverable Water pursuant to the Take-down Schedule, Exhibit A, the District will no longer impose an Annual Reservation Fee on said water. The Purchaser will then pay the One-time Development Charge on the Deliverable Water as provided in Paragraph 2(b)(1) and commence payment of the Annual Water Fee as provided in Paragraph 2(b)(3) and the Annual Service Fee as provided in Paragraph 2(b)(4). The District will continue to impose the Annual Reservation Fee on any and all Purchased Water that remains in Reserved Water status for the Purchaser.

(B) The Annual Reservation Fee is charged on a per acre-foot basis for each acre-foot of Purchased Water held in reserved status for the Purchaser pursuant to Paragraph 4 as of December 31st of the preceding calendar year, and is due and payable annually on or before February 15th of the current year.

(C) The Annual Reservation Fee for the CWP Infrastructure Water reserved for

Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the Take Down Schedule, Exhibit "A" hereto.

(3) Annual Water Fee.

(A) The Annual Water Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover costs associated with the operation, maintenance, repair and replacement ("O&M") of the CWP infrastructure, to fund O&M reserves for the CWP, to pay the remaining portion of the Purchaser's proportionate share of the CWP Development Cost not covered by the One-time Development Charge and the Annual Reservation Fee (proportionate share for this purpose being defined as Purchaser's total volume of CWP Infrastructure Water under this Agreement divided by the total capacity of the CWP attributable to CWP Infrastructure Water, estimated by the Parties as of the date hereof to be 53,312 acre-feet, averaged over a five-year rolling period), and to cover other related costs of the District pertaining solely to the CWP infrastructure. The amount of the Annual Water Fee to be charged is set annually by the District's board of trustees, and may change from year-to-year.

(B) In payment of the Annual Water Fee, the Purchaser will only pay that amount attributed to a proportionate share of costs incurred for O&M, to fund the O&M Reserve and other related costs pertaining to CWP infrastructure, apportioned to the Purchaser based upon the annual cumulative volume of Deliverable Water, in acre-feet.

(C) The amount of the Annual Water Fee for the CWP Infrastructure Water reserved for Purchaser hereunder, in place as of the Effective Date of this Agreement, is set forth in the

Take Down Schedule, Exhibit "A" hereto.¹ Payment shall be made in conformance with the following:

(i) The District will invoice the Purchaser for the Annual Water Fee commencing the end of the month following the payment of the One-time Development Charge.

(ii) Subject to the provisions of Paragraph 2(b)(3)(D) below, the Annual Water Fee is payable by the Purchaser on a monthly basis within 30 days of the date of the District's invoice for actual water deliveries made in months prior to the date of the invoice.

(iii) Subject to the provisions of Paragraph 7 below, the Annual Water Fee is to be paid by the Purchaser as provided herein regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year. In the event the amount paid by the Purchaser under invoices for actual water delivered in conformance with Paragraph 2(b)(3)(C)(ii) is less than the total Annual Water Fee due hereunder, the remaining balance shall be invoiced by the District in the June billing each fiscal year.

(D) Notwithstanding the provisions of Paragraph 2(b)(3)(C) above, the Purchaser, at its option, may give written notice to the District that it desires to capitalize the Annual Water Fee. The District is willing to accept an up-front capitalized payment ("Capitalized Annual Water Fee"), for a period of not to exceed five years ("Capitalization Period"), under terms and conditions established by the District in its sole discretion, subject to the following:

(i) Upon receipt of notice from the Purchaser, the District will calculate the total estimated amount of the Capitalized Annual Water Fee to be due and payable over the Capitalization Period commencing the date Deliverable Water becomes available to the Purchaser. The

¹ The amount of the Annual Water Fee as set forth in the Original Agreement and each past and current year, as well as the estimated future amounts is also shown.

District will thereupon notify the Purchaser, in writing, of the amount of the Capitalized Annual Water Fee to be charged, which shall be due and payable by the Purchaser within thirty (30) days from the date it receives said notice.

(ii) Within sixty (60) days of the end of the Capitalization Period, the District shall reconcile with the Purchaser the difference between the Capitalized Annual Water Fee paid by the Purchaser and the actual amount that would have been paid had the Purchaser paid the Annual Water Fee on an annual basis. If the Capitalized Annual Water Fee paid by the Purchaser is higher than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the District shall credit the difference to the Purchaser against future Annual Water Fees payable by the Purchaser as determined by the District. If the Capitalized Annual Water Fee paid by the Purchaser is lower than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the Purchaser shall pay the difference to the District within ninety (90) days from the end of the Capitalization Period.

(4) Annual Service Fee.

(A) The Annual Service Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover a portion of the District's CWP administrative costs and expenses.

(B) The Annual Service Fee is due and payable annually on or before February 15th of the current year for the annual cumulative volume, in acre-feet, of Deliverable Water pursuant to this Agreement as of December 31st of the preceding year. The Annual Service Fee will be due and payable regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year.

(C) The initial amount of the Annual Service Fee for the CWP Infrastructure

Water reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the Take Down Schedule, Exhibit "A" hereto.

(c) Pricing Structure Applicable to the Purchaser Hereunder. The pricing structure for each of the components of the CWP 2009A water supply purchased hereunder is set forth in the Take Down Schedule, Exhibit "A" hereto.

(2) Interest on Delinquent Accounts. Any CWP Fee that remains unpaid after it shall have become due and payable as provided herein shall be subject to simple interest at the rate of one and one-half percent (1.5%) of the delinquent amount per month. Interest will begin to accrue from the date of delinquency and will continue to accrue until such time as the delinquent CWP Fees and all accrued interest have been paid in full; provided, however, that no interest shall be charged to or paid by the Purchaser unless such delinquency continues for more than thirty (30) days or more beyond the date of delinquency.

3. **Quality of Water Delivered**

CWP culinary water shall be delivered to the Purchaser in conformance with standards for public drinking water set by applicable law and regulation, including the Utah Division of Drinking Water and/or the Utah Drinking Water Board of the Department of Environmental Quality; provided, however, that the District shall not be liable, or otherwise in breach of this Agreement, for failure to meet those standards unless the failure is due to the District's willful misconduct or gross negligence. The District and Purchaser agree that the CWP water sources will be Provo River water, high quality deep groundwater from a well field in or near Vineyard, Utah, or other sources of comparable quality. Deliveries from any other sources shall be of comparable quality.

4. **Reservation of Water**

(a) The District shall hold Purchased Water in reserve for the Purchaser pursuant to the Take-down Schedule, Exhibit A. Purchased Water must be removed from Reserved Water status based on said schedule. As Reserved Water is removed from reserved status, payments will be required for each acre-foot of Deliverable Water as set forth in Paragraph 2.

(b) The Purchaser may conclude that it has reserved more Purchased Water than it will eventually require. The District may consider an application from the Purchaser to reduce the amount of CWP water contracted for hereunder; however, the District will not approve the application unless and until another private or public water user in North Utah County or Salt Lake County ("Replacement Purchaser") applies for a new contract, or a contract increase, in an equal or greater quantity to simultaneously replace the reduction hereunder. In such event, the District may approve such a simultaneous reduction and increase if it finds that the replacement transaction is in the best interest of the District. Limitations and conditions to such a reduction and replacement transaction include the following:

(1) A reduction in contract volume to be taken down by Purchaser as set forth in Exhibit A hereto must include a corresponding, proportional reduction in Contract Capacity under Exhibit B hereto.

(2) The reduction of contract volume under Exhibit A hereto is limited to the corresponding amount of the new or increased contract volume of the Replacement Purchaser.

(3) The reduction of Contract Capacity under Exhibit B hereto must be at least as great as the Contract Capacity increase of the new or increased contract of the Replacement Purchaser, except for variations in maximum daily delivery as between the Purchaser and the Replacement Purchaser.

(c) At the Purchaser's request, and provided that the District has developed the required CWP System Capacity:

(1) Purchased Water may become deliverable to the Purchaser on a year-to-year basis according to an accelerated schedule from that shown in Exhibit A, subject to terms and conditions mutually agreed to in writing by the Parties, or

(2) Purchased Water may become deliverable on a permanent basis according to an accelerated schedule from that shown in Exhibit A pursuant to the terms and conditions set forth in this Agreement;

(d) In the event of a reduction in the take-down of Purchased Water by the Purchaser as provided in subparagraph 4 (b) above, or an acceleration in the delivery of the Purchased Water as provided in subparagraph 4 (c) above, the applicable CWP Fees due and payable by the Purchaser to the District as provided in Paragraph 2 shall be correspondingly accelerated or reduced as the case may be, as determined in the sole discretion of the District in conformance with the provisions of Paragraph 2(b).

5. Point of Delivery

(a) The District will deliver the Purchased Water to the Purchaser in conformance with the following:

(1) For CWP Infrastructure Water: CWP Infrastructure Water will be measured and delivered to the Purchaser only at the point or points of delivery identified in Exhibit B. The infrastructure to be constructed by the District for the purpose of delivering CWP Infrastructure Water from its main transmission lines at said point(s) of delivery include a vault, valve(s), meter(s), piping and related facilities and equipment ("Delivery Infrastructure"), as determined to be necessary by the

District to deliver and measure the CWP Infrastructure Water at said point(s). The Delivery Infrastructure will be constructed and installed at the District's sole expense in connection with the development of the CWP, and the District shall own, operate, maintain, repair and replace the same for the term of this Agreement.

(2) For CWP Non-Infrastructure Water: CWP Non-infrastructure Water will be measured and delivered by the Purchaser at its infrastructure. The District will administer water right change applications as necessary to designate points of diversion for delivery of CWP Non-infrastructure Water to the Purchaser at the Purchaser's sources. The Purchaser will meter and tabulate totals of CWP water delivered on a monthly basis from Purchaser's sources and report that to the District for each contract year.

(b) Once the District delivers CWP Infrastructure Water to the point(s) of delivery, or CWP Non-infrastructure water is delivered at the Purchaser's sources, it shall be the responsibility of the Purchaser to provide its own facilities as needed to take this water from the Delivery Infrastructure or Purchaser's sources into the Purchaser's own delivery and/or distribution system for its use. No new points of delivery will be allowed without the prior written approval of the District. All Purchased Water delivered by the District under this Agreement will be measured through measuring devices installed in the Delivery Infrastructure or the Purchaser's infrastructure at its sources.

6. **System Capacity**

(a) It is understood by the Purchaser that the delivery of Deliverable Water by the District to the Purchaser is limited to the Contract Capacity set forth in Exhibit B.

(b) If CWP System Capacity is available to deliver water beyond the Contract Capacity, and the Purchaser so requests, the Purchaser may, with the prior written approval of the District, receive

delivery of Deliverable Water at a flow rate higher than the Contract Capacity provided in Exhibit B, subject to the following:

(1) The maximum flow rate at which the Deliverable Water shall be delivered and resulting adjustments in the applicable CWP Fees set forth in Paragraph 2 (c) herein for said year or other costs to be applied, if any, shall be negotiated and agreed upon by the Parties prior to the delivery of Deliverable Water in the increased amount.

(2) A request by the Purchaser to exceed the Contract Capacity shall be made on an annual basis no later than April 30th.

(3) Notwithstanding the foregoing, if the Contract Capacity is exceeded by the Purchaser without receiving the prior written approval of the District, then a monthly surcharge will be assessed to the Purchaser in an amount per acre-foot set annually by the District for each acre-foot of water exceeding Contract Capacity or Contract Capacity modified in accordance with Paragraph 6(b)(1), calculated on a daily basis.

7. Quantity of Water Delivered

(a) The District is not a guarantor of CWP water supply or of CWP delivery capacity. It is understood by the Parties that the District's ability to deliver CWP water to the Purchaser depends, in part, on the available CWP System Capacity. Therefore, in its reasonable discretion and pursuant to its interpretation and the application of its policies, rules, and procedures as they may be amended periodically:

(1) in times of CWP water shortage due to lack of runoff or other conditions which may be beyond the control of the District, the District may make a ratable allocation of CWP water among the various CWP purchasers, which allocation shall be based on the then-current amount of Deliverable

Water in proportion to the District's CWP water purchase commitments under all of its CWP water supply agreements, and the amount of Deliverable Water for that year shall be reduced pro-rata; and

(2) in the event of CWP System Capacity shortages due to potential failures of equipment and infrastructure, and limitations in water source and infrastructure capacities, and in peak demand periods and other times of limited delivery capacity, the District may allocate the available CWP System Capacity among the District's CWP purchasers, which allocation shall be based on the then-current amount of CWP System Capacity available in proportion to the total CWP delivery capacity set forth in Exhibit B.

