

TOWN OF EAGLE MOUNTAIN, UTAH,

MONTE VISTA RANCH AND EAGLE MOUNTAIN PROPERTIES

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

This Amended and Restated Development Agreement, which is referred to herein as the "Development Agreement", is entered into as of the 22nd day of December, 1997 by and between the Town of Eagle Mountain, Utah, a Utah Municipal Corporation (the "Town") and Monte Vista Ranch, L.C. ("Monte Vista"), and Eagle Mountain Properties, L.C. ("Eagle Mountain"), both of which are Utah limited liability companies.

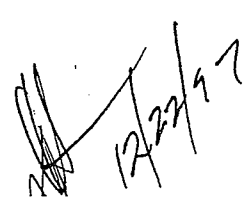
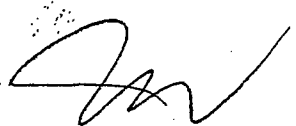
This Development Agreement is made with reference to the following facts and representations of the parties:

Monte Vista Ranch and /or Eagle Mountain are the owners of the private land designated on Exhibit 1 (Master Site Plan) excluding the lands designated as owned by others, which is the Master Site Plan approved by the Town of Eagle Mountain for the Monte Vista Ranch/Eagle Mountain properties. The Monte Vista Ranch/Eagle Mountain properties are entitled under the Master Site Plan to develop up to 22,930 residential units on the properties described on Exhibit"1" for residential use and to develop other commercial and industrial uses as designated on Exhibit"1";

Eagle Mountain Properties is a development entity; the development entitlements of Eagle Mountain are concurrent and not cumulative with the development entitlements of Monte Vista Ranch;

Eagle Mountain, Monte Vista Ranch and the Town have engaged in joint development planning for the area described on Exhibit 1 which is the Master Site Plan for Monte Vista Ranch and Eagle Mountain and which has been approved by the Town;

Eagle Mountain and Monte Vista Ranch have provided advance infrastructure funding for the Town in the form of construction of roads, water, sewer, power, telephone and natural gas systems which the Town has purchased from Eagle Mountain and Monte Vista Ranch with funds acquired from the sale of Bond Anticipation Notes ("the Notes"), the Notes have been guaranteed using the properties owned by Monte Vista and Eagle Mountain;



Monte Vista Ranch and Eagle Mountain will make additional investments in the construction of infrastructure, related substantially to their properties and the infra-structure will become the property of the Town; the advance funding and the additional investment planned by Monte Vista and Eagle Mountain are a part of the consideration for the Town to enter this Agreement with Monte Vista and Eagle Mountain;

The Town of Eagle Mountain Planning Commission and Town Council have approved the Master Site Plan which is Exhibit 1, for Eagle Mountain and Monte Vista which the Town, Monte Vista and Eagle Mountain 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 Monte Vista, Eagle Mountain and the Town in the terms and conditions of this Agreement.

The Town acknowledges that Owner/Developer is relying upon the execution and continuing validity of this Development Agreement and the Town's faithful performance of the Town's obligations under this Development Agreement in Owner/Developer's existing and continued expenditure of substantial funds into developing Owner/Developer's Properties, in Owner/Developer's continued commitment and obligation to provide its guarantee of future Town's Bonds and Notes, in Owner/Developer providing its properties as collateral for future Town's Bonds and Notes, and in incurring other expenses, all substantially related to Owner/Developer's Properties on behalf of itself and the improvement of the Town.

WHEREAS, the Town and Monte Vista and Eagle Mountain desire to amend and restate the Development Agreement of October 7, 1997 specifying their respective rights and obligations regarding the development of certain properties within the Town.

Now, therefore, in consideration of the foregoing Recitals and the following mutual promises the parties agree as follows:

1.0 Definitions.

1.1 After-Acquired Properties means those properties acquired by Owner/Developer after the execution of this Development Agreement within the

boundaries of the Master Site Plan (Exhibit 1), which are, at the date of this agreement, islands within Owner/Developer's Properties or peninsulas of other Owners' properties adjacent to Owner/Developer's Properties within such Master Site Plan.

1.2 Buildout means the completion of all of the development of all of Owner/Developer's Properties within the Town including After-Acquired Properties.

1.3 Development Phases means the development of any portion of the Master Site Plan.


1.4 Owner/Developer means Monte Vista and Eagle Mountain as well as their assignees or transferees and also includes the individual members of Eagle Mountain and/or Monte Vista who have acted in the past and/or may act in the future as "guarantors" of any of the Town's Bonds and Notes which have been or may be issued.

1.5 Master Site Plan (Exhibit 1) means the contemplated configurations, uses and densities for Owner/Developer's Properties and associated public improvements as shown on Exhibit "1" which is attached and incorporated herein by reference and which was previously approved, adopted and accepted by the Town on September 30, 1997.

1.6 Owner/Developer's Properties means those properties owned or controlled by Owner/Developer within the corporate boundaries of the Town as of September 30, 1997 as illustrated on Exhibit "1" and legally described in Exhibit "2" which are both incorporated by reference.

1.7 Prior Agreement means that document entitled "Development Agreement" between the Town, Monte Vista and Eagle Mountain dated October 7, 1997.

