

MINUTES  
EAGLE MOUNTAIN CITY COUNCIL MEETING

April 1, 2014

**Work Session 4:00 p.m. Policy Session 7:00 p.m.**

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

**4:00 P.M. WORK SESSION – COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Jason Walker, Assistant City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; Paul Jerome, Finance Director; Ikani Taumoepeau, Economic Development Director; Rand Andrus, Fire Chief; Chris Trusty, Public Works Director; Dave Norman, Assistant Public Works Director; Steve Mumford, Planning Director; Adam Ferre, Energy Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Eric McDowell, Sheriff's Deputy.

Mayor Pengra called the meeting to order at 4:04 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS – This is an opportunity for the City Administrator to provide information to the City Council. These items are for information and do not require action by the City Council.

- A. Presentation – Jackie Coombs, UAMPS Manager of Customer Service

Ms. Coombs explained that UAMPS is a project-based organization, which means members can choose which projects they participate in. It's a blanket organization which provides economies of scale for members' electricity purchasing.

Ms. Coombs described the City's power use pattern and forecast. She explained how UAMPS allocates power to its members.

She discussed the Smart Energy initiative, which encourages conservation by the residents of member municipalities.

Coal plants around the country are being shut down, so power suppliers are evaluating other sources, including natural gas, solar, wind, geothermal and nuclear power. UAMPS is evaluating new projects as they are presented.

- B. Discussion – TM Crushing Impact Fees

The Council will vote on this issue at a future meeting. Scot Hazard, from whom TM Crushing leases the land they operate on, discussed TM Crushing's request to pay an impact fee in four payments over three years. He felt that, since an impact fee was never due until TM Crushing requested additional power service, it would be reasonable for the Council to allow the company to pay the impact fee over three years.

Councilmember Ireland said he was concerned about setting a negative precedent for future landowners requesting installment payments for impact fees. He suggested changing conditional use permits from two years to three years. Currently, the company is operating under a two-year conditional use permit. He also suggested allowing TM Crushing to pay half of the fee now and half next year.

Councilmember Westmoreland asked what triggered this discussion. Mr. Hazard explained that TM Crushing asked for a higher amperage of electric service. Energy Director Adam Ferre told them that would require a service line that met City standards, rather than the temporary line that serves the plant now.

Councilmember Bradley asked Mr. Hazard what his relationship is to TM Crushing. Mr. Hazard stated that he is the landowner from whom TM Crushing leases the land they operate on. He's represented them throughout their dealings with the City.

Councilmember Bradley asked Mr. Pili about the history of the City's relationship with TM Crushing. Mr. Pili said that the temporary power agreement was a conditional use for a term of two years, which ended in 2013. Mr. Hazard said excavation is now a standard use, rather than a conditional use, since the industrial overlay zone was added last summer.

Councilmember Burnham asked if the impact fees were calculated as though the power line would be permanent. Mr. Hazard said they were. He said that TM Crushing just wanted to work out a way to pay the impact fee without complicating the issue.

Councilmember Bradley suggested allowing the installment payments and adding an additional fee.

Councilmember Ireland stated that there is no guarantee of how long any business will last. Businesses that plan to be permanent pay their impact fees without knowing whether they'll be able to continue operating in the long term. He was concerned that other businesses will want to pay their impact fees in installments, based on the precedent set by TM Crushing.

Councilmember Steinkopf was not in favor of the four-payment suggestion. He knows someone who complains to him regularly about his high impact fees, which he had to pay all at once. This person would react very badly if he found out that another business was allowed to pay impact fees in installments.

Councilmember Burnham asked Mr. Hazard to talk to TM Crushing and bring back the best deal he could. The Council would like to work with them, but four payments is too many.

Councilmember Bradley gave an example of a company that is allowed to pay its impact fees in installments, but fails before the term is up. He felt that since TM Crushing has already been operating and making money, they ought to simply pay the fees.

2. AGENDA REVIEW – The City Council will review items on the Consent Agenda and Policy Session Agenda.

11. Valley View South, Phase A, Plats 4 – 7

Councilmember Ireland said he had received a complaint about an excavating business in that area. Mayor Pengra responded that City staff had them shut down the crusher yesterday.

Councilmember Ireland asked why they didn't have to apply for a conditional use permit before starting to operate. Mr. Pili replied that all that was required was an excavation permit. They were allowed to process rock onsite as long as they use the material for the Valley View development

project. The resident who complained felt that the operation was shaking their home and was not controlling the dust adequately. They also said the company was selling excavated material onsite.

At the meeting with Mr. Pili, the company said they feel they're controlling the dust adequately, but will spray as much water as the City requires. They said they are not selling material on-site, but if any of their employees are doing so, they will be terminated. The City has no proof of material being sold. There's also an issue with the company bringing material on-site from another location. The remaining issue is the shaking being caused to nearby homes. The company doesn't believe that shaking is an issue, but agreed to demonstrate their equipment to City staff tomorrow. The company has agreed to move farther from the residential area immediately.

Councilmember Steinkopf asked if the company needs State permits. Mr. Pili said they would if they were selling from the site. City staff needs proof that they're selling material onsite before they can shut the company down. They can be restricted from bringing material from elsewhere to be processed onsite. However, the material on-site isn't suitable for use in the development and Public Works would rather have good-quality material brought to the site.

Councilmember Ireland asked if the excavation and processing were in preparation for construction in the Valley View plats that may be approved at this meeting. Mr. Trusty said they are. The excavation permit will expire on April 15.

Mr. Pili said the resident would be satisfied if the operation is moved a little farther away from existing homes. The company agreed. Mr. Pili plans to call the resident tomorrow.

Councilmember Bradley felt that the final plats being approved in this item had quite a few issues that needed to be discussed. Mr. Mumford pointed out that the developer will be required to comply with the Planning Commission recommendations listed in the staff report.

Public Works Director Chris Trusty discussed a sewer line planned by Camp Williams which will go through this property. If the sewer line is connected, any lot within 300 feet will be required by State law to connect to it rather than use septic systems. Mayor Pengra noted that Camp Williams does not have funding for the project yet.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council will adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

**MOTION:** *Councilmember Burnham moved to adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property, pursuant to Section 52-4-205(1) of the Utah Code, Annotated. Councilmember Steinkopf seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

### **POLICY SESSION – CITY COUNCIL CHAMBERS**

**ELECTED OFFICIALS PRESENT:** Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Jason Walker, Assistant City Administrator; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; Paul Jerome, Finance Director; Ikani Taumoepeau, Economic Development Director; Rand Andrus, Fire Chief; Chris Trusty, Public Works Director; Adam Ferre, Energy Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Eric McDowell, Sheriff's Deputy.

4. CALL TO ORDER

Mayor Pengra called the meeting to order at 7:13 p.m.

5. PLEDGE OF ALLEGIANCE

Tom Westmoreland led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- **Spring clean-up** – The City will offer its annual spring clean-up dumpsters for yard and general waste from April 1-20. Dumpsters are located near the Public Works building, in front of the wastewater treatment plant. A schedule for the dumpsters to be emptied and a list of items unacceptable for the dumpsters is available on the City website, News page. The County is offering a household hazardous waste collection day on April 12 at the Provo Towne Center mall. Information for this event is also available on our website.
- **Blood Battle blood drive** – The third annual Blood Battle blood drive sponsored by Horrocks Engineers and administered by the Red Cross will be held on Tuesday, April 8 in the Council Chambers from 8:00 a.m. to 1:00 p.m. The drive is a friendly competition among northern Utah County cities to provide much needed donations for the blood bank. Eagle Mountain City has been the winner of the battle for the past two years. Employees from Horrocks will donate community service hours to the city with the most donors. This year's theme is Community Hero, in honor of Sgt. Cory Wride. Donation jars will also be available for Sgt. Wride's family. Registration is required and is available via the City website, Events page.
- **Burn permits** – The State's open burn period ends on May 30. Requirements and application links for burn permits are on the City website, News page. Please be aware that as of last year, different requirements established by the Utah Department of Air Quality are in effect.
- **Child Abuse Prevention Month** – April is Child Abuse Prevention month. Eagle Mountain City is planting blue pinwheel "gardens" in City Center and The Ranches in support of child abuse prevention. Items will be posted on the City website, Facebook, etc. throughout the month to help raise awareness.
- **Easter Egg Hunt** – The annual City Easter Egg Hunt will be held on Saturday, April 19, starting at 10:30 a.m. SHARP. Over 20,000 eggs will be out for the hunt at Nolan Park. Children will be separated into age groups from 3-12 years old. Bring your own baskets. More info available on the Events page of the City website.

7. PUBLIC COMMENTS – Time has been set aside for the public to express their ideas, concerns and comments.

None.

8. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments.

Councilmember Steinkopf

Councilmember Steinkopf reminded everyone to take advantage of the clean-up dumpsters located at the Public Works building until April 20. He asked residents not to leave trash on the pavement if the dumpsters are full. They will be emptied regularly.

Councilmember Burnham

Councilmember Burnham thanked everyone who attended political caucuses last month. She said it's important for people to participate in government.

Councilmember Ireland

No comment.

Councilmember Westmoreland

No comment.

Councilmember Bradley

No comment.

Mayor Pengra

No comment.

9. APPOINTMENTS

- A. Economic Development Board – LaMont Snarr (3-year term)
- B. Parks and Recreation Advisory Board – Ben Reaves (2-year term)
- C. Military and Veterans Advisory Board – Erika Douglas & Kim Cardwell (3-year terms)

**MOTION:** *Councilmember Ireland moved to LaMont Snarr to a 3-year term on the Economic Development Board and Ben Reaves to a 2-year term on the Parks and Recreation Advisory Board. The motion failed for lack of a second.*

**MOTION:** *Councilmember Burnham moved to approve the appointments as listed. Councilmember Bradley seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Richard Steinkopf and Tom Westmoreland. Those voting no: Ryan Ireland. The motion passed with a vote of 4:1.*

City Recorder Fionnuala Kofoed administered the oath of office to Mr. Snarr, Mr. Reaves and Ms. Cardwell. Ms. Douglas was unable to attend and will receive the oath at another time.

Mayor Pengra thanked all those who volunteer on City boards, and everyone who volunteers in the City.

**CONSENT AGENDA**

10. MINUTES

- A. March 18, 2014 – Regular City Council Meeting

11. FINAL PLATS

- A. Valley View South, Phase A, Plats 4 - 7

12. SITE PLAN

- A. Eagle Mountain Jr. Seminary

13. DEVELOPMENT AGREEMENT

- A. Autumn Ridge Phase 2

**MOTION:** *Councilmember Ireland moved to approve the Consent Agenda. Councilmember Steinkopf seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland and Tom Westmoreland. Those voting no: Richard Steinkopf. The motion passed with a vote of 4:1.*

**SCHEDULED ITEMS**

14. AGREEMENT – Consideration and Approval of a Final Payment and Settlement Agreement between Eagle Mountain City and CraCar Construction.

This item was presented by Energy Director Adam Ferre. The proposed agreement addresses all outstanding issues related to the construction of the Energy Building and releases the final payment to CraCar Construction. The City is holding some funds until the contractor completes a few warranty issues. Once those are completed, the City will release the remainder of the funds.

**MOTION:** *Councilmember Ireland moved to approve a final payment and settlement agreement between Eagle Mountain City and CraCar Construction in the amount of \$57,347.07 for the Energy Building project. Councilmember Westmoreland seconded the motion. Those voting aye: Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. Those voting no: Adam Bradley. The motion passed with a vote of 4:1.*

15. AGREEMENT – Consideration and Approval of the Second Amendment to the Golf Course Donation Agreement.

This items was presented by City Attorney Jeremy Cook. In July 2009, Eagle Mountain Links, LLC (Ames Construction) donated The Ranches Golf Course to Eagle Mountain City. There were certain stipulations and agreements that accompanied that donation, including the requirement that Ames relocate and improve Tee Box #12 and the related cart path, which is located closest to Stonebridge Lane and Ranches Parkway. An Amendment to the Golf Course Donation Agreement was approved in February 2011, extending the original completion date from July 2011 to July 2013. The extension was requested because of the economic downturn. The property adjacent to Tee Box #12 has not developed as quickly as was anticipated and the developer has requested that the deadline be extended until July 2016.

Mr. Cook said that there's no detriment to the City by extending the deadline and recommended that the extension be approved.

**MOTION:** *Councilmember Steinkopf moved to approve the second amendment to the golf course donation agreement. Councilmember Burnham seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

16. AGREEMENT – Consideration and Approval of the First Amendment to the Power Sales Agreement Between Utah Municipal Power Agency and Eagle Mountain City, Utah.

This item was removed from the agenda.

17. CITY COUNCIL/MAYOR’S BUSINESS – This time is set aside for the City Council’s and Mayor’s comments on City business.

Councilmember Steinkopf

Councilmember Steinkopf mentioned that, with the good weather, dirt is starting to be moved for new roads.