(b) No liability shall accrue against the District or any of its trustees, officers, agents, or employees, for any damages, direct or indirect, sustained by the Purchaser and/or its customers in the event of shortages of CWP System Capacity, or the District's inability to deliver the Purchased Water to the Purchaser not resulting from the District's own negligence, or due to shortages caused by drought, hostile diversion, prior or superior claims, or other similar causes not within the control of the District.

(c) In the event the Purchaser does not take delivery during any contract year of all of the Deliverable Water for which the One-time Development Fee has been paid in conformance with the provisions of Paragraph 2 (b) (1), the Purchaser may take delivery in the immediately following contract year of so much of the Deliverable Water not taken as does not exceed five percent (5%) of the total Deliverable Water for that year ("Deferred Water"), subject to the following:

(1) Calculation of the amount of Deferred Water shall not include any water besides Deliverable Water as of the end of the previous contract year.

(2) Deferred Water cannot be accumulated on a multi-year basis.

(3) Deferral is subject to the availability of CWP System Capacity, as reasonably

determined by the District;

(4) Delivery of Deferred Water shall have a lower priority than delivery of Deliverable Water for that year;

(5) The Purchaser may take delivery of Deferred Water only after it has taken delivery of all of the Deliverable Water for the contract year in which the Deferred Water is to be taken.

8. Use and Delivery of Purchased Water by the Purchaser

(a) The Purchaser shall use the Purchased Water made available to it under this Agreement only for M&I purposes. No other use of Purchased Water shall be made without the prior written consent of the District.

(b) The portfolio of water rights the District has acquired for the CWP requires that a percentage of water represented by the CWP water rights be returned to the hydrologic system in Utah and Salt Lake counties in order to avoid interference with other water right appropriators and with other District water supply operations. As such, the Purchaser shall not recycle nor otherwise utilize the Purchased Water in a manner that depletes the Purchased Water in amounts greater than fifty percent (50%), without the prior written consent of the District.

(c) Subject to the prior written consent of the District, all or some portion of the CWP Non-infrastructure Water may be utilized by the Purchaser by change application or exchange application under Utah law filed by the District. The Purchaser shall reimburse the District for any legal, engineering or other professional and consulting fees and all related costs and expenses it reasonably incurs in prosecuting any such change or exchange application to decision before the State Engineer, and through any subsequent judicial or administrative review proceedings or appeal.

(d) The Purchaser shall build its own infrastructure as required by it to take delivery of the

Purchased Water from the District and utilize and distribute the same to its customers. All cost for O&M of the Purchaser's facilities shall be paid by the Purchaser and not the District.

(e) The Purchaser shall not use, deliver for use, sell, lease or otherwise dispose of any Purchased Water outside Purchaser's political boundaries or its recognized service area, without the prior written consent of the District. No user of the Purchased Water will use the Purchased Water on any basis other than the same basis as the general public.

9. Water Conservation

The Purchaser covenants that it shall prepare and file with the District a water conservation plan promulgated by the Purchaser which addresses, among other things, pricing, technical assistance and public education as components of the water conservation plan. Such plan shall be submitted to the District within one year of first delivery of Purchased Water to the Purchaser and shall be updated biennially.

10. Collection of Fees and Charges

In order to assure full and continuous performance of the Purchaser's obligations as set forth herein, the Purchaser hereby covenants and agrees that it will levy and collect all necessary fees, charges and assessments and reasonable contingencies in amounts which, together with other legally available funds, are sufficient to pay in full to the District all of its CWP Fee obligations under this Agreement. The Purchaser shall timely pay to the District the full amount of CWP Fees as they become due regardless of whether the Purchaser collects the full amount of its fees, charges, and assessments from its customers.

11. Refusal of Water in the Event of Default and Termination

(a) The District may withhold the delivery of all or any portion of the Purchased Water to

the Purchaser if the Purchaser is in arrears for more than sixty (60) days in the payment to the District of any CWP Fee to be paid pursuant to Paragraph 2(b). Deliveries shall resume upon payment in full of any such arrearage including any and all accrued interest imposed by the District pursuant to this Agreement. Funds received to cure any arrearage shall be first applied by the District to payment of accrued interest and then towards the reduction of the principal on any such outstanding CWP Fee.

(b) If the Purchaser is in default under any provision of this Agreement and the default remains uncured for more than sixty (60) days after the date of written notice of default, the Parties shall reasonably mediate the dispute. However, if the dispute remains unresolved for more than one (1) year after the date of written notice of default, this Agreement may be terminated at the sole discretion of the District. Upon such action, the Purchased Water will revert to the District for reallocation to other purchasers as determined by the District. Termination will not relieve the Purchaser of its obligations to pay any past due CWP Fees, together with any and all accrued interest; however, the Purchaser will be relieved of any future payment obligations after the termination of this Agreement.

12. Term of Agreement

The term of this Agreement shall be perpetual so long as the required payments are paid in accordance with the terms of this Agreement. However, nothing herein shall prohibit the Parties from amending or terminating this Agreement if the Parties mutually agree to do so. There are no third party beneficiaries of this Agreement, and no one other than the Parties hereto may enforce its terms and conditions.

13. Assignment Limited

Neither Party may assign this Agreement or any of its rights under it without the prior written consent of the other Party; provided, however, that the District may pledge and assign any monies

received pursuant to this Agreement to the payment of the District's bonds.

14. Exhibits

All exhibits attached to this Agreement are incorporated into and made a part of this Agreement as though fully set forth herein.

15. Original Agreement Superseded; Binding Effect

This Agreement, as of the Effective Date, shall amend, and supersede, in their entirety, each of the Agreements and amendments comprising the Original Agreement, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. Severability

If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

17. Construction

This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

18. Further Action

The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

19. Business Relationship

This Agreement neither acknowledges the existence of nor is it intended nor shall it be construed to establish, create or organize any principal-agent relationship, partnership, joint venture, or any other legal entity or form of business relationship between the Parties, and is limited solely to the purposes and interests expressed herein.

20. Entire Agreement

This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof.

21. Warranty of Authority

Each individual executing this Agreement does hereby represent and warrant that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified herein. The District and the Purchaser each represent and warrant that it has full legal right and authority to enter into this Agreement.

22. Notices

Notices given by or to the Parties shall be in writing and may be served personally or served by depositing them in the United States mail, postage prepaid, certified or registered mail with return receipt requested, addressed to the Parties at the addresses set forth below, or at such other addresses as

the Parties may designate in writing:

DISTRICT:

Central Utah Water Conservancy District
Attention: General Manager
355 West University Parkway
Orem, Utah 84058

PURCHASER:

Eagle Mountain City
Attention: Mayor
and to:
Attention: City Recorder
1680 Heritage Drive
Eagle Mountain, UT 84005

23. Rules and Regulations Governing Service

Subject to the terms and conditions of this Agreement, the District reserves the right to adopt rules and regulations governing the delivery of water under this Agreement, and to exercise its full statutory powers, including specifically the right to amend its rates, fees, charges, and its rules and regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future. It is expressly agreed that the District, by signing this Agreement, has not surrendered any of its rights in this regard.

24. Subject to Act

Subject to the terms and conditions of this Agreement, any commitment of CWP water, and payment to the District for CWP water so committed pursuant to this Agreement, shall be subject to the Act and the rules and regulations of the District's Board of Trustees now existing or hereafter legally promulgated, as the same may be supplemented or amended.

IN WITNESS WHEREOFF, the Parties hereto have executed this Agreement effective as of the day and year first written above.

**CENTRAL UTAH WATER
CONSERVANCY DISTRICT**

EAGLE MOUNTAIN CITY, UTAH

By: _____

Its: President

By: _____

Its: Mayor

Attest: _____

Secretary

Attest: _____

City Recorder

CWP FY2009 A (Eagle Mountain City 2016 Amended and Restated)

EXHIBIT A

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

Fiscal Year (ie FY2008-09 = July 1, 2008 - June 30, 2009)	Annual Volume of CWP Infrastructure Water Removed from Reserved Status - Deliverable Water (AF)	CWP One Time Development Charge for Block of Water Removed from Reserved Status (AF)	Cumulative Annual Volume of CWP Infrastructure Water Deliveries - Deliverable Water (AF)	Actual and Estimated Future Reservation Fee (\$/AF of Annual Reserved Water)	Actual and Estimated Future Annual Water Fee (As set annually by the District) (\$/AF of Annual Deliverable Water)
2008-09	0	<i>\$5,850</i>	0	\$0	<i>\$300.00</i>
2009-10	0	<i>\$5,850</i>	0	\$0	<i>\$314.00</i>
2010-11	0	<i>\$5,850</i>	0	\$0	<i>\$328.00</i>
2011-12	250	<i>\$5,850</i>	250	\$0	<i>\$343.00</i>
2012-13	250	<i>\$5,850</i>	500	\$0	<i>\$358.00</i>
2013-14	0	<i>\$5,850</i>	500	\$0	<i>\$374.00</i>
2014-15	250	<i>\$5,850</i>	750	\$0	<i>\$391.00</i>
2015-16	0	<i>\$9,370</i>	750	\$0	<i>\$408.00</i>
2016-17	0	<i>\$9,600</i>	750	\$0	<i>\$427.00</i>
2017-18	470	<i>\$9,840</i>	1220	\$0	<i>\$446.00</i>
2018-19	470	<i>\$10,090</i>	1690	\$0	<i>\$466.00</i>
2019-20	470	<i>\$10,340</i>	2,160	\$0	<i>\$487.00</i>
2020-21	340	<i>\$10,600</i>	2,500	\$0	<i>\$509.00</i>
2021-22	0	<i>\$10,870</i>	2,500	\$0	<i>\$532.00</i>
2022-23	0	<i>\$11,140</i>	2,500	\$0	<i>\$556.00</i>
2023-24	0	<i>\$11,420</i>	2,500	\$0	<i>\$581.00</i>
2024-25	0	<i>\$11,710</i>	Continues as provided in agreement	Continues to be \$0/AF	Rate continues to be adopted by District Board

Numbers in Italics and in Blue are past actual and present Fees amounts.

CWP Amended and Restated Eagle Mountain City 2500 Water Supply Agreement - 2016

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP NON-INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

CALENDER YEAR	ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER REMOVED FROM RESERVED STATUS (AF)	CUMULATIVE ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER DELIVERED (AF)
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021 and thereafter		
TOTAL VOLUME OF CWP NON-INFRASTRUCTURE WATER RESERVED UNDER THIS AGREEMENT(AF)	None	

EXHIBIT B

**DELIVERY LOCATION AND
RATE OF DELIVERY CAPACITY UNDER THIS AGREEMENT**

I. FOR CWP INFRASTRUCTURE WATER

	Delivery Location See Figure 1	Ultimate Contract Capacity (Maximum Daily Flow Rate in GPM But Limited by Annual Deliverable Volume) See Note (1)
1.	Turnout at approximately Pony Express Parkway and 800 West Saratoga Springs	
2.	Turnout at the North Shore Terminal Reservoir located approximately one quarter mile North of 400 West and SR-73 Saratoga Springs	
	See attached Figure 1	For Combined Total of up to 3,285 GPM

II. FOR CWP NON-INFRASTRUCTURE WATER

	Delivery Location See Note (2)	Contract Capacity (Maximum Daily Flow Rate in GPM) See Note (2)
1.	None	None

Notes:

(1)

The total Contract Capacity corresponds to the Cumulative Annual Volume Delivered shown in Exhibit A in each year multiplied by 18% and divided by 31 days and converted to a gallons per minute flow rate, i.e. Delivered Water amount in AF multiplied by 0.18 divided by 31 days multiplied by 325,829 gallons per AF divided by 24 hours per day divided by 60 minutes per hour.

(2) The location and total Contract Capacity would be identified in the approved water right change application.