1.8 Town's Bonds and Notes means those Revenue Bond Anticipation Notes issued on or about October 21, 1997 by the town and guaranteed by Owner/Developer and/or members of Monte Vista and Eagle Mountain and also includes any such similar instruments which may be issued by the Town in the future which, if they are to be guaranteed or collateralized by Owner/Developer are approved by Owner/Developer.


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1.9 Town's Development Code means the "Interim Eagle Mountain Development Code" planning and zoning code of the Town, adopted on September 30, 1997 by Ordinance Number ___ of 1997, of the Town pursuant to the Utah Municipal Land Use Planning Enabling Act, Section 10-9-101 et. seq., U.C.A.

1.10 Town's General Plan means the General Plan adopted by the Town by Ordinance Number ___ 1997 on December 16, 1997 pursuant to Section 10-9-103 (1)(f) and 301, U.C.A.

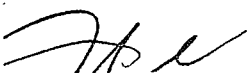
2.0 Rights and Responsibilities of Developer.

2.1 Town's Acknowledgment of Owner/Developer's Efforts. The Town acknowledges that the execution of this Development Agreement was a condition precedent for Owner/Developer's guarantee of the Town's Bonds and Notes and Owner/Developer's investment of substantial funds into development on Owner/Developer's Properties and for the benefit of the Town.

2.2 Owner/Developer's Reliance. The Town acknowledges that Owner/Developer is relying upon the execution and continuing validity of this Development Agreement and the Town's faithful performance of the Town's obligations under this Development Agreement in Owner/Developer's existing and continued expenditure of substantial funds into developing Owner/Developer's Properties, in Owner/Developer continued commitment and obligation, as specified in the Town's existing bonds and notes, to provide its guarantee of future Town's Bonds and Notes, in Owner/Developer providing its properties as collateral for future Town's Bonds and Notes all of which are substantially related to Owner/Developer's Properties, and in incurring other expenses on behalf of itself and the improvement of the Town.

2.3 Reaffirmation of Town's Approval of the Master Site Plan. The previous approval, adoption and acceptance by the Town on October 15, 1997 of the Master Site Plan as a "Development Master Plan" pursuant to Chapter 3, Section W of the Town's Interim Development Code is hereby reaffirmed. The Master Site Plan is deemed an approved and authorized amendment to the Town's Development Code and the Town's General Plan.

2.4 Rights Granted by Approval of the Master Site Plan. To the maximum extent permissible under the law, it is the intent both of the Town and the Owner/Developer that the execution of this Development Agreement grants and vests in Owner/Developer all rights, consistent with the Town's General Plan, the



Town's Development Codes, parks master plan and other specific plans ordinances and plans generally applicable throughout the Town, as specifically provided herein under Paragraph 3 below, to develop Owner/Developer's Properties in fulfillment of the Master Site Plan without modification or interference by the Town except as specifically provided herein. The Parties intend that the rights granted to Owner/Developer under this Development Agreement are both contractual and as provided under the common law concept of "vested rights".

2.5 Guaranteed Density. In addition to the general rights acquired by Owner/Developer pursuant to Paragraph 2.4 above, the Town specifically acknowledges that at Buildout Owner/Developer shall be entitled to a density of residential housing not less than the density specified in the Master Site Plan. Such densities shall also apply to any After-Acquired Properties as approved by the Town in the process for modification of the Master Site Plan which is described in Paragraph 2.7 below, or, for islands or peninsulas primarily surrounded by residential uses on the Master Site Plan, the densities of the surrounding residential properties shall be automatically attributed to the islands and/or peninsulas, unless otherwise provided in the Town's General Plan and/or Development Code at the date of this Development Agreement.

2.6 Development Phases.

2.6.1 Intent to Allow Phasing. The Town acknowledges that Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, intend to submit multiple applications from time to time to develop and/or construct portions of the Master Site Plan in Development Phases.

2.6.2 Phase Densities. The Town acknowledges that each Development Phase submitted for approval may have densities greater than the maximum Buildout density specified in the Master Site Plan. So long as the cumulative number of approved units does not exceed the maximum number of residential units allowed at the ultimate Buildout for the entirety of the Master Site Plan, including additional units in After-Acquired Properties carrying residential densities, the density of any particular phase, except for the final phase resulting in Buildout, shall not be grounds for the Town to deny the application for the particular Development Phase submitted for approval. The parties understand that the total permitted residential units under the Master Site at the date of this Development Agreement is 22,930.



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2.6.3 Density Reporting. Each Class II development permit or application submitted by Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, pursuant to this Development Agreement for a particular Development Phase shall include a statement of: (1) the total number of residential units allowed under the Master Site Plan and After-Acquired Properties carrying residential densities; (2) the cumulative total number of residential units previously approved for all of Owner/Developers Properties, including After-Acquired Properties carrying residential densities, from the date of the approval of the Master Site Plan to the date of the application; (3) the number of units and densities for which a permit is sought under the particular Development Phase application and (4) the balance remaining allowable to the Owner/Developer's Properties.

2.6.4 Development Agreements for Phases. Each Development Phase which requires a Class II permit shall also require the approval of a separate development agreement specifying the details of the development such as exact locations of public improvements and dedications, infrastructure design, proposed uses and other such information. Each of these separate development agreements for Development Phases shall be consistent with this Development Agreement and without the express written consent of Owner/Developer these separate Development Phase agreements shall not decrease Owner/Developer's rights under this Development Agreement to the uses and densities specified in Owner/Developer's Master Site Plan.

