

**EAGLE MOUNTAIN CITY
CITY COUNCIL MEETING
OCTOBER 15, 2013**

TITLE:	Evans Ranch Master Development Agreement		
FISCAL IMPACT:	Future improvements to public open space areas		
APPLICANT:	DAI (Nate Shipp)		
GENERAL PLAN DESIGNATION Mixed Use Residential	CURRENT ZONE Residential	ACREAGE 120 Acres	COMMUNITY Evans Ranch

NOTICES:

None Required

REQUIRED FINDINGS:

Should be consistent with the approved Evans Ranch Master Development Plan

Planning Commission Action / Recommendation
Vote: N/A

Prepared By: Steve Mumford Planning Director

NOTES/COMMENTS:

BACKGROUND:

The Evans Ranch Master Development Plan was conditionally approved by the City Council on September 17, 2013. This approval grants the developer the density, land uses, and major road layout for the project. There were quite a few noteworthy items/issues from that meeting that have been included in this master development agreement. Approval of this development agreement allows the developer to move forward with plat approvals and development of the project, subject to the provisions of this agreement.

NOTEWORTHY ITEMS:

At the discretion of the City Council, the following items are informational, and some may require discussion at the meeting and possible changes to the agreement:

Fencing (MDA Section 9). A fencing exhibit has been attached to the agreement designating the Ranches style fencing along Porter’s Crossing Parkway, a split rail fence along the park and between the trail and the wash, and a 6-foot high tan vinyl privacy fence along the backs of lots that abut the open space. The Council should decide if these fencing types are appropriate. The developer is required to install the fencing along with the infrastructure for the associated phase of development.

Setbacks & Lot Frontages (MDA Section 2). The MDA allows for side setbacks that vary from our Code standards, but no more than 50% of the length of a home can be between 10 and 15 feet of another residence). Lot frontages were also approved for less than the 55-foot standard. Driveways are restricted to no more than 12 feet wide at the street for lots where the garage is located at least 30 feet away from the street.

Initial Phase (MDA Section 3.2). The initial phase of the project is proposed as three lots located at Porter’s Crossing and Clark Street. These will be the model homes for the project. These three lots will connect to the existing sewer line in Porter’s Crossing, while the remainder of the project will connect to a future sewer line through SilverLake. The MDA allows these three lots to be developed prior to construction of any open space, trails, or the sewer line.

Future School Site – Residential Density (MDA Section 3.4). The school site was changed to allow a total of 33 residential lots (if a school is not constructed), which is the density for the other single-family area (2.86 units/acre).

Terms of Agreement (MDA Section 4.2). The agreement is valid for 15 years, with an automatic extension of 10 years, if the developer has not defaulted.

Open Space & Parks (*MDA Section 6*). The Parks exhibit designates which open space areas will be privately owned and maintained, and which will be publicly owned and maintained. Public areas include the rectangular park in the northwest corner of the project, the trail along the wash, and everything on the wash side of the trail, including the wash and the northeastern park space. The developer proposes the following improvements:

- The rectangular park will be improved with a trail, split-rail fence, and sod (with irrigation).
- The area between the trail and the wash will be semi-irrigated natural vegetation.
- The wash and northeastern public open space will remain in their natural condition.

The developer intends to use the community improvement dollars (\$2,000/buildable acre) to make additional improvements to the public open space areas, including the northeastern soccer field park. The applicant is working on plans for improvements to Tickville Wash to create an amenity for the community. The MDA acknowledges this, but doesn't count on it. The City Council should determine if that is the appropriate place for the community improvement dollars to be used, and should expect that additional funds from the City or from impact fees will need to be used in the future to further improve those areas.

The private open spaces will be landscaped with sod, trees, shrubs, xeriscaping, and other manicured landscaping, and will be improved along with each phase of development. An additional 10% of the townhome area will be provided as improved open space within that development.

Sewer (*MDA Section 7.2*). An off-site sewer pipe that goes through the SilverLake property, connecting to existing pipe in SilverLake, is required of the developer for any more than the initial phase (3 lots).

Roads (*MDA Section 7.1*). Prior to completing the infrastructure for up to 20 single-family residential lots, the developer will paint stripe (at its expense) an 11-foot lane on both sides of Porter's Crossing Road along the entire length of Porter's Crossing, from the southern end of the project to Pony Express Parkway. Golden Eagle Road will be 70 feet wide, matching the existing cross-section. There was a discussion at the meeting concerning the extension of Golden Eagle Road through SilverLake. No requirements have been included of the developer for that roadway extension. The Council should discuss this at the meeting.

Townhomes (*MDA Section 8*). The developer is required to build townhomes substantially similar to the renderings shown to the Council when the master development plan was approved, unless other plans are approved by the City during the site plan approval process. The townhome renderings have been added as an exhibit to the MDA. We are attempting to obtain those from the developer prior to the meeting.

RESOLUTION NO. R- -2013

**A RESOLUTION OF EAGLE MOUNTAIN CITY, UTAH,
APPROVING THE EVANS RANCH
MASTER DEVELOPMENT AGREEMENT**

PREAMBLE

The City Council of Eagle Mountain City finds that it is in the public interest to approve the Evans Ranch 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 Master Development Agreement as set forth in Exhibit A.
2. The Evans Ranch 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 15th day of October, 2013.

EAGLE MOUNTAIN CITY, UTAH

Heather Anne Jackson, Mayor

ATTEST:

Fionnuala B. Kofoed, City Recorder

CERTIFICATION

The above resolution was adopted by the City Council of Eagle Mountain City on the 15th day of October, 2013.

Those voting aye:

- Donna Burnham
- Ryan Ireland
- Nathan Ochsenhirt
- John Painter
- Richard Steinkopf

Those voting nay:

- Donna Burnham
- Ryan Ireland
- Nathan Ochsenhirt
- John Painter
- Richard Steinkopf

Fionnuala B. Kofoed, City Recorder

EXHIBIT A

**EVANS RANCH MASTER
DEVELOPMENT AGREEMENT**

Dated: _____, 2013

**EVANS RANCH MASTER
DEVELOPMENT AGREEMENT**

This EVANS RANCH MASTER DEVELOPMENT AGREEMENT is entered into as of the ____ day of _____, 2013, by and between Eagle Mountain City, a Utah municipal corporation (the “City”), and Eagle12, LLC, a Utah limited liability company (“Eagle”). This Agreement is also acknowledged and consented to by DAI Partners, LLC, a Utah limited liability company (the “ER Manager”).

RECITALS

- A. Capitalized terms have the meaning given to them in Schedule One attached hereto and incorporated herein.
- B. This Agreement is made with reference to the following facts.
- C. The property subject to this Agreement, which is more particularly described in Exhibit 1 (hereafter the “ER Property”), is property owned by, or is property under a legally binding contract for purchase in favor of, Eagle, which owns or is expected to acquire such ER Property for primarily residential development purposes.
- D. The ER Property will be zoned, planned and developed in accordance with this Agreement, the laws of the State of Utah and the Codes and Ordinances of Eagle Mountain City.
- E. The City and Eagle wish to define the rights and responsibilities of the parties with respect to the development of the ER Property, pursuant to the Evans Ranch Master Development Plan, which Evans Ranch Master Development Plan is approved by the City pursuant to this Agreement.

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

AGREEMENT

1. ER Manager. Eagle represents and warrants that ER Manager has, by virtue of a separate agreement entered into between ER Manager and Eagle, authority from Eagle to exercise full control and management of the entitlement and planning of the ER Property, including without limitation the right to represent Eagle in connection with entitlements and other approvals needed from the City for development of the Property. Without limiting the foregoing, Eagle hereby acknowledges, confirms and ratifies its appointment of ER Manager as Eagle’s duly authorized agent to make plans, consult with, make applications to, bind, and otherwise represent the interests of Eagle with respect to the planning and entitlement of the ER Property, and the other rights,

obligations, and interests of Eagle, all as further set forth in this Agreement. Accordingly, the City and Eagle agree that the City shall work directly with, and is permitted by Eagle to rely upon the decisions and representations made by ER Manager.