—— 60" North Shore Aqueduct
Eagle Mountain Connections



NORTH SHORE AQUEDUCT
EAGLE MOUNTAIN CONNECTIONS
FIGURE 1

AMENDED AND RESTATED WATER SUPPLY AGREEMENT
BETWEEN CENTRAL UTAH WATER CONSERVANCY DISTRICT
AND EAGLE MOUNTAIN CITY
FOR SALE OF CWP MUNICIPAL AND INDUSTRIAL WATER

~~This Water Supply Agreement~~ THIS AMENDED AND RESTATED AGREEMENT

(“Agreement”) is made effective as of this _____ of _____, 2009, January, 2016, the
“Effective Date”), by and between the Central Utah Water Conservancy District, a water conservancy
district organized under the laws of the State of Utah (“District”), and Eagle Mountain City, a
municipal corporation (“Purchaser”). The District and the Purchaser are sometimes referred to herein
individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. The District is organized and exists pursuant to the Utah Water Conservancy Act, Utah Code Annotated §17B-2a-1001, et seq., and those provisions of §17B-1-101, et seq., applicable to all local districts, both sections as amended (collectively, the "Act"), for the purpose, among others, of making water available to contract holders residing within its boundaries and of entering into agreements with water users for the purchase and sale of water and its delivery.
- B. The Purchaser is a water user organized under the laws of the State of Utah that utilizes and/or provides water service to its customers within its boundaries, and which desires to purchase an additional supply of municipal and industrial (“M&I”) water from the District.
- C. The District shall design, construct, operate, maintain, repair and replace the Central Utah Water Conservancy District Water Development Project (“CWP”), and has developed and obtained and will develop and obtain sources of water supply for sale and delivery to contract purchasers through the

CWP.

D. The Parties enter into this Agreement to set amend and restate that certain Water Supply Agreement between Central Utah Water Conservancy District and Eagle Mountain City For the Sale of CWP Municipal and Industrial Water, dated October 7, 2009, (the "Original FY2010 A2 Agreement"), for the purpose of setting forth the terms and conditions pursuant to which CWP water may be reserved by, purchased by and delivered to the Purchaser at the point or points designated herein, for sale and distribution by the Purchaser to meet a portion of the needs of its customers.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

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TERMS

I. Sale and Purchase of CWP Water

(a) The District hereby agrees to sell and the Purchaser hereby agrees to purchase annually, or in any event pay for, as described herein, Eleven Thousand Five Hundred (-11,500) acre-feet of M&I water developed from the CWP ("Purchased Water"), consisting of Eleven Thousand Five Hundred (11,500) acre-feet of Deliverable Water, as defined in Paragraph 2(b)(1)(B) below, delivered using CWP or District operated infrastructure ("CWP Infrastructure Water") and Zero (0) acre-feet of Deliverable Water delivered to Purchaser by means other than CWP or District operated infrastructure ("CWP Non-Infrastructure Water").

(b) Subject to the terms and conditions of this Agreement, the Purchased Water shall be reserved and made available by the District to the Purchaser in accordance with the Take-down Schedule attached as Exhibit "A" hereto. The Deliverable Water shall then be delivered to the

Purchaser at the specified point or points of delivery, and within the maximum daily flow rates (“Contract Capacity”) set forth on the Delivery Schedule attached as Exhibit “B” hereto. The Parties hereby understand and acknowledge that in establishing the Contract Capacity, the District must consider both the capacity of the available CWP water supply and the capacity of the available CWP infrastructure, including the capacity of all available reservoirs, wells, treatment plants, transmission lines, meters and meter stations, and pumps and pump stations within the CWP system (collectively, the “CWP System Capacity”).

(c) The District and the Purchaser agree and understand that the sale of Purchased Water under this Agreement, as amended and restated, is under terms and conditions that are the same for similarly situated customers entering into CWP water supply agreements during the period July 1, 2009 through September 30, 2009 (said grouping of water supply agreements being referred to for purpose of identification as “CWP FY2010 A2~~”;~~”) and offered to all other existing CWP Water Supply Agreement Customers as of January 1, 2016.

(d) In the event the District shall enter into any CWP supply agreement(s) having a pricing structure or terms of sale more favorable to the purchaser therein than those set forth in Paragraph 2 below, the Parties agree that this Agreement shall be amended so as to apply the same pricing structure or terms of sale herein.

2. **Sales Price of Purchased Water**

(a) General.

(1) CWP water is sold and delivered pursuant to a pricing structure containing the following four components: (i) a One-time Development Charge; (ii) an Annual Reservation Fee, (iii) an Annual Water Fee, and (iv) an Annual Service Fee, all as described in Paragraph 2(b) below. (The

One-time Development Charge, the Annual Reservation Fee, the Annual Water Fee and the Annual Service Fee are sometimes referred to herein collectively as the “CWP Fees”).

(2) Factors that will influence the amount for each of the four components of the pricing structure may include: (i) whether a purchaser uses or does not use any of the District’s infrastructure; and (ii) the grouping, by year, of water purchase agreements for CWP water. At the sole discretion of the District, the cost of some of the four components of the pricing structure may be zero based on the factors described above.

(3) The CWP Fees set forth herein are imposed for the sole purpose of developing and providing the CWP water supply and providing the infrastructure necessary to deliver the Purchased Water to the Purchaser and other water users and customer agencies that enter into similarly situated and dated CWP water supply agreements. CWP Fees will not include District costs from projects not directly related to the CWP. The District shall treat all CWP water purchasers, similarly situated within water sales agreements grouped according to the effective dates of said agreements as may be determined by the District, in an equal, fair and non-discriminatory manner.

(4) CWP Fees under this Agreement shall be due and payable by the Purchaser, as provided herein, regardless of whether the Purchaser calls for or uses any of the Purchased Water in any given year, subject to annual adjustment as provided in Paragraph 7 herein. Notwithstanding the foregoing, in the unlikely event the CWP infrastructure is not capable of delivering Purchased water to Purchaser in the fiscal year first set forth in the Take Down Schedule, Exhibit “A” hereto, the obligation of the Purchaser to pay the One-time Development Charge and the Reservation Fee shall be suspended, the volume of water scheduled to be removed from reserved status and become Deliverable Water, as defined in Paragraph 2(b)(1)(B), in that fiscal year shall be set back and added onto the next

succeeding year, until Purchased water is available for delivery, at which time payment of the One-time Development Charge, as provided herein, shall be due for the fiscal year in which Purchased Water first becomes Deliverable Water and for each fiscal year added on thereto.

(5) Notwithstanding any provision herein to the contrary with regard to payment of CWP Fees, the Purchaser may request in writing that it be authorized to pre-pay, in whole or in part, any one or all of the CWP Fees due and owing hereunder. The pre-payment request shall be analyzed on a case-by-case basis, and be authorized at the sole discretion of the District, subject to such terms and conditions as the District shall determine at the time. The District's authorization to pre-pay and the terms and conditions of pre-payment shall be set forth in a separate written agreement to be executed between the District and the Purchaser.

(b) CWP Pricing Structure. The pricing structure for the CWP FY2010 A2 water supply agreements is as follows:

(1) One-time Development Charge.

(A) The District must recover from all purchasers that enter into water supply agreements the costs of the District to develop the CWP, including the acquisition and development of the CWP water supply and the planning, design and construction of the CWP infrastructure ("CWP Development Cost"). The One-time Development Charge is charged on a per acre-foot basis as provided in Paragraph 2(c) below, and covers the majority of the Purchaser's proportionate share of the CWP Development Cost. The respective One-time Development Charge is Charges to be paid by Purchaser for the CWP Infrastructure Water reserved under this Agreement are fixed by this Agreement and in the amounts shown in the Take Down Schedule, Exhibit "A" hereto, during the term of this Agreement for each block of CWP water ("Block"), taken out of reserved status under the schedule set

~~forth in the Take Down Schedule and is~~ not subject to change for CWP water reserved under this Agreement, ~~except for provisions contained in Paragraph 4.~~

(B) The One-time Development Charge ~~designated for each Block~~ is paid one-time only by the Purchaser for ~~the~~~~that~~ total volume of Purchased Water ~~under each Block~~, and is due and payable on ~~June~~~~July~~ 1 ~~prior to~~~~of~~ the fiscal year ~~in which the Block of~~ Purchased Water is removed from reserved status as provided in Paragraph 2(b)(2)(A) below and made available to the Purchaser for delivery ~~each year~~ (“Deliverable Water”) in accordance with the Take-down Schedule, Exhibit “~~A~~”.

~~(C) The One-time Development Charge for the CWP Infrastructure Water reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the table under Paragraph 2 (e)(1).~~

(2) Annual Reservation Fee.

(A) The Annual Reservation Fee applies to Purchased Water held in reserve status for the Purchaser pursuant to the provisions of Paragraph 4 (“Reserved Water”), and is imposed inasmuch as the CWP Development Cost must be paid by the District regardless of whether the Purchaser takes delivery of Purchased Water or not. The Annual Reservation Fee is charged on a per acre-foot basis as provided in Paragraph 2(~~b~~~~B~~) below and covers an additional portion of the Purchaser’s proportionate share of the CWP Development Cost during the period the Purchased Water remains in reserved status. As Purchased Water is removed from its reserved status and becomes Deliverable Water pursuant to the Take-down Schedule, Exhibit “~~A~~”, the District will no longer impose an Annual Reservation Fee on said water. The Purchaser will then pay the One-time Development Charge on the Deliverable Water as provided in Paragraph 2(b)(1) and commence

payment of the Annual Water Fee as provided in Paragraph 2(b)(3) and the Annual Service Fee as provided in Paragraph 2(b)(4). The District will continue to impose the Annual Reservation Fee on any and all Purchased Water that remains in Reserved Water status for the Purchaser.

(B) The Annual Reservation Fee is charged on a per acre-foot basis for each acre-foot of Purchased Water held in reserved status for the Purchaser pursuant to Paragraph 4 as of December 31st of the preceding calendar year, and is due and payable annually on or before February 15th of the current year.

(C) The Annual Reservation Fee for the CWP Infrastructure Water -reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the ~~table~~ under Paragraph 2(e)(1). Take Down Schedule, Exhibit A hereto.

(3) Annual Water Fee.

(A) The Annual Water Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover costs associated with the operation, maintenance, repair and replacement (“O&M”) of the CWP infrastructure, to fund O&M reserves for the CWP, to pay the remaining portion of the Purchaser’s proportionate share of the CWP Development Cost not covered by the One-time Development Charge and the Annual Reservation Fee (proportionate share for this purpose being defined as Purchaser’s total volume of CWP Infrastructure Water under this Agreement divided by the total capacity of the CWP attributable to CWP Infrastructure Water, estimated by the Parties as of the date hereof to be 53,312 acre-feet, averaged over a five-year rolling period), and to cover other related costs of the District pertaining solely to the CWP infrastructure. The amount of the Annual Water Fee to be charged is set annually by the District’s Board of Trustees, and may change from year-to-year.

(B) In payment of the Annual Water Fee, the Purchaser will only pay that amount attributed to a proportionate share of costs incurred for O&M, to fund the O&M Reserve and other related costs pertaining to CWP infrastructure, apportioned to the Purchaser based upon the annual cumulative volume of Deliverable Water, in acre-feet.

(C) The ~~initial~~ amount of the Annual Water Fee for the CWP Infrastructure Water -reserved for Purchaser hereunder, in place as of the Effective Date of this Agreement, is set forth in the ~~table under Paragraph 2(e)(1)-Take Down Schedule, Exhibit "A" hereto~~¹. Payment shall be made in conformance with the following:

(i) The District will invoice the Purchaser for the Annual Water Fee commencing the end of the month following the payment of the One-time Development Charge.

(ii) Subject to the provisions of Paragraph 2(b)(3)(D) below, the Annual Water Fee is payable by the Purchaser on a monthly basis within 30 days of the date of the District's invoice for actual water deliveries made in months prior to the date of the invoice.

(iii) Subject to the provisions of Paragraph 7 below, the Annual Water Fee is to be paid by the Purchaser as provided herein regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year. In the event the amount paid by the Purchaser under invoices for actual water delivered in conformance with Paragraph 2(b)(3)(C)(ii) is less than the total Annual Water Fee due hereunder, the remaining balance shall be invoiced by the District in the June billing each fiscal year.

_____ (D) Notwithstanding the provisions of Paragraph 2(b)(3)(C) above, the Purchaser, at its option, may give written notice to the District that it desires to capitalize the

Annual Water Fee. The District is willing to accept an up-front capitalized payment (“Capitalized Annual Water Fee”), for a period of not to exceed five years (“Capitalization Period”), under terms and conditions established by the District in its sole discretion, subject to the following:

(i) Upon receipt of notice from the Purchaser, the District will calculate the total estimated amount of the Capitalized Annual Water Fee to be due and payable over the Capitalization Period commencing the date Deliverable Water becomes available to the Purchaser. The District will thereupon notify the Purchaser, in writing, of the amount of the Capitalized Annual Water Fee to be charged, which shall be due and payable by the Purchaser within thirty (30) days from the date it receives said notice.