2.6.5 Dedication of Public Improvements for Phases - Trails. Each separate development agreement for a Development Phase shall provide that the applicant for the Development Phase shall dedicate the land required for the public trails as provided on the then-current Master Trail Plan for the Town.

2.6.6 Dedication of Public Improvements for Phases - Parks. Each separate development agreement for a Development Phase shall provide an accounting of the land previously dedicated by Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, and have dedicated land for parks as required by the Master Site Plan. Anything in the Town's Master Parks Plan notwithstanding, the Town acknowledges that it may not be in the interest of either the Town, Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, to precisely comply with the parks dedication requirements for

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each particular Development Phase by dedicating incremental, small, unusable parcels of land for parks. The parties intend that the dedication obligations of Owner/Developer and its successors in interest shall continue, unless park land is dedicated and accepted by the Town for parks purposes, and that the obligations shall be accounted for and fulfilled as provided in this section. No later than five (5) years after the execution of this Development Agreement Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, and who have applied for a Class II permit must have dedicated no less than eighty percent (80%) of the total amount of park land required by the Master Site Plan for the development of Owner/Developer's Properties approved by a Class II permit or individual building permit to that date. Thereafter, each subsequent development agreement for a Development Phase shall provide for the dedication of additional required park lands so that the eighty percent (80%) ratio of total dedication as required by the Master Site Plan to total land development approvals is maintained for Owner/Developer and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties. All of the required park land must be dedicated at or with the phase of development which results in Buildout. So long as it is not materially inconsistent with the provisions of the Master Site Plan the land dedicated for parks by Owner/Developer and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties shall be in such locations as specified in the Town's Master Parks Plan. A failure to dedicate park lands as required by this Section shall be grounds for the Town to deny the pending application and not execute the development agreement for the Development Phase.

2.6.7 Infrastructure Continuation. If the public infrastructure (e.g., roads, sewer and water lines, power lines, etc.) required to connect to a proposed Development Phase does not exist and the Town does not have at such time sufficient funds available or budgeted for construction of the required infrastructure, Owner/Developer and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties may be required as a condition of approval by the Town of the proposed Development Phase, to construct such infrastructure at the expense of Owner/Developer and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties. If Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, choose to construct such infrastructure, the Town shall create an impact fee credit or other cash

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payment mechanism, if legally possible, reasonably acceptable to Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, to insure that Owner/Developer, and/or assignees of Owner/Developer who have purchased portions of Owner/Developer's Properties, recover a reasonably proportionate share of the cost of such infrastructure from the owners of other properties who benefit from the construction of such infrastructure.

2.7 Process for Modifying the Master Site Plan.

2.7.1 Intent. The Town acknowledges that the Master Site Plan is a general outline of the proposed development of Owner/Developer's Properties with specific land uses permitted as defined on the Master Site Plan and Owner/Developer may make changes in the Master Site Plan so long as the total density, uses and exactions depicted and described in the Master Site Plan, as amended under the provisions of Paragraph 2.7 herein, are met with a minimum of process or unreasonable interference by the Town. Specifically, Owner/Developer is entitled to, and the Town hereby grants to Owner/Developer, the right to change and/or adjust the exact location of various development uses and densities under the provisions of this Development Agreement between or among Owner/Developer's Properties and their phasing within the Master Site Plan or its amendments approved pursuant to this section to reflect future changes in economic factors, development, ownership or other relevant matters so long as such changes do not require the uncompensated relocation of public improvements which have been constructed or materially and adversely impact other public improvements depicted and planned on the Master Site Plan.

2.7.2 Submittal of Form. Attached and incorporated by reference with this Development Agreement as Exhibit "3" is a form entitled "Proposed Modification of the Master Site Plan" ("Modification Application"). If Owner/Developer desires to materially modify the Master Site Plan as permitted by this Development Agreement, Owner/Developer shall submit a Modification Application together with the required Application fee to the Town.

2.7.3 Town Acceptance of Modification Application. Because of the size, complexity and potential scale and detail of the Master Site Plan and the size and complexity of potential changes to the Master Site Plan, the Town shall have thirty (30) calendar days after submittal of the

Modification Application to inform Owner/Developer of whether the Town considers the Modification Application to be complete. If the Town does not notify Owner/Developer in writing of any additional information required to complete the application the Modification Application shall thereafter be deemed complete. If the Town determines the Modification Application is not complete as submitted it shall notify Owner/Developer in writing within the thirty (30) days specifying in detail which portions are not complete, what required information is not contained or in what other specific details the Modification Application is alleged not to be complete. If the Town does not notify Owner/Developer in writing within Fifteen(15) days after submittal of the required additional information necessary to complete the Modification Application the Application shall be deemed complete. If the Town determines the required additional information for the Modification Application is not complete as submitted it shall notify Owner/Developer in writing within fifteen (15) days specifying in detail which portions are not complete, what required information is not contained or in what other specific details the Modification Application is alleged not to be complete.