Councilmember Burnham

No comment.

Councilmember Ireland

No comment.

Councilmember Westmoreland

No comment.

Councilmember Bradley

No comment.

Mayor Pengra

No comment.

18. CITY COUNCIL BOARD LIAISON REPORTS – This time is set aside for Councilmembers to report on the boards they are assigned to as liaisons to the City Council.

Councilmember Ireland said that the Library Board will meet tomorrow at 6:30 p.m.

Councilmember Westmoreland said that the Economic Development Board is working on a new mission statement.

Councilmember Bradley stated that he was unable to attend the Planning Commission last week.

19. COMMUNICATION ITEMS

- a. Upcoming Agenda Items
- b. Financial Report

20. ADJOURNMENT

**MOTION:** *Councilmember Ireland moved to adjourn the meeting at 7:32 p.m. Councilmember Steinkopf seconded the motion. Those voting aye: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

# DEVELOPMENT AGREEMENT

**EAGLE MOUNTAIN CITY  
and  
EAGLE12, LLC  
for  
EVANS RANCH PLAT B-2**

This Development Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Eagle Mountain City, a Utah Municipal Corporation (the "City") and Eagle12, LLC, a Utah limited liability company ("Developer").

This Development Agreement is made with reference to the following facts:

The Evans Ranch Master Development Plan was approved by the City Council on September 17, 2013 and the Master Development Agreement (the "Master Development Agreement") for the project area was approved on October 15, 2013.

The Developer is the owner of the private land designated on Exhibit 1, which is the subdivision plat for Evans Ranch Plat B-2. This plat was approved by the Eagle Mountain City Council on February 18, 2014.

In conjunction with the Master Development Agreement, the City and the Developer wish to preserve and to define specifically the rights and responsibilities of each party with respect to Plat "B-2."

Now, therefore, in consideration of the approval of the Subdivision Plat by the City and the following mutual promises, the parties agree as follows:

1. **Rights and Responsibilities.** In addition to the requirements set forth in the Master Development Agreement, the following terms and conditions apply to Plat B-2:

1.1 Developer has submitted to and received approval from the City Engineer for the construction drawing ("Construction Drawing") for Plat B-2 which depict the approved design and location of public improvements including streets, curb and gutter, trails, water and sewer infrastructure, irrigation improvements, fire hydrants, storm water and detention basin improvements, street lighting, signage, fencing and other infrastructure (collectively "Infrastructure Improvements") required as part of the subdivision. The approved Construction Drawing (as amended) are incorporated as part of this Agreement. Developer shall construct the improvements in accordance with the Construction Drawings unless modified with the written approval of the City Engineer.

1.2 Prior to recording the Subdivision Plat, Developer shall install all Infrastructure Improvements or provide completion assurance in the form of a bond or other collateral

approved by the City Attorney. A Bond Letter setting forth the estimated cost of the Infrastructure Improvements is attached hereto as Exhibit 2.

1.3 Developer shall place a cash bond with the City for improvement of the open space included in the Evans Ranch Plat B-2 (the plat includes approximately 10.33% of the overall open space improvements for the Project). The open space and amenities shall be improved in accordance with the landscape plan attached as Exhibit 3, subject to minor changes to the landscape plan as may be required by the Parks Foreman.

1.4 Developer must place into escrow with the City the amount of \$18,160.00 (\$2,000/buildable acre) for community improvements prior to recording the Subdivision Plat.

1.5 The fencing for the lots shall comply with the Master Development Agreement Fencing Exhibit, and must be installed prior to obtaining building permits.

1.6 Building permit site plans must be submitted with utilities to help with proper driveway placement. No water meters are allowed in driveways.

1.7 Prior to completing the infrastructure for this phase (prior to obtaining building permits), the developer shall paint stripe 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).

1.8 Developer must obtain approval of a dry utility (power and natural gas) plan from the Eagle Mountain City Energy Department. Prior to recording the Subdivision Plat, Developer shall either pay to the City the cost of installation of the dry utility improvements (if the City will install the dry utilities) or place a bond in the amount approved by the City for the dry utility improvements. An estimate has been provided by the Energy Department and is attached as Exhibit 4. The final amount of the bond must be approved by the Energy Department Director.

## **2. General Provisions.**

2.1 Authority. The parties to this Development Agreement each warrant that they have all of the necessary authority to execute this Development Agreement.

2.2 Time Is Of The Essence. Time is of the essence to this Development Agreement and every right or responsibility shall be performed within the times specified.

2.3 Developer's Remedies Upon Default. Developer acknowledges and agrees that Developer's sole and exclusive remedy under this Agreement shall be specific performance of the development rights granted in this Agreement and City's obligations under this Agreement. IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.

2.4 City's Remedies Upon Default. In addition to the remedies set forth herein, including, but not limited to, enforcement and use of any improvement or warranty bonds, upon default of any terms or conditions of this Agreement, City may require specific performance of Developer's obligations and City may withhold issuance of any building permits or further approvals with the Project until Developer has fully complied with the terms and conditions of this Agreement.

2.5 Non-Waiver. Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

2.6 Severability. If any provision of this Development Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Development Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Development Agreement shall remain in full force and affect.

2.7 No Joint Venture/No Third Party Beneficiaries. This Development Agreement does not create a joint venture relationship, partnership, or agency relationship between the City and Owner. Further, the parties do not intend this Development Agreement to create any third-party beneficiary rights. The parties acknowledge that this Development Agreement refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to Owner's properties unless the City has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the City's. Owner shall have the full and exclusive control of all of Developer's properties.

2.8 Applicable Law. This Development Agreement is entered into in Utah County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

2.9 Venue. Any action to enforce this Development Agreement shall be brought only in the Fourth District Court for the State of Utah.

MADE AND ENTERED into as of the date and year first written above.

**CITY:**

EAGLE MOUNTAIN CITY, a Utah municipal corporation

By: \_\_\_\_\_  
Chris Pengra, Mayor

ATTEST:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Fionnuala B. Kofoed, City Recorder

By: \_\_\_\_\_  
Jeremy R. Cook, City Attorney

**DEVELOPER:**

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

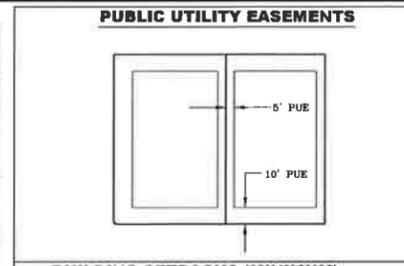
# ***EXHIBIT 1***

## **SUBDIVISION PLAT**

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	140.00	1°14'44"	32.97	N64°06'00"E 32.29
C2	140.00	10°23'40"	44.85	N38°16'48"E 44.76
C3	140.00	18°47'11"	46.80	N19°41'28"E 46.70
C4	140.00	16°14'28"	37.24	N24°40'34"E 37.13
C5	140.00	6°40'01"	180.45	N27°53'22"E 161.82
C6	16.00	7°51'31"	21.74	S42°24'28"W 20.11
C7	246.50	0°52'07"	42.29	S8°24'44"W 42.23
C8	246.50	15°17'45"	65.54	S27°59'40"W 65.34
C9	246.50	10°39'18"	67.01	S38°27'41"W 66.80
C10	246.50	17°54'44"	76.75	S63°14'12"W 76.44
C11	15.00	8°29'19"	22.60	S18°26'56"W 20.74
C12	273.50	5°36'57"	26.81	S28°06'14"E 26.80
C13	328.50	7°56'43"	45.28	S27°38'03"E 45.24
C14	15.00	7°52'05"	19.74	S81°22'11"E 18.35
C15	246.50	16°12'10"	65.14	N88°12'21"E 64.86
C16	143.00	34°12'04"	86.39	N28°31'23"E 84.10
C17	358.50	7°31'00"	47.03	S87°57'04"E 47.00
C18	358.50	0°48'43"	61.39	N83°23'04"E 61.32
C19	358.50	0°49'47"	61.51	N73°33'49"E 61.43
C20	358.50	0°48'10"	61.34	N63°44'61"E 61.28
C21	358.50	1°31'30"	62.73	N62°14'06"E 62.56
C22	116.50	18°31'37"	37.87	N38°21'37"E 37.61
C23	143.00	63°54'01"	134.63	N16°31'39"W 129.82
C24	143.00	89°08'05"	219.89	N1°34'23"E 198.85
C25	358.50	60°11'00"	337.21	N70°42'56"E 328.53

CURVE	RADIUS	DELTA	LENGTH	CHORD
C26	118.50	8°34'28"	141.47	N74°1'26"W 132.93
C27	118.50	71°25'11"	145.22	N6°54'50"E 138.00
C28	360.00	4°02'04"	24.84	S40°27'38"E 24.84
C29	323.60	0°28'28"	2.77	S42°15'56"E 2.77
C30	189.50	18°40'53"	49.35	S54°08'13"E 49.18
C31	189.50	18°30'41"	48.85	S17°32'26"E 48.88
C32	16.00	7°54'01"	21.13	S47°07'11"E 19.63
C33	50.00	18°12'08"	15.88	S75°51'13"E 15.82
C34	50.00	63°27'38"	46.85	S40°01'20"E 44.08
C35	50.00	49°41'18"	43.38	S11°33'06"W 42.01
C36	50.00	60°55'10"	62.87	S88°41'23"W 50.44
C37	50.00	10°48'57"	8.44	N77°38'29"W 9.42
C38	18.00	7°54'01"	21.13	S89°57'54"W 19.83
C39	189.50	7°33'58"	22.36	S35°54'48"W 22.37
C40	189.50	6°55'42"	17.64	S42°39'36"W 17.53
C41	411.60	4°21'16"	31.28	S47°48'05"W 31.27
C42	411.60	8°00'20"	57.50	S65°58'54"W 57.46
C43	411.60	8°09'08"	58.54	S73°27'38"W 58.50
C44	411.60	8°25'00"	60.55	S81°46'08"W 60.48
C45	411.60	8°50'25"	70.87	N88°08'47"W 70.59
C46	192.50	23°01'47"	77.37	S84°17'32"W 76.85
C47	192.50	32°44'58"	110.03	S56°24'11"W 108.54
C48	192.50	11°38'44"	381.78	S37°30'04"W 327.68
C49	411.60	60°11'00"	380.42	N70°42'56"E 349.01
C50	358.50	0°48'47"	61.51	N73°33'49"E 61.43

CURVE	RADIUS	DELTA	LENGTH	CHORD
C51	246.50	18°38'18"	67.01	S38°27'41"W 66.80
C52	192.50	60°50'01"	204.39	S9°38'42"W 184.92
C53	411.60	2°48'16"	20.14	N87°58'59"E 20.14
C54	219.00	11°36'44"	446.78	S37°30'04"W 372.68
C55	219.00	12°08'20"	46.41	S14°44'04"E 46.32
C56	219.00	80°27'53"	307.58	S31°34'08"W 282.90
C57	219.00	24°00'21"	91.78	S83°48'15"W 91.08
C58	300.00	13°24'29"	70.81	N24°54'10"W 70.04
C59	411.50	8°36'46"	61.74	S82°18'57"W 61.68
C60	50.00	18°24'51"	168.21	S11°25'21"W 99.38
C61	808.28	0°33'44"	134.56	N87°57'55"W 134.41
C62	233.50	35°55'21"	146.40	N32°42'28"W 144.01
C63	135.50	30°55'13"	94.41	N30°42'32"W 92.61
C64	12.60	114°22'11"	24.95	N87°58'01"W 21.01
C65	117.88	8°59'40"	18.47	S50°23'04"W 18.45
C66	473.19	9°46'23"	60.71	S50°48'25"W 60.81
C67	414.60	6°45'32"	48.61	S82°16'51"W 48.88
C68	5.00	74°13'17"	6.48	S11°47'27"W 6.03
C69	5.00	41°48'10"	3.65	N70°01'22"E 3.57
C70	429.80	8°32'20"	49.03	S82°23'27"E 49.00
C71	466.19	9°46'23"	78.15	N60°48'25"E 76.08
C72	132.86	18°47'16"	38.87	N64°16'51"E 38.73
C73	22.50	18°14'10"	7.18	N63°33'24"E 7.13



**NOTES:**

- TYPE II MONUMENT (ALUMINUM CAP AND REBAR) TO BE SET #6 REBAR & CAP TO BE SET AT ALL LOT CORNERS, NAIL AND BRASS WASHER TO BE SET IN TOP OF CURB @ PROJECTION OF SIDE LOT LINES.
- COVER HOMES TO BE SET AT FRONT OF BUILDABLE AREA AND ALIGN THE HOMES TO EACH SIDE. HOMES WILL NOT BE SET AS TO CREATE A SIGNIFICANT STEP BETWEEN HOUSE FRONTS.
- PEDESTRIAN EASEMENTS BEGIN AT THE RIGHT OF WAY LINE AND EXTENDS TO WITHIN 20' OFFSET OF BUILD-TO LINE.