2. Development of the Project in Compliance with the City's Code. Subject to the terms and conditions of this Agreement, including but not limited to Section 3 below, development of the Project shall be in accordance with the City's Code in effect on the date a Development Application is filed with the City and the Evans Ranch Master Development Plan. The City and Eagle acknowledge that the ER Property is presently zoned as Residential, and that such zoning shall apply to the ER Property except as expressly modified by this Agreement and the Evans Ranch Master Development Plan. Notwithstanding anything in the City's Residential zoning ordinance to the contrary, to accommodate the full and successful development of the Project as contemplated by the Evans Ranch Master Development Plan Map (attached hereto as Exhibit 2) and the Home Setback Exhibit (attached hereto as Exhibit 3), the City hereby agrees that the side-yard setbacks and minimum lot frontages, identified and depicted in Exhibits 2 and 3, shall supersede such requirements as set forth in Section 17.25.130 of the City's Code, with respect to single family residences constructed within the Project (provided, however, that no more than 50% of the length of a home can be between 10 and 15 feet of another residence).

3. Development of the ER Property in Compliance with the Evans Ranch Master Development Plan.

3.1. Approval of Evans Ranch Master Development Plan. Notwithstanding anything in Section 2 to the contrary, the City's approval and execution of this Agreement grants the Developer the right to develop the ER Property and construct the Project in accordance with the uses, maximum densities, improvements and general configuration of development set forth in this Agreement and the Evans Ranch Master Development Plan. In the event of any conflict between the City's Code and this Agreement (including the Evans Ranch Master Development Plan), the terms of this Agreement and the Evans Ranch Master Development Plan shall control.

3.2. Phasing. The City acknowledges that Eagle, future assignees of Eagle, and/or Subdevelopers who have purchased Parcels within the ER Property will develop the ER Property in phases, beginning with the Initial Phase. The parties acknowledge that the most efficient and economic development of the Project depends on numerous factors, such as market conditions and demand, infrastructure planning, competition, the public interest and other similar factors. Subject to the terms and conditions of this Agreement, the timing, sequencing, location and phasing of the Project, including but not limited to construction of roads, water and storm drain systems, parks, and other public

infrastructure improvements shall be as determined by Eagle in its reasonable business judgment and discretion. Without limiting the generality of the foregoing, Eagle hereby agrees that all phasing of the roadways within the ER Project shall be subject to review and approval of the fire marshal. Furthermore, the City and Eagle agree that the land identified on the Evans Ranch Master Development Plan as future Public Open Space shall be preserved by Eagle for dedication to the City and will be improved according to the schedule in this Agreement.

Furthermore, Eagle shall have the right to develop the Initial Phase prior to completion of any Open Space and/or Trails relating to the Project, and prior to completion of the offsite sewer line extension required in connection with the Buildout of the Project.

3.3. Project Maximum Density. At Buildout of the Project, Eagle shall be entitled to develop the Maximum Residential Units, and to have developed the other Intended Uses as specified in the Evans Ranch Master Development Plan, provided that Eagle has complied with applicable provisions of the City's Code (as such provisions may be amended by the terms of this Agreement). Accordingly, this City's execution of this Agreement constitutes approval required to vest the Project with the right to develop the Intended Uses within the ER Property. Notwithstanding anything to the contrary herein, any City ordinance, amendment to the City's Code, or other development standard enacted, implemented, regulated and/or enforced by the City on or after the date of this Agreement which has the effect of prohibiting and/or materially and unreasonably restricting Eagle's rights to develop the vested densities set forth in the Evans Ranch Master Development Plan, including but not limited to any ordinance, amendment, or other development standard which increases or otherwise modifies minimum lot size requirements, setbacks, frontage requirements, or other similar standards which relate to or have an effect on densities, shall be inapplicable to the ER Property (or modified to the extent necessary to permit Eagle to develop the vested densities set forth in the Evans Ranch Master Development Plan), unless the Council, on the record, finds that a compelling, countervailing public interest would be jeopardized without applying such ordinance, amendment or standard to the ER Property. Furthermore, no future ordinance or amendment to the City's Code shall materially increase the amount of exactions or dedications required by Eagle under this Agreement and the Evans Ranch Master Development Plan, unless such exactions are required to provide services to the ER Property. The City makes no guarantee or warranty that the entitled Maximum Residential Units can be achieved, and the parties acknowledge that as development progresses certain market, infrastructure, and/or other similar constraints beyond the control of the parties may be presented which could prevent the practical use of all vested densities granted in the Evans Ranch Master Development Plan.

3.4. Uses and Densities. Intended Uses as well as maximum Densities for the Project, as shown in the Evans Ranch Master Development Plan, are as follows:

Townhomes – 163 residential units

Single Family – 242 residential units

School Site – In the event a school is not constructed upon the portion of the ER Property identified on the Evans Ranch Master Development Plan as a future school site, such school site Property shall be vested with density equal to 33 Single Family residential units.

No densities may be transferred between the townhomes and single-family uses (including any transfers of townhomes to the school site property in the event that a school is not constructed on such site). Future City subdivision development standards shall respect the right of Eagle to develop up to the vested density. Other uses (including church and Open Space) shall be permitted as depicted in and in accordance with the Evans Ranch Master Development Plan.

3.4.1 Residential Bonus Density Entitlements. The City and Eagle acknowledge and agree that, based upon the Evans Ranch Master Development Plan, the Project will likely meet the residential bonus density entitlement requirements for the single-family residential portions of the Project. Nevertheless, with each preliminary plat application, Developer shall designate the chosen bonus density improvements, as depicted in the following tables, to equal 2.86 du/ac for the single-family areas and 10.33 du/ac for the townhome area.

Table 17.30.110(a) Tier I Residential Bonus Density Entitlements (Required)

Bonus Density	Improvement	Required/Optional
0.8	<i>Base Density Improvements</i>	<i>Required</i>
0.8	Improved open space: 4% improved open space (total buildable acres)	Required
	Fund or construct community improvements/amenities	Required
	Entryways and monuments	Required

	Professional land planning	Required
1.6	Total density granted required to do all improvements noted above	

0.81 to 1.6 dwelling units per acre: Tier I.

Table 17.30.110(b) Tier II Residential Bonus Density Entitlements (Optional)

Bonus Density	Improvement	Required/Optional
0.8	<i>Base Density Improvements</i>	<i>Required</i>
0.8	<i>Tier I Improvements</i>	<i>Required</i>
	<u>Improved open space</u> : 8% improved open space (total buildable acres)	
0.5	Architectural and landscape guidelines/CC&Rs/design review committee	Optional
0.7	Street trees, enlarged park strips, fencing, and street signposts	Optional
1.0	Masonry materials (75% of the exterior)	Optional
Up to 1.5	Residential lot landscaping (1 front and sides, 0.5 rear)	Optional
0.1 – 0.6	Recreational amenities	Optional
5.9	Total available (cannot exceed 5.2 dwelling units per acre)	

1.61 to 5.2 dwelling units per acre: Tier II.

Table 17.30.110(c) Tier III Residential Bonus Density Entitlements (Required)

Bonus Density	Improvement	Required/Optional
0.8	<i>Base Density Improvements</i>	<i>Required</i>
0.8	<i>Tier I Improvements</i>	<i>Required</i>
3.6	<i>Tier II Improvements</i>	<i>Required</i>
7.0	<u>Improved open space</u> : 8% improved open space (total buildable acres) <i>plus</i> 10% of Tier III development acreage	Required

	Clubhouse (all multifamily development)	Required
	Swimming pool	Required
12.2	Total density granted required to do all improvements noted above	

5.21 to 12.2 dwelling units per acre: Tier III.

3.5. Accounting for Density for Parcels Developed by Eagle. At the recordation of a Final Plat allowing for residential uses, Eagle shall provide the City a Development Report showing any Density used with the Parcel(s) and the Density remaining with Eagle for the remaining Project.

3.6. Accounting for Density for Parcels Sold to Subdevelopers. Any Parcel sold by Eagle to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Eagle shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Eagle and any material effects of the sale on the Evans Ranch Master Development Plan.