2.7.4 Town Review. The Town shall have ninety (90) calendar days to review the changes proposed in the Modification Application after the Modification Application is accepted as complete or deemed complete. If the Town does not object within ninety (90) days, the final completed Modification Application shall be deemed accepted by the Town and shall constitute an amendment to the Master Site Plan, and an express waiver by the Town of the enforcement of any provisions of the Town's Development Code and the Town's General Plan which are in conflict with the amendment without any further action.

2.7.5 Town's Objections. If the Town objects to the Modification Application, the Town shall specify in writing in reasonable detail the reasons the Town believes that the proposal is not consistent with the Town's General Plan or other policies, plans and ordinances of general applicability allowed by this Development Agreement, the vesting intended by this Development Agreement and the Master Site Plan and does not meet the overarching goals of the Master Site Plan.

2.7.6 Meet and Confer. The Town and Owner/Developer shall meet within fourteen (14) calendar days of any objection to resolve the issues presented by the Modification Application and any of the Town's objections.


2.7.7 Arbitration. If the Town and Owner/Developer are unable to resolve the issues, the Parties shall attempt within seven (7) days to appoint a mutually acceptable land use planning expert to arbitrate the terms of the Modification Application. The party requesting the arbitration shall pay the fees to initiate the arbitration. If the parties are unable to agree on a single acceptable arbitrator they shall each, within seven (7) days, appoint their own individual land use planning expert. These two land use planning experts shall, between them, choose the single arbitrator. The chosen arbitrator shall within fourteen (14) days, review the positions of the parties regarding the proposal and issue a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, after consideration of such objections, the arbitrator's decision shall be final and binding upon both parties if it is in sufficient detail to constitute a Master Site Plan amendment. As part of the arbitrator's decision, the arbitrator shall determine the payment of the arbitrator's costs based on to the success or failure of each party's position in the arbitration.

2.8 Modifications to Town's Development Code.

2.8.1 Specific Modifications. This Development Agreement constitutes an express waiver by the Town, to the extent necessary to implement the intent of the parties in this agreement of certain sections of the Town's Interim Development Code and the provisions generally referred to below by subject shall also apply to any subsequent iteration of the Town's Development Code.

2.8.2 Deemed Approved. Any development application, subdivision plat or amendment, certificate of compliance, conditional use, variance, building permit or any other approval required from the Town which is requested by Owner/Developer and which is not denied by the Town within ninety (90) days after the submission of a completed application shall be deemed approved by the Town.

2.8.3 Review Costs. If any development application, subdivision plat or amendment, certificate of compliance, conditional use, variance, building permit or any other approval required from the Town is signed, endorsed, or certified by a person holding a State license or professional certification recognized by the State of Utah in the discipline which is required to state


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an opinion on the subject of the required approval, stating that the contents of the application comply with the applicable standards of the Town, then such application shall be deemed to meet the specific standards which are the subject of the opinion or certification without further objection or required review by the Town. If the Town, notwithstanding such certification, subjects the application to review by experts hired by the Town, the Town shall bear the entire costs of such review expert's fees unless the reviewing experts determine that Owner/Developer's expert certification was materially incorrect. If the Town's experts determine that there were material mistakes or omissions in the certification by Owner/Developer's experts the reasonable and actual costs of such experts or professionals review shall be the responsibility of Owner/Developer. The professional undertaking the review by the Town shall be selected from a list of qualified parties maintained by the Town and approved by Owner/Developer. If proposed experts are listed on the approved Town list who are not approved by Owner/Developer, Owner/Developer may veto any two of such parties and the disapproved experts shall not be used to review any submittal for the developers project. The cost of such review may be a factor in choosing the expert. If, under extraordinary circumstances specified in writing by the Town, the Town needs professional investigations to determine development impacts such as traffic, hydrology, drainage and other matters which are not required to be certified to by such professionals as part of a development application, the Town may engage such experts under the processes above with the actual and reasonable costs being the responsibility of Owner/Developer or Owner/Developers assignees who have purchased a portion of Owner/Developer's Properties.

2.8.4 Continuing Maintenance Requirements. The continuing maintenance provisions regarding improvements of Section IV.J of the Town's Development Code or any such similar provisions in any subsequent iterations of the Town's Development Code shall be construed to be limited to requiring continuing maintenance only during the one-year warranty period for such improvements provided in Section IV.I of the Town's Development Code.

2.8.5 Sales Based Upon Development Agreement. Anything in the Town's Development Code notwithstanding, Owner/Developer may sell any or all of Owner/Developer Properties prior to the installation of all improvements required to be eventually completed. This provision shall not apply to sales of finally or preliminarily approved subdivision lots or

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other parcels for individual residential or commercial use unless all required improvements are installed and approved by the Town or the installation costs are adequately secured as required in the Town's Development Code.

2.8.6 Further Agreements. Except for Development Agreements required as part of the class II development approval process, Owner/Developer shall not be required to enter into separate development agreements with the Town for the development of any portion or phase of the Master Site Plan including After-Acquired Properties. Class II permit Development Agreements shall not be inconsistent with the terms of this agreement or the Master Site Plan as it may be modified under the process provided in this agreement from time to time.