**SURVEYOR'S CERTIFICATE**

I, CHAD A. POULSEN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 50182 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF UTAH STATE CODE. I FURTHER CERTIFY BY AUTHORITY OF THE OWNER(S), THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17, OF SAID CODE, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, BLOCKS, STREETS, AND EASEMENTS, AND THE SAME HAS, OR WILL BE, CORRECTLY SURVEYED, STAKED AND MONUMENTED ON THE GROUND AS SHOWN ON THIS PLAT, AND THAT THIS PLAT IS TRUE AND CORRECT.

**BOUNDARY DESCRIPTION**

A PORTION OF THE WEST HALF OF SECTION 28, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST SECTION LINE OF SAID SECTION 28, SAID POINT BEING N0°37'35"E 22.45 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 28; THENCE N0°37'35"E 151.95 FEET; THENCE S89°22'25"E 115.09 FEET; THENCE N86°37'45"E 175.82 FEET; THENCE ALONG THE ARC OF A 573.60 FOOT NON-TANGENT CURVE TO THE LEFT 3.32 FEET (RADIUS BEARS: S5°05'16"W) THROUGH A CENTRAL ANGLE OF 0°41'43" (CHORD: N31°15'34"W 3.32 FEET); THENCE N68°23'35"E 63.00 FEET; THENCE N42°20'00"E 111.65 FEET; THENCE N7°19'15"E 48.80 FEET; THENCE S54°59'38"E 28.87 FEET; THENCE N42°20'00"E 112.91 FEET; THENCE S24°11'07"E 28.22 FEET; THENCE S88°22'25"E 104.82 FEET; THENCE N65°57'40"E 157.44 FEET; THENCE N42°20'39"W 22.59 FEET; THENCE ALONG THE ARC OF A 378.50 FOOT RADIUS CURVE TO THE RIGHT 28.61 FEET THROUGH A CENTRAL ANGLE OF 4°02'04" (CHORD: N40°27'38"W 28.50 FEET); THENCE N51°33'24"E 53.00 FEET; THENCE N62°26'47"E 176.86 FEET; THENCE N89°05'18"E 53.50 FEET; THENCE S41°54'05"E 389.39 FEET; THENCE S82°20'07"W 214.30 FEET; THENCE S48°41'54"W 188.16 FEET; THENCE S89°08'20"W 141.96 FEET; THENCE S78°55'02"W 288.32 FEET; THENCE S82°42'22"W 124.67 FEET; THENCE S2°12'14"E 64.86 FEET; THENCE S28°37'28"W 135.88 FEET; THENCE ALONG THE ARC OF A 182.50 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT 118.35 FEET (RADIUS BEARS: N33°40'20"E) THROUGH A CENTRAL ANGLE OF 35°31'22" (CHORD: N38°33'58"W 117.46 FEET); THENCE S89°11'42"W 63.00 FEET; THENCE ALONG THE ARC OF A 16.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT 21.74 FEET (RADIUS BEARS: S89°11'42"W) THROUGH A CENTRAL ANGLE OF 7°51'52" (CHORD: N58°44'14"W 20.11 FEET); THENCE N93°39'44"W 78.00 FEET; THENCE S81°20'11"W 28.88 FEET; THENCE ALONG THE ARC OF A 82.00 FOOT RADIUS CURVE TO THE LEFT 20.58 FEET THROUGH A CENTRAL ANGLE OF 14°22'52" (CHORD: S74°08'45"W 20.53 FEET); THENCE N28°29'24"W 138.44 FEET; THENCE ALONG THE ARC OF A 140.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT 28.75 FEET (RADIUS BEARS: N29°16'38"W) THROUGH A CENTRAL ANGLE OF 11°45'57" (CHORD: S68°35'21"W 28.70 FEET); THENCE S72°28'19"W 17.08 FEET; THENCE N89°22'25"W 4.00 FEET TO THE POINT OF BEGINNING.

CONTAINS: ±9.08 ACRES

DATE \_\_\_\_\_ SURVEYOR (See Seal Below)

**OWNERS DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREON AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS, STREETS AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AND OTHER PUBLIC AREAS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_

**LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT**

STATE OF UTAH S.S. COUNTY OF SALT LAKE

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_, PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF UTAH, \_\_\_\_\_ WHO AFTER BEING DULY SWORN ACKNOWLEDGE TO ME THAT \_\_\_\_\_ A LIMITED LIABILITY COMPANY, THAT HE SIGNED THE OWNERS DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSE THEREIN.

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC RESIDING IN \_\_\_\_\_ COUNTY

**ACCEPTANCE BY LEGISLATIVE BODY**

THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS, EASEMENTS AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_

APPROVED BY MAYOR \_\_\_\_\_ APPROVED BY CITY COUNSEL \_\_\_\_\_

APPROVED \_\_\_\_\_ ENGINEER (See Seal Below) ATTEST \_\_\_\_\_ CLERK-RECORDER (See Seal Below)

PLAT "B-2"

**EVANS RANCH**

SUBDIVISION

EAGLE MOUNTAIN UTAH COUNTY, UTAH

SCALE: 1" = 60 FEET

SURVEYOR'S SEAL NOTARY PUBLIC SEAL CITY-COUNTY ENGINEER SEAL COUNTY-RECORDER SEAL

NORTHWEST CORNER SECTION 28, T6S, R1W, SLB&M (8009 UTAH COUNTY MONUMENT)

POINT OF BEGINNING

N89°22'25"W 4.00  
N0°37'35"E 22.45'

WEST 1/4 CORNER SECTION 28, T6S, R1W, SLB&M (8009 UTAH COUNTY MONUMENT)

SOUTHWEST CORNER SECTION 28, T6S, R1W, SLB&M (8009 UTAH COUNTY MONUMENT)

PORTERS CROSSING (64 R.O.W.)

PASTURE VIEW ROAD (65' R.O.W.)

EVANS RANCH DRIVE (65' R.O.W.)

CLARK STREET (63' R.O.W. VARIES)

OPEN SPACE (DEDICATED EVANS RANCH HOME OWNERS ASSOCIATION W/ PUE) 687 S.F.

OPEN SPACE (DEDICATED TO EAGLE MOUNTAIN CITY) 57283 S.F.

OPEN SPACE (DEDICATED EVANS RANCH HOME OWNERS ASSOCIATION W/ PUE) 11242 S.F.

OPEN SPACE (DEDICATED EVANS RANCH HOME OWNERS ASSOCIATION) 2222 S.F.

OPEN SPACE (DEDICATED EVANS RANCH HOME OWNERS ASSOCIATION) 27843 S.F.



# ***EXHIBIT 2***

## **CITY ENGINEER'S BONDING REQUIREMENTS**



**Engineering Division**  
**2545 North Pony Express Parkway**  
**Eagle Mountain City, Utah 84005**  
**(801) 789-6671**

Wednesday, April 09, 2014

Mayor Christopher Pengra  
 Eagle Mountain City  
 1650 East Stage Coach Run  
 Eagle Mountain, Utah 84005

**Subject: Evans Ranch plat B2 Bond Letter Requirements**

Dear Mayor Jackson:

I have reviewed the improvement requirements for **Evans Ranch plat B2** Subdivision, and recommend the following bonding amount for this concept:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
<b>1</b>	<b>SITE PREP.</b>				
a	Mobilization	1	LS	\$3,000.00	\$3,000.00
b	Clear & Grub	418558	SF	\$0.03	\$12,556.74
<b>2</b>	<b>ROADWAY IMPROVEMENTS</b>				
a	Site Grading	51681	CY	\$2.25	\$116,282.25
b	Saw cut existing asphalt	536	LF	\$1.50	\$804.00
c	3" asphalt	38116	SF	\$1.05	\$40,021.80
d	9" of e-fill, under curb & gutter	2416	TON	\$13.00	\$31,408.00
e	6" Road base, under curb & gutter	1610	TON	\$13.00	\$20,930.00
f	30" Curb & Gutter	3200	LF	\$12.00	\$38,400.00
g	5' sidewalk with base	2307	LF	\$15.00	\$34,605.00
h	6' sidewalk trail with base	1002	LF	\$18.00	\$18,036.00
i	8' sidewalk trail with base	148	LF	\$24.00	\$3,552.00
j	ADA ramps	7	EA	\$1,300.00	\$9,100.00
k	Temporary turnaround	1	EA	\$2,500.00	\$2,500.00
<b>3</b>	<b>CULINARY WATER</b>				
a	8" C900 water main	1130	LF	\$16.00	\$18,080.00
b	8" Gate valves	7	EA	\$1,200.00	\$8,400.00
c	3/4" water service laterals w/o meter	28	EA	\$525.00	\$14,700.00
d	Fire Hydrant w/valve	3	EA	\$3,300.00	\$9,900.00
e	2" blow off valve	2	EA	\$700.00	\$1,400.00
f	Connect to existing	1	EA	\$500.00	\$500.00
g	Imported pipe bedding	305	TON	\$12.00	\$3,660.00
h	Imported trench backfill	458	TON	\$8.00	\$3,664.00
<b>4</b>	<b>SEWER</b>				

a	8" Sewer Pipe main	1012	LF	\$20.50	\$20,746.00
b	48" Sewer Manholes	13	EA	\$1,800.00	\$23,400.00
c	4 inch Sewer Service	28	EA	\$500.00	\$14,000.00
d	Connect to existing	1	EA	\$1,000.00	\$1,000.00
e	Imported pipe bedding	410	TON	\$12.00	\$4,920.00
f	Imported trench backfill	820	TON	\$8.00	\$6,560.00
<b>5</b>	<b>STORM DRAIN</b>				
a	15" RCP storm drain pipe	1012	LF	\$26.00	\$26,312.00
b	18" RCP storm drain pipe	250	LF	\$30.00	\$7,500.00
c	Curb inlet box	3	EA	\$1,650.00	\$4,950.00
d	48" manhole	12	EA	\$1,800.00	\$21,600.00
e	Connect to existing	1	EA	\$1,000.00	\$1,000.00
f	Temporary storm drain retention	3000	CY	\$3.50	\$10,500.00
g	Imported trench backfill	1022	TON	\$8.00	\$8,176.00
h	Imported pipe bedding	511	TON	\$12.00	\$6,132.00
<b>6</b>	<b>MISC.</b>				
a	Street Signs	4	EA	\$240.00	\$960.00
b	Landscaping (include ROW)	103000	SF	\$1.50	\$154,500.00
c	6 ft vinyl fence	160	LF	\$14.00	\$2,240.00
	<b>TOTAL CONSTRUCTION COST</b>				<b>\$705,995.79</b>
	10% Bond Coverage				\$70,599.58
	<b>TOTAL BOND AMOUNT:</b>				<b>\$776,595.37</b>

A total of 110 percent of the total construction cost shall be guaranteed in the form of a performance bond totaling **\$776,595.37** (If Power and Gas are installed by the developers own contractor then a bond will need to be placed for the Energy items, if installed by Eagle Mountain City Energy Division then no bond needs to be placed), the above estimate is for determining the required bond amount only. The developer is fully responsible to comply with the Eagle Mountain City Construction Standards and Ordinances.

Please call me if you have any questions.  
Sincerely,

Christopher T. Trusty, P.E.  
Public Works Director  
Eagle Mountain City

Cc: Fionnuala Kofoed, Eagle Mountain City Recorder

***EXHIBIT 3***  
**LANDSCAPE PLAN**





# ***EXHIBIT 4***

## **DRY UTILITY ESTIMATE**

# DEVELOPMENT AGREEMENT

**EAGLE MOUNTAIN CITY  
and  
VESTIN MORTGAGE INC  
for  
GATEWAY PHASE A PLAT 1**

This Development Agreement is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between Eagle Mountain City, a Utah municipal corporation (the “City”) and Vestin Mortgage Inc, a Nevada corporation (“Developer”).

This Development Agreement is made with reference to the following facts:

The Developer is the owner of the private land designated on Exhibit 1 (the “Project”), which is the subdivision plat approved by the Eagle Mountain City Council for Gateway Phase A Plat 1 (the “Subdivision Plat”).

The City and the Developer wish to preserve and to define specifically the rights and responsibilities of each party with this Development Agreement.

The parties desire to assure fair and equitable treatment for the Developer and the City in the terms and conditions of this Development Agreement.

Now, therefore, in consideration of the approval of the Subdivision Plat by the City and the following mutual promises, the parties agree as follows:

**1. Definitions.**

1.1 City’s Development Code means the “Eagle Mountain Development Code”, the Planning and Zoning Code of the City, adopted by the City pursuant to the Utah Municipal Land Use Planning Enabling Act, Section 10-9a-101 et. seq., U.C.A (as amended 2005).

