

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
March 1, 2016**

| | | | |
|---------------------------------|---|----------------|------------------|
| TITLE: | First Amendment to the Valley View Master Development Agreement | | |
| FISCAL IMPACT: | \$0 | | |
| APPLICANT: | Staff | | |
| GENERAL PLAN DESIGNATION | CURRENT ZONE | ACREAGE | COMMUNITY |
| N/A | N/A | N/A | NSA |

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:

Staff recommends that the City Council approve the First Amendment to the Valley View Master Development Agreement.

BACKGROUND:

The Valley View Master Development Agreement requires that the developers of the project complete a public park prior to issuance of the 150th building permit for the project. The developers have been escrowing money with the City with every plat recording, which amount totals \$273,153.19. The City has determined that a smaller park with better amenities would be more beneficial to residents, and has therefore agreed to convey to Edge Land Investments the property for two additional lots adjacent to the park, which will increase the amount of funds available for the park by \$158,405.00. Edge has designed the park which will consist of play fields, a pavilion, a parking lot and a grass detention basin area. The total funds available to complete the park are \$460,830.00.

RESOLUTION NO. R- -2016

**A RESOLUTION OF THE CITY COUNCIL OF EAGLE MOUNTAIN CITY, UTAH,
APPROVING THE FIRST AMENDMENT TO THE VALLEY VIEW
MASTER DEVELOPMENT AGREEMENT**

PREAMBLE

The City Council of Eagle Mountain City, Utah finds that it is in the public interest to approve the First Amendment to the Valley View Master Development Agreement as set forth more specifically in Exhibit A.

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

1. The City Council finds that all required notices and hearings have been completed as required by law to consider and approve the proposed First Amendment to the Valley View Master Development Agreement as set forth in Exhibit A.
2. The First Amendment to the Valley View Master Development Agreement is hereby approved as set forth more specifically in Exhibit A.
3. This Resolution shall take effect upon its first publication or posting.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 1st day of March, 2016.

EAGLE MOUNTAIN CITY, UTAH

Chris Pengra, Mayor

ATTEST:

Fionnuala B. Kofoed, MMC
City Recorder

CERTIFICATION

The above resolution was adopted by the City Council of Eagle Mountain City on the 1st day of March, 2016.

Those voting aye:

- Adam Bradley
- Colby Curtis
- Stephanie Gricius
- Benjamin Reaves
- Tom Westmoreland

Those voting nay:

- Adam Bradley
- Colby Curtis
- Stephanie Gricius
- Benjamin Reaves
- Tom Westmoreland