2.8.7 Improvement Security. Irrespective of the instrument or mechanism used by Owner/Developer to guarantee the completion of any required improvements Owner/Developer shall only have to post one hundred ten percent (110%) of the value of the improvements. Any such security shall be, at Owner/Developer's request, partially released pro rata as work proceeds, to a maximum of seventy-five percent (75%). Upon the completion of, and acceptance by the Town of the improvements the remaining portion of such security, except that retained to guarantee maintenance, not exceeding Ten percent(10%), during the one (1) year warranty provision, shall be released.

2.8.8 Effect of Invalidation of Improvement and/or Dedication Requirements. If any of the requirements in the Town's Development Code or any future iteration of the Town's Development Code regarding dedication of land for public improvement and/or construction of such public improvements by a developer or property owner are amended or withdrawn by the Town or rendered partially or wholly unenforceable by subsequent court decision or by Federal, State or County statute or regulation Owner/Developer shall be relieved of the requirement to the same extent as any other developer of property within the Town regarding all such improvements not yet dedicated or constructed.

2.8.9 Matters Uncompleted in Town's Development Code. Owner/Developer shall be required to comply with any subsequent iteration of the Town's Development Code concerning those portions which generally apply universally to all developments in the Town, which were either left blank and/or designated as "RESERVED FOR FINAL CODE" in


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Ordinance No. ____ of 1997, provided that if any section described herein operates to reduce the development density, increase the exactions or dedications or modify the uses approved in the Master Site Plan or this Development Agreement, that section shall be deemed to be waived by the Town in so far as it applies to the Owner/Developers Properties.

2.9 After-Acquired Properties.

2.9.1 Town Acknowledgment. The Town acknowledges that Owner/Developer may acquire properties within the Town after the date of this Development Agreement.

2.9.2 After-Acquired Islands or Peninsulas. After-Acquired Properties which constitute either islands or peninsulas (peninsulas for the purpose of this Section are properties surrounded on three sides for not less than 60% of the total circumference of the property by property owned by the Owner/Developer as of the date of this Development Agreement) within Owner/Developer's Properties depicted on the Master Site Plan shall acquire the same average density and general use characterizations as then designated for the adjacent Owner/Developer's Properties. The new residential units or other uses on After-Acquired Properties shall be in addition to the number of units and uses allowed on Owner/Developer Properties by the Master Site Plan.

2.9.3 Non-Island or -Peninsulas. After-Acquired Properties which do not constitute islands or peninsulas within Owner/Developer's Properties shall have the densities, development requirements and uses provided by the Town's then-current Town's General Plan and Town's Development Code.

2.9.4 Alternative Method for Determining Uses and Densities. As an alternate to the method described above for determining the uses and densities of After-Acquired Property, Owner/Developer may, in Owner/Developer sole discretion, submit to the Town a proposed Modification Application pursuant to Section 2.7 above.

2.10 Application Under Future Town Development Codes. Without waiving any rights granted by this Development Agreement, Owner/Developer may from time-to-time or at any time, choose to submit some or all of Owner/Developer's Properties for development under the version of the Town's Development Code existing at the time of the application.

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3.0 Rights and Responsibilities of Town.

3.1 Ordinances of General Applicability. This Development Agreement shall not limit the future exercise of the police powers of the Town to enact ordinances, standards or rules regulating development generally applicable to the entire area of the Town such as requiring compliance with the Town capital facilities plan, parks master plan, including parks and trail dedications, utility construction and connections, mandating utility capacities, requiring street development or other such similar rules so long as these ordinances or rules do not reduce the units of development, uses or materially increase the amount of exactions or dedications vested in Owner/Developer under this Development Agreement or the Master Site Plan.

3.2 Impact fees. This Development Agreement shall also not be construed to prohibit the Town from adopting lawfully imposed impact fees applicable to the Owner/Developers properties.

3.3 Statement Regarding "Compelling, Countervailing Public Interests". The Town acknowledges that it is familiar with the "compelling, countervailing public interest" test that is generally an exception to the doctrine of Vested Rights in the State of Utah; the Town acknowledges that as of the date of this agreement, the Town Council can foresee no facts under which a desire by the Town to modify Owner/Developer's rights under this Development Agreement and/or Master Site Plan would be justified by a "compelling, countervailing public interest".

3.4 No Recommendation of Adverse Law. The executive departments of the Town shall not initiate or favorably recommend to the Town Council, Planning Commission or any other body including, without limitation, Utah County or the Utah State Legislature, any legislation, rule or action which would adversely impact the densities, land uses or amounts of exactions or dedications vested under this Development Agreement and the Master Site Plan.

4.0 Miscellaneous.

4.1 Authority. The parties to this Development Agreement each warrant that they have all of the necessary authority to execute this Development Agreement. Specifically, on behalf of the Town, the signature of the Mayor of the Town is affixed to this Development Agreement pursuant to Resolution No. ___ adopted

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by the Town Council on December ___, 1997 and is approved as to form and as to being lawful and binding on the Town by the signature of the Counsel for the Town.