(ii) Within sixty (60) days of the end of the Capitalization Period, the District shall reconcile with the Purchaser the difference between the Capitalized Annual Water Fee paid by the Purchaser and the actual amount that would have been paid had the Purchaser paid the Annual Water Fee on an annual basis. If the Capitalized Annual Water Fee paid by the Purchaser is higher than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the District shall credit the difference to the Purchaser against future Annual Water Fees payable by the Purchaser as determined by the District. If the Capitalized Annual Water Fee paid by the Purchaser is lower than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the Purchaser shall pay the difference to the District within ninety (90) days from the end of the Capitalization Period.

(4) Annual Service Fee.

(A) The Annual Service Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover a portion of the District’s CWP administrative costs and

¹ The amount of the Annual Water Fee as set forth in the Original FY2010 A2 Agreement and each past and current year, as well as the estimated future

expenses.

(B) The Annual Service Fee is due and payable annually on or before February 15th of the current year for the annual cumulative volume, in acre-feet, of Deliverable Water pursuant to this Agreement as of December 31st of the preceding year. The Annual Service Fee will be due and payable regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year.

(C) The initial amount of the Annual Service Fee for the CWP Infrastructure Water -reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the ~~table under Paragraph 2 (e)(1), Take Down Schedule, Exhibit "A" hereto.~~

(c) Pricing Structure Applicable to the Purchaser Hereunder.

(1) The pricing structure for each of the components of the CWP 2010A2 water supply ~~agreements purchased hereunder is as follows:~~ set forth in the Take Down Schedule, Exhibit "A" hereto.

~~(A) For CWP Infrastructure Water Delivered to the Point(s) of Delivery Identified in Exhibit B:~~

Price Component	Price per acre-foot
(i) One-time Development Charge	\$6,200
(ii) Annual Reservation Fee	\$ 0
(iii) Annual Water Fee	\$ 314**
(iv) Annual Service Fee	\$ 0

~~** Subject to change. The amount to be charged under the Annual Water Fee is anticipated to fluctuate based upon the District's actual costs, and as such, the amount to be charged for the Annual Water Fee will be set annually by the District.~~

~~(B) For CWP Non-Infrastructure Water Delivered to the Point(s) of Delivery~~

~~amounts are also shown~~

Identified in Exhibit B:

<u>Price Component</u>	<u>Price per acre-foot</u>
(i) One-time Development Charge	\$5,000
(ii) Annual Reservation Fee	\$ 0
(iii) Annual Water Fee	\$ 0
(iv) Annual Service Fee	\$ 20**

~~** Subject to change. The amount to be charged under the Annual Service Fee is anticipated to fluctuate based upon the District's actual costs, and as such, the amount to be charged for the Annual Service Fee will be set annually by the District.~~

(2) Interest on Delinquent Accounts. Any CWP Fee that remains unpaid after it shall have become due and payable as provided herein shall be subject to simple interest at the rate of one and one-half percent (1.5%) of the delinquent amount per month. Interest will begin to accrue from the date of delinquency and will continue to accrue until such time as the delinquent CWP Fees and all accrued interest have been paid in full; provided, however, that no interest shall be charged to or paid by the Purchaser unless such delinquency continues for more than thirty (30) days or more beyond the date of delinquency.

3. **Quality of Water Delivered**

CWP culinary water shall be delivered to the Purchaser in conformance with standards for public drinking water set by applicable law and regulation, including the Utah Division of Drinking Water and/or the Utah Drinking Water Board of the Department of Environmental Quality; provided, however, that the District shall not be liable, or otherwise in breach of this Agreement, for failure to meet those standards unless the failure is due to the District's willful misconduct or gross negligence. The District and Purchaser agree that the CWP water sources will be Provo River water, high quality deep groundwater from a well field in or near Vineyard, Utah, or other sources of comparable quality.

Deliveries from any other sources shall be of comparable quality.

4. Reservation of Water

(a) The District shall hold Purchased Water in reserve for the Purchaser pursuant to the Take-down Schedule, Exhibit A. Purchased Water must be removed from Reserved Water status based on said schedule. As Reserved Water is removed from reserved status, payments will be required for each acre-foot of Deliverable Water as set forth in Paragraph 2.

(b) The Purchaser may conclude that it has reserved more Purchased Water than it will eventually require. The District may consider an application from the Purchaser to transfer or otherwise reduce all or a portion of the amount of CWP water contracted for hereunder; however, the District will not approve the application unless and until another water user in North Utah County or Salt Lake County (“Replacement Purchaser”) applies for a new contract, in an equal or greater quantity, to simultaneously replace the reduction hereunder. In such event, the District may approve such a replacement transaction, on the basis of the same terms or on differing terms, in the best interest of the District at its sole discretion. The District agrees, however, that it will not unreasonably deny Purchaser’s application for or alter the terms of the replacement transaction under a new contract. The limitations and conditions that shall apply, however, to such a replacement transaction include the following:

(1) A reduction in contract volume to be taken down by Purchaser and/or the timing thereof, as set forth in Exhibit A, hereto must include a corresponding, proportional reduction in Contract Capacity under Exhibit B hereto.

(2) The reduction of contract volume and/or the timing thereof under Exhibit A

hereto is limited to the corresponding amount and/or timing of the new or increased contract volume of the Replacement Purchaser.

(3) The reduction of Contract Capacity under Exhibit B hereto must be at least as great as the Contract Capacity increase of the new or increased contract of the Replacement Purchaser, except for variations in maximum daily delivery as between the Purchaser and the Replacement Purchaser.

(c) At the Purchaser's request, and provided that the District has developed the required CWP System Capacity:

(1) Purchased Water may become deliverable to the Purchaser on a year-to-year basis according to an accelerated schedule from that shown in Exhibit A, subject to terms and conditions mutually agreed to in writing by the Parties, or

(2) Purchased Water may become deliverable on a permanent basis according to an accelerated schedule from that shown in Exhibit A pursuant to the terms and conditions set forth in this Agreement;

(d) In the event of a reduction in the take-down as a result of a reduction or transfer of Purchased Water by the Purchaser as provided in subparagraph 4 (b) above, or an acceleration in the delivery of the Purchased Water as provided in subparagraph 4 (c) above, the applicable CWP Fees due and payable by the Purchaser to the District as provided in Paragraph 2 shall be correspondingly accelerated or reduced as the case may be, as determined in the sole discretion of the District in conformance with the provisions of Paragraph 2(b).

5. Point of Delivery

(a) The District will deliver the Purchased Water to the Purchaser in conformance with the

following:

(1) For CWP Infrastructure Water: CWP Infrastructure Water will be measured and delivered to the Purchaser only at the point or points of delivery identified in Exhibit B. The infrastructure to be constructed by the District for the purpose of delivering CWP Infrastructure Water from its main transmission lines at said point(s) of delivery include a vault, valve(s), meter(s), piping and related facilities and equipment (“Delivery Infrastructure”), as determined to be necessary by the District to deliver and measure the CWP Infrastructure Water at said point(s). The Delivery Infrastructure will be constructed and installed at the District’s sole expense in connection with the development of the CWP, and the District shall own, operate, maintain, repair and replace the same for the term of this Agreement.

(2) For CWP Non-Infrastructure Water: CWP Non-infrastructure Water will be measured and delivered by the Purchaser at its infrastructure. The District will administer water right change applications as necessary to designate points of diversion for delivery of CWP Non-infrastructure Water to the Purchaser at the Purchaser’s sources. The Purchaser will meter and tabulate totals of CWP water delivered on a monthly basis from Purchasers sources and report that to the District for each contract year.

(b) Once the District delivers CWP Infrastructure Water to the point(s) of delivery, or CWP Non-infrastructure water is delivered at the Purchaser’s sources, it shall be the responsibility of the Purchaser to provide its own facilities as needed to take this water from the Delivery Infrastructure or Purchasers sources into the Purchaser’s own delivery and/or distribution system for its use. No new points of delivery will be allowed without the prior written approval of the District. All Purchased Water delivered by the District under this Agreement will be measured through measuring devices

installed in the Delivery Infrastructure or the Purchasers infrastructure at its sources.

6. System Capacity

(a) It is understood by the Purchaser that the delivery of Deliverable Water by the District to the Purchaser is limited to the Contract Capacity set forth in Exhibit B.

(b) If CWP System Capacity is available to deliver water beyond the Contract Capacity, and the Purchaser so requests, the Purchaser may, with the prior written approval of the District, receive delivery of Deliverable Water at a flow rate higher than the Contract Capacity provided in Exhibit B, subject to the following:

(1) The maximum flow rate at which the Deliverable Water shall be delivered and resulting adjustments in the applicable CWP Fees set forth in Paragraph 2 (c) herein for said year or other costs to be applied, if any, shall be negotiated and agreed upon by the Parties prior to the delivery of Deliverable Water in the increased amount.

(2) A request by the Purchaser to exceed the Contract Capacity shall be made on an annual basis no later than April 30th.

(3) Notwithstanding the foregoing, if the Contract Capacity is exceeded by the Purchaser without receiving the prior written approval of the District, then a monthly surcharge will be assessed to the Purchaser in an amount per acre-foot set annually by the District for each acre-foot of water exceeding Contract Capacity or Contract Capacity modified in accordance with Paragraph 6(b)(1), calculated on a daily basis.

7. Quantity of Water Delivered

(a) The District is not a guarantor of CWP water supply or of CWP delivery capacity. It is understood by the Parties that the District's ability to deliver CWP water to the Purchaser depends, in part, on the available CWP System Capacity. Therefore, in its reasonable discretion and pursuant to its interpretation and the application of its policies, rules, and procedures as they may be amended periodically:

(1) in times of CWP water shortage due to lack of runoff or other conditions which may be beyond the control of the District, the District may make a ratable allocation of CWP water among the various CWP purchasers, which allocation shall be based on the then-current amount of Deliverable Water in proportion to the District's CWP water purchase commitments under all of its CWP water supply agreements, and the amount of Deliverable Water for that year shall be reduced pro-rata; and

(2) in the event of CWP System Capacity shortages due to potential failures of equipment and infrastructure, and limitations in water source and infrastructure capacities, and in peak demand periods and other times of limited delivery capacity, the District may allocate the available CWP System Capacity among the District's CWP purchasers, which allocation shall be based on the then-current amount of CWP System Capacity available in proportion to the total CWP delivery capacity set forth in Exhibit B.

(b) No liability shall accrue against the District or any of its trustees, officers, agents, or employees, for any damages, direct or indirect, sustained by the Purchaser and/or its customers in the event of shortages of CWP System Capacity, or the District's inability to deliver the Purchased Water to the Purchaser not resulting from the District's own negligence, or due to shortages caused by drought, hostile diversion, prior or superior claims, or other similar causes not within the control of the District.

(c) In the event the Purchaser does not take delivery during any contract year of all of the

Deliverable Water for which the One-time Development Fee has been paid in conformance with the provisions of Paragraph 2 (b) (1), the Purchaser may take delivery in the immediately following contract year of so much of the Deliverable Water not taken as does not exceed five percent (5%) of the total Deliverable Water for that year ("Deferred Water"), subject to the following:

- (1) Calculation of the amount of Deferred Water shall not include any water besides Deliverable Water as of the end of the previous contract year.
- (2) Deferred Water cannot be accumulated on a multi-year basis.
- (3) Deferral is subject to the availability of CWP System Capacity, as reasonably determined by the District;
- (4) Delivery of Deferred Water shall have a lower priority than delivery of Deliverable Water for that year;
- (5) The Purchaser may take delivery of Deferred Water only after it has taken delivery of all of the Deliverable Water for the contract year in which the Deferred Water is to be taken.

8. Use and Delivery of Purchased Water by the Purchaser

- (a) The Purchaser shall use the Purchased Water made available to it under this Agreement only for M&I purposes. No other use of Purchased Water shall be made without the prior written consent of the District.
- (b) The portfolio of water rights the District has acquired for the CWP requires that a percentage of water represented by the CWP water rights be returned to the hydrologic system in Utah and Salt Lake counties in order to avoid interference with other water right appropriators and with other District water supply operations. As such, the Purchaser shall not recycle nor otherwise utilize the Purchased Water in a manner that depletes the Purchased Water in amounts greater than fifty percent

(50%). without the prior written consent of the District.