3.6.1. Return of Unused Density. If any portion of the Maximum Residential Units transferred to a Subdeveloper are unused by the Subdeveloper at the time the Parcels transferred with such Density receives approval for a Development Application for the final portion of such transferred Parcels, the unused portion of the transferred Maximum Residential Units shall automatically revert back to Eagle and Eagle shall file with the City a Development Report, but shall not be used to exceed the maximum allowable density approved in this Agreement.

4. Vested Rights.

4.1. Vested Rights Granted by Approval of this Agreement. To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Eagle intend that this Agreement grants Eagle all rights to develop the Project in fulfillment of this Agreement without modification or interference by the City except as specifically provided herein. The Parties intend that the rights granted to Eagle under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The parties specifically intend that this Agreement grants to Eagle “vested rights” as to, among other things, the density approved and land uses, as that term is construed in Utah’s common law and pursuant to Utah Code Ann. §10-9a-509

(2013) with respect to the matters set forth in this Agreement, i.e. the Densities and Intended Uses, except as specifically provided herein.

4.2. Term of Agreement. The term of this Agreement shall commence upon execution of this Agreement and shall continue until the fifteen (15) year anniversary following the date hereof. If as of that date Eagle has not been declared to be in default as provided in Section 19, or if any such declared default is not being cured as provided therein, then this Agreement shall be automatically extended for an additional ten (10) years.

5. Approval Processes for Development Applications.

5.1. Processing Under City's Code. Approval processes for Development Applications shall be as provided in this Agreement, the Evans Ranch Master Development Plan, and the City's Code. Development Applications shall be approved by the City if they comply with the Existing Applicable Building Codes and the City's Code in effect on the date the Application for development approval is filed with the City. Nothing in this Section 5 shall be construed to require Eagle or any Subdeveloper to obtain further City zoning approval with respect to a Parcel's Intended Use or Density as set forth in the Evans Ranch Master Development Plan, or rights granted to Eagle herein, provided that such Development Applications comply with the terms set forth in this Agreement and the Evans Ranch Master Development Plan and the City's Code in effect on the date of the Application for development approval.

5.2. City's Cooperation in Processing Development Applications. The City and each Development Applicant, including Eagle shall cooperate reasonably in promptly and fairly processing Development Applications.

5.3. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, "threatened and endangered species" and other similar matters which are not required by the City's Code to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. If the City needs any other technical expertise other than as specified above, under extraordinary circumstances specified in writing by the City, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant.

5.4. City Denial of a Development Application. If the City denies a Development Application, the City shall specify in writing in reasonable detail the reasons the City believes that the Development Application is not consistent with this Agreement and/or the City's Code. Notwithstanding the foregoing,

and as set forth in Section 3.1 above, in the event of any conflict between the City's Code and this Agreement (including the Evans Ranch Master Development Plan), the terms of this Agreement and the Evans Ranch Master Development Plan shall control.

5.5. Meet and Confer regarding Development Application Denials. The City and Applicant may meet within a reasonable time after denial of a Development Application to review the issues specified in the denial of a Development Application.

5.6. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Eagle may appeal any such denial through the appropriate procedures for such a decision.

6. Open Space and Trails Requirements. In the Development Application for each separate Parcel, the Applicant shall designate the land identified for Open Space and/or Trails as provided in and consistent with the phasing and timing set forth in this Agreement, in the Parks Map (attached hereto as Exhibit 4), and in the City's Code (to the extent not inconsistent with the Parks Map). Furthermore, the Applicant shall be required as a condition of approval to dedicate and construct required trail segments.

Public Open Space. The City and Eagle acknowledge that certain of the Public Open Space is located in the northeastern portion of the Evans Ranch Master Development Plan, and includes the Tickville Wash, the banks on either side, and additional open space in the northeast corner. These areas (excluding the wash) shall be constructed with at least the minimum park improvements identified in the Parks Map; provided, however, that Eagle and the City shall consider in good faith the planning, design and financing of additional park improvements for such park areas that may be desired by both the City and Eagle, including improvements to the Tickville Wash.

6.2. Creation of Open Space and/or Trails. Open Space and/or Trails shall generally be created and/or dedicated by means of a Final Plat to which the Open Space and/or Trails are either internal or contiguous. The City acknowledges that it may not be in the interest of either the City, Eagle, assignees of Eagle or Subdevelopers to always dedicate Open Space and/or Trails on such a contiguous basis which may result in constructing and/or designating incremental, small, unusable parcels of land. Therefore, each Development Application approval shall provide for the designation and/or construction of Open Space and/or continuous Trails in such amounts as are determined to be appropriate by the City considering:

6.2.1. The amounts and types of Open Space and/or Trails proposed in the Application and provided on the portions of the Project previously developed; and

6.2.2. The amounts and types of Open Space and/or Trails proposed in the Application and remaining to be designated and/or constructed pursuant to the Evans Ranch Master Development Plan.

Notwithstanding the foregoing, with respect to the Public Open Space, Eagle shall create and fund a cash bond in favor of the City in connection with the recording of each Final Plat within the Project until the Public Open Space has been improved and dedicated to the City. The cash bond shall be funded with the recording of each Final Plat in an amount equal to the total anticipated costs to complete the Public Open Space (as estimated in the Evans Ranch Master Development Plan), multiplied by a fraction, where the numerator is the number of lots within the subject Plat being recorded, and the denominator is 242; provided, however, that such cash bond funded with the recording of each Final Plat shall be equal to a minimum of \$2,000 per buildable acre relating to such Final Plat (thereby satisfying the bonus density requirement of Chapter 17.30 of the City's Code relating to construction of community improvements). These community improvement funds are to be used for improvements above and beyond the minimum park improvements shown on the Evans Ranch Master Development Plan. These improvements must be approved by the City Planning Director and Public Works Director prior to any construction. Eagle shall improve the Public Open Space and dedicate the same to the City (pursuant to the plans provided in the Evans Ranch Master Development Plan) prior to the time that fifty percent (50%) of the building permits have been issued with respect to the single-family residences contemplated with respect to the Project. In connection with Eagle's improvement of the Public Open Space, Eagle shall cause to be installed a water sub-meter to measure the water usage within the Public Open Space.

Furthermore, the Open Space and/or Trails shall meet or, at Eagle's discretion, exceed the minimum improvement requirements identified in the exhibit within the portion of the Evans Ranch Master Development Plan addressing minimum park requirements.

6.3. Accounting for Open Space for Parcels Developed by Eagle. The Open Space requirements for the Project are as set forth in the Evans Ranch Master Development Plan, and such requirements must be met by compliance with the City Open Space and/or Trails standards as set forth in the City's Code to the extent not inconsistent with the Evans Ranch Master Development Plan. In this regard, based upon the Density identified in the Evans Ranch Master Development Plan, the City Standards require at least eight percent (8%) of the

Project's buildable land area as improved Open Space, and at least ten percent (10%) of the single-family attached buildable area. The City acknowledges that the Evans Ranch Master Development Plan meets or exceeds the open space requirements for the single family detached portion of the Project (including the potential School Site). Eagle acknowledges that an additional 10% of the land area within the multi-family portion of the Project must be designated as improved Open Space. The general location of Open Space and Parks is designated in the Evans Ranch Master Development Plan. At the recordation of a Final Plat, Eagle shall provide the City an Open Space Report showing any Open Space planned for development with the Parcel(s) and the Open Space requirement remaining with Eagle for the remaining Project. The Open Space requirement for the Project may be met by either the "master" Open Space and/or Trails, or the Open Space and/or Trails found exclusively in individual Parcels and/or Subdivisions. The City will not record any plat if the required Open Space and/or Trails relating to the applicable property have not been dedicated to the City at, or prior to the recordation of, each proposed plat.

6.4. Accounting for Open Space for Parcels Sold to Subdevelopers. Any Parcel sold by Eagle to a Subdeveloper may include the transfer and delegation to such Subdeveloper of a specified portion of the City's Open Space requirement found in the City's Code. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Eagle shall provide the City a "sub" Open Space Report showing the amount of Open Space planned for the particular Parcel(s), and the amount of the Open Space requirement under the City standards transferred and delegated with the Parcel(s).