4.2 Assignability. The rights and responsibilities of Owner/Developer under this Development Agreement may be assigned in whole or in part, by Owner/Developer with the consent of the Town. The Town may only withhold its consent if the Town is not reasonably satisfied of the assignees financial ability to perform the obligations of Owner/Developer. Owner/Developer shall notify the Town of any proposed assignment. Unless the Town objects in writing within thirty (30) days the Town shall be deemed to have approved of and consented to the assignment. Owner/Developer's selling or conveying individual parcels or tracts of lands to builders, users, or developers, shall not be deemed to be an "assignment" subject to the above referred approval by the Town unless specifically designated as an assignment by the Owner/Developer. Further, when Owner/Developer sells or conveys individual tracts or parcels of lands to such builders, users or developers, the lands so sold and conveyed shall bear the same rights, privileges, uses, configurations, and densities as applicable to such parcel and be subject to the same limitations and rights of the Town when owned by the Owner/Developer and as set forth in this Development Agreement without any required approval, review, or consent by the Town except as otherwise provided herein.

4.3 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.

4.4 Remedies Upon Default. In the event of the default by any party to this Development Agreement, the non-defaulting party shall be entitled to collect from the defaulting party its provable damages, including, but not limited to, its reasonable attorneys' fees and expenses. In addition, the parties acknowledge that the remedies of damages may not always be sufficient and the parties hereby consent to the Court's imposition of specific performance and/or injunctive relief. All rights and remedies under this Development Agreement, and/or statute or common law shall be deemed cumulative and the selection of one of the rights or remedies shall not be deemed a waiver of any other right or remedy.

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.


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4.6 Term of Agreement/Retroactivity. This Development Agreement shall be deemed to have commenced on October 7, 1997 and shall extend for a period of 20 years or until Buildout, whichever comes first.

4.7 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.

4.8 No Joint Venture/No Third Party Beneficiaries. This Development Agreement does not create a joint venture relationship, partnership or agency relationship between the Town and Owner/Developer. 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 Town has no interest in, responsibility for or duty to any third parties concerning any improvements to Owner/Developer's Properties unless the Town has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the Town's. Owner/Developer shall have the full and exclusive control of all of Owner/Developer's Properties.

4.9 Recordation and Running With The Land. This Development Agreement shall be recorded in the chain of title for all of Owner/Developer's Properties described in Exhibits "1" and "2" and Owner/Developer may also record this Development Agreement in the chain of title for any After-Acquired Property. This Development Agreement shall be deemed to run with the land.

4.10 Prior Agreement Amended and Superseded. The Prior Agreement is hereby amended and superseded except that if any or all of this Development Agreement is declared unenforceable provisions of the Prior Agreement related to the same subject shall be revived and reinstated.

4.11 Entire Agreement. This Development Agreement is the Entire Agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.


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4.12 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.

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

4.14 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 Town:

Mayor Debbie Hooge
Town of Eagle Mountain, Utah
7827 North Cedar Pass Road
Eagle Mountain, UT 84043

With Copies to:


Gerald H. Kinghorn
Parson, Davies, Kinghorn & Peters
185 South State Street, Suite 700
Salt Lake City, UT 84111

Owner/Developer:

John W. Walden
502 East New Haven Avenue
Melbourne, FL 32901

With Copies to:

Bruce R. Baird
Bruce R. Baird, PC
201 South Main, Suite 900
Salt Lake City, UT 84111-2215


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

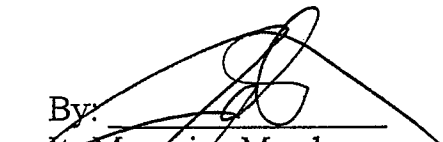
Made and entered into as of the date and year first written above.

Owner/Developer:

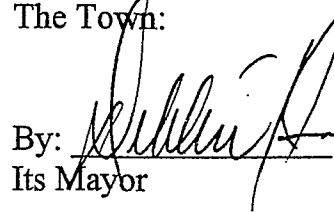
Eagle Mountain Properties, L.L.C.

By: 
Its Managing Member

Monte Vista Ranch, L.L.C.

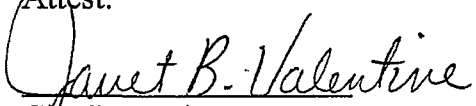
By: 
Its Managing Member

The Town:

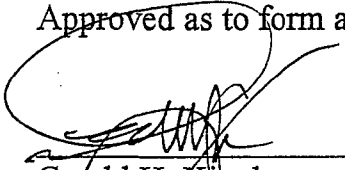
By: 
Its Mayor



Attest:


Janet B. Valentine
City Recorder

Approved as to form and legality:


Gerald H. Kinghorn
Special Counsel for the Town

PARSONS, DAVIES, KINGHORN & PETERS

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STUART W. HINGALEY
R. KIMBALL MOSIER
RONALD F. BRICE
KATHERINE S. GREGORY
PAIGE BIGELOW

October 17, 1997

John Walden
Managing Member of Monte Vista Ranch, L.C.
and Eagle Mountain Properties, L.C.
Park City, UT 84098

RE: Town of Eagle Mountain

Dear Mr. Walden:

In our meetings and negotiations drafting the final documents to purchase the municipal systems and roads from Eagle Mountain Properties and Monte Vista Ranch in preparation for closing the bond anticipation notes by the Town, we have discussed many issues which need resolution. We have tentatively agreed on a number of matters which need further documentation between the Town of Eagle Mountain and Eagle Mountain Properties, L.C. and Monte Vista Ranch, L.C. This letter is our attempt to list each of those matters with the exception of the revision of the Development Agreement between Eagle Mountain Properties and the Town of Eagle Mountain and the Water Agency and Equity Participation Agreement between Cedar Valley Water Company and the Town of Eagle Mountain. The revision of the Development Agreement and Water Agency and Equity Participation Agreement await the written proposal from your counsel.