(e) Subject to the prior written consent of the District, all or some portion of the CWP Non-infrastructure Water may be utilized by the Purchaser by change application or exchange application under Utah law filed by the District. The Purchaser shall reimburse the District for any legal, engineering or other professional and consulting fees and all related costs and expenses it reasonably incurs in prosecuting any such change or exchange application to decision before the State Engineer, and through any subsequent judicial or administrative review proceedings or appeal.

(d) The Purchaser shall build its own infrastructure as required by it to take delivery of the Purchased Water from the District and utilize and distribute the same to its customers. All cost for O&M of the Purchaser's facilities shall be paid by the Purchaser and not the District.

(e) The Purchaser shall not use, deliver for use, sell, lease or otherwise dispose of any Purchased Water outside Purchaser's political boundaries or its recognized service area, without the prior written consent of the District. No user of the Purchased Water will use the Purchased Water on any basis other than the same basis as the general public.

(f) The facilities to be used to provide and deliver the Purchased Water may be financed, in whole or in part, with the proceeds of tax-exempt bonds ("Tax-exempt Bonds") of the District.

(1) The Purchaser acknowledges that in the event the District issues or has issued Tax-exempt Bonds related to the Purchased Water or its delivery, the use of Purchased Water by the Purchaser may be subject to various limitations imposed under the Internal Revenue Code of 1986 (the "Code"), and United States Treasury Regulations dealing with the tax-exempt bond provisions of the Code (the "Regulations"), that must be complied with in order to protect the tax-exempt status of interest on the Tax-exempt Bonds; and as such, the Purchaser agrees as follows:

(A) The Purchaser shall not, without the prior written approval of the District, supply or enter into any arrangement to supply any of the Purchased Water to any person or entity, other than a state or local government, that conveys any preferential benefits, or that supplies water other than on the basis of rates that are generally applicable and uniformly applied or supplies the water to any person or entity who will resell the water in such a manner as to establish a "Private Business Use" under applicable provisions of Section 141(a) of the Code and the Regulations, thereby jeopardizing the tax-exempt status of the Tax-Exempt Bonds.

(B) The Purchaser shall not establish any fund or otherwise set aside any money or investments that it reasonably expects to use to make payments due and owing to the District under this Agreement without the prior written approval of the District (which approval may, among other requirements, limit the maximum yield for the investment of any such amounts pursuant to certain arbitrage rules under applicable provisions of Section 148(f) of the Code and the Regulations).

(2) The Purchaser shall, on an annual basis, provide to the District written verification of compliance with the requirements of this Subparagraph 8 (f).

9. Water Conservation

The Purchaser covenants that it shall prepare and file with the District a water conservation plan promulgated by the Purchaser which addresses, among other things, pricing, technical assistance and public education as components of the water conservation plan. Such plan shall be submitted to the District within one year of first delivery of Purchased Water to the Purchaser and shall be updated biennially.

10. Collection of Fees and Charges

In order to assure full and continuous performance of the Purchaser's obligations as set forth

herein, the Purchaser hereby covenants and agrees that it will levy and collect all necessary fees, charges and assessments and reasonable contingencies in amounts which, together with other legally available funds, are sufficient to pay in full to the District all of its CWP Fee obligations under this Agreement. The Purchaser shall timely pay to the District the full amount of CWP Fees as they become due regardless of whether the Purchaser collects the full amount of its fees, charges, and assessments from its customers.

11. Refusal of Water in the Event of Default and Termination

(a) The District may withhold the delivery of all or any portion of the Purchased Water to the Purchaser if the Purchaser is in arrears for more than sixty (60) days in the payment to the District of any CWP Fee to be paid pursuant to Paragraph 2(b). Deliveries shall resume upon payment in full of any such arrearage including any and all accrued interest imposed by the District pursuant to this Agreement. Funds received to cure any arrearage shall be first applied by the District to payment of accrued interest and then towards the reduction of the principal on any such outstanding CWP Fee.

(b) If the Purchaser is in default under any provision of this Agreement and the default remains uncured for more than sixty (60) days after the date of written notice of default, the Parties shall reasonably mediate the dispute. However, if the dispute remains unresolved notwithstanding mediation, this Agreement may be terminated at the sole discretion of the District, subject to the following:

(1) The Purchaser shall have up to one (1) year after the date of written notice of default to seek judicial resolution of the dispute following mediation. This Agreement may not be terminated by the District during the pendency of any judicial action, including any subsequent appeal.

(2) Should the Purchaser fail to bring legal action within said one year period and the

dispute otherwise remains unresolved, the District may thereupon proceed to terminate the Agreement, effective upon written notice to the Purchaser.

(3) Upon termination of the Agreement, the Purchased Water will revert to the District for reallocation to other purchasers as determined by the District.

(4) Termination will not relieve the Purchaser of its obligations to pay any past due CWP Fees, together with any and all accrued interest; however, the Purchaser will be relieved of any future payment obligations after the termination of this Agreement.

12. Term of Agreement

The term of this Agreement shall be perpetual so long as the required payments are paid in accordance with the terms of this Agreement. However, nothing herein shall prohibit the Parties from amending or terminating this Agreement if the Parties mutually agree to do so. There are no third party beneficiaries of this Agreement, and no one other than the Parties hereto may enforce its terms and conditions.

13. Assignment Limited

Neither Party may assign this Agreement or any of its rights under it without the prior written consent of the other Party; provided, however, that the District may pledge and assign any monies received pursuant to this Agreement to the payment of the District's bonds.

14. Exhibits

All exhibits attached to this Agreement are incorporated into and made a part of this Agreement as though fully set forth herein.

15. Original Agreement Superseded: Binding Effect

This Agreement, as of the Effective Date, shall amend, and supersede, in its entirety, the

Original FY2010 A2 Agreement, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. Severability

If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

17. Construction

This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

18. Further Action

The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

19. Business Relationship

This Agreement neither acknowledges the existence of nor is it intended nor shall it be construed to establish, create or organize any principal-agent relationship, partnership, joint venture, or any other legal entity or form of business relationship between the Parties, and is limited solely to the purposes and interests expressed herein.

20. Entire Agreement

This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof.

21. Warranty of Authority

Each individual executing this Agreement does hereby represent and warrant that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified herein. The District and the Purchaser each represent and warrant that it has full legal right and authority to enter into this Agreement.

22. Notices

Notices given by or to the Parties shall be in writing and may be served personally or served by depositing them in the United States mail, postage prepaid, certified or registered mail with return receipt requested, addressed to the Parties at the addresses set forth below, or at such other addresses as the Parties may designate in writing:

DISTRICT:

Central Utah Water Conservancy District
Attention: General Manager
355 West University Parkway
Orem, Utah 84058

PURCHASER:

EAGLE MOUNTAIN CITY
Attention: Mayor
And to:
Attention: City Recorder
1650 East Stagecoach Run
Eagle Mountain, UT 84005

23. Rules and Regulations Governing Service

Subject to the terms and conditions of this Agreement, the District reserves the right to adopt rules and regulations governing the delivery of water under this Agreement, and to exercise its full statutory powers, including specifically the right to amend its rates, fees, charges, and its rules and regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future. It is expressly agreed that the District, by signing this Agreement, has not surrendered any of its rights in this regard.

24. Subject to Act

Subject to the terms and conditions of this Agreement, any commitment of CWP water, and payment to the District for CWP water so committed pursuant to this Agreement, shall be subject to the Act and the rules and regulations of the District's Board of Trustees now existing or hereafter legally promulgated, as the same may be supplemented or amended.

IN WITNESS WHEREOFF, the Parties hereto have executed this Agreement effective as of the day and year first written above.

**CENTRAL UTAH WATER
CONSERVANCY DISTRICT**

EAGLE MOUNTAIN CITY

By: _____

Its: President

By: _____

Its: Mayor

Attest: _____

Secretary

Attest: _____

Its: City Recorder

EXHIBIT A

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP INFRASTRUCTURE WATER UNDER THIS AGREEMENT.**

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FISCAL YEAR (eg. FY 2009 = July 1, 2008 through June 30, 2009)	ANNUAL VOLUME OF CWP INFRASTRUCTURE WATER REMOVED FROM RESERVED STATUS- DELIVERABLE WATER (AF)	CUMULATIVE ANNUAL VOLUME OF CWP INFRASTRUCTURE WATER DELIVERED (AF)
2009		
2010		
2011		
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020	11,500	
2021 and thereafter		11,500
TOTAL VOLUME OF CWP INFRASTRUCTURE WATER RESERVED UNDER THIS AGREEMENT (AF)	11,500	

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP NON-INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

CALENDER YEAR	ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER REMOVED FROM RESERVED STATUS (AF)	CUMULATIVE ANNUAL VOLUME OF CWP NON-INFRASTRUCTURE WATER DELIVERED (AF)
2009		
2010		
2011		
2012		
2013		

2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021 and thereafter		
TOTAL VOLUME OF CWP NON-INFRASTRUCTURE WATER RESERVED UNDER THIS AGREEMENT(AF)	None	

CWP FY2010 A2 (Eagle Mountain City 2016 Amended and Restated)

Fiscal Year (to FY2008-09 = July 1, 2008 - June 30, 2009)	Annual Volume of CWP Infrastructure Water Removed from Reserved Status - Deliverable Water (AF)	CWP One Time Development Charge for Block of Water Removed from Reserved Status (AF)	Cumulative Annual Volume of CWP Infrastructure Water Deliveries - Deliverable Water (AF)	Actual and Estimated Future Reservation Fee (\$/AF of Annual Reserved Water)	Actual and Estimated Future Annual Water Fee (As set annually by the District) (\$/AF of Annual Deliverable Water)
2008-09	0	<i>\$5,850</i>	0	\$0	<i>\$300.00</i>
2009-10	0	<i>\$5,850</i>	0	\$0	<i>\$314.00</i>
2010-11	0	<i>\$5,850</i>	0	\$0	<i>\$328.00</i>
2011-12	0	<i>\$5,850</i>	0	\$0	<i>\$343.00</i>
2012-13	0	<i>\$5,850</i>	0	\$0	<i>\$358.00</i>
2013-14	0	<i>\$5,850</i>	0	\$0	<i>\$374.00</i>
2014-15	0	<i>\$5,850</i>	0	\$0	<i>\$391.00</i>
2015-16	0	<i>\$9,370</i>	0	\$0	<i>\$408.00</i>
2016-17	0	\$9,600	0	\$0	\$427.00
2017-18	0	\$9,840	0	\$0	\$446.00
2018-19	0	\$10,090	0	\$0	\$466.00
2019-20	0	\$10,340	0	\$0	\$487.00
2020-21	220	\$10,600	220	\$0	\$509.00
2021-22	470	\$10,870	690	\$0	\$532.00
2022-23	470	\$11,140	1,160	\$0	\$556.00
2023-24	470	\$11,420	1,630	\$0	\$581.00
2024-25	470	\$11,710	2,100	\$0	\$607.00
2025-26	470	\$12,000	2,570	\$0	\$634.00
2026-27	470	\$12,300	3,040	\$0	\$663.00
2027-28	470	\$12,610	3,510	\$0	\$693.00
2028-29	470	\$12,930	3,980	\$0	\$724.00
2029-30	470	\$13,250	4,450	\$0	\$756.00
2030-31	470	\$13,580	4,920	\$0	\$790.00
2031-32	470	\$13,920	5,390	\$0	\$826.00
2032-33	470	\$14,270	5,860	\$0	\$863.00
2033-34	470	\$14,630	6,330	\$0	\$902.00
2034-35	470	\$15,000	6,800	\$0	\$943.00
2035-36	470	\$15,380	7,270	\$0	\$985.00
2036-37	470	\$15,760	7,740	Continues to be \$0/AF	Rate continues to be adopted by District Board
2037-38	470	\$16,150	8,210		
2038-39	470	\$16,550	8,680		
2039-40	470	\$16,960	9,150		
2040-41	470	\$17,380	9,620		
2041-42	470	\$17,810	10,090		
2042-43	470	\$18,260	10,560		
2043-44	470	\$18,720	11,030		
2044-45	470	\$19,190	11,500		

Continues at 11,500 AF

- Actual previous or present fee amounts are in Italics and Blue

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EXHIBIT B

**DELIVERY LOCATION AND
RATE OF DELIVERY CAPACITY UNDER THIS AGREEMENT**

I. FOR CWP INFRASTRUCTURE WATER

Delivery Location See <u>Note (Figure 1)</u>	Ultimate Contract Capacity (Maximum Daily Flow Rate in GPM But Limited by Annual Deliverable Volume) See Note <u>(21)</u>
---	--

1. Turnout at approximately Pony Express Parkway and 800 West Saratoga Springs
2. Turnout at the North Shore Terminal Reservoir located approximately one quarter mile North of 400 West and SR-73 Saratoga Springs

See attached Figure 1

For Combined Total of up to 15,110 GPM

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II. FOR CWP NON-INFRASTRUCTURE WATER

Delivery Location See Note <u>(42)</u>	Contract Capacity (Maximum Daily Flow Rate in GPM) See Note <u>(32)</u>
---	---

1. None None

Notes:

~~(1) — The delivery location referenced herein is preliminary. A final delivery location or locations will be determined by the Parties and designated herein after final design and prior~~

~~to the commencement of construction of the CWP infrastructure or approval of water right change application.~~

~~(2)(1)~~ The total Contract Capacity corresponds to the Cumulative Annual Volume Delivered shown in Exhibit A in each year multiplied by 18% and divided by 31 days and converted to a gallons per minute flow rate, i.e. Delivered Water amount in AF multiplied by 0.18 divided by 31 days multiplied by 325,829 gallons per AF divided by 24 hours per day divided by 60 minutes per hour.