6.5. Notice to City. Upon the initial filing of any Development Application in which Open Space and/or Trails are located, Eagle and/or Subdeveloper shall provide separate written notice to the City of its intent to dedicate the proposed parcels of Open Space and/or Trails which are intended to be public as a part of the final recorded instrument approving the Development Application. Notice shall be provided to the Mayor, Planning Director and City Engineer and shall include a current title report and statement of all ad valorem taxes due. Within sixty (60) days of receipt of the Notice, the City shall make an initial determination whether the City intends to accept dedication of the Open Space and/or Trails or will accept the proposed designation on conditions specified in the determination. If the City does not intend to accept dedication of the Open Space and/or Trails the City shall notify Applicant of its decision. The City's notification that it does not intend to accept dedication of the Open Space and/or Trails shall constitute a waiver of its right to receive an outright conveyance of fee title to that parcel. If the City does not exercise this option, such Open Space and/or Trails shall be offered to Utah County, a conservation organization, a Homeowners Association or another similar designated entity reasonably

acceptable to the City. Notwithstanding anything to the contrary herein, the City shall accept the dedication of the Public Open Space contemplated in the Evans Ranch Master Development Plan.

6.6. Dedication of Open Space and/or Trails. Dedication of the Open Space and/or Trails to the City shall be by plat recordation or by dedication by deed acceptable to legal counsel for the City from Eagle or a Subdeveloper which shall be without any financial encumbrance) or property taxes, or which interfere with the use of the property for Open Space and/or Trails in the judgment of the City. The Evans Ranch Master Development Plan identifies Open Space and/or Trails contemplated for future dedication by Eagle to the City, and it is specifically acknowledged (as provided in Section 6.6 above) that the Public Open Space identified in the Evans Ranch Master Development Plan shall be dedicated to and accepted by the City as a public park. It is further acknowledged that the Open Space located south and west of the Bike Trail shall be owned by the Homeowners Association and shall be privately maintained by such Association.

6.7. Maintenance of Open Space and/or Trails. Upon acceptance by the City of the proffered Open Space and/or Trails and after formal possession, the City shall be responsible for maintaining the Open Space and/or Trails after final inspection, acceptance of the improvements to the Open Space and/or Trails, if any, and expiration of the applicable warranty term. If the Open Space and/or Trails are dedicated to an entity other than the City then the dedication shall provide for maintaining the Open Space and/or Trails in a manner to be reasonably acceptable to the City.

6.8. Tax Benefits. The City acknowledges that Eagle may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring Open Space and/or Trails to the City or to a charitable organization. Eagle shall have the sole responsibility to claim and qualify for any tax benefits sought by Eagle by reason of the foregoing. The City shall reasonably cooperate with Eagle to the extent reasonable under law to allow Eagle to take advantage of any such tax benefits.

7. Infrastructure and Improvements.

7.1. Design and Construction of Public Infrastructure and Improvements. The City and Eagle acknowledge that Public Infrastructure and Improvements are required in connection with the development of the ER Property, including without limitation: (a) main and ancillary roadways, (b) sewer, water and storm drainage systems and other facilities, (c) utility (including power, gas, telephone, and fiber optics) systems and facilities, and (d) Open Space and/or Trails. The City and Eagle shall cooperate in good faith to design, construct and/or acquire the Public Infrastructure and Improvements. The City shall

consider all complete Development Applications and issue all permits reasonably necessary for the construction of the required Public Infrastructure and Improvements, provided that such issuance is consistent with the City standards as provided in the City's Code. Eagle shall cause all Public Infrastructure and Improvements to be constructed in accordance with applicable City Code. Without limiting the foregoing, Eagle further agrees that, prior to the time that infrastructure improvements are completed with respect to up to twenty (20) single family residential lots within the Project, Eagle shall paint stripe (at its expense) an 11-foot lane on both sides of Porter's Crossing Road along the entire length of Porter's Crossing (from the southern end of the Project to Pony Express Parkway).

7.2. Additional Off-Site Infrastructure Requirements. Eagle and City acknowledge that the required upgrade to the City's electrical circuit which is to service the Project has been completed or is in the process of being performed by the City (and at the City's expense), and that such upgrade shall be completed prior to issuance by the City of any building permits relating to the Project. Eagle acknowledges that, prior to development of any phases following the Initial Phase, Eagle shall be required to install an offsite sewer line in accordance with City Code, as described in the plans approved by the City in connection with this Project and in the Evans Ranch Master Development Plan.

7.3. Construction Prior to Completion of Infrastructure.

7.3.1. Construction Prior to Completion of Infrastructure. Anything in the City's Code notwithstanding, but subject to the requirements for fire protection, Eagle may apply for and obtain Building Permits and/or temporary Certificates of Occupancy for uninhabited model homes, homes shows, sales offices, construction offices or similar uses prior to the installation of all Public Infrastructure and Improvements required to be eventually completed so long as Eagle is not in default of its obligations under this Agreement and such installation is secured consistent with the City's Code and the provisions of this Agreement.

7.3.2. Certificate of Occupancy. No permanent Certificate of Occupancy shall be issued by the City, except in compliance with the City's Code.

9. Fencing and Driveways. Eagle shall construct fencing for the Project consistent with the fencing exhibit (attached hereto as Exhibit 5), with applicable City Code, and with this Agreement. The fencing required along Porter's Crossing Road, together with the fencing required for the Open Space, shall be installed at the time that the Public Infrastructure and Improvements are constructed with respect to portions of such Project that are contiguous to the location of the fencing. Eagle and the City agree that

driveways shall be (a) located on every single family lot constructed within the Project, and (b) limited to no more than twelve (12) feet in width at the street with respect to single-family lots with a garage that is placed more than thirty (30) feet from the front property line. Prior to the City issuing a building permit with respect to any Single Family Residential lot within the Project, Eagle shall submit to the City engineered drawings depicting the location of the driveway and utilities for each lot within the subdivision, including storm water drainage plan for areas between lots. Driveway locations for each single-family lot shall also be included on every final plat.

10. Enforcement of CC&R's. Homeowners Association will be responsible for the implementation, enforcement, and amendment of CC&R's upon the entire Project. The City shall not be responsible for the enforcement of private agreements or CC&R's. Without limiting the generality of the foregoing, the CC&Rs shall contain restrictions relating to fencing and driveways to be installed upon the Project, and the Homeowners Association shall be required to enforce such fencing and driveway restrictions; provided, however, that the CC&Rs shall be consistent with Exhibit 5, with applicable City Code, and with this Agreement.

12. Payment of Fees.

a. General Requirement of Payment of Fees. Eagle and/or a Subdeveloper shall pay to the City all fees in amounts and at times specified in the City's Code.

b. Infrastructure Built by Eagle. Upon application to and approval of the City, Eagle or Subdevelopers may, from time-to-time, install and construct portions of the infrastructure specified in the Evans Ranch Master Development Plan which are System Improvements. The City shall comply at all times with Utah Impact Fee law.

c. Reimbursement for "Upsizing". The City shall not require Eagle to "upsized" any public improvements (i.e., to construct the improvements to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Eagle are made to compensate Eagle for the pro rata costs of such upsizing. Compensation to Eagle for any "upsizing" of the public improvements shall be agreed to by Eagle and the City as a part of a customary reimbursement agreement which may be entered into by such parties.