1.2 City’s General Plan means the General Plan adopted pursuant to Section 10-9a-401 et seq, U.C.A (as amended 2005).

**2. Rights and Responsibilities of Parties.** In addition to the requirements set forth in the Master Development Agreement, the following terms and conditions apply to the Project:

2.1 Developer has submitted to and received approval from the City Engineer for the construction drawing (“Construction Drawing”) for the Project that depict the approved design and location of public improvements including streets, sidewalks,, curb and gutter, trails, water and sewer infrastructure, irrigation improvements, fire hydrants, storm water and detention basin improvements, street lighting, signage, fencing and other infrastructure (collectively “Infrastructure Improvements”) required as part of the Project. The stamped Construction

Drawing (as amended) are incorporated as part of this Agreement. Developer shall construct the improvements in accordance with the Construction Drawings unless modified with the written approval of the City Engineer.

2.2 Prior to recording the Subdivision Plat, Developer shall install all Infrastructure Improvements or provide completion assurance in the form of a bond or other collateral approved by the City Attorney. A Bond Letter setting forth the estimated cost of the Infrastructure Improvements is attached hereto as Exhibit 2. The Infrastructure Improvements shall be completed within one year of the recordation of the Subdivision Plat. The Infrastructure Improvements shall be maintained for the period required by the Development Code after the completion of the improvement by the Developer and the improvement security held by the City shall not be fully released until the Developer has demonstrated to the satisfaction of the City that all public improvements of every kind required to be improved and maintained by the Developer have been completed, including payment in full to all contractors, and maintained as required by this Agreement. Partial releases may be approved upon recommendation of the City Engineer under the provisions of the Development Code and the Ordinance controlling authorization for such releases. The City may withhold the issuance of building permits if public improvements are not completed as required.

2.3 Developer warrants all Infrastructure Improvements against defects in materials and workmanship for a period of one (1) year from substantial completion and acceptance of the Infrastructure Improvements by the City and shall comply with the City's requirement to provide security in a form approved by the City Attorney during the warranty period in the amount of 10% of the estimated cost of the Infrastructure Improvements.

2.4 Developer shall obtain approval of a dry utility (power and natural gas) plan from the Eagle Mountain City Energy Department. Prior to recording the Subdivision Plat, Developer shall either pay to the City the cost of installation of the dry utility improvements (if the City will install the dry utilities), or place a bond with the City for the dry utility improvements.

2.5 Developer shall comply with the City's requirement for dedication of water rights prior to the City recording the Plat "A" subdivision plat.

2.6 The Developer shall execute and record the approved Declaration of Covenants, Conditions, and Restrictions for the entire plat which establishes a homeowner's association responsible for the maintenance of the open space and park areas.

2.7 Changes to the natural gas regulator shed/building must be presented for approval to the Planning Department Staff prior to making changes to the shed/building. Access must be maintained to the building.

2.8 Developer shall install signage or painted curb restricting parking on one side of the road near the trailhead pocket park.

2.9 Developer will dedicate or cause to be dedicated to the City, the roads, park areas, storm drainage facilities depicted on the approved preliminary plat for the Project which are required to be provided by the Developer, without reimbursement by the City to the Developer, as a condition of development approval because the required facilities are used by and will benefit the Project. Dedication of the land for the facilities required under this paragraph shall occur at recordation of the Subdivision Plat.

2.10 All streets must be designed to meet all City standards for roads or alleys and

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must be approved by the Fire Marshal, and dedicated to the City.

2.11 It is the intent both of the City and the Developer that subject to the full compliance of the Developer with all conditions, standards and/or requirements of development described more specifically in the Development Code and on Exhibit 3, the execution of this Development Agreement grants and vests in Developer and the City all rights, consistent with the City's General Plan, the City's Development Codes, Parks Master Plan and other specific plans, ordinances and plans generally applicable throughout the City, to develop Developer's property as approved in this Agreement, including the Exhibits hereto.

### **3. Park Improvements/Open Space.**

3.1 Developer shall submit final irrigation and landscape plans identifying specifications for groundcover, tot lots, and the pavilion prior to construction of the park.

3.2 The park improvements for the Project must be completely installed by the time 50% of the building permits have been issued for the Project.

3.3 Developer shall obtain approval from the City for the design of full coverage sprinkler and irrigation system for all open space and native areas and shall install such improvements at Developer's expense.

3.4 Developer shall place into escrow with the City the community improvement dollars of \$14,420 (\$2,000/buildable acre) for improvement of the hillside trails and for the lookout tower on the hill, or equate this to the value of the petroglyph property that will be deeded to the City.

3.5 Developer shall submit a plan for petroglyph preservation prior to, or along with, the approval of the second final plat.

### **4. General Provisions.**

4.1 Authority. The parties to this Development Agreement each warrant that they have all of the necessary authority to execute this Development Agreement.

4.2 Time Is Of The Essence. Time is of the essence to this Development Agreement and every right or responsibility shall be performed within the times specified.

4.3 Developer's Remedies Upon Default. Developer acknowledges and agrees that Developer's sole and exclusive remedy under this Agreement shall be specific performance of the development rights granted in this Agreement and City's obligations under this Agreement. IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.

4.4 City's Remedies Upon Default. In addition to the remedies set forth herein, including, but not limited to, enforcement and use of any improvement or warranty bonds, upon default of any terms or conditions of this Agreement, City may require specific performance of Developer's obligations and City may withhold issuance of any building permits or further approvals with the Project until Developer has fully complied with the terms and conditions of

this Agreement.

4.5 Non-Waiver. Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

4.6 Severability. If any provision of this Development Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Development Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Development Agreement shall remain in full force and affect.

4.7 No Joint Venture/No Third Party Beneficiaries. This Development Agreement does not create a joint venture relationship, partnership, or agency relationship between the City and Owner. Further, the parties do not intend this Development Agreement to create any third-party beneficiary rights. The parties acknowledge that this Development Agreement refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to Owner's properties unless the City has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the City's. Owner shall have the full and exclusive control of all of Developer's properties.

4.9 Applicable Law. This Development Agreement is entered into in Utah County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

4.10 Venue. Any action to enforce this Development Agreement shall be brought only in the Fourth District Court for the State of Utah.

4.11 Notices. All notices required or permitted under this Development Agreement shall be given in writing by certified mail and regular mail to the following address:

To the City: Eagle Mountain City, Utah  
1650 E. Stagecoach Run  
Eagle Mountain, Utah 84005

To the Developer: OMR Investments, LLC  
Attn: Scott Kirkland  
65 N 920 E  
Orem, Utah 84097

The addresses for notice may be modified by either party or their successors by written notice to the other party.

MADE AND ENTERED into as of the date and year first written above.

**DEVELOPER:**

Vestin Mortgage, Inc

**CITY:**

Eagle Mountain City, Utah

By: \_\_\_\_\_  
Scott Kirkland, President

By: \_\_\_\_\_  
Chris Pengra, Mayor

**ATTEST:**

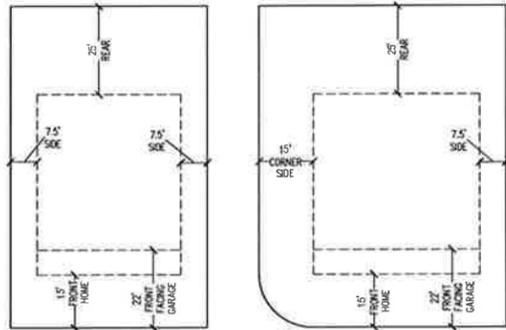
\_\_\_\_\_  
Fionnuala Kofoed, City Recorder

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeremy Cook, City Attorney

***EXHIBIT 1***  
**SUBDIVISION PLAT**

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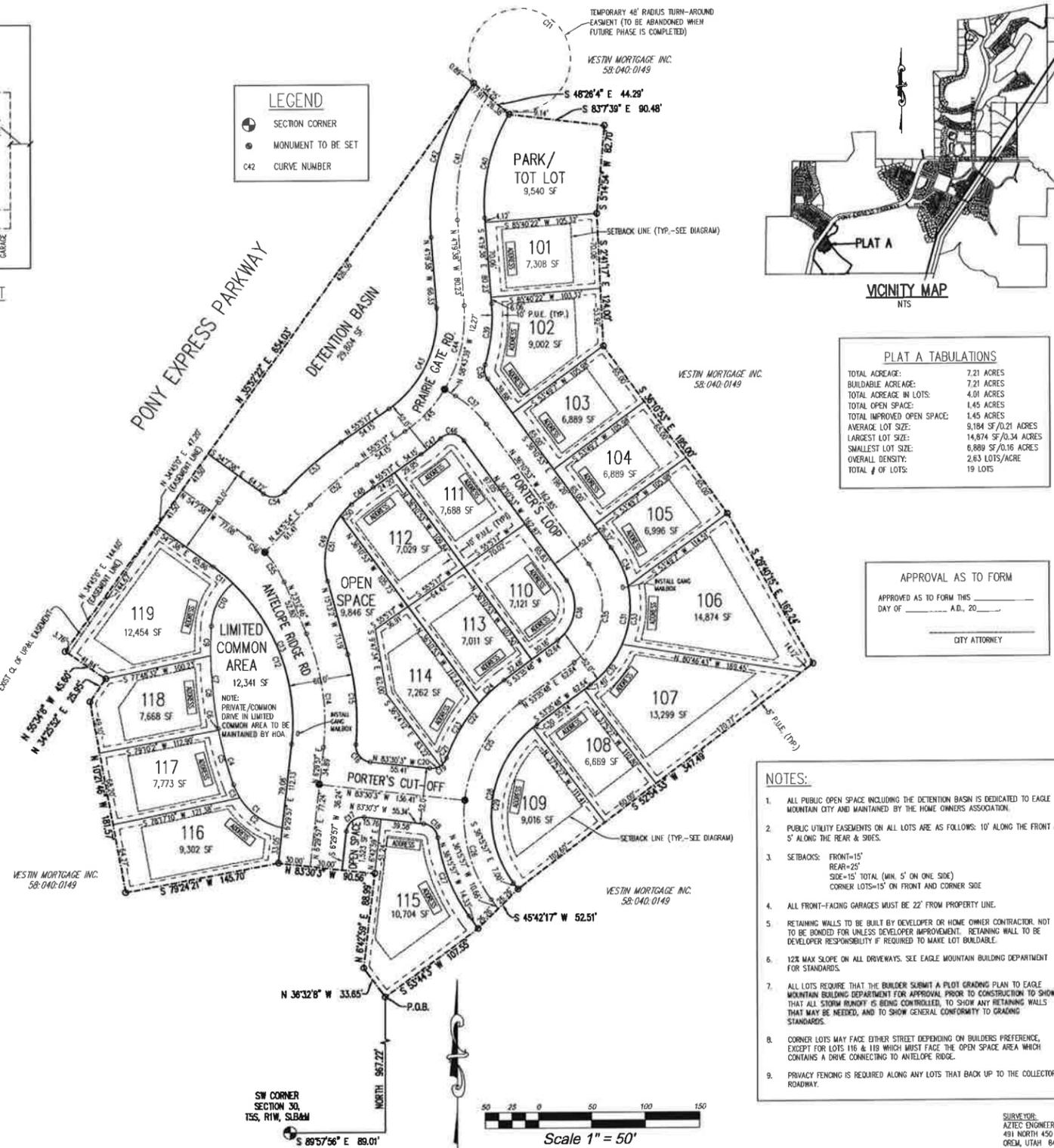
TYPICAL INTERIOR LOT TYPICAL CORNER LOT