Fionnuala B. Kofoed, MMC
City Recorder

EXHIBIT A

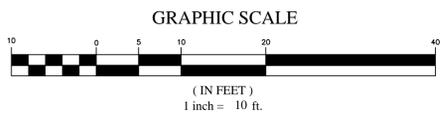
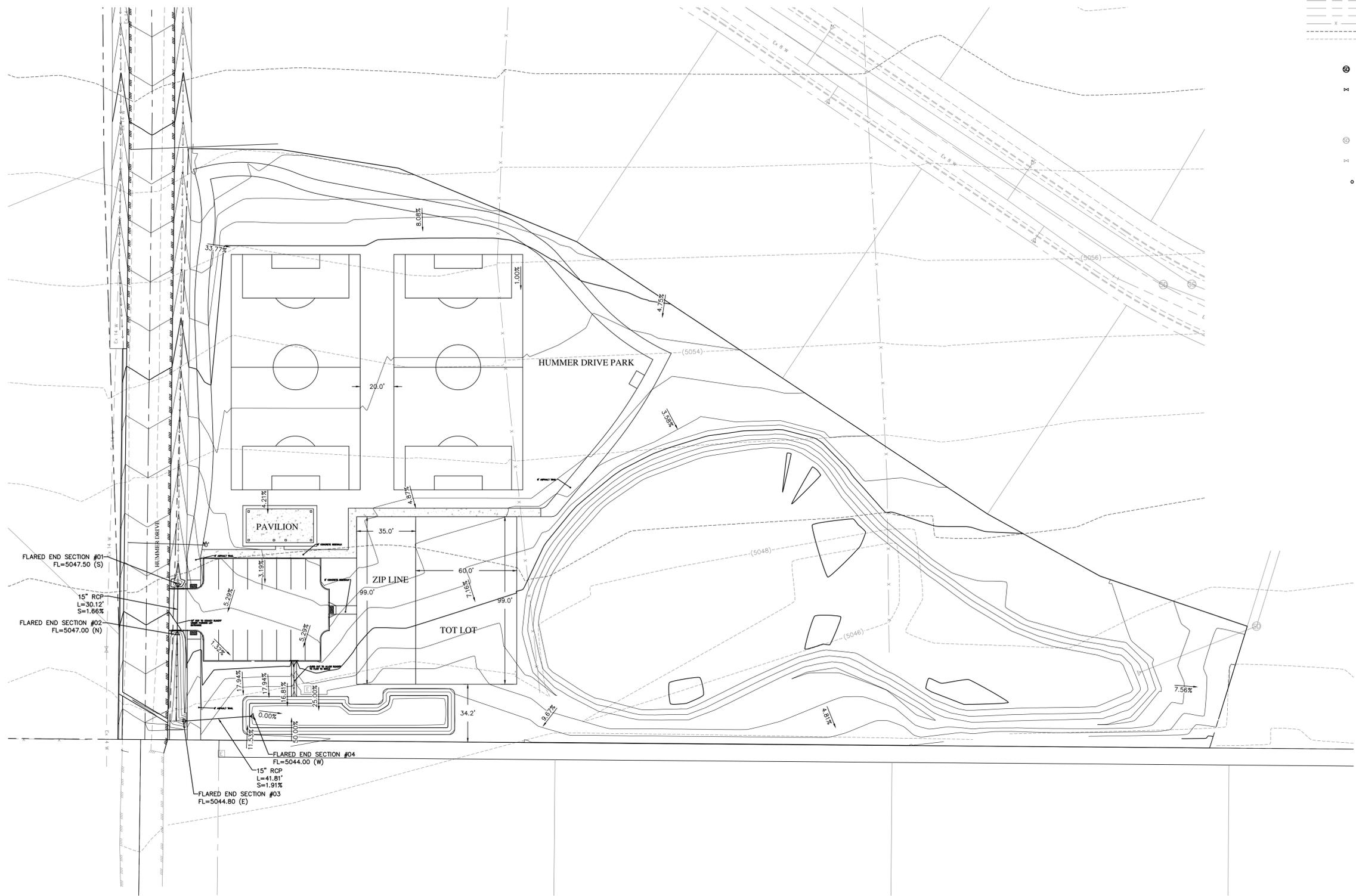
HUMMER DRIVE PARK PARKING LOT
 EAGLE MOUNTAIN CITY, UTAH

| # | DATE | DESCRIPTION |
|---|------|-------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |

| HUMMER DRIVE PARK PARKING LOT | |
|-------------------------------|---------------|
| Scale: 1"=10' | Drawn: RRH |
| Date: 11/19/15 | Job #: 15-152 |
| Sheet: | 01 |