13. Permits; Security for Improvements.

a. Building Permits. No Building Permit shall be issued by the City for construction in the ER Property, unless Eagle or its successor has substantially completed the required infrastructure to comply with City requirements for phasing of infrastructure required by the relevant project or proposed construction. Except as set forth in any provision of the City's Code, no

buildings, improvements, or other structures shall be constructed within the Project without Eagle and/or a Subdeveloper first obtaining an appropriate Building Permit(s), and/or grading and excavation permits, as applicable. Eagle and/or a Subdeveloper may apply for and obtain a grading permit following approval of a Subdivision Site Plan if Eagle and/or a Subdeveloper has submitted and received approval of a site grading plan from the City Engineer and all required fees are paid.

b. City and Other Governmental Agency Permits. Before commencement of construction or development of any buildings, structures or other work or improvements upon any portion of the Project, Eagle or a Subdeveloper shall, at its expense, secure, or cause to be secured, any and all permits which may be required by the City or any other governmental entity having jurisdiction over the work. The City shall reasonably cooperate with Eagle or a Subdeveloper in seeking to secure such permits from other governmental entities.

c. Security for Public Improvements. The completion of all improvements shall be subject to collateral requirements established by the City using forms for cash escrow approved by the City Attorney. Any such security shall be, at Eagle's request, partially released pro rata as work proceeds, to a maximum of ninety percent (90%). Upon Substantial Completion of the Public Infrastructure and Improvements, as certified by Eagle's engineers and approved by the City, the security (except ten percent (10%) to be retained as security for a one (1) year warranty against defects in materials and workmanship) shall be released. At the end of the one (1) year warranty, the remaining security shall be released to Eagle upon the City's determination that there are no further warranty repairs required. Unless otherwise required in a subsequent Development Agreement, no security shall be required for any improvements that are not designated to be dedicated to the City.

14. Dedication of Public Improvements. Eagle agrees that all of the infrastructure and improvements dedicated to the City pursuant hereto shall be constructed to the City's standard specifications unless otherwise agreed in this Agreement or otherwise, and shall be subject to City requirements for the payment of property taxes, inspections and approval before acceptance by the City. The City agrees to accept such dedication after payment of all taxes and fees and inspection and correction of any deficiency or failure to meet City standards.

15. City's Obligations. Subject to Eagle's performance of its obligations hereunder, and consistent with the terms and conditions provided herein, the City agrees that it shall provide the ER Property with standard municipal services in compliance with state laws and City Ordinance to the level of service feasible under City staffing and budgeting constraints, which level of services the City provides from time-to-time to other residents and properties within the City including but not limited to, garbage,

snow removal, police, fire protection and other emergency services. Such services shall be provided to the ER Property on a reasonable basis, at reasonable levels, and on reasonable terms, conditions and rates, as appropriate under the circumstances, given the location of the property and prior, pre-existing conditions of the ER Property and subject to the conditions set forth above.

16. Water and Erosion Studies. Eagle (and/or a Subdeveloper, as applicable) shall install a water supply system to service portions of the ER Property as development of the ER Property proceeds, in accordance with the Final Plats approved by the City, which shall include water transmission and distribution lines within the boundaries of the ER Property. The water system shall connect to and become part of the City's water system, and shall comply with the City's Code. Furthermore, prior to issuance of any building permits within the Project, Eagle shall complete a water model study for the Project acceptable to the City.

Moreover, prior to final plat approval of any lots within the Project which are adjacent to the Tickville Wash area (also referred to herein as a portion of the Public Open Space), Eagle shall complete an erosion study for such lots (studying erosion potential and recommended mitigation) acceptable to the City. Eagle shall be required to complete any recommended mitigation in connection with the construction of the Public Infrastructure and Improvements adjacent to such lots.

17. Additional Easements. Eagle shall exercise reasonable efforts to secure any necessary utility and similar easements or similar property rights (including without limitation easements for water, sewer, power, gas, telephone, etc.) from neighboring property owners in connection with the planning and development of the ER Property. With respect to the offsite sewer line that will be installed, the City shall use reasonable efforts to cooperate with Eagle in Eagle's efforts to acquire necessary easement rights from adjoining property owners. Notwithstanding the foregoing, Eagle acknowledges that it is the responsibility of Eagle to acquire, plan, survey and dedicate the required easements and rights of way for infrastructure to the City, free of all encumbrances of every kind, including property taxes.

18. Agricultural and Agricultural Related Uses of ER Property. Notwithstanding anything herein to the contrary, including the zoning and use provisions referred to herein and in the Evans Ranch Master Development Plan, until such time as physical development and construction of the ER Property begins with respect to a relevant portion of such Property, Eagle, and/or its successors, assigns, tenants, guests and invitees, shall be permitted to operate the ER Property for agricultural purposes, including without limitation, the present soil cultivation, crop production, raising and grazing livestock, and the present preparation of agricultural products for human use and their disposal all as contemplated in a farming and ranching agricultural operation.

19. On-Site Processing of Natural Materials. Notwithstanding anything to the contrary herein, Eagle, and/or its agents, successors, assigns, tenants, guests, and

invitees shall be permitted to extract and process the natural materials located on the ER Property such as aggregate (rock, sand or gravel), for temporary purposes and in connection with the grading, excavation, and other ordinary and customary development processes for the ER Property. Such natural materials may be used in the construction of infrastructure, homes, or other buildings or improvements located on the ER Property and other locations outside the ER Property. No extraction, processing or other form of mining activities shall occur within the ER Property unless the party performing such activities has obtained necessary permits and approvals prior to commencement of such activities from the City.

19. Future Property Which May be Included in this Agreement. If Eagle acquires any additional property located contiguous to the ER Property, then such future property may be added to this Agreement if the City determines that the addition of such future property is appropriate in light of its proximity to the Project and the compatibility and the appropriateness of such a development pattern.

20. Multi-Family Design. In addition to other criteria set forth in the City Code, the multi-family portion of the Project shall be similar in design to the rendering attached hereto as Exhibit 7, unless otherwise approved by the City.

21. Default.

21.1. Notice. If Eagle or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Eagle.

21.2. Contents of the Notice of Default. The Notice of Default shall:

21.2.1. Specify the claimed event of Default;

21.2.2. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in Default;

21.2.3. Identify why the Default is claimed to be material; and

21.2.4. If the City chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

21.3. Remedies. If the parties are not able to resolve the Default through good faith negotiations or through mediation (which both parties agree to submit to

upon the request of the other party), then the parties may have the following remedies:

21.3.1. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages.

21.3.2. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

21.3.3. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Eagle, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

21.3.4. If the cure of any alleged Default can be effectuated by the City because the alleged Default is covered by any security the City may have for the completion of a public improvement then the City may not declare a Default until it has attempted in good faith to use the security to remedy the alleged Default.

21.4. Notice and Public Meeting. Except for withholding the issuance of a building permit, before any remedy in Section 19.3 may be imposed by the City the party allegedly in Default shall be afforded the right to Notice of a public meeting before the Council and shall have the right to address the Council regarding the claimed Default.

21.5. Emergency Defaults. If the Council finds on the record that a default materially impairs a compelling, countervailing interest of the City, then the City may impose the remedies of Section 19.3 without meeting the negotiation and/or mediation requirements of Section 19.3.

21.6. Extended Cure Period. If any Default cannot be reasonably cured within sixty (60) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

22. Amendment. Any future amendments to this Agreement shall be in writing and signed by Eagle and a duly authorized representative of the City.

23. Assignability. The rights and responsibilities of Eagle under this Agreement may be assigned in whole or in part by Eagle, provided that Eagle shall give Notice to the City of any assignment, and shall further provide such information regarding the assignee that the City may reasonably request. Such Notice shall include providing the

City with all necessary contact information for the proposed assignee. If any proposed assignment is for less than all of Eagle's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such partial assignment, Eagle shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

24. Miscellaneous

24.1. Incorporation of Recitals, Exhibits. The above Recitals and attached Exhibits are hereby incorporated into this Agreement.

24.2. Binding Effect. A short-form notice of this Agreement shall be recorded by Eagle and the City against the ER Property in substantially the form attached as Exhibit 6 of this Agreement. This Agreement shall be deemed to run with the ER Property, and shall be binding upon and inure to the benefit of the successors, heirs and assigns of the parties hereto, and to any entities resulting from the reorganization, consolidation, or merger of any party hereto.

24.3. Notices. Any notices, requests and demands required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party to whom the same is directed or three (3) days after being sent by United States mail, certified or registered mail, postage prepaid, addressed to such party's address set forth next to such party's signature below. Any party may change its address or notice by giving written notice to the other party in accordance with the provisions of this Section.

24.4. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

24.5. Integration. This Agreement constitutes the entire understanding and agreement between the parties, and supersedes any previous agreement, representation, or understanding between the parties relating to the subject matter hereof.