SETBACK DIAGRAM

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
C1	64.26	63.65	56°45'9"	61.08	N 48°26'31" W
C2	64.26	49.93	44°31'28"	48.69	N 54°33'21" W
C3	64.26	13.71	12°13'40"	13.69	N 26°10'47" W
C4	331.12	54.81	9°27'0"	54.55	N 15°20'27" W
C5	331.12	53.36	9°13'59"	53.30	N 15°26'57" W
C6	331.12	1.25	0°13'11"	1.25	N 10°43'27" W
C7	401.89	96.41	13°44'43"	96.18	N 3°44'36" W
C8	401.89	68.85	9°48'57"	68.77	N 5°42'29" W
C9	401.89	27.56	3°55'46"	27.56	N 19°53' E
C10	55.27	46.54	48°14'36"	45.18	N 27°15'4" E
C11	180.00	24.32	7°44'28"	24.30	S 50°15'24" E
C12	180.00	166.14	52°53'6"	160.31	S 19°56'37" E
C13	180.00	190.46	60°37'34"	181.70	S 23°48'51" E
C14	210.00	109.30	29°47'47"	107.68	S 82°12'25" E
C15	240.00	85.21	20°20'34"	84.77	S 52°44' E
C16	15.00	23.20	88°37'36"	20.96	S 39°11'55" E
C17	15.00	23.56	90°0'0"	21.21	S 51°29'57" W
C18	15.00	19.97	76°17'27"	18.53	S 45°21'20" E
C19	15.00	19.97	76°17'27"	18.53	N 58°21'13" E
C20	15.00	10.28	39°14'54"	10.08	N 76°52'29" E
C21	15.00	9.70	37°2'33"	9.53	N 38°43'46" E
C22	158.00	92.07	33°23'18"	90.78	N 35°54'31" E
C23	158.00	59.92	21°43'46"	59.56	N 31°42'23" E
C24	158.00	32.15	11°39'33"	32.10	N 47°46'2" E
C25	132.00	108.51	47°52'52"	105.48	N 30°2'52" E
C26	132.00	98.52	42°45'54"	96.25	S 14°53'0" E
C27	158.00	80.12	29°3'21"	79.27	S 21°44'17" E
C28	106.00	166.25	89°51'45"	149.73	N 8°39'55" E
C29	106.00	161.49	87°17'16"	146.32	N 7°22'40" E
C30	106.00	4.76	2°34'30"	4.76	N 52°18'33" E
C31	92.00	144.16	89°44'41"	129.86	N 8°42'28" E
C32	92.00	48.38	30°7'45"	47.82	N 38°31'56" E
C33	92.00	55.85	34°47'5"	55.00	N 6°43'1" E
C34	92.00	39.92	24°51'51"	39.61	N 23°44'57" W
C35	96.00	103.42	89°46'41"	93.16	N 8°42'28" E
C36	40.00	62.68	89°46'41"	56.46	N 8°42'28" E
C37	100.00	39.35	22°32'47"	39.10	N 47°27'16" W
C38	15.00	13.87	52°58'21"	13.38	N 9°41'42" W
C39	157.00	57.87	21°7'7"	57.54	N 63°35'5" E
C40	164.00	101.33	35°24'3"	99.73	N 13°22'23" E
C41	190.00	122.20	36°50'59"	120.10	N 14°5'51" E
C42	218.00	152.95	40°12'0"	149.84	N 15°46'22" E
C43	105.00	108.88	59°24'59"	104.07	S 25°22'50" W
C44	131.00	81.39	35°35'59"	80.09	S 13°28'21" W
C45	131.00	54.45	23°48'57"	54.06	S 43°10'49" W
C46	15.00	25.45	97°12'25"	22.50	N 84°47'5" W
C47	157.00	23.23	0°20'35"	23.21	S 50°51'0" W
C48	274.00	25.83	5°24'7"	25.82	S 52°23'14" W
C49	70.00	72.29	64°54'19"	75.12	S 12°14'4" W
C50	70.00	14.54	11°59'7"	14.62	S 43°41'37" W
C51	70.00	64.65	52°55'6"	62.38	S 11°43'31" W
C52	300.00	57.54	10°59'23"	57.45	S 49°35'36" W
C53	326.00	70.26	12°20'56"	70.13	S 48°54'49" W
C54	15.00	21.76	83°8'1"	19.90	S 84°18'22" W
C55	100.00	33.31	19°5'8"	33.16	N 32°45'20" W
C56	100.00	20.65	11°49'44"	20.61	N 48°12'46" W

**FIRE NOTE:**  
FOUR (4) FIRE HYDRANTS MEET IFC REQUIREMENTS. NO COMBUSTIBLE CONSTRUCTION UNTIL FIRE HYDRANTS ARE IN PLACE.



**LEGEND**

- SECTION CORNER
- MONUMENT TO BE SET
- C42 CURVE NUMBER

**PLAT A TABULATIONS**

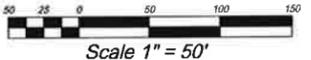
TOTAL ACREAGE:	7.21 ACRES
BUILDABLE ACREAGE:	7.21 ACRES
TOTAL ACREAGE IN LOTS:	4.01 ACRES
TOTAL OPEN SPACE:	1.45 ACRES
TOTAL IMPROVED OPEN SPACE:	1.45 ACRES
AVERAGE LOT SIZE:	9,184 SF/0.21 ACRES
LARGEST LOT SIZE:	14,874 SF/0.34 ACRES
SMALLEST LOT SIZE:	6,889 SF/0.16 ACRES
OVERALL DENSITY:	2.63 LOTS/ACRE
TOTAL # OF LOTS:	19 LOTS

**APPROVAL AS TO FORM**

APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY

- NOTES:**
- ALL PUBLIC OPEN SPACE INCLUDING THE DETENTION BASIN IS DEDICATED TO EAGLE MOUNTAIN CITY AND MAINTAINED BY THE HOME OWNERS ASSOCIATION.
  - PUBLIC UTILITY EASEMENTS ON ALL LOTS ARE AS FOLLOWS: 10' ALONG THE FRONT & 5' ALONG THE REAR & SIDES.
  - SETBACKS: FRONT-15' REAR-25' SIDE-15' TOTAL (MIN. 5' ON ONE SIDE) CORNER LOTS-15' ON FRONT AND CORNER SIDE
  - ALL FRONT-FACING GARAGES MUST BE 22' FROM PROPERTY LINE.
  - RETAINING WALLS TO BE BUILT BY DEVELOPER OR HOME OWNER CONTRACTOR. NOT TO BE BONDED FOR UNLESS DEVELOPER IMPROVEMENT. RETAINING WALL TO BE DEVELOPER RESPONSIBILITY IF REQUIRED TO MAKE LOT BUILDABLE.
  - 12% MAX SLOPE ON ALL DRIVEWAYS. SEE EAGLE MOUNTAIN BUILDING DEPARTMENT FOR STANDARDS.
  - ALL LOTS REQUIRE THAT THE BUILDER SUBMIT A PLOT GRADING PLAN TO EAGLE MOUNTAIN BUILDING DEPARTMENT FOR APPROVAL PRIOR TO CONSTRUCTION TO SHOW THAT ALL STORM RUNOFF IS BEING CONTROLLED, TO SHOW ANY RETAINING WALLS THAT MAY BE NEEDED, AND TO SHOW GENERAL CONFORMITY TO GRADING STANDARDS.
  - CORNER LOTS MAY FACE EITHER STREET DEPENDING ON BUILDERS PREFERENCE, EXCEPT FOR LOTS 116 & 118 WHICH MUST FACE THE OPEN SPACE AREA WHICH CONTAINS A DRIVE CONNECTING TO ANTELOPE RIDGE.
  - PRIVACY FENCING IS REQUIRED ALONG ANY LOTS THAT BACK UP TO THE COLLECTOR ROADWAY.



**SURVEYOR'S CERTIFICATE**

I, AARON D. THOMAS, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 6418760 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND IN LOTS, BLOCKS, STREETS, AND EASEMENTS AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.

DATE \_\_\_\_\_ AARON D. THOMAS (SEE SEAL BELOW)

**BOUNDARY DESCRIPTION**

Beginning of a point located South 89°57'56" East 89.01 feet along section line and North 967.22 feet from the Southwest Corner of Section 30, Township 5 South, Range 1 West, Salt Lake Base and Meridian;

thence North 36°32'08" West 33.65 feet; thence North 06°42'59" East 86.99 feet; thence North 83°30'03" West 90.55 feet; thence South 78°24'21" West 145.70 feet; thence North 10°21'46" West 181.57 feet; thence North 34°25'52" East 25.95 feet; thence North 55°34'08" West 45.60 feet; thence North 35°52'22" East along the easterly right-of-way line of Pony Express Parkway 654.03 feet; thence South 48°26'04" East 44.29 feet; thence South 83°07'39" East 90.48 feet; thence South 05°14'54" West 82.70 feet; thence South 02°41'17" East 124.00 feet; thence South 36°10'53" East 195.00 feet; thence South 29°40'15" East 162.24 feet; thence South 52°54'33" West 347.49 feet; thence South 45°46'17" West 52.51 feet; thence South 53°44'03" West 107.55 feet to the point of beginning.

Area = 7.214 Acres

BASIS OF BEARING = UTAH STATE PLANE COORDINATE SYSTEM OF 1927, CENTRAL ZONE

**EAGLE MOUNTAIN DEVELOPER PLAT DEDICATION**

We, the undersigned owners of all the real property depicted on this plat and described in the surveyor's certificate on this plat, have caused the land described on this plat to be divided into lots, streets, parks, open spaces, easements and other public uses as designated on the plat and now do hereby dedicate under the provisions of 10-9a-407, Utah Code, without condition, restriction or reservation to Eagle Mountain City, Utah, all streets, water, sewer and other utility easements and improvements, open spaces shown as public open spaces, parks and all other places of public use and enjoyment to Eagle Mountain City, Utah, together with all improvements required by the Development Agreement between the undersigned and Eagle Mountain City for the benefit of the City and the inhabitants thereof.

OWNER(S)  
PRINTED NAME OF OWNER \_\_\_\_\_

AUTHORIZED SIGNATURE(S) \_\_\_\_\_

**ACKNOWLEDGMENT**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me the persons signing the foregoing Owners Dedication known to me to be authorized to execute the foregoing Owners Dedication for and on behalf of the owners who duly acknowledged to me that the Owners Dedication was executed by them on behalf of the Owners.

NOTARY PUBLIC \_\_\_\_\_

**ACCEPTANCE BY LEGISLATIVE BODY**

THE \_\_\_\_\_ OF \_\_\_\_\_ COUNTY OF UTAH, APPROVES THIS SUBDIVISION PLAT AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS, EASEMENTS AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

MAYOR \_\_\_\_\_ CITY ATTORNEY \_\_\_\_\_

APPROVED \_\_\_\_\_ ATTEST \_\_\_\_\_  
ENGINEER (SEE SEAL BELOW) CLERK-RECORDER (SEE SEAL BELOW)

PLAT "A"  
**GATEWAY**

SUBDIVISION  
EAGLE MOUNTAIN CITY \_\_\_\_\_ UTAH COUNTY, UTAH  
SCALE: 1" = 50 FEET

Surveyor's Seal	Notary Public Seal	City Engineer's Seal	Clerk-Recorder Seal
-----------------	--------------------	----------------------	---------------------

SURVEYOR:  
AZTEC ENGINEERING  
431 NORTH 450 WEST  
OREM, UTAH 84057  
(801) 224-7308

***EXHIBIT 2***

**CITY ENGINEER'S  
BONDING REQUIREMENTS**

{00189290.DOCX /}7



Engineering Division  
 2545 North Pony Express Parkway  
 Eagle Mountain City, Utah 84005  
 (801) 789-6671

Monday, March 31, 2014

Mayor Christopher Pengra  
 Eagle Mountain City  
 1650 East Stage Coach Run  
 Eagle Mountain, Utah 84005

Subject: **The Gateway Subdivision** Bond Letter Requirements

Dear Mayor Pengra:

I have reviewed the improvement requirements for **The Gateway** subdivision, and recommend the following bonding amount for this concept:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
<b>1</b>	<b>STREETS</b>				
a	Roadway Asphalt Paving 3"	55899	SF	\$1.50	\$83,848.50
b	Road Base Gravel 6"	67922	SF	\$0.50	\$33,961.00
c	Engineering fill Sub-base 9"	67922	SF	\$0.80	\$54,337.60
d	2.5 Curb & Gutter	3435	LF	\$16.00	\$54,960.00
e	4' Concrete Sidewalk w/ base	2711	SF	\$12.00	\$32,532.00
f	16' common drive	3850	SF	\$2.75	\$10,587.50
<b>2</b>	<b>SEWER</b>				
a	8" PVC Sewer Pipe	1353	LF	\$30.00	\$40,590.00
b	60" Sewer Manholes	3	EA	\$5,000.00	\$15,000.00
c	48" Sewer Manholes	8	EA	\$3,000.00	\$24,000.00
d	4" Sewer Laterals & backfill	19	EA	\$2,000.00	\$38,000.00
<b>3</b>	<b>CULINARY WATER</b>				
a	12" PVC	518	LF	\$30.00	\$15,540.00
b	8" PVC	1301	LF	\$25.00	\$32,525.00
c	12" Butterfly Valve	4	EA	\$1,600.00	\$6,400.00
d	8" Gate valve	8	EA	\$1,200.00	\$9,600.00
e	Fire Hydrant w/ valve	5	EA	\$4,000.00	\$20,000.00
f	12"x8" tee	2	EA	\$600.00	\$1,200.00
g	8" tee	2	EA	\$500.00	\$1,000.00
h	12" bend	2	EA	\$450.00	\$900.00
i	8" bend	11	EA	\$350.00	\$3,850.00
j	3/4" water service	20	EA	\$1,400.00	\$28,000.00
<b>4</b>	<b>STORM DRAIN</b>				
a	18" ADS storm drain	679	LF	\$32.00	\$21,728.00

b	15" ADS storm drain pipe	881	LF	\$30.00	\$26,430.00
c	15" RCP storm drain pipe	120	LF	\$28.00	\$3,360.00
d	Combination box	5	EA	\$4,000.00	\$20,000.00
e	Inlet Box	8	EA	\$3,000.00	\$24,000.00
f	60" storm drain manholes	4	EA	\$4,000.00	\$16,000.00
g	Bench Drain graded	500	LF	\$10.00	\$5,000.00
h	Flared end section	1	EA	\$500.00	\$500.00
i	Storm Drain Detention Basin	1	LS	\$25,000.00	\$25,000.00
	<b>TOTAL CONSTRUCTION COST</b>				<b>\$648,849.00</b>
	10% Bond Coverage				<b>\$64,884.90</b>
	<b>TOTAL BOND AMOUNT:</b>				<b>\$713,734.90</b>

A total of 110 percent of the total construction cost shall be guaranteed in the form of a performance bond totaling **\$713,734.90**. (If Power and Gas are installed by the developers own contractor then a bond will need to be placed for the Energy items, if installed by Eagle Mountain City Energy Division then no bond needs to be placed), the above estimate is for determining the required bond amount only. The developer is fully responsible to comply with the Eagle Mountain City Construction Standards and Ordinances.