~~(32)~~ The total Contract Capacity ~~is anticipated to~~would be identified in the approved water right change application.

**AMENDED AND RESTATED WATER SUPPLY AGREEMENT
BETWEEN CENTRAL UTAH WATER CONSERVANCY DISTRICT
AND EAGLE MOUNTAIN CITY
FOR SALE OF CWP MUNICIPAL AND INDUSTRIAL WATER**

THIS AMENDED AND RESTATED AGREEMENT (“Agreement”) is made effective as of this _____ of January, 2016, the “Effective Date”), by and between the Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah (“District”), and Eagle Mountain City, a municipal corporation (“Purchaser”). The District and the Purchaser are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. The District is organized and exists pursuant to the Utah Water Conservancy Act, Utah Code Annotated §17B-2a-1001, et seq., and those provisions of §17B-1-101, et seq., applicable to all local districts, both sections as amended (collectively, the "Act"), for the purpose, among others, of making water available to contract holders residing within its boundaries and of entering into agreements with water users for the purchase and sale of water and its delivery.
- B. The Purchaser is a water user organized under the laws of the State of Utah that utilizes and/or provides water service to its customers within its boundaries, and which desires to purchase an additional supply of municipal and industrial (“M&I”) water from the District.
- C. The District shall design, construct, operate, maintain, repair and replace the Central Utah Water Conservancy District Water Development Project (“CWP”), and has developed and obtained and will develop and obtain sources of water supply for sale and delivery to contract purchasers through the CWP.

D. The Parties enter into this Agreement to amend and restate that certain Water Supply Agreement between Central Utah Water Conservancy District and Eagle Mountain City For the Sale of CWP Municipal and Industrial Water, dated October 7, 2009, (the “Original FY2010 A2 Agreement”), for the purpose of setting forth the terms and conditions pursuant to which CWP water may be reserved by, purchased by and delivered to the Purchaser at the point or points designated herein, for sale and distribution by the Purchaser to meet a portion of the needs of its customers.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS

1. Sale and Purchase of CWP Water

(a) The District hereby agrees to sell and the Purchaser hereby agrees to purchase annually, or in any event pay for, as described herein, Eleven Thousand Five Hundred (11,500) acre-feet of M&I water developed from the CWP (“Purchased Water”), consisting of Eleven Thousand Five Hundred (11,500) acre-feet of Deliverable Water, as defined in Paragraph 2(b)(1)(B) below, delivered using CWP or District operated infrastructure (“CWP Infrastructure Water”) and Zero (0) acre-feet of Deliverable Water delivered to Purchaser by means other than CWP or District operated infrastructure (“CWP Non-Infrastructure Water”).

(b) Subject to the terms and conditions of this Agreement, the Purchased Water shall be reserved and made available by the District to the Purchaser in accordance with the Take-down Schedule attached as Exhibit “A” hereto. The Deliverable Water shall then be delivered to the Purchaser at the specified point or points of delivery, and within the maximum daily flow rates

(“Contract Capacity”) set forth on the Delivery Schedule attached as Exhibit “B” hereto. The Parties hereby understand and acknowledge that in establishing the Contract Capacity, the District must consider both the capacity of the available CWP water supply and the capacity of the available CWP infrastructure, including the capacity of all available reservoirs, wells, treatment plants, transmission lines, meters and meter stations, and pumps and pump stations within the CWP system (collectively, the “CWP System Capacity”).

(c) The District and the Purchaser agree and understand that the sale of Purchased Water under this Agreement, as amended and restated, is under terms and conditions that are the same for similarly situated customers entering into CWP water supply agreements during the period July 1, 2009 through September 30, 2009 (said grouping of water supply agreements being referred to for purpose of identification as “CWP FY2010 A2”) and offered to all other existing CWP Water Supply Agreement Customers as of January 1, 2016.

(d) In the event the District shall enter into any CWP supply agreement(s) having a pricing structure or terms of sale more favorable to the purchaser therein than those set forth in Paragraph 2 below, the Parties agree that this Agreement shall be amended so as to apply the same pricing structure or terms of sale herein.

2. Sales Price of Purchased Water

(a) General.

(1) CWP water is sold and delivered pursuant to a pricing structure containing the following four components: (i) a One-time Development Charge; (ii) an Annual Reservation Fee, (iii) an Annual Water Fee, and (iv) an Annual Service Fee, all as described in Paragraph 2(b) below. (The One-time Development Charge, the Annual Reservation Fee, the Annual Water Fee and the Annual

Service Fee are sometimes referred to herein collectively as the “CWP Fees”).

(2) Factors that will influence the amount for each of the four components of the pricing structure may include: (i) whether a purchaser uses or does not use any of the District’s infrastructure; and (ii) the grouping, by year, of water purchase agreements for CWP water. At the sole discretion of the District, the cost of some of the four components of the pricing structure may be zero based on the factors described above.

(3) The CWP Fees set forth herein are imposed for the sole purpose of developing and providing the CWP water supply and providing the infrastructure necessary to deliver the Purchased Water to the Purchaser and other water users and customer agencies that enter into similarly situated and dated CWP water supply agreements. CWP Fees will not include District costs from projects not directly related to the CWP. The District shall treat all CWP water purchasers, similarly situated within water sales agreements grouped according to the effective dates of said agreements as may be determined by the District, in an equal, fair and non-discriminatory manner.

(4) CWP Fees under this Agreement shall be due and payable by the Purchaser, as provided herein, regardless of whether the Purchaser calls for or uses any of the Purchased Water in any given year, subject to annual adjustment as provided in Paragraph 7 herein. Notwithstanding the foregoing, in the unlikely event the CWP infrastructure is not capable of delivering Purchased water to Purchaser in the fiscal year first set forth in the Take Down Schedule, Exhibit “A” hereto, the obligation of the Purchaser to pay the One-time Development Charge and the Reservation Fee shall be suspended, the volume of water scheduled to be removed from reserved status and become Deliverable Water, as defined in Paragraph 2(b)(1)(B), in that fiscal year shall be set back and added onto the next succeeding year, until Purchased water is available for delivery, at which time payment of the One-time

CWP FY2010 A2 (Eagle Mountain City 2016 Amended and Restated)

Development Charge, as provided herein, shall be due for the fiscal year in which Purchased Water first becomes Deliverable Water and for each fiscal year added on thereto.

(5) Notwithstanding any provision herein to the contrary with regard to payment of CWP Fees, the Purchaser may request in writing that it be authorized to pre-pay, in whole or in part, any one or all of the CWP Fees due and owing hereunder. The pre-payment request shall be analyzed on a case-by-case basis, and be authorized at the sole discretion of the District, subject to such terms and conditions as the District shall determine at the time. The District's authorization to pre-pay and the terms and conditions of pre-payment shall be set forth in a separate written agreement to be executed between the District and the Purchaser.

(b) CWP Pricing Structure. The pricing structure for the CWP FY2010 A2 water supply agreements is as follows:

(1) One-time Development Charge.

(A) The District must recover from all purchasers that enter into water supply agreements the costs of the District to develop the CWP, including the acquisition and development of the CWP water supply and the planning, design and construction of the CWP infrastructure ("CWP Development Cost"). The One-time Development Charge is charged on a per acre-foot basis as provided in Paragraph 2(c) below, and covers the majority of the Purchaser's proportionate share of the CWP Development Cost. The respective One-time Development Charges to be paid by Purchaser for the CWP Infrastructure Water reserved under this Agreement are fixed in the amounts shown in the Take Down Schedule, Exhibit "A" hereto, during the term of this Agreement for each block of CWP water ("Block"), taken out of reserved status under the schedule set forth in the Take Down Schedule and is not subject to change for CWP water reserved under this Agreement, except for provisions

contained in Paragraph 4.

(B) The One-time Development Charge designated for each Block is paid one-time only by the Purchaser for that total volume of Purchased Water under each Block, and is due and payable on July 1 of the fiscal year in which the Block of Purchased Water is removed from reserved status as provided in Paragraph 2(b)(2)(A) below and made available to the Purchaser for delivery (“Deliverable Water”) in accordance with the Take-down Schedule, Exhibit “A”.

(2) Annual Reservation Fee.

(A) The Annual Reservation Fee applies to Purchased Water held in reserve status for the Purchaser pursuant to the provisions of Paragraph 4 (“Reserved Water”), and is imposed inasmuch as the CWP Development Cost must be paid by the District regardless of whether the Purchaser takes delivery of Purchased Water or not. The Annual Reservation Fee is charged on a per acre-foot basis as provided in Paragraph 2(B) below and covers an additional portion of the Purchaser’s proportionate share of the CWP Development Cost during the period the Purchased Water remains in reserved status. As Purchased Water is removed from its reserved status and becomes Deliverable Water pursuant to the Take-down Schedule, Exhibit “A”, the District will no longer impose an Annual Reservation Fee on said water. The Purchaser will then pay the One-time Development Charge on the Deliverable Water as provided in Paragraph 2(b)(1) and commence payment of the Annual Water Fee as provided in Paragraph 2(b)(3) and the Annual Service Fee as provided in Paragraph 2(b)(4). The District will continue to impose the Annual Reservation Fee on any and all Purchased Water that remains in Reserved Water status for the Purchaser.

(B) The Annual Reservation Fee is charged on a per acre-foot basis for each acre-foot of Purchased Water held in reserved status for the Purchaser pursuant to Paragraph 4 as of

December 31st of the preceding calendar year, and is due and payable annually on or before February 15th of the current year.

(C) The Annual Reservation Fee for the CWP Infrastructure Water reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the Take Down Schedule, Exhibit A hereto.

(3) Annual Water Fee.

(A) The Annual Water Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover costs associated with the operation, maintenance, repair and replacement (“O&M”) of the CWP infrastructure, to fund O&M reserves for the CWP, to pay the remaining portion of the Purchaser’s proportionate share of the CWP Development Cost not covered by the One-time Development Charge and the Annual Reservation Fee (proportionate share for this purpose being defined as Purchaser’s total volume of CWP Infrastructure Water under this Agreement divided by the total capacity of the CWP attributable to CWP Infrastructure Water, estimated by the Parties as of the date hereof to be 53,312 acre-feet, averaged over a five-year rolling period), and to cover other related costs of the District pertaining solely to the CWP infrastructure. The amount of the Annual Water Fee to be charged is set annually by the District’s Board of Trustees, and may change from year-to-year.

(B) In payment of the Annual Water Fee, the Purchaser will only pay that amount attributed to a proportionate share of costs incurred for O&M, to fund the O&M Reserve and other related costs pertaining to CWP infrastructure, apportioned to the Purchaser based upon the annual cumulative volume of Deliverable Water, in acre-feet.

(C) The amount of the Annual Water Fee for the CWP Infrastructure Water

reserved for Purchaser hereunder, in place as of the Effective Date of this Agreement, is set forth in the Take Down Schedule, Exhibit "A" hereto¹. Payment shall be made in conformance with the following:

(i) The District will invoice the Purchaser for the Annual Water Fee commencing the end of the month following the payment of the One-time Development Charge.

(ii) Subject to the provisions of Paragraph 2(b)(3)(D) below, the Annual Water Fee is payable by the Purchaser on a monthly basis within 30 days of the date of the District's invoice for actual water deliveries made in months prior to the date of the invoice.