24.6. Severability. If any part or provision of this Agreement shall be adjudged unconstitutional, invalid or unenforceable by a court or competent jurisdiction, then such a judgment shall not affect any other part or provision of this Agreement except that part or provision so adjudged to be unconstitutional, invalid or unenforceable. If any condition, covenant, or other provision of this

Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

24.7. Waiver. Any waiver by any party hereto of any breach of any kind or character what so ever by the other party, whether such waiver be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement on the part of the other part.

24.8. Governing Law. This Agreement shall be interpreted, construed and enforced according to the laws of the State of Utah.

24.9. Costs of Enforcement. In the event of default on the part of any party to this Agreement, that party shall be liable for all costs and expenses incurred by the other parties in enforcing the provisions of this Agreement, including but not limited to attorneys' fees, whether or not legal action is instituted.

24.10. Further Documentation. This Agreement is entered into by both parties with the recognition and anticipation that subsequent agreements implementing and carrying out the provisions of this Agreement may be necessary. The parties agree to negotiate in good faith with respect to all such future agreements.

24.11. Estoppel Certificate. If no default has occurred in the provisions of this Agreement and upon twenty (20) days prior written request by Eagle or a Subdeveloper, the City will execute an estoppel certificate to any third party, certifying that Eagle or a Subdeveloper, as the case may be, at that time is not in default of the terms of this Agreement.

24.12. No Joint Venture. This Agreement does not create a joint venture relationship, partnership or agency relationship between the City and Eagle.

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

24.14. Authority. The parties to this Agreement each warrant that they have all of the necessary authority to execute this Agreement. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this Agreement lawfully binding the City pursuant to and is further certified as to being lawful and binding on the City by the signature of the City Attorney.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives effective as of the date first written above.

CITY:

EAGLE MOUNTAIN CITY, a Utah
municipal corporation

ATTEST:

By: _____
Heather Jackson, Mayor

By: _____
City Clerk

EAGLE:

EAGLE 12, LLC, a Utah limited
liability company

By: R5 Ventures, Inc., its Agent

By: DAI Partners, LLC, its
Authorized Agent

By: _____
Nathan D. Shipp, Manager

**ACKNOWLEDGED AND
CONSENTED TO BY
ER MANAGER:**

DAI PARTNERS, LLC

By: _____
Nathan D. Shipp, Manager

1251584

CONSENT

The undersigned, constituting the current owner of the ER Property, hereby consents to the execution of the foregoing Evans Ranch Master Development Agreement, and to each of the terms contained therein.

EVANS, LUCILE O TR

SCHEDULE ONE DEFINED TERMS

As used in the Agreement, the words and phrases specified below shall have the following meanings:

Act means the Municipal Land Use Development and Management Act, Utah Code Ann. §§10-9a-101, *et seq.* (2013).

Agreement means this Evans Ranch Master Development Agreement, including all of the Exhibits attached hereto.

Applicant means a person or entity submitting a Development Application or other land use application with the City in connection with the ER Property.

Bike Trail means that certain paved trail identified in the Evans Ranch Master Development Plan, to be owned, operated and maintained by the City, which Bike Trail divides the Open Space planned to be owned by the Homeowners Association from the Public Open Space.

Building Permit means a permit issued by the City to allow construction, erection or structural alteration of any building, structure, private or public infrastructure on any portion of the Project.

Buildout means the completion of all of the development on all of the Project.

CC&R's means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the ER Property to be recorded in the chain of title on the ER Property, and shall include both "master" CC&R's and any "sub" CC&R's.

City means Eagle Mountain City, a Utah municipal corporation.

City Consultants means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

City's Code means Eagle Mountain Municipal Code, which was approved by the Council on October 7, 2008, as the same may be lawfully and properly amended from time to time.

Council means the elected City Council of the City.

Default means a material breach of this Agreement.

Denied means a formal denial issued by the final decision-making body of the City for a particular type of Development Application and does not include review comments or "redlines" by City staff.

Density means the number of Residential Dwelling Units allowed within the Project.

Development Application means an application to the City for development of a portion of the Project including a Subdivision, a Building Permit or any other permit, certificate or other authorization from the City required for development of the Project.

Development Report means a report containing the information specified in Sections 3.5 or 3.6 submitted to the City by Eagle for the development by Eagle of any Parcel or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Eagle.

Evans Ranch Master Development Plan means, as further defined in the Recitals to this Agreement, the plans attached hereto as Exhibit 2 through 5, as the master plan approved by the City in connection with this Agreement and the development of the ER Property. The layout and land use configuration of the Project, as currently identified and depicted in the Evans Ranch Master Development Plan, may be altered by Eagle under certain conditions further described in Section 3.1 of this Agreement.

ER Property means, as set forth in the Recitals to this Agreement, the approximately one hundred twenty (120) acres either owned or under a legally binding contract for purchase by Eagle, which are a part of the ER Property and which are more fully described in Exhibit 1.

Existing Applicable Building Codes means building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code and the Uniform Fire Code, that are generated by a nationally recognized construction/safety organization, or by the State or Federal governments and are required to alleviate legitimate and bona fide harmful and noxious uses.

Final Plat means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2013), and approved by the City, effectuating a Subdivision of any portion of the Project.

Homeowners Association(s) means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

Impact Fees means those fees, assessments, exactions or payments of money imposed by the City as a condition on development activity as specified in Utah Code Ann. § 11-36a-101. *et seq.* (2013).

Initial Phase means the initial phase of development of the Project, which phase shall include not more than three (3) single family residential lots.

Intended Uses means the use of the Project for single-family and multi-family residential units, institutional and special services, utility related services, open spaces, parks, trails and other uses as specified in the Evans Ranch Master Development Plan.

Maximum Residential Units means the development on the ER Property of a number of Residential Dwelling Units equal to the sum of all of the number of Residential Dwelling Units associated within the entire Project, as further identified on the Evans Ranch Master Development Plan.

Non-City Agency means a governmental or quasi-governmental entity, other than those of the City, which has jurisdiction over the approval of any aspect of the Project, including without limitation, county or state governmental or quasi-governmental entities charged with oversight for transportation, health, safety, utilities, and so forth.

Notice means any notice to or from any party to this Agreement that is either required or permitted to be given to another party.

Open Space means those areas, whether publicly or privately owned, (a) without any buildings or other physical improvements, except those customary and/or necessary to the provision of recreation and those permitted by the City's Code, (b) any natural break that provides appropriate breaks from building masses or conserves or preserves natural, historic or other amenities with social or cultural values, or (c) which maintain the natural water table level or preserves wetlands. Open Space includes, but is not limited to, those areas identified as Open Space in the Evans Ranch Master Development Plan.

Open Space Report means a report containing the information specified in Section 6.3 submitted to the City by Eagle for the development by Eagle of any Parcel or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Eagle.

Parcel means a portion of property located within the ER Property which is intended to be developed as a particular type of Intended Use.

Phase means the development of a portion of the Project at a point in a logical sequence as determined by Eagle.

Project means the development to be constructed on the ER Property pursuant to this Agreement with the associated public and private facilities, Intended Uses, Densities, Phases and all of the other aspects approved as part of this Agreement including its Exhibits.

Public Infrastructure and Improvements means those items of public or private infrastructure identified in the Evans Ranch Master Development Plan or as a condition of the approval of a Development Application that are necessary for development of the ER Property, such as roads, utilities, and other infrastructure and improvements set forth in Section 7, that are located on that portion of the ER Property which is subject to a Development Application.

Public Open Space means the Open Space planned for the northern portion of the ER Property (which Open Space is identified on the Evans Ranch Master Development Plan), located both (a) to the north and east of the Bike Trail (and including the Bike Trail), and (b) on the northwest of the ER Property.

Residential Dwelling Unit means, for purposes of calculating Density, a unit intended to be occupied for residential living purposes: one single-family residential dwelling and each separate unit in a multi-family dwelling, apartment building, condominium or time-share equals one Residential Dwelling Unit.

Subdeveloper means an entity not "related" (as defined by Internal Revenue Service regulations) to Eagle which purchases a Parcel for development.

Subdivision means the division of any portion of the Project into a subdivision pursuant to procedures set forth under State Law and/or the City's Code.