Please call me if you have any questions.  
Sincerely,

  
Christopher T. Trusty, P.E.  
Public Works Director  
Eagle Mountain City

Cc: Fionnuala Kofoed, Eagle Mountain City Recorder

# DEVELOPMENT AGREEMENT

**EAGLE MOUNTAIN CITY**  
**and**  
**VALLEY VIEW AB LLC**  
**for**  
**VALLEY VIEW RANCH SOUTH SUBDIVISION PLAT C**

This Development Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Eagle Mountain City, a Utah Municipal Corporation (the “City”) and Valley View AB LLC, a Utah limited liability company (“Developer”).

This Development Agreement is made with reference to the following facts:

The Developer is the owner of the private land designated on Exhibit 1 (the “Project”), which is the subdivision plat for Valley View C (the “Subdivision Plat”).

The Developer and the City have engaged in joint development planning for the Project.

The Developer will make investments in the construction of infrastructure for the Project, which infrastructure will be dedicated to the City.

Eagle Mountain City Planning Commission and City Council have approved the Subdivision Plat. The City and the Developer wish to preserve and to define specifically the rights and responsibilities of each party with this Development Agreement.

The parties desire to assure fair and equitable treatment for the Developer and the City in the terms and conditions of this Agreement.

Now, therefore, in consideration of the approval of the Subdivision Plat by the City and the following mutual promises, the parties agree as follows:

**1. Definitions.**

1.1 City’s Development Code means the “Eagle Mountain Development Code”, the Planning and Zoning Code of the City, adopted by the City pursuant to the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 *et. seq.*

1.2 City’s General Plan means the General Plan as defined in Utah Code Ann. §10-9a-103(13).

## **2. Rights and Responsibilities of Parties.**

2.1 Improvements Completion. Developer has submitted to and received approval from the City Engineer for the construction drawing ("Construction Drawing") for the Project that depict the approved design and location of public improvements including streets, sidewalks,, curb and gutter, trails, water and sewer infrastructure, irrigation improvements, fire hydrants, storm water and detention basin improvements, street lighting, signage, fencing and other infrastructure (collectively "Infrastructure Improvements") required as part of the Project. The stamped Construction Drawing (as amended) are incorporated as part of this Agreement. Developer shall construct the improvements in accordance with the Construction Drawings unless modified with the written approval of the City Engineer. Developer shall comply with all bonding requirements for the public works, utilities and other infrastructure improvements prior to the City recording the Subdivision Plat or any subdivision plat for any portion of the Project, and the improvement security held by the City shall not be fully released until the Developer has demonstrated to the satisfaction of the City that all public improvements of every kind required to be improved and maintained by the Developer have been completed and maintained through the warranty period and as otherwise required by this Agreement. A Bond Letter setting forth the estimated cost of the Infrastructure Improvements is attached hereto as Exhibit 2. Partial releases may be approved upon recommendation of the City Engineer under the provisions of the Development Code and the Ordinance controlling authorization for such releases.

2.2 Dedication of Facilities. The Developer will dedicate or cause to be dedicated to the City, the roads, park areas, storm drainage facilities which are required to be provided by the Developer, without reimbursement by the City to the Developer, as a condition of development approval because the required facilities are used by and will benefit the Developer's project. Dedication of the land for the facilities required under this paragraph shall occur at recordation of the plat and completion and acceptance by the City of the improvements and all of the improvements shall be completed within one year of the recordation of the plat and maintained for the warranty period required by the Development Code after the completion of the improvement by the Developer. The City may withhold the issuance of building permits if public improvements are not completed as required prior to issuance of building permits.

2.3 Water Rights. Developer shall comply with the City's requirement for dedication of water rights prior to the City recording the Subdivision Plat.

2.4 Impact Fees. Impact fees for all development in the Project shall be imposed by the City in accordance with the City's Impact Fee Ordinance and shall be paid by the property owner prior to the issuance of any building permits for any development in the Project.

2.5 Storm Water. All off-site storm water systems to receive and control storm water from the subdivision must be completed prior to occupancy of any of the homes.

2.6 Building Permits. Building permits for the development of the Project shall be issued only in compliance with the phasing requirements and conditions set forth in the Valley View Master Development Agreement.

2.7 Residential Housing. Housing constructed within Valley View shall conform to the following standards:

2.7.1 All homes have a minimum finished interior square footage of 1,400 square feet above land elevation at the building site. Homes built with two stories above land elevation shall have a minimum of 1,000 square feet interior finished on the main level and 1,600 total finished square footage overall. No more than fifty (50%) percent of the homes in Valley View shall be built using vinyl siding as an exterior material.

2.7.2 Valley View is anticipated to be a “custom home” community similar to the North Ranch and Meadow Ranch communities located on either side of the Valley View Master Planned Area. The City will discourage the use of the same home plan used more than once in Valley View; provided however, that no home plan shall be approved for construction if a home using the same front elevation has been approved for construction on a home within five (5) lots adjoining a lot with a building permit under consideration on either side or across the street from a home under building permit application and no individual builder may construct more than 10% of same front elevation. The purpose of this provision is to assure that sufficient visual distance and diversity is required between home plans using the same front elevation to create the appearance that repetitive home plans are not used within Valley View.

2.8 Park Improvements. The City shall establish a Valley View Community Park Escrow Fund within the City municipal funds accounts for the receipt of the payment of park cost improvement fees (Park Funds) required by the Master Development Agreement between the parties. The Park Funds shall be held, invested in an interest bearing account at the Utah State Public Treasurers Investment Fund, and used only for the improvement of the Community Park defined and identified as required and dedicated under the provisions of paragraph 2.5 of the Master Development Agreement. The Developer shall pay the Park Funds identified in Exhibit 3 as the proportionate cost of the total cost of the park improvements to the City in full prior to recordation of Exhibit 1. The City shall hold the Park Funds paid to it for park improvements and use such Park Funds only for completion of the Valley View Community Park improvements or Valley View park improvement related enforcement actions as necessary to secure acquisition and completion of the Valley View Community Park improvements.

2.9 Water Tank. The Developer will dedicate or convey the public water tank, water pipes and all easements for access and infrastructure to the City before recordation of the Subdivision Plat.

2.10 Development Authority. To the maximum extent permissible under the law, it is the intent both of the City and the Developer that subject to the full compliance of the Developer with all conditions, standards and/or requirements of development described more specifically in the Development Code, Construction Drawings, and Exhibit 2, including purchase of water rights for the Project and payment by Developer (or its successors or assigns) of all applicable impact fees and connection fees, the execution of this Development Agreement grants and vests in Developer all rights, consistent with the City’s General Plan, the City’s Development Codes, Parks Master Plan and other specific plans, ordinances and plans generally applicable throughout

the City, to develop Developer's property as approved in the Subdivision Plat.

### **3 General Provisions.**

3.1 Authority. The parties to this Development Agreement each warrant that they have all of the necessary authority to execute this Development Agreement.

3.2 Time Is Of The Essence. Time is of the essence to this Development Agreement and every right or responsibility shall be performed within the times specified.

3.3 Developer's Remedies Upon Default. Developer acknowledges and agrees that Developer's sole and exclusive remedy under this Agreement shall be specific performance of the development rights granted in this Agreement and City's obligations under this Agreement. IN NO EVENT SHALL CITY BE LIABLE TO DEVELOPER, ITS SUCCESSORS OR ASSIGNS, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR LIABILITIES TO THIRD PARTIES.

3.4 City's Remedies Upon Default. In addition to the remedies set forth herein, including, but not limited to, enforcement and use of any improvement or warranty bonds, upon default of any terms or conditions of this Agreement, City may require specific performance of Developer's obligations and City may withhold issuance of any building permits or further approvals with the Project until Developer has fully complied with the terms and conditions of this Agreement.

3.5 Non-Waiver. Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

3.6 Severability. If any provision of this Development Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Development Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Development Agreement shall remain in full force and affect.

3.7 No Joint Venture/No Third Party Beneficiaries. This Development Agreement does not create a joint venture relationship, partnership, or agency relationship between the City and Owner. Further, the parties do not intend this Development Agreement to create any third-party beneficiary rights. The parties acknowledge that this Development Agreement refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to Owner's properties unless the City has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the City's. Owner shall have the full and exclusive control of all of Developer's properties.

3.8 Applicable Law. This Development Agreement is entered into in Utah County in

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the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

3.9 Venue. Any action to enforce this Development Agreement shall be brought only in the Fourth District Court for the State of Utah.

3.10 Notices. All notices required or permitted under this Development Agreement shall be given in writing by certified mail and regular mail to the following address:

To the City: Eagle Mountain City, Utah  
1680 E. Heritage Drive  
Eagle Mountain, Utah 84043

To the Developer: Valley View AB LLC

\_\_\_\_\_  
\_\_\_\_\_

The addresses for notice may be modified by either party or their successors by written notice to the other party.

MADE AND ENTERED into as of the date and year first written above.

**Developer:**  
Valley View AB, LLC

**City:**  
Eagle Mountain City, Utah

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
Chris Pengra, Mayor

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Fionnuala Kofoed, City Recorder

\_\_\_\_\_  
Jeremy Cook, City Attorney

***EXHIBIT 1***

**SUBDIVISION PLAT**

**SURVEYOR'S CERTIFICATE**

I, DAVID V. THOMAS, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 16394Z AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, OPEN SPACE, STREETS AND EASEMENTS AND THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT AND THAT THIS PLAT IS TRUE AND CORRECT.

DATE \_\_\_\_\_ SURVEYOR (SEE SEAL BELOW)

**BOUNDARY DESCRIPTION**

BEGINNING AT A POINT WHICH IS N 89°32'03" W 391.41 FEET FROM THE WEST QUARTER CORNER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN;  
 RUNNING THENCE S 00°42'04" W 328.54 FEET; THENCE N 89°49'13" E 176.46 FEET; THENCE S 00°37'39" E 312.46 FEET; THENCE S 07°15'34" E 170.95 FEET; THENCE S 85°19'32" W 230.28 FEET; THENCE S 09°56'17" E 112.58 FEET; THENCE N 69°27'06" W 134.92 FEET; THENCE N 19°21'51" W 192.30 FEET; THENCE N 15°39'32" W 128.75 FEET; THENCE N 00°49'29" W 139.98 FEET; THENCE N 02°47'48" E 221.18 FEET; THENCE N 79°05'48" W 278.15 FEET; THENCE N 80°38'20" W 22.95 FEET; THENCE N 29°21'40" E 215.20 FEET; THENCE ALONG THE ARC OF A 170.00 FOOT RADIUS CURVE TO THE RIGHT 48.82 FEET CURVE HAS A CENTRAL ANGLE OF 162°27'20" AND A CHORD BEARING S 74°48'29" E 48.66 FEET; THENCE S 00°27'57" W 6.47 FEET; THENCE S 89°32'03" E 377.13 FEET TO THE POINT OF BEGINNING.

CONTAINING 7.86 ACRES  
 BASIS OF BEARING = STATE PLANE

**OWNER'S DEDICATION**

WE, THE UNDERSIGNED OWNERS OF ALL THE REAL PROPERTY DEPICTED ON THIS PLAT AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE ON THIS PLAT, HAVE CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE DIVIDED INTO LOTS, STREETS, PARKS, OPEN SPACES, EASEMENTS AND OTHER PUBLIC USES AS DESIGNATED ON THE PLAT AND NOW DO HEREBY DEDICATE UNDER THE PROVISIONS OF 10-9A-607, UTAH CODE, WITHOUT CONDITION, RESTRICTION OR RESERVATION TO EAGLE MOUNTAIN CITY, UTAH, ALL STREETS, WATER, AND OTHER UTILITY EASEMENTS AND IMPROVEMENTS, OPEN SPACES SHOWN AS PUBLIC OPEN SPACES, PARKS AND ALL OTHER PLACES OF PUBLIC USE AND ENJOYMENT TO EAGLE MOUNTAIN CITY, UTAH, TOGETHER WITH ALL IMPROVEMENTS REQUIRED BY THE DEVELOPMENT AGREEMENT BETWEEN THE UNDERSIGNED AND EAGLE MOUNTAIN CITY FOR THE BENEFIT OF THE CITY AND THE INHABITANTS THEREOF.

