

PUBLIC WATER SUPPLY AGREEMENT
[Alpine School District]

This Public Water Supply Agreement (this “**Agreement**”) is made by and between ALPINE SCHOOL DISTRICT, a political subdivision of the state of Utah (“**Alpine**”) and EAGLE MOUNTAIN CITY, a Utah municipal corporation (“**City**”). Alpine and City are sometimes individually referred to herein as a “**Party**” and sometimes collectively as the “**Parties.**”

RECITALS

A. The City has entered into a series of agreements (collectively the “**CWP Agreements**”) with the Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah (the “**District**”), for the purchase of certain water (the “**CWP Water**”) as part of the Central Utah Water Conservancy District Water Development Project.

B. Pursuant to the CWP Agreements, the City is entitled to purchase a certain quantity of CWP Water from the District for public use, including the water that is the subject of this Agreement.

C. In accordance with Eagle Mountain Municipal Code Chapters 13.20 and 13.25, all persons desiring to connect to the City’s water system must either purchase CWP Water from the City or convey to the City title to water rights.

D. Alpine desires to contract with the City to purchase a certain amount of the CWP Water that the City is entitled to purchase from the District, on the terms and conditions set forth in this Agreement, to satisfy building permit and development approval requirements in connection with Alpine’s existing and future properties.

NOW, THEREFORE, in consideration of the foregoing recitals, payment by the Alpine under the terms and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS

1. Reservation of CWP Water. The City hereby agrees to purchase from the District, and to allocate and use to meet the development standards of the City for the property now or in the future owned by the Alpine, the amount of One Hundred and Forty Five (145) acre feet of CWP Water (the “**Purchased Water**”). The Parties acknowledge and agree that the Purchased Water represents development credits in favor of Alpine against the City’s requirement to dedicate water rights or purchase CWP Water, and Alpine acknowledges and agrees that the Purchased Water may not be used for any other purpose.

2. CWP Water Cost. Alpine shall pay the amount of Sixty Seven Hundred Dollars \$6,700.00 per acre foot, or a total amount of Nine Hundred and Seventy One Thousand Five Hundred Dollars (\$971,500.00) (“**Purchase Price**”), for the Purchased Water. Alpine shall pay the Purchase Price to the City within ninety (90) days of execution of this Agreement. If Alpine fails to timely pay

the Purchase Price, the City may terminate this Agreement.

3. Infrastructure and Impact Fees. Alpine recognizes and agrees that the price of the CWP Water does not include the price of the certain portions of the infrastructure necessary to deliver the water to the Property. Alpine shall be responsible for the construction of all infrastructure to deliver water to the Property from the existing City system as expanded and modified from time to time and/or payment of all City impact fees for water system infrastructure on the same basis as any other developing party in the City would be required to install infrastructure to deliver water from the existing City system and/or pay all legally assessed City impact fees.

4. Assignment Limited. Alpine may not assign this Agreement or the development rights granted herein without the written consent of City. Alpine agrees that City may charge a fee, as determined by the City from time to time and which fee is uniformly applicable to all water right or CWP Water transfers, to cover the administrative costs of transfers to a non-subsiary assignee of Alpine.

5. Availability of CWP Water. Alpine shall not be entitled to receive or use the Purchased Water to meet development requirements until Alpine has paid for the Purchased Water in accordance with paragraph 2. Alpine further acknowledges and agrees that the CWP Agreements allow the City to take-down water at a future date, and the City does not intend to takedown water until required under the CWP Agreements. Accordingly, if for any reason CWP Water is not available for take down and purchase by the City from CWP prior to or at a particular time that Alpine seeks to allocate water for a project on the Property or additional property in the City as Alpine is expressly entitled to do pursuant to the terms of this Agreement, the City and Alpine shall meet and discuss the next expected date of CWP Water availability to the City under the CWP Agreements and, if requested by Alpine, the City shall in good faith take reasonable steps to reserve adequate CWP Water for the Alpine out of the next allotment of water take downs that the City is entitled to or obligated to purchase under the CWP Agreements. In the event that the next expected availability date of CWP Water for purchase or take down by the City is unacceptable to Alpine, Alpine shall notify the City in writing and the City shall immediately terminate this Agreement and refund Alpine within 30 days thereafter any and all amounts paid by Alpine to City but not previously expended through a previous allocation of water under this Agreement, without interest from or penalties to the City.

6. 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.

7. 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. This Agreement may

be specifically enforced

8. 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.

9. 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.

10. Entire Agreement. This Agreement, including its exhibit, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof. This Agreement may not be amended or supplemented except by an instrument in writing signed by both Parties.

11. 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. City and Alpine each represent and warrant that it has full legal right and authority to enter into this Agreement.

12. Notices. Notices given by or to the Parties shall be in writing and shall 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:

ALPINE:

[REDACTED]

CITY:

Eagle Mountain City
Fionnuala B. Kofoed, City Recorder
1680 Heritage Drive
Eagle Mountain City, UT 84005

13. Rules and Regulations Governing Service. The Parties agree that all water service to the Property is subject to the ordinances, rules and regulations of the City and the City reserves the right to adopt rules and regulations governing the delivery of water generally applicable throughout the City, 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; but in the event of any conflict between the provisions of this Agreement and such ordinances, rules, regulations, powers and amendments, the provisions of this Agreement shall control. It is expressly agreed that the City, by signing this Agreement, does not waive or surrender any of its rights to make, amend or enforce any of its rules and

regulations for water service but the City does agree that any rules and regulations for water service promulgated by the City shall be equally applicable as to all parties seeking to develop in the City and that any rules and regulations for water service promulgated by the City shall not increase the Residential Water Requirements set forth in Section 7 hereof with respect to the use by Alpine of the water reserved and paid for hereunder on the Property or on any other property of Alpine situated within the current or future boundaries of the City.

14. Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Utah.

15. Binding Effect. Subject to the provisions of paragraph 5 above, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

16. Execution. This Agreement may be executed in multiple counterparts, which taken together shall constitute one and the same document. This Agreement may be executed and delivered by facsimile, email or other electronic means.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, 2018.

ALPINE:

ALPINE SCHOOL DISTRICT

By: _____

ATTEST:

CITY:

EAGLE MOUNTAIN CITY

By: _____

Tom Westmoreland, Mayor

ATTEST:

Fionnuala B. Kofoed, City Recorder