(iii) Subject to the provisions of Paragraph 7 below, the Annual Water Fee is to be paid by the Purchaser as provided herein regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year. In the event the amount paid by the Purchaser under invoices for actual water delivered in conformance with Paragraph 2(b)(3)(C)(ii) is less than the total Annual Water Fee due hereunder, the remaining balance shall be invoiced by the District in the June billing each fiscal year.

(D) Notwithstanding the provisions of Paragraph 2(b)(3)(C) above, the Purchaser, at its option, may give written notice to the District that it desires to capitalize the Annual Water Fee. The District is willing to accept an up-front capitalized payment ("Capitalized Annual Water Fee"), for a period of not to exceed five years ("Capitalization Period"), under terms and conditions established by the District in its sole discretion, subject to the following:

(i) Upon receipt of notice from the Purchaser, the District will calculate the total estimated amount of the Capitalized Annual Water Fee to be due and payable over the Capitalization Period commencing the date Deliverable Water becomes available to the Purchaser. The

¹ The amount of the Annual Water Fee as set forth in the Original FY2010 A2 Agreement and each past and current year, as well as the estimated future amounts are also shown

District will thereupon notify the Purchaser, in writing, of the amount of the Capitalized Annual Water Fee to be charged, which shall be due and payable by the Purchaser within thirty (30) days from the date it receives said notice.

(ii) Within sixty (60) days of the end of the Capitalization Period, the District shall reconcile with the Purchaser the difference between the Capitalized Annual Water Fee paid by the Purchaser and the actual amount that would have been paid had the Purchaser paid the Annual Water Fee on an annual basis. If the Capitalized Annual Water Fee paid by the Purchaser is higher than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the District shall credit the difference to the Purchaser against future Annual Water Fees payable by the Purchaser as determined by the District. If the Capitalized Annual Water Fee paid by the Purchaser is lower than the actual annual payments would have been pursuant to Paragraph 2(b)(3)(C), the Purchaser shall pay the difference to the District within ninety (90) days from the end of the Capitalization Period.

(4) Annual Service Fee.

(A) The Annual Service Fee is charged on a per acre-foot basis as provided in Paragraph 2(c) below and is imposed to cover a portion of the District's CWP administrative costs and expenses.

(B) The Annual Service Fee is due and payable annually on or before February 15th of the current year for the annual cumulative volume, in acre-feet, of Deliverable Water pursuant to this Agreement as of December 31st of the preceding year. The Annual Service Fee will be due and payable regardless of whether the Purchaser calls for or uses any of the Deliverable Water in any given year.

(C) The initial amount of the Annual Service Fee for the CWP Infrastructure

Water reserved for Purchaser hereunder is fixed during the term of this Agreement in the amount set forth in the Take Down Schedule, Exhibit "A" hereto.

(c) Pricing Structure Applicable to the Purchaser Hereunder.

(1) The pricing structure for each of the components of the CWP 2010A2 water supply purchased hereunder is set forth in the Take Down Schedule, Exhibit "A" hereto.

(2) Interest on Delinquent Accounts. Any CWP Fee that remains unpaid after it shall have become due and payable as provided herein shall be subject to simple interest at the rate of one and one-half percent (1.5%) of the delinquent amount per month. Interest will begin to accrue from the date of delinquency and will continue to accrue until such time as the delinquent CWP Fees and all accrued interest have been paid in full; provided, however, that no interest shall be charged to or paid by the Purchaser unless such delinquency continues for more than thirty (30) days or more beyond the date of delinquency.

3. **Quality of Water Delivered**

CWP culinary water shall be delivered to the Purchaser in conformance with standards for public drinking water set by applicable law and regulation, including the Utah Division of Drinking Water and/or the Utah Drinking Water Board of the Department of Environmental Quality; provided, however, that the District shall not be liable, or otherwise in breach of this Agreement, for failure to meet those standards unless the failure is due to the District's willful misconduct or gross negligence. The District and Purchaser agree that the CWP water sources will be Provo River water, high quality deep groundwater from a well field in or near Vineyard, Utah, or other sources of comparable quality. Deliveries from any other sources shall be of comparable quality.

4. Reservation of Water

(a) The District shall hold Purchased Water in reserve for the Purchaser pursuant to the Take-down Schedule, Exhibit A. Purchased Water must be removed from Reserved Water status based on said schedule. As Reserved Water is removed from reserved status, payments will be required for each acre-foot of Deliverable Water as set forth in Paragraph 2.

(b) The Purchaser may conclude that it has reserved more Purchased Water than it will eventually require. The District may consider an application from the Purchaser to transfer or otherwise reduce all or a portion of the amount of CWP water contracted for hereunder; however, the District will not approve the application unless and until another water user in North Utah County or Salt Lake County (“Replacement Purchaser”) applies for a new contract, in an equal or greater quantity, to simultaneously replace the reduction hereunder. In such event, the District may approve such a replacement transaction, on the basis of the same terms or on differing terms, in the best interest of the District at its sole discretion. The District agrees, however, that it will not unreasonably deny Purchaser’s application for or alter the terms of the replacement transaction under a new contract. The limitations and conditions that shall apply, however, to such a replacement transaction include the following:

(1) A reduction in contract volume to be taken down by Purchaser and/or the timing thereof, as set forth in Exhibit A, hereto must include a corresponding, proportional reduction in Contract Capacity under Exhibit B hereto.

(2) The reduction of contract volume and/or the timing thereof under Exhibit A hereto is limited to the corresponding amount and/or timing of the new or increased contract volume of the Replacement Purchaser.

(3) The reduction of Contract Capacity under Exhibit B hereto must be at least as great as the Contract Capacity increase of the new or increased contract of the Replacement Purchaser, except for variations in maximum daily delivery as between the Purchaser and the Replacement Purchaser.

(c) At the Purchaser's request, and provided that the District has developed the required CWP System Capacity:

(1) Purchased Water may become deliverable to the Purchaser on a year-to-year basis according to an accelerated schedule from that shown in Exhibit A, subject to terms and conditions mutually agreed to in writing by the Parties, or

(2) Purchased Water may become deliverable on a permanent basis according to an accelerated schedule from that shown in Exhibit A pursuant to the terms and conditions set forth in this Agreement;

(d) In the event of a reduction in the take-down as a result of a reduction or transfer of Purchased Water by the Purchaser as provided in subparagraph 4 (b) above, or an acceleration in the delivery of the Purchased Water as provided in subparagraph 4 (c) above, the applicable CWP Fees due and payable by the Purchaser to the District as provided in Paragraph 2 shall be correspondingly accelerated or reduced as the case may be, as determined in the sole discretion of the District in conformance with the provisions of Paragraph 2(b).

5. Point of Delivery

(a) The District will deliver the Purchased Water to the Purchaser in conformance with the following:

(1) For CWP Infrastructure Water: CWP Infrastructure Water will be measured and

delivered to the Purchaser only at the point or points of delivery identified in Exhibit B. The infrastructure to be constructed by the District for the purpose of delivering CWP Infrastructure Water from its main transmission lines at said point(s) of delivery include a vault, valve(s), meter(s), piping and related facilities and equipment (“Delivery Infrastructure”), as determined to be necessary by the District to deliver and measure the CWP Infrastructure Water at said point(s). The Delivery Infrastructure will be constructed and installed at the District’s sole expense in connection with the development of the CWP, and the District shall own, operate, maintain, repair and replace the same for the term of this Agreement.

(2) For CWP Non-Infrastructure Water: CWP Non-infrastructure Water will be measured and delivered by the Purchaser at its infrastructure. The District will administer water right change applications as necessary to designate points of diversion for delivery of CWP Non-infrastructure Water to the Purchaser at the Purchaser’s sources. The Purchaser will meter and tabulate totals of CWP water delivered on a monthly basis from Purchasers sources and report that to the District for each contract year.

(b) Once the District delivers CWP Infrastructure Water to the point(s) of delivery, or CWP Non-infrastructure water is delivered at the Purchaser’s sources, it shall be the responsibility of the Purchaser to provide its own facilities as needed to take this water from the Delivery Infrastructure or Purchasers sources into the Purchaser’s own delivery and/or distribution system for its use. No new points of delivery will be allowed without the prior written approval of the District. All Purchased Water delivered by the District under this Agreement will be measured through measuring devices installed in the Delivery Infrastructure or the Purchasers infrastructure at its sources.

6. System Capacity

(a) It is understood by the Purchaser that the delivery of Deliverable Water by the District to the Purchaser is limited to the Contract Capacity set forth in Exhibit B.

(b) If CWP System Capacity is available to deliver water beyond the Contract Capacity, and the Purchaser so requests, the Purchaser may, with the prior written approval of the District, receive delivery of Deliverable Water at a flow rate higher than the Contract Capacity provided in Exhibit B, subject to the following:

(1) The maximum flow rate at which the Deliverable Water shall be delivered and resulting adjustments in the applicable CWP Fees set forth in Paragraph 2 (c) herein for said year or other costs to be applied, if any, shall be negotiated and agreed upon by the Parties prior to the delivery of Deliverable Water in the increased amount.

(2) A request by the Purchaser to exceed the Contract Capacity shall be made on an annual basis no later than April 30th.

(3) Notwithstanding the foregoing, if the Contract Capacity is exceeded by the Purchaser without receiving the prior written approval of the District, then a monthly surcharge will be assessed to the Purchaser in an amount per acre-foot set annually by the District for each acre-foot of water exceeding Contract Capacity or Contract Capacity modified in accordance with Paragraph 6(b)(1), calculated on a daily basis.

7. Quantity of Water Delivered

(a) The District is not a guarantor of CWP water supply or of CWP delivery capacity. It is understood by the Parties that the District's ability to deliver CWP water to the Purchaser depends, in part, on the available CWP System Capacity. Therefore, in its reasonable discretion and pursuant to its

interpretation and the application of its policies, rules, and procedures as they may be amended periodically:

(1) in times of CWP water shortage due to lack of runoff or other conditions which may be beyond the control of the District, the District may make a ratable allocation of CWP water among the various CWP purchasers, which allocation shall be based on the then-current amount of Deliverable Water in proportion to the District's CWP water purchase commitments under all of its CWP water supply agreements, and the amount of Deliverable Water for that year shall be reduced pro-rata; and

(2) in the event of CWP System Capacity shortages due to potential failures of equipment and infrastructure, and limitations in water source and infrastructure capacities, and in peak demand periods and other times of limited delivery capacity, the District may allocate the available CWP System Capacity among the District's CWP purchasers, which allocation shall be based on the then-current amount of CWP System Capacity available in proportion to the total CWP delivery capacity set forth in Exhibit B.

(b) No liability shall accrue against the District or any of its trustees, officers, agents, or employees, for any damages, direct or indirect, sustained by the Purchaser and/or its customers in the event of shortages of CWP System Capacity, or the District's inability to deliver the Purchased Water to the Purchaser not resulting from the District's own negligence, or due to shortages caused by drought, hostile diversion, prior or superior claims, or other similar causes not within the control of the District.

(c) In the event the Purchaser does not take delivery during any contract year of all of the Deliverable Water for which the One-time Development Fee has been paid in conformance with the provisions of Paragraph 2 (b) (1), the Purchaser may take delivery in the immediately following contract year of so much of the Deliverable Water not taken as does not exceed five percent (5%) of the

total Deliverable Water for that year (“Deferred Water”), subject to the following:

(1) Calculation of the amount of Deferred Water shall not include any water besides Deliverable Water as of the end of the previous contract year.

(2) Deferred Water cannot be accumulated on a multi-year basis.

(3) Deferral is subject to the availability of CWP System Capacity, as reasonably determined by the District;

(4) Delivery of Deferred Water shall have a lower priority than delivery of Deliverable Water for that year;

(5) The Purchaser may take delivery of Deferred Water only after it has taken delivery of all of the Deliverable Water for the contract year in which the Deferred Water is to be taken.

8. Use and Delivery of Purchased Water by the Purchaser

(a) The Purchaser shall use the Purchased Water made available to it under this Agreement only for M&I purposes. No other use of Purchased Water shall be made without the prior written consent of the District.

(b) The portfolio of water rights the District has acquired for the CWP requires that a percentage of water represented by the CWP water rights be returned to the hydrologic system in Utah and Salt Lake counties in order to avoid interference with other water right appropriators and with other District water supply operations. As such, the Purchaser shall not recycle nor otherwise utilize the Purchased Water in a manner that depletes the Purchased Water in amounts greater than fifty percent (50%), without the prior written consent of the District.