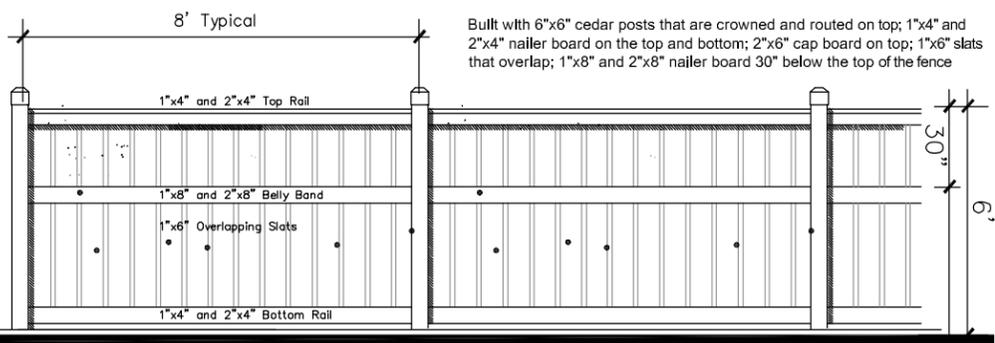
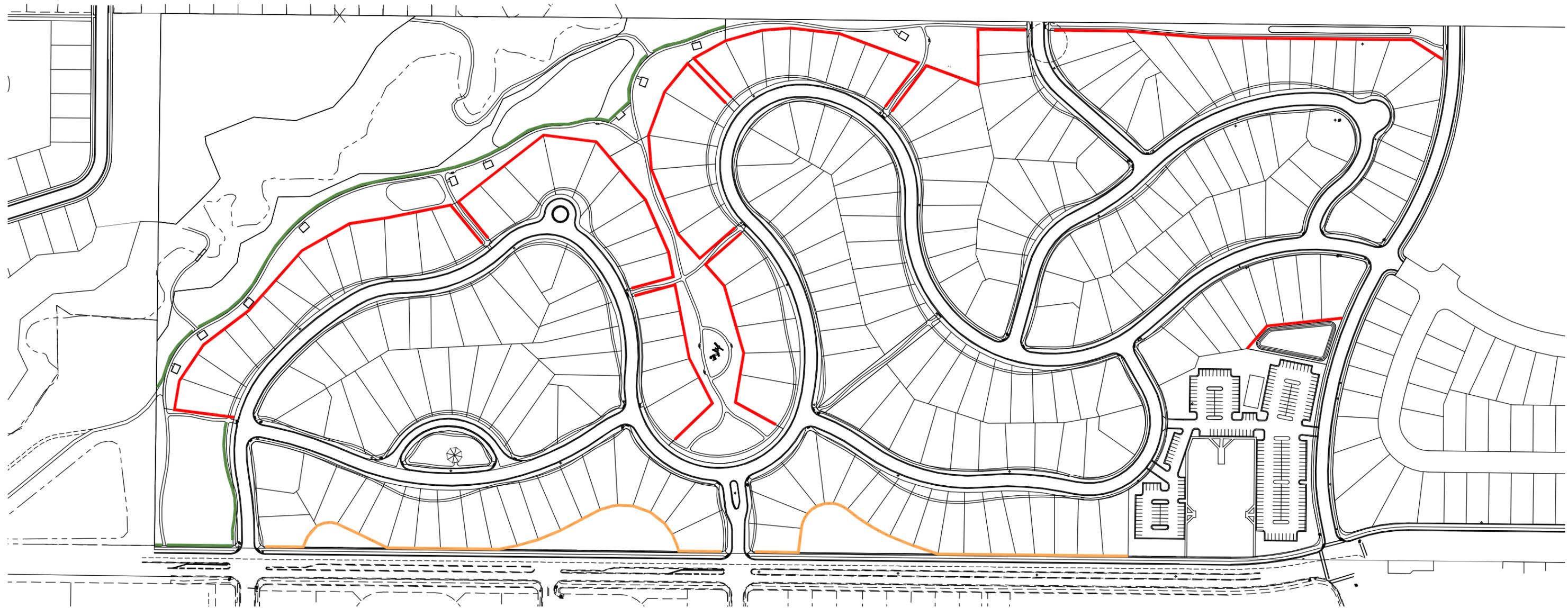
Subdivision Application means the application to create a Subdivision.

Subdivision Site Plan means the plan submitted with a Subdivision Application for the first stage of the approval of a Subdivision or other development within the Project.

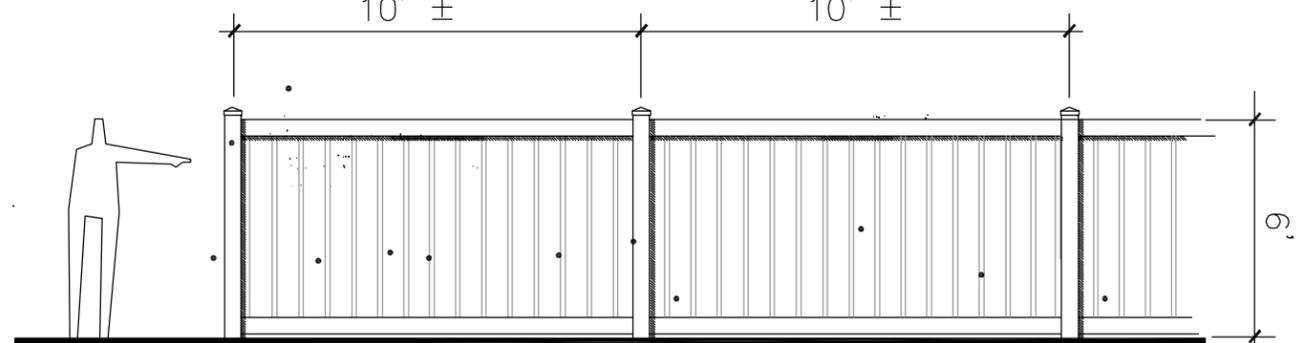
Substantial Completion means a point in the progress of a construction project where the work: has reached the point that it is sufficiently complete such that any remaining work will not interfere with the intended use or occupancy of the project. For work to be substantially complete it is not required that the work be 100% complete.

System Improvement means those elements of infrastructure that are defined as System Improvements pursuant to Utah Code Ann. §11-36a-102(16) (2013).

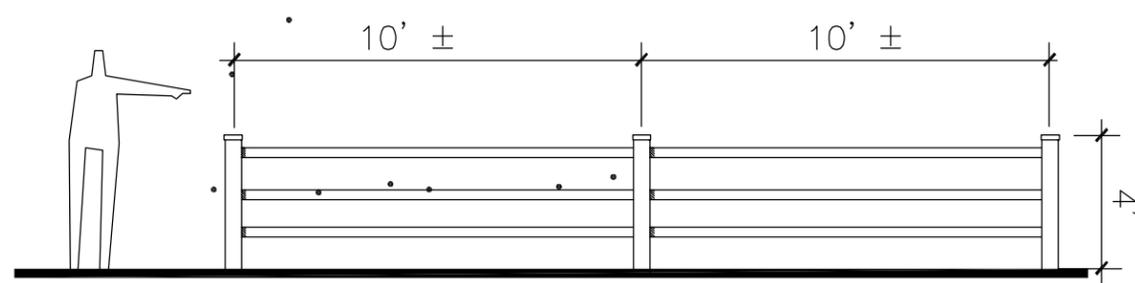
Trail or Trails means those certain trails intended for non-vehicular traffic, as identified in the Evans Ranch Master Development Plan, including but not limited to the Bike Trail.



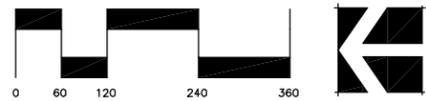
Estate Fence



6' Vinyl Fence (Tan)



Split-rail Fence (3-rail)





All private open space will be landscaped with sod, trees, shrubs, xeriscaping, and other manicured landscaping."