OWNER(S): \_\_\_\_\_ AUTHORIZED SIGNATURE(S) \_\_\_\_\_  
 PRINTED NAME OF OWNER

**ACKNOWLEDGMENT**

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, PERSONALLY APPEARED BEFORE ME THE PERSONS SIGNING THE FOREGOING OWNERS DEDICATION KNOWN TO ME TO BE AUTHORIZED TO EXECUTE THE FOREGOING OWNERS DEDICATION FOR AND ON BEHALF OF THE OWNERS WHO DULY ACKNOWLEDGED TO ME THAT THE OWNERS DEDICATION WAS EXECUTED BY THEM ON BEHALF OF THE OWNERS

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC

**ACCEPTANCE BY LEGISLATIVE BODY**

THE \_\_\_\_\_ CITY COUNCIL OF \_\_\_\_\_ EAGLE MOUNTAIN CITY COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL STREETS AND EASEMENTS FOR THE PERPETUAL USE OF THE PUBLIC THIS

DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_

APPROVED \_\_\_\_\_ ATTEST \_\_\_\_\_  
 CITY ENGINEER (SEE SEAL BELOW) CLERK-RECORDER (SEE SEAL BELOW)

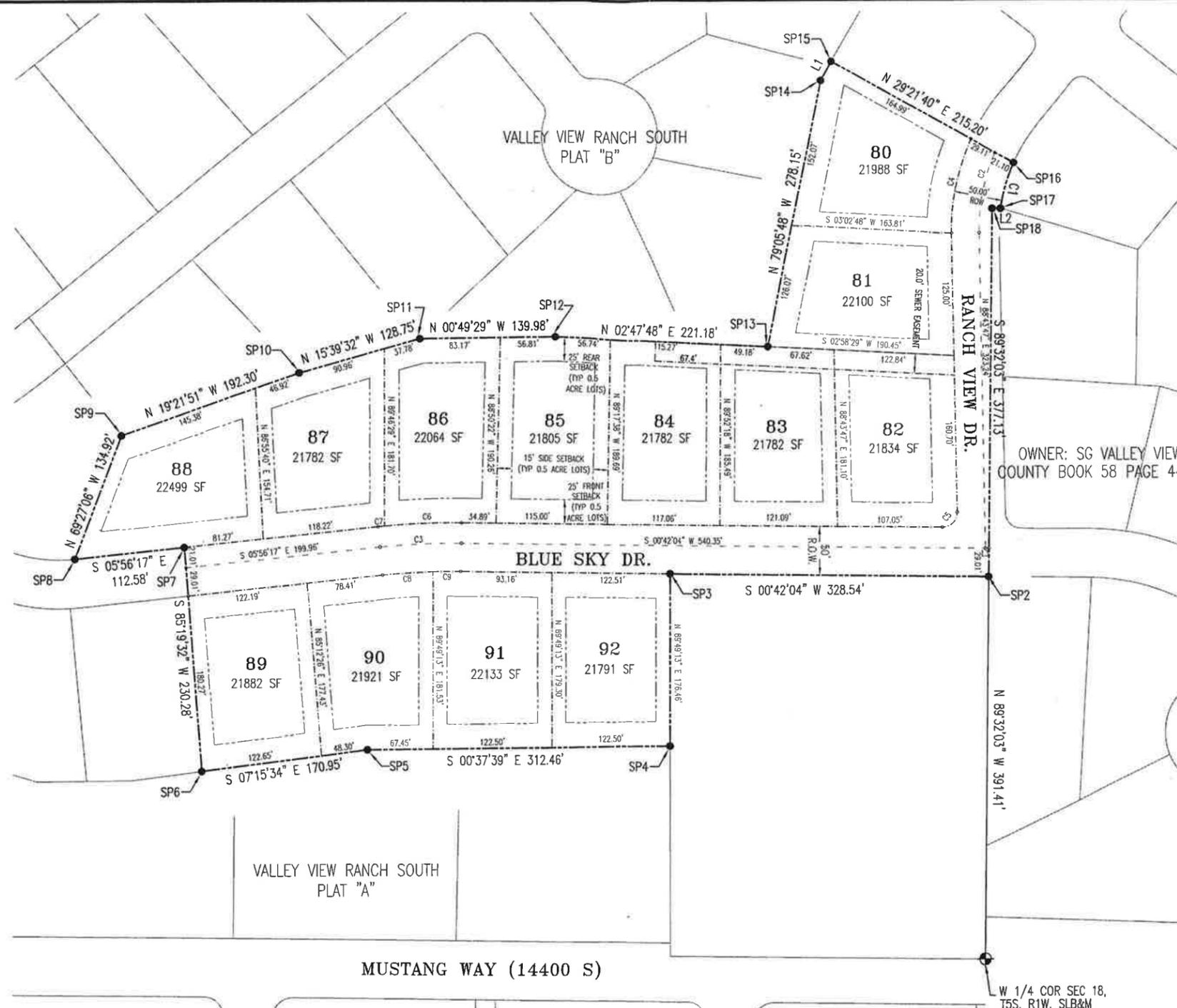
**PLAT C VALLEY VIEW RANCH SOUTH**

SUBDIVISION, EAGLE MOUNTAIN CITY, UTAH COUNTY, STATE OF UTAH

LOCATED IN THE WEST ¼ CORNER OF SECTION 18, T.5S., R.1W., S.L.B.&M.

SCALE: 1" = 60'

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	CLERK-RECORDER SEAL
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**ADDRESS TABLE**

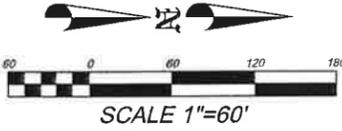
LOT#	ADDRESSES
80	EAST RANCH VIEW DRIVE
81	EAST RANCH VIEW DRIVE
82	EAST RANCH VIEW DRIVE
83	NORTH BLUE SKY DRIVE
84	NORTH BLUE SKY DRIVE
85	NORTH BLUE SKY DRIVE
86	NORTH BLUE SKY DRIVE
87	NORTH BLUE SKY DRIVE
88	NORTH BLUE SKY DRIVE
89	NORTH BLUE SKY DRIVE
90	NORTH BLUE SKY DRIVE
91	NORTH BLUE SKY DRIVE
92	NORTH BLUE SKY DRIVE

**TABULATIONS**

TOTAL AREA	=	7.86 AC
LOT ACREAGE	=	6.55 AC
STREET ACREAGE	=	1.31 AC
NUMBER OF LOTS	=	13
AVERAGE LOT SIZE	=	21,951 SF

**GENERAL NOTES**

- ALL WATER LINES UP TO AND INCLUDING THE METER, POWER LINES, GAS LINES, AND TELEPHONE LINES UP TO AND INCLUDING THE METER ARE DEDICATED TO EAGLE MOUNTAIN CITY.
- ALL LOTS ARE SUBJECT TO A 5' UTILITY EASEMENT (PUC) ALONG ALL SIDE AND REAR LOT LINES, AND A 10 FOOT UTILITY EASEMENT ALONG ALL STREET FRONTAGES, IN ADDITION TO ANY EASEMENTS SHOWN ON THIS PLAT.



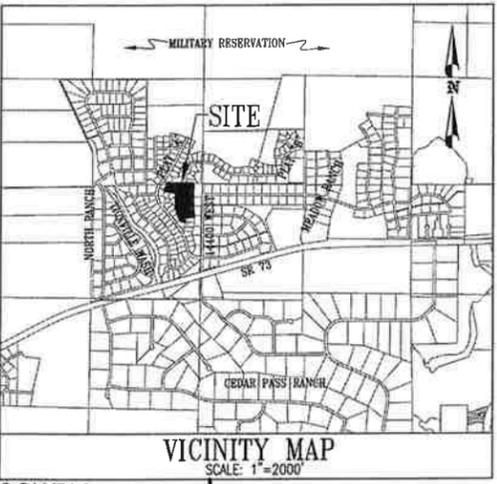
**LINE TABLE**

LINE	LENGTH	BEARING
L1	22.85	N 60°38'20" W
L2	6.47	S 00°27'57" W
L3	3.74	S 00°42'04" W

APPROVAL AS TO FORM  
 APPROVED AS TO FORM THIS DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_  
 CITY ATTORNEY

NOTE: NO BUILDING PERMIT SHALL BE ISSUED FOR A LOT UNTIL THE UTAH COUNTY HEALTH DEPARTMENT APPROVES IT FOR A SEPTIC TANK AND DRAIN FIELD.

NOTE: NO BUILDING PERMIT SHALL BE ISSUED FOR A LOT UNLESS ADEQUATE WATER PRESSURE IS DEMONSTRATED TO EAGLE MOUNTAIN CITY.

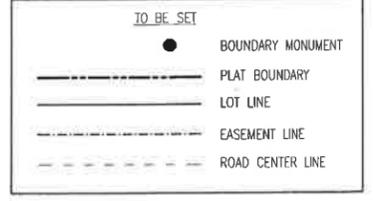


**STATE PLANE COORDINATES**  
 FACTOR = 0.999705155167

SP#	X=	Y=	SP#	X=	Y=
SP1	1,860,508.180	747,409.620	SP10	1,859,906.457	746,701.069
SP2	1,860,116.895	747,412.799	SP11	1,859,871.718	746,825.002
SP3	1,860,504.211	747,085.606	SP12	1,859,869.698	746,964.921
SP4	1,860,289.285	747,084.936	SP13	1,859,880.495	747,185.776
SP5	1,860,292.704	746,772.588	SP14	1,859,607.436	747,238.381
SP6	1,860,314.307	746,503.058	SP15	1,859,587.532	747,249.577
SP7	1,860,084.855	746,584.293	SP16	1,859,893.010	747,437.082
SP8	1,860,096.501	746,472.356	SP17	1,859,739.957	747,424.336
SP9	1,859,970.199	746,519.702	SP18	1,859,739.957	747,415.888

**CURVE TABLE**

CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
C1	170.00	48.82	162°27'20"	48.66	S 74°48'29" E
C2	191.00	84.49	25°20'42"	83.80	S 78°35'52" E
C3	729.00	84.47	06°38'21"	84.43	S 02°37'07" E
C4	220.00	100.00	26°02'37"	99.14	S 76°14'55" E
C5	15.00	24.08	91°58'17"	21.57	S 45°17'04" E
C6	750.00	80.19	06°07'33"	80.15	S 02°21'43" E
C7	750.00	6.72	00°30'48"	6.72	S 09°40'53" E
C8	700.00	51.76	04°14'11"	51.75	S 03°49'12" E
C9	700.00	29.36	02°24'10"	29.35	S 07°30'01" E



**SOWBY** Civil Engineering Land Planning Landscape Architecture  
 43 North 430 West, American Fork, UT 84003, ph: (801) 442-1277, fax: (801) 442-7919, www.sowby.com

**BERG** AZTEC ENGINEERING INC.  
 411 NORTH 450 WEST, OREM, UTAH 84057, (801) 224-7700

PLAT C - 05-03-2007

# ***EXHIBIT 2***

## **CITY ENGINEER'S BONDING REQUIREMENTS**



Engineering Division  
 2545 North Pony Express Parkway  
 Eagle Mountain City, Utah 84005  
 (801) 789-6671

Wednesday, September 4, 2013

Mayor Heather Anne Jackson  
 Eagle Mountain City  
 1650 East Stage Coach Run  
 Eagle Mountain, Utah 84005

Subject: **Valley View Ranch South Plat C** Bond Letter Requirements

Dear Mayor Jackson:

I have reviewed the improvement requirements for **Valley View Ranch South Plat C** Subdivision, and recommend the following bonding amount for this concept:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
<b>1</b>	<b>SITE PREP.</b>				
a	Clear & Grub	1.31	AC	\$2,000.00	\$2,620.00
b	Major Earthwork & Grading	1585	CY	\$4.00	\$6,340.00
<b>2</b>	<b>ROADWAY IMPROVEMENTS</b>				
a	3 inch Surface Course	31212	SF	\$1.20	\$37,454.40
b	6 inch Roadbase(also behind curb)	45568	SF	\$0.50	\$22,784.00
c	9 inch sub-base(e-fill)	45568	SF	\$0.80	\$36,454.40
d	2.5 foot Curb and Gutter	2022	LF	\$14.00	\$28,308.00
e	8 foot asphalt trail w/6" roadbase	1232	LF	\$2.00	\$2,464.00
f	Street Signs	1	EA	\$240.00	\$240.00
g	Traffic Signs	1	EA	\$240.00	\$240.00
h	ADA access ramps for trail	1	EA	\$700.00	\$700.00
<b>3</b>	<b>CULINARY WATER</b>				
a	8 inch Water Main	1549	LF	\$18.00	\$30,980.00
b	8 inch Gate Valve	3	EA	\$900.00	\$2,700.00
c	12 inch Butterfly Valve	1	EA	\$1,800.00	\$1,800.00
d	Fire Hydrant w/valve	2	EA	\$2,500.00	\$8,000.00
e	Water Service w/meter	13	EA	\$400.00	\$10,400.00
<b>4</b>	<b>STORM DRAIN</b>				
a	Catch basin & inlet grate	6	EA	\$2,000.00	\$30,000.00
b	60" Storm Drain Manhole	4	EA	\$2,500.00	\$32,000.00
c	15 inch Pipe	1002	LF	\$25.00	\$30,060.00
<b>5</b>	<b>MISC.</b>				
a	Subdivision monument	1	EA	\$350.00	\$350.00
	<b>TOTAL CONSTRUCTION COST</b>				<b>\$227,586.80</b>

	10% Bond Coverage				\$22,758.68
<b>TOTAL BOND AMOUNT:</b>					<b>\$250,345.48</b>

A total of 110 percent of the total construction cost shall be guaranteed in the form of a performance bond totaling **\$250,345.48**. The above estimate is for determining the required bond amount only. The developer is fully responsible to comply with the Eagle Mountain City Construction Standards and Ordinances.