(c) Subject to the prior written consent of the District, all or some portion of the CWP Non-infrastructure Water may be utilized by the Purchaser by change application or exchange application

under Utah law filed by the District. The Purchaser shall reimburse the District for any legal, engineering or other professional and consulting fees and all related costs and expenses it reasonably incurs in prosecuting any such change or exchange application to decision before the State Engineer, and through any subsequent judicial or administrative review proceedings or appeal.

(d) The Purchaser shall build its own infrastructure as required by it to take delivery of the Purchased Water from the District and utilize and distribute the same to its customers. All cost for O&M of the Purchaser's facilities shall be paid by the Purchaser and not the District.

(e) The Purchaser shall not use, deliver for use, sell, lease or otherwise dispose of any Purchased Water outside Purchaser's political boundaries or its recognized service area, without the prior written consent of the District. No user of the Purchased Water will use the Purchased Water on any basis other than the same basis as the general public.

(f) The facilities to be used to provide and deliver the Purchased Water may be financed, in whole or in part, with the proceeds of tax-exempt bonds ("Tax-exempt Bonds") of the District.

(1) The Purchaser acknowledges that in the event the District issues or has issued Tax-exempt Bonds related to the Purchased Water or its delivery, the use of Purchased Water by the Purchaser may be subject to various limitations imposed under the Internal Revenue Code of 1986 (the "Code"), and United States Treasury Regulations dealing with the tax-exempt bond provisions of the Code (the "Regulations"), that must be complied with in order to protect the tax-exempt status of interest on the Tax-exempt Bonds; and as such, the Purchaser agrees as follows:

(A) The Purchaser shall not, without the prior written approval of the District, supply or enter into any arrangement to supply any of the Purchased Water to any person or entity, other than a state or local government, that conveys any preferential benefits, or that supplies water

other than on the basis of rates that are generally applicable and uniformly applied or supplies the water to any person or entity who will resell the water in such a manner as to establish a “Private Business Use” under applicable provisions of Section 141(a) of the Code and the Regulations, thereby jeopardizing the tax-exempt status of the Tax-Exempt Bonds.

(B) The Purchaser shall not establish any fund or otherwise set aside any money or investments that it reasonably expects to use to make payments due and owing to the District under this Agreement without the prior written approval of the District (which approval may, among other requirements, limit the maximum yield for the investment of any such amounts pursuant to certain arbitrage rules under applicable provisions of Section 148(f) of the Code and the Regulations).

(2) The Purchaser shall, on an annual basis, provide to the District written verification of compliance with the requirements of this Subparagraph 8 (f).

9. Water Conservation

The Purchaser covenants that it shall prepare and file with the District a water conservation plan promulgated by the Purchaser which addresses, among other things, pricing, technical assistance and public education as components of the water conservation plan. Such plan shall be submitted to the District within one year of first delivery of Purchased Water to the Purchaser and shall be updated biennially.

10. Collection of Fees and Charges

In order to assure full and continuous performance of the Purchaser’s obligations as set forth herein, the Purchaser hereby covenants and agrees that it will levy and collect all necessary fees, charges and assessments and reasonable contingencies in amounts which, together with other legally available funds, are sufficient to pay in full to the District all of its CWP Fee obligations under this

Agreement. The Purchaser shall timely pay to the District the full amount of CWP Fees as they become due regardless of whether the Purchaser collects the full amount of its fees, charges, and assessments from its customers.

11. Refusal of Water in the Event of Default and Termination

(a) The District may withhold the delivery of all or any portion of the Purchased Water to the Purchaser if the Purchaser is in arrears for more than sixty (60) days in the payment to the District of any CWP Fee to be paid pursuant to Paragraph 2(b). Deliveries shall resume upon payment in full of any such arrearage including any and all accrued interest imposed by the District pursuant to this Agreement. Funds received to cure any arrearage shall be first applied by the District to payment of accrued interest and then towards the reduction of the principal on any such outstanding CWP Fee.

(b) If the Purchaser is in default under any provision of this Agreement and the default remains uncured for more than sixty (60) days after the date of written notice of default, the Parties shall reasonably mediate the dispute. However, if the dispute remains unresolved notwithstanding mediation, this Agreement may be terminated at the sole discretion of the District, subject to the following:

(1) The Purchaser shall have up to one (1) year after the date of written notice of default to seek judicial resolution of the dispute following mediation. This Agreement may not be terminated by the District during the pendency of any judicial action, including any subsequent appeal.

(2) Should the Purchaser fail to bring legal action within said one year period and the dispute otherwise remains unresolved, the District may thereupon proceed to terminate the Agreement, effective upon written notice to the Purchaser.

(3) Upon termination of the Agreement, the Purchased Water will revert to the District

for reallocation to other purchasers as determined by the District.

(4) Termination will not relieve the Purchaser of its obligations to pay any past due CWP Fees, together with any and all accrued interest; however, the Purchaser will be relieved of any future payment obligations after the termination of this Agreement.

12. Term of Agreement

The term of this Agreement shall be perpetual so long as the required payments are paid in accordance with the terms of this Agreement. However, nothing herein shall prohibit the Parties from amending or terminating this Agreement if the Parties mutually agree to do so. There are no third party beneficiaries of this Agreement, and no one other than the Parties hereto may enforce its terms and conditions.

13. Assignment Limited

Neither Party may assign this Agreement or any of its rights under it without the prior written consent of the other Party; provided, however, that the District may pledge and assign any monies received pursuant to this Agreement to the payment of the District's bonds.

14. Exhibits

All exhibits attached to this Agreement are incorporated into and made a part of this Agreement as though fully set forth herein.

15. Original Agreement Superseded: Binding Effect

This Agreement, as of the Effective Date, shall amend, and supersede, in its entirety, the Original FY2010 A2 Agreement, and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

16. Severability

If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

17. Construction

This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

18. Further Action

The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

19. Business Relationship

This Agreement neither acknowledges the existence of nor is it intended nor shall it be construed to establish, create or organize any principal-agent relationship, partnership, joint venture, or any other legal entity or form of business relationship between the Parties, and is limited solely to the

purposes and interests expressed herein.

20. Entire Agreement

This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof.

21. Warranty of Authority

Each individual executing this Agreement does hereby represent and warrant that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified herein. The District and the Purchaser each represent and warrant that it has full legal right and authority to enter into this Agreement.

22. Notices

Notices given by or to the Parties shall be in writing and may be served personally or served by depositing them in the United States mail, postage prepaid, certified or registered mail with return receipt requested, addressed to the Parties at the addresses set forth below, or at such other addresses as the Parties may designate in writing:

DISTRICT:

Central Utah Water Conservancy District
Attention: General Manager
355 West University Parkway
Orem, Utah 84058

PURCHASER:

EAGLE MOUNTAIN CITY
Attention: Mayor
And to:
Attention: City Recorder
1650 East Stagecoach Run
Eagle Mountain, UT 84005

23. Rules and Regulations Governing Service

Subject to the terms and conditions of this Agreement, the District reserves the right to adopt rules and regulations governing the delivery of water under this Agreement, and to exercise its full statutory powers, including specifically the right to amend its rates, fees, charges, and its rules and regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future. It is expressly agreed that the District, by signing this Agreement, has not surrendered any of its rights in this regard.

24. Subject to Act

Subject to the terms and conditions of this Agreement, any commitment of CWP water, and payment to the District for CWP water so committed pursuant to this Agreement, shall be subject to the Act and the rules and regulations of the District's Board of Trustees now existing or hereafter legally promulgated, as the same may be supplemented or amended.

IN WITNESS WHEREOFF, the Parties hereto have executed this Agreement effective as of the day and year first written above.

**CENTRAL UTAH WATER
CONSERVANCY DISTRICT**

EAGLE MOUNTAIN CITY

By: _____

Its: President

By: _____

Its: Mayor

Attest: _____

Secretary

Attest: _____

Its: City Recorder

EXHIBIT A

**PURCHASED WATER TAKE DOWN SCHEDULE (BY VOLUME)
FOR CWP INFRASTRUCTURE WATER UNDER THIS AGREEMENT**

Fiscal Year (ie FY2008-09 = July 1, 2008 - June 30, 2009)	Annual Volume of CWP Infrastructure Water Removed from Reserved Status - Deliverable Water (AF)	CWP One Time Development Charge for Block of Water Removed from Reserved Status (AF)	Cumulative Annual Volume of CWP Infrastructure Water Deliveries - Deliverable Water (AF)	Actual and Estimated Future Reservation Fee (\$/AF of Annual Reserved Water)	Actual and Estimated Future Annual Water Fee (As set annually by the District) (\$/AF of Annual Deliverable Water)
2008-09	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$300.00</i>
2009-10	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$314.00</i>
2010-11	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$328.00</i>
2011-12	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$343.00</i>
2012-13	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$358.00</i>
2013-14	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$374.00</i>
2014-15	0	<i>\$5,850</i>	0	<i>\$0</i>	<i>\$391.00</i>
2015-16	0	<i>\$9,370</i>	0	<i>\$0</i>	<i>\$408.00</i>
2016-17	0	\$9,600	0	\$0	\$427.00
2017-18	0	\$9,840	0	\$0	\$446.00
2018-19	0	\$10,090	0	\$0	\$466.00
2019-20	0	\$10,340	0	\$0	\$487.00
2020-21	220	\$10,600	220	\$0	\$509.00
2021-22	470	\$10,870	690	\$0	\$532.00
2022-23	470	\$11,140	1,160	\$0	\$556.00
2023-24	470	\$11,420	1,630	\$0	\$581.00
2024-25	470	\$11,710	2,100	\$0	\$607.00
2025-26	470	\$12,000	2,570	\$0	\$634.00
2026-27	470	\$12,300	3,040	\$0	\$663.00
2027-28	470	\$12,610	3,510	\$0	\$693.00
2028-29	470	\$12,930	3,980	\$0	\$724.00
2029-30	470	\$13,250	4,450	\$0	\$756.00
2030-31	470	\$13,580	4,920	\$0	\$790.00
2031-32	470	\$13,920	5,390	\$0	\$826.00
2032-33	470	\$14,270	5,860	\$0	\$863.00
2033-34	470	\$14,630	6,330	\$0	\$902.00
2034-35	470	\$15,000	6,800	\$0	\$943.00
2035-36	470	\$15,380	7,270	\$0	\$985.00
2036-37	470	\$15,760	7,740	Continues to be \$0/AF	Rate continues to be
2037-38	470	\$16,150	8,210		adopted by District Board
2038-39	470	\$16,550	8,680		
2039-40	470	\$16,960	9,150		
2040-41	470	\$17,380	9,620		
2041-42	470	\$17,810	10,090		
2042-43	470	\$18,260	10,560		
2043-44	470	\$18,720	11,030		
2044-45	470	\$19,190	11,500		

Continues at 11,500 AF

- Actual previous or present fee amounts are in Italics and Blue

EXHIBIT B

**DELIVERY LOCATION AND
RATE OF DELIVERY CAPACITY UNDER THIS AGREEMENT**

I. FOR CWP INFRASTRUCTURE WATER

Delivery Location See Figure 1	Ultimate Contract Capacity (Maximum Daily Flow Rate in GPM But Limited by Annual Deliverable Volume) See Note (1)
1. Turnout at approximately Pony Express Parkway and 800 West Saratoga Springs	
2. Turnout at the North Shore Terminal Reservoir located approximately one quarter mile North of 400 West and SR-73 Saratoga Springs	

For Combined Total of up to 15,110 GPM

II. FOR CWP NON-INFRASTRUCTURE WATER

Delivery Location See Note (2)	Contract Capacity (Maximum Daily Flow Rate in GPM) See Note (2)
1. None	None

Notes:

(1) The total Contract Capacity corresponds to the Cumulative Annual Volume Delivered shown in Exhibit A in each year multiplied by 18% and divided by 31 days and converted to a gallons per minute flow rate, i.e. Delivered Water amount in AF multiplied by 0.18 divided by 31 days multiplied by 325,829 gallons per AF divided by 24 hours per day divided by 60 minutes per hour.

(2) The total Contract Capacity would be identified in the approved water right change application.



—— 60" North Shore Aqueduct
Eagle Mountain Connections



**NORTH SHORE AQUEDUCT
EAGLE MOUNTAIN CONNECTIONS**
FIGURE 1