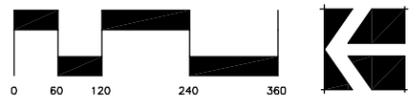


Exhibit 2

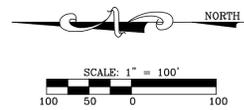
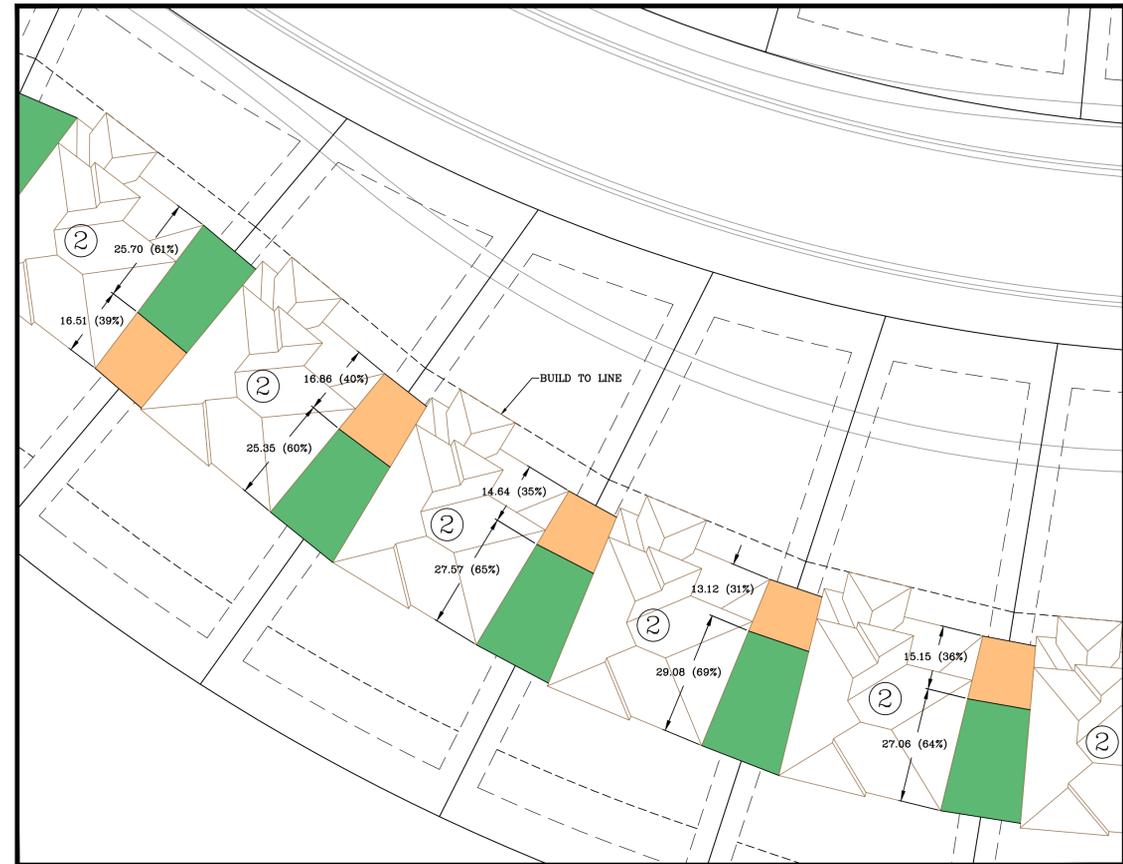
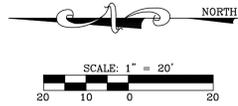
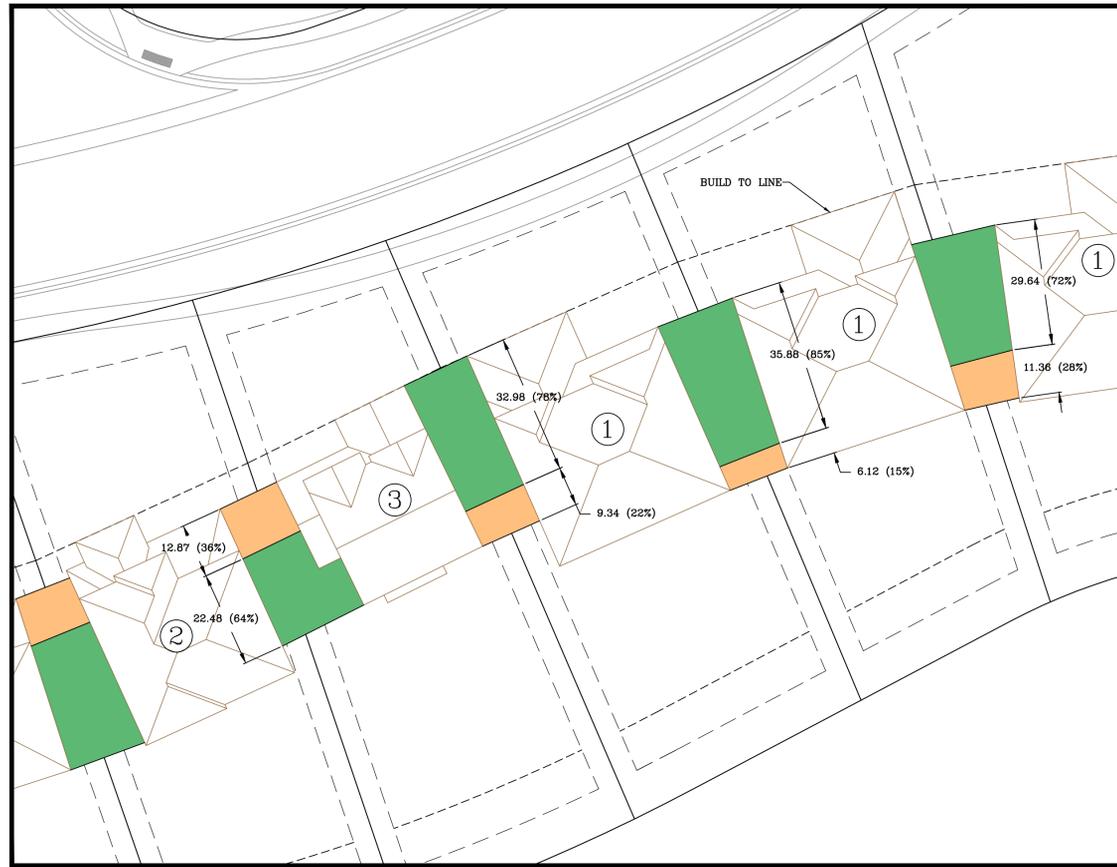
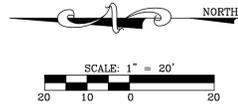
Park Plan



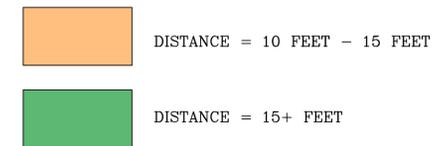
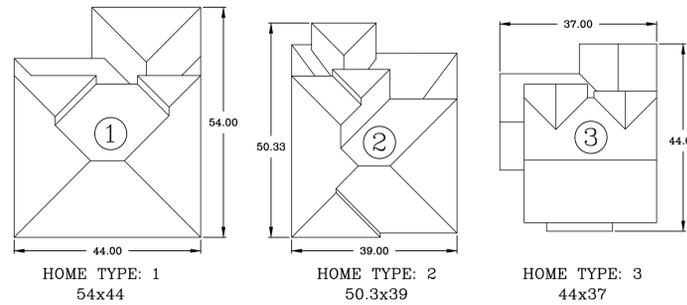
**ENGINEERS
SURVEYORS
PLANNERS**

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Fax: 801.798.9393
office@lei-eng.com
www.lei-eng.com

EVANS RANCH
EAGLE MOUNTAIN, UTAH
EXHIBIT 2iv: SETBACKS EXHIBIT



NOTE:
ACTUAL FOOTPRINT MAY VARY, HOMES USED:



REVISIONS
1
2
3
4
5

LEI PROJECT #:
2012-1845
DRAWN BY:
BLS
CHECKED BY:
GDM
SCALE:
1" = 50'
DATE:
8/26/2013