Eagle Mountain Boulevard Extension Agreement - We have agreed that the Town will enter into an extension agreement with you which will require other property owners that benefit from Eagle Mountain Boulevard to repay to you through the Town their proportionate share of the costs you incurred in connection with the acquisition of land for and the construction of Eagle Mountain Boulevard. When the extension agreement is executed you will deed to the Town the balance of the land necessary for the 125 foot right-of-way to expand the existing 93-foot right-of-way to the full width needed by the Town. The dedication of the 125 foot right-of-way will eliminate protection or spite strips which you

John Walden

Managing Member of Monte Vista Ranch, L.C. and Eagle Mountain Properties, L.C.

October 17, 1997

Page 2

own between Eagle Mountain Boulevard and other private property owners. Two issues which need to be resolved are the formula for the benefits to be received by other property owners, which is principally an engineering issue and the question of the extent to which land values and fencing costs may be taken into consideration when the Town requires other property owners to pay back the costs of the land and roads.

Fire Station Utilities Costs - The cost of extending water, sewer, power, telephone and natural gas to the Fire Station will be reimbursed to you in part under a line extension agreement which will require other developers in the commercial core of the Town to repay their fair share of such utilities or from future revenue bonds for the cost attributable to governmental buildings which benefit from the extension of such utilities. Our intent is to assure that all parties, whether governmental or private, pay for the benefits they receive from the investment you advanced to extend utilities to the fire station. If the cost of those utilities had been included in the initial bond anticipation notes, those costs would have been a part of those notes.

Extension Agreement on Power and Telephone of Eagle Mountain Boulevard - The Town will negotiate and execute an extension agreement which will repay you for the cost of the power and telephone in Eagle Mountain Boulevard which has not been reimbursed under the initial bond anticipation notes. That formula will be developed by engineers to show the persons who benefit from those facilities. The Town will be responsible for the collection of payments and the reimbursement to you for the proportionate benefit received by others for the power and telephone systems in Eagle Mountain Boulevard not paid for in the 1997 Bond Anticipation Note Proceeds.

Land Values Under Core Systems - The Town will need to enact an impact fee system to require other developers to contribute their fair share to the cost of core infrastructure development. The value of land which you donated for the development of those systems, will be taken into consideration as a credit for you in the impact fee system under our Utah law. We need to negotiate the value of that land and the exact amount of credit you will receive, but it is the intent of the Town to comply with the law and credit you with the value of such land toward any future impact fees under the Town impact fee system.

Sweetwater Road Costs - The Town intends and has stated its intention in the current series of bond anticipation notes, to issue additional bond anticipation notes in 1998. In the bond anticipation notes, the Town intends to issue in 1998, the Town will repay you for the cost of the Sweetwater Road which was not included in the 1997 bond anticipation notes.

PARSONS, DAVIES, KINGHORN & PETERS

John Walden

Managing Member of Monte Vista Ranch, L.C. and Eagle Mountain Properties, L.C.

October 17, 1997

Page 3

If the parties are unable to agree on the land values which are necessary for discussion under this agreement, the parties will retain an MAI appraiser to give an opinion of value which shall be the value for the land.

This letter constitutes the understanding of the Town with you with respect to the issues described in this letter and we will diligently work toward the accomplishment of the matters described here as soon as possible after the closing of the 1997 bond anticipation notes.

Very truly yours,

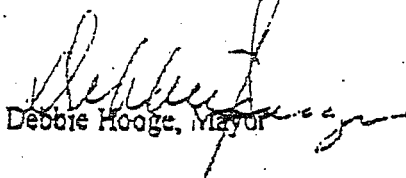
PARSONS, DAVIES, KINGHORN & PETERS



Gerald H. Kinghorn

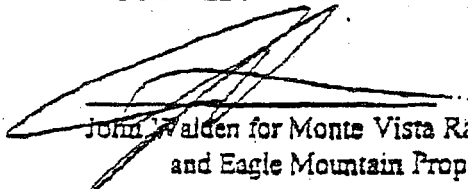
Special Counsel to the Town of Eagle Mountain

TOWN OF EAGLE MOUNTAIN



Debbie Hooge, Mayor

ACCEPTED:



John Walden for Monte Vista Ranch, L.C.
and Eagle Mountain Properties, L.C.

GHK:cjg

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BRUCE R. BAIRD

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TELEPHONE (801) 328-1400

FAX (801) 328-1460

October 20, 1997

Gerald H. Kinghorn, Esq.
Parsons, Davies, Kinghorn & Peters
185 South State Street, Suite 700
Salt Lake City, UT 84111

HAND DELIVERED

Re: Town of Eagle Mountain
Clarification of October 17, 1997 letter to John Walden and additional provisions
(Fourth iteration)

Dear Gerry,

I am special counsel to Eagle Mountain Properties, L. C., (the "Developer") Monte Vista Ranch, L. C., (the "Owner") (sometimes collectively "Owner/Developer") and the Cedar Valley Water Company, L. C., (the "Water Company") on certain matters related to the Town of Eagle Mountain. In that capacity I have reviewed your above-referenced letter. This letter amends and clarifies three specific portions of that letter and also deals with the three other matters. Two of these additional matters were briefly mentioned, but not specifically resolved, in the last paragraph of your October 17 letter; the third was raised earlier in a conversation between you and Eric Jones on September 26, 1997. For convenience and consistency I have maintained the same section headings that you used in your October 17 letter for the three items amended here.