LEGEND

| | |
|--|---------------------------|
| | BOUNDARY |
| | ROW |
| | CENTERLINE |
| | LOT LINE |
| | EASEMENT |
| | 15" STORM DRAIN |
| | 8" SANITARY SEWER |
| | 8" CULINARY WATER |
| | 8" SECONDARY WATER |
| | CONTOUR MAJOR |
| | CONTOUR MINOR |
| | EXIST. STORM DRAIN |
| | EXIST. SANITARY SEWER |
| | EXIST. CULINARY WATER |
| | EXIST. SECONDARY WATER |
| | EXIST. FENCE |
| | EXIST. CONTOUR MAJOR |
| | EXIST. CONTOUR MINOR |
| | SIGN |
| | STREET LIGHT |
| | SD MH, INLET, AND COMBO |
| | SEWER MANHOLE |
| | VALVE, TEE & BEND |
| | WATER BLOW-OFF |
| | FIRE HYDRANT |
| | STREET MONUMENT |
| | ADA RAMP |
| | EXIST. SD INLET & MH |
| | EXIST. SEWER MH |
| | EXIST. VALVE, TEE, & BEND |
| | EXIST. FIRE HYDRANT |
| | SPOT ELEVATION |



Z:\2015A\15-152 Hummer Drive Roadway Extension\design 15-152.dwg Exhibits\15-152 Open Space Park.dwg

**FIRST AMENDMENT TO THE
VALLEY VIEW RANCH
MASTER DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO MASTER DEVELOPMENT AGREEMENT FOR THE VALLEY VIEW RANCH MASTER DEVELOPMENT PLAN AREA, which was entered into on October 19, 2004 (“*Amendment*”) is made and entered into effective as of the ____ day of _____, 2016, by and between EAGLE MOUNTAIN CITY, a Utah municipal corporation (“*City*”), MUSKETEER, L.C., a Utah limited liability company (“*Musketeer*”) and WASATCH LAND COMPANY, a Utah Corporation (“*Wasatch Land*”). City, Musketeer and Wasatch Land shall be collectively referred to as the “*Parties*”.

RECITALS:

- A. Wasatch Land and Musketeer (together “*Developers*”) own all the remaining undeveloped land that is subject to the Master Development Agreement for the Valley View Ranch Master Development Plan Area (the “*MDA*”).
- B. In accordance with paragraph 2.5 of the MDA, prior to issuance of the 150th building permit for the Project, the Developers are required to complete a Park of not less than 3.35 acres in size.
- C. Wasatch Land and Musketeer desires to complete the Park so that Wasatch Land and Musketeer can continue to obtain building permits with the Project.
- D. In accordance with paragraph 2.5 of the MDA, the City has collected \$1,219.58 per lot or a total amount of \$273,153.09 in the park escrow account (the “*Park Escrow Fund*”) for lots within the recorded plats.
- E. Valley View South D-2 and D-3, which are owned by Wasatch Land, contain an additional 24 lots, which would amount to a park fee of \$29,272.32 at \$1,219.58 per lot.
- F. Wasatch Land has developed a preliminary park plan (the “*Park Plan*”) which includes, but is not limited to, two soccer fields, a playground area, a picnic pavilion, a parking lot, an asphalt trail and irrigated grass detention basin (collectively “*Park Improvements*”). A copy of the Park Plan is attached hereto as Exhibit A.
- G. The City has reviewed and approved the Park Plan.
- H. Wasatch Land estimates that the total cost to construct the Park Improvements will be \$460,830.00.
- I. Based on the park design, City and Developers have determined that it is beneficial for the City to reconvey to Wasatch Land the property designated as Lots 725 and 726 on the Park Plan, and allow Wasatch Land to subdivide and plat Lots 725 and 726, provided that Lots 725 and 726 do not reduce the overall maximum density of 335 lots.
- J. In consideration for the reconveying Lots 725 and 726 to Wasatch Land, Wasatch Land has agreed to contribute an additional \$158,405.00 towards completion of the Park Improvements.

K. Wasatch Land, Musketeer and City desire to formalize their understanding with respect to completion of the Park Improvements, additional contributions by Wasatch Land and Musketeer, and reimbursement from the Park Escrow.

AMENDMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Wasatch Land and Musketeer agree to amend the MDA as follows:

1. Payments by Musketeer. Within thirty (30) days of execution of this Agreement, Musketeer shall pay to the City the amount of \$29,272.32, which represents the park payments for the 24 lots in Valley View South D-2 and D-3. The Parties acknowledge and agree that Musketeer's payment of \$29,272.32 shall relieve Musketeer of any commitment to construct the Park and City shall not withhold any permits or approvals for Musketeer based on the park requirement.