Please call me if you have any questions.  
Sincerely,

  
Christopher T. Trusty, P.E.  
Public Works Director  
Eagle Mountain City

Cc: Fionnuala Kofoed, Eagle Mountain City Recorder



April 2, 2014

Mayor Christopher Pengra  
 Eagle Mountain City  
 1650 East Stage Coach Run  
 Eagle Mountain, Utah 84005

Subject: **Valley View Ranch Phase C** Bond Letter Requirements for Power & Gas

Dear Mayor Jackson:

I have reviewed the improvement requirements for **Valley View Ranch Phase C** Subdivision, and recommend the following bonding amount for this concept:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
<b>1</b>	<b>ENERGY ONSITE UTILITIES</b>				
a	Power and Gas	1	LS	\$45,550	\$45,550
b					
	<b>TOTAL CONSTRUCTION COST</b>				<b>\$45,550</b>
	10% Bond Coverage				\$4,555
	<b>TOTAL BOND AMOUNT:</b>				<b>\$50,105</b>

A total of 10 percent of the total construction cost shall be guaranteed in the form of a performance bond totaling **\$50,105(Fifty Thousand One Hundred Five Dollars)**. The above estimate is for determining the required bond amount only. The developer is fully responsible to comply with the Eagle Mountain City Construction Standards and Ordinances.

Please call me if you have any questions.

Sincerely,

Adam Ferre  
 Energy Division Director  
 Eagle Mountain City

Cc: Fionnuala Kofoed, Eagle Mountain City Recorder

***EXHIBIT 3***  
**COMMUNITY PARK FEE**

Community Park Fee - \$15,885.84.



Engineering Division  
2545 North Pony Express Parkway  
Eagle Mountain City, Utah 84005  
(801) 789-6671

Monday, April 07, 2014

Mayor Christopher Pengra  
Eagle Mountain City  
1650 East Stage Coach Run  
Eagle Mountain City, UT 84005

**SUBJECT: Eagle Point Condos Plat A into warranty Bond Release**

Dear Mayor Pengra:

The above referenced subdivision has completed the all required improvements as of this date. With the approval of the installed infrastructure, we are recommending this subdivision begin the required one year warranty period. A reduced bond letter has been generated, reducing all bond items which have been completed. A warranty bond for the remaining warranty amount must be issued and maintained until released from the warranty period by the city.

Please contact me should you have any comments, questions, or concerns. Thank you.

Sincerely,

Christopher T. Trusty, P.E.  
Public Works Director  
Eagle Mountain City

Cc: Fionnuala Kofoed, City Recorder  
Scott Dunn, Patterson Construction

**EAGLE MOUNTAIN CITY  
CITY COUNCIL MEETING  
APRIL 15, 2014**

<b>TITLE:</b>	Change Order #2 with VanCon Construction Company for the Pony Express Pipeline Project		
<b>FISCAL IMPACT:</b>	\$22,522.73 (GL#48-81-51100-7009)		
<b>APPLICANT:</b>	Christopher T. Trusty, Public Works Director/City Engineer		
<b>GENERAL PLAN DESIGNATION</b>	<b>CURRENT ZONE</b>	<b>ACREAGE</b>	<b>COMMUNITY</b>
N/A	N/A	N/A	

**NOTICES:**

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

**REQUIRED FINDINGS:**

<b>Public Works Board Recommendation</b>
<b>Vote: N/A</b>

<b>Prepared By: David C. Norman</b>
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**NOTES/COMMENTS:**

**RECOMMENDATION:**

Staff recommends that the City Council approve a change order with VanCon Construction Company for \$22,204.73 for additional work on the 24” Pony Express Waterline Project.

**BACKGROUND:**

The City contracted with VanCon Construction Company to construct approximately 2.5 miles of 24” ductile iron pipe along Pony Express Parkway from 800 West in Saratoga Springs up close to Cedar Drive in Eagle Mountain City to deliver water from the CWP water supply project.

The waterline is intended to be built to the west of an existing Pressure Reducing Valve (PRV) in Pony Express Parkway between Sparrowhawk Way and Cedar Drive. This will allow for the water from the CWP project to flow into the City’s existing water tanks without additional pumping.

During the design phase of this project, the survey work was done by a different engineering firm since the walking path project is being administered by UDOT. The pipeline had to be constructed prior to the walking path as they are in the same alignment. The waterline project extends farther to the west than the walking path and the survey work was short of the end of the pipeline project by a few hundred feet. Our engineers used the City’s GIS system coordinates to locate the existing PRV vault and showed the waterline ending just beyond this point. As it turns out, the coordinates were incorrect and the pipeline is 162 feet short of the true location of the PRV vault. This change order allows for the additional 162 feet of 24” ductile iron pipe to be installed, and for the project to be constructed as intended.

A breakdown of the budget for this project is shown below:

Total Approved (not to exceed)	\$3,400,000.00
- Construction Contract	\$2,535,570.00
- Construction Change Order 1	(\$2,726.00)
- Construction Change Order 2	\$22,204.73

- Design Contract (original)	\$220,000.00
- Design Contract after CUWCD took over the Design and Construction of the Pump Station	\$94,329.00
Remaining Budget	\$750,622.27

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**EAGLE MOUNTAIN CITY**  
**CITY COUNCIL MEETING**  
 April 15, 2014

<b>TITLE:</b>	Consideration and Approval of the First Amendment to the Power Sales Agreement Between Utah Municipal Power Agency and Eagle Mountain City, Utah		
<b>FISCAL IMPACT:</b>	Unknown		
<b>APPLICANT:</b>	Staff		
<b>GENERAL PLAN DESIGNATION</b> N/A	<b>CURRENT ZONE</b> N/A	<b>ACREAGE</b> N/A	<b>COMMUNITY</b> Citywide

**NOTICES:**

- Posted in 2 public places
- Posted on City webpage

**REQUIRED FINDINGS:**

<b>Planning Commission Action / Recommendation</b>
<b>Vote: N/A</b>

<b>Prepared By:</b> Adam Ferre Jeremy Cook
--

**NOTES/COMMENTS:**

**RECOMMENDATION:**

Staff recommends that the City Council approve the First Amendment to the Power Sales Agreement Between Utah Municipal Power Agency and Eagle Mountain City, Utah.

**BACKGROUND:**

The Utah Municipal Power Agency (UMPA) is an interlocal entity whose services include: power supply and control area support, scheduling, joint financing, energy load forecasting, wheeling arrangements, load research, limited political action, demand-side management, engineering, legal assistance and Federal Energy Regulatory Commission (FERC) case support. UMPA's members consist of: Levan, Manti, Nephi, Provo, Salem and Spanish Fork. Eagle Mountain City is not a member entity of UMPA.

However, on August 12, 2012, Eagle Mountain City entered into a Power Sales Agreement with UMPA for the purchase of electric capacity and certain energy requirements from UMPA. The Power Sales Agreement provides for UMPA to accommodate delivery of resource acquired by Eagle Mountain City and to sell supplemental electrical capacity and energy to Eagle Mountain City. The current term of the Agreement runs through June 30, 2015, and the Agreement may be terminated upon thirteen months' notice.

The Amendment extends the term of the Agreement through June 30, 2017 and provides for the assignability of the Agreement by Eagle Mountain City.

**FIRST AMENDMENT  
TO THE  
POWER SALES AGREEMENT  
BETWEEN  
UTAH MUNICIPAL POWER AGENCY  
AND  
EAGLE MOUNTAIN CITY, UTAH**

This First Amendment to the Power Sales Agreement dated August 12, 2011 (Amendment) is dated this \_\_\_ day of March, 2014 (the "Effective Date") by and between Utah Municipal Power Agency (UMPA), a Joint Action Agency and political subdivision of the State of Utah organized and existing under the Utah Interlocal Co-operation Act, and Eagle Mountain City, Utah, (Eagle Mountain) a municipal corporation organized and existing under the laws of the State of Utah, each sometimes hereinafter individually referred to as a "Party", and both hereinafter collectively referred to as the "Parties."

**WITNESSETH**

WHEREAS, UMPA is engaged in the generation and transmission of electric capacity and energy; and,

WHEREAS, Eagle Mountain is engaged in the procurement and distribution of electric capacity and energy; and,

WHEREAS, UMPA and Eagle Mountain are Parties to a Power Sales Agreement (Agreement) dated August 12, 2011; and,

WHEREAS, the Parties desire to amend "Section 2: Term and Termination" and "Exhibit A" of the Agreement; and,

NOW THEREFORE, UMPA and Eagle Mountain hereby agree as follows:

1. Unless otherwise defined in this Amendment, capitalized terms used in this Amendment shall have the same meaning as that given to such terms in the Agreement.
2. The parties agree to amend the Agreement and replace "Section 2: Term and Termination"; "Section 14: Assignability" and "Exhibit A" as follows:

**Section 2: Term and Termination.**

Unless the Parties mutually agree to terminate this Agreement as of another date, this Agreement shall remain in effect until 11:59 p.m. on June 30, 2017, and thereafter on a year-to-year basis, beginning July 1<sup>st</sup>, until terminated by either Party by giving to the other at least thirteen (13) months advance written notice of its intention to terminate this Agreement.

**Section 14: Assignability.**

Eagle Mountain may assign this Agreement to another public entity in conjunction with the sale or transfer of substantially all of Eagle Mountain’s electric system. Eagle Mountain shall provide UMPA at least sixty (60) days advance written notice of the assignment. The assignee shall be required to comply with the terms of this Agreement for the purpose of supplying electricity within the municipal boundaries of Eagle Mountain City during the remaining term of this Agreement. In addition, any assignment shall include a provision requiring Eagle Mountain to guarantee payment to UMPA if the assignee fails to make payment to UMPA during the term of this Agreement. Eagle Mountain’s guarantee shall be contingent upon written notice by UMPA of assignee’s failure to pay and a reasonable opportunity to cure. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

**Exhibit A**

Exhibit A, as set forth in Section 1: Capacity and Energy Provided, Subsection 5 of the Agreement is amended and replaced as Exhibit A - First Amendment.

- 3. Unless expressly changed by this Amendment, all other terms of the Agreement shall remain in full force and effect.
- 4. This Amendment may be executed in multiple counterparts, including facsimile counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 5. This Amendment Sets forth the entire agreement between the Parties with respect to the subject matter of the Amendment and supersedes any previous understanding, commitment, or agreement, oral or written, with respect to such subject matter of the Amendment.
- 6. The Parties acknowledge and agree to this Amendment effective as of the Effective Date.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their respective officers thereunder duly authorized.

UTAH MUNICIPAL POWER AGENCY

By: \_\_\_\_\_  
 Layne Burningham  
 Title: General Manager and Chief Operating Officer  
 Address: UTAH MUNICIPAL POWER AGENCY  
 P.O. Box 818  
 Spanish Fork, UT 84660

EAGLE MOUNTAIN CITY

By: \_\_\_\_\_  
Chris Pengra  
Title: Mayor

ATTEST:

\_\_\_\_\_  
Fionnuala B. Kofoed CMC, City Recorder

DRAFT

## **Exhibit A First Amendment**

This Exhibit is attached to and made of part of the First Amendment to the Power Sales Agreement between Utah Municipal Power Agency and Eagle Mountain City, Utah, dated \_\_\_\_, March, 2014. Fiscal Year is the twelve month period ending June 30.

<b>Fiscal Year</b>	<b>Month</b>	<b>UMPA Capacity and Energy to be Delivered</b>
2014	Jul - Jun	Full requirements above Eagle Mountain Resources
2015	Jul-Jun	Full requirements above Eagle Mountain Resources
2016	Jul-Jun	Full requirements above Eagle Mountain Resources
2017	Jul-Jun	Full requirements above Eagle Mountain Resources