2. Payments by Wasatch Land. Wasatch Land shall pay to the City \$158,405.00 to be utilized for the Park upon conveyance of Lots 725 and 726 by the City to Wasatch Land and recording of a subdivision plat by the City for the Lots 725 and 726, which Wasatch Land shall submit in conjunction with this Agreement.

3. Construction of Park Improvements. Wasatch Land has submitted to the City a Park Plan which includes detailed information and cost estimates for the Park Improvements. The City shall coordinate with Wasatch Land regarding any revisions to the Park Improvements required by the City, provided that such revisions do not increase the cost of the Park to over \$460,800.00. Wasatch Land shall construct the Park based on the approved final design and construction drawings for the Park. In the event that unforeseen conditions arise, Wasatch Land will submit to the City for approval a revised scope of work to cause the cost of Park Improvements not to exceed available funds. Wasatch Land shall begin construction of the Park no later than June 1, 2016, and shall complete construction no later than August 31, 2016. If Wasatch Land is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Wasatch Land, then Wasatch Land shall be entitled to an equitable extension of the completion deadline. Wasatch Land agrees that all contracts for improvements within the Park area will include a warranty against defects for at least one (1) year, and that Wasatch Land will assign to the City all warranties for improvements within the Park.

4. Reimbursement to Wasatch Land. Upon completion of the design and engineering of the Park Improvements or any portion of the Park Improvements by Wasatch Land and acceptance by the City, Wasatch Land may submit to the City a request(s) for reimbursement from the Park Escrow Fund (a "***Reimbursement Request***"). Each Reimbursement Request shall include a detailed description of the goods and services for which Wasatch Land is seeking reimbursement and documentation of all costs incurred by Wasatch Land related to the goods and services. Reimbursement Requests shall not include any administrative fees, management fees, profits, mark-ups or other similar fees charged by Wasatch Land or any affiliate of Wasatch Land and City shall not reimburse Wasatch Land for such costs. Reimbursement Requests shall not be made more than once every 20 days. The City shall review each Reimbursement Request within 20 days and either approve, partially approve or deny each Reimbursement Request. If the City partially approves or denies a Reimbursement Request, the City shall provide a written justification for such denial or partial denial. No reimbursements shall be authorized until such time as City has inspected the Park Improvements and found them to be in compliance with City standards.

5. Insufficient Funds. Wasatch Land acknowledges and agrees that City shall only be required to reimburse Wasatch Land from the Park Escrow Fund. Wasatch Land shall not be required to provide additional funds to complete the park.

6. Excess Funds. Musketeer and Wasatch Land agree that any excess funds in the Park Escrow Fund after reimbursement to Wasatch Land for all costs related to the Park Improvements may be utilized by the City for maintenance of the Park Improvements or other improvements in the City that benefit the Project.

7. City Not to Withhold Building Permits. Subject to Wasatch Land complying with the terms and conditions of this Amendment, the City agrees that the City will continue to issue building permits in the Project in excess of the 150 building permit limit in the MDA.

8. Counterpart Signatures. This Amendment may be executed in counterparts, which, when complied together shall constitute one and the same document. The exchange of electronic or facsimile copies of signatures to this Amendment shall for all purposes constitute original signatures.

9. Full Force and Effect. Except as expressly amended herein, the MDA remains in full force and effect.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the day and year first written above.

CITY:

EAGLE MOUNTAIN CITY, a Utah municipal corporation

ATTEST:

By: _____
Fionnuala B. Kofoed, City Recorder

By: _____
Chris Pengra, Mayor

MUSKETEER, L.C.

By: _____

Print Name: _____

Title: _____

WASATCH LAND COMPANY

By: _____

Print Name: _____

Title: _____

EXHIBIT A

Preliminary Park Plan