Preliminary, my clients desire that the positions, intentions and commitment expressed in this letter and in the October 17 letter (except as the same in that letter are modified by this letter) be considered binding upon the parties subject only to ratification by the Town Council at a meeting to be called as soon as possible. That is, these two letters will, upon ratification, be generally enforceable in themselves and as they modify the terms of other related documents. Further, the parties mutually agree to use their best efforts to finalize these understandings into more detailed contracts, ordinances and any other necessary documentation within the next thirty (30) days.

If the terms of this letter meet with your agreement, and that of the Town, please so indicate by signing, and having your client also sign, where indicated on the last page.

Modifications of October 17, 1997 letter.

Eagle Mountain Boulevard Extension Agreement. The October 17, 1997 letter discusses an elimination of the "protection" strips upon their dedication to the Town of the balance of the full 125 foot right-of-way for Eagle Mountain Boulevard. In return for eliminating these strips,

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the Town agrees to create some other mechanism to insure that my clients are repaid for their investments in creating this street. Your October 17 letter refers generally to these potential future mechanisms as "extension agreements". The intent of these "extension agreements" is to require future third-party users of Eagle Mountain Boulevard (and other similar facilities) to contribute a fair pro-rata share of the costs of creation and construction of such facilities subject to a formula to the subsequently agreed upon.

Other than by the use of protection or holding strips (or through Special Improvement Districts), I am unaware of any mechanism to insure such payment. Accordingly, neither Eagle Mountain Properties nor Monte Vista Ranch will relinquish such protection strips without sufficient assurances that they are protected in this intent.

Specifically, this protection must include a binding opinion letter from counsel for the Town, satisfactory to counsel for Owner/Developer that the alternative enforcement mechanism proposed by the Town is enforceable and provides Owner/Developer the same degree of assurance of reimbursement as afforded by the protection strips to be relinquished. Further, the Town must agree that if the alternative enforcement mechanism is declared unenforceable the Town shall be liable to Owner/Developer in the same amounts as would have been paid under both the relinquished protection strips and the alternative enforcement mechanism. Again, counsel for the Town must provide a binding opinion letter that this backup guarantee is a legal obligation of the Town.

Without both of these assurances Owner/Developer will not convey the protection strips to the Town. The burden of providing these assurances and supporting documentation prior to Owner/Developer relinquishing the protection strips shall be on the Town.

Land Values Under Core Systems. Inadvertently omitted from the provisions of this section of your letter agreeing to grant my clients a credit against future impact fees for the land values of properties donated by my clients underlying the core infrastructure development of the Town was any reference to the costs of the fire station also constructed by my clients. The value of that fire station, including, but not limited to, the underlying land, (less any monies paid for the station by the Town) will also be credited against any impact fees.

(Unspecified heading). The reference to an MAI appraiser to determine the credit value of the land should include the stipulation that if the parties are unable to agree upon a single MAI appraiser each party shall appoint an MAI appraiser who shall, between them, appoint a single MAI appraiser to perform the appraisal functions specified in the October 17, 1997 letter. Further, the Terms of Reference for the single appraiser, if such cannot be agreed upon by the parties, shall also be jointly determined by the separate appraisers appointed by the parties. The opinion of the single MAI appraiser shall be conclusively binding upon both parties not subject to any review.

JW
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MAI 10/20/97

Additional items of agreement.

Development Agreement. The Development Agreement dated October 17, 1997 shall be modified to reflect the following concerns. First, the Development Agreement needs to clearly state that the Eagle Mountain Development Master Plan (the "Master Plan") is a general outline of the proposed development of the project and Owner/Developer should be granted flexibility to make changes, so long as the overarching goals of the Master Plan are met, with a minimum of process or unreasonable interference by the Town. Specifically, Eagle Mountain Properties and Monte Vista Ranch each need the ability to adjust the exact locations of various development items within the Master Plan, and the phasing of these elements to reflect future changes in economic, development or ownership issues.

So long as any proposed change to the Master Plan is materially consistent with the original Master Plan, areas designated for particular uses and particular densities may be moved within the project ~~for~~ to after-acquired properties without the need for a formal amendment to the Development Agreement or Master Plan subject to the following process. Any such modification shall be submitted by Eagle Mountain Properties or Monte Vista Ranch on a form agreed to by them and the Town which shall be incorporated in the amended Development Agreement. If the Town does not indicate that any material information is lacking from the form within fourteen (14) days of submittal, the submission shall be deemed complete and the Town shall, thereafter, have ninety (90) days to review the submission. If the Town does not object to the submission within that time the submission shall be deemed approved and shall constitute an amendment to the Development Agreement and the Master Plan without any further action. The modified Development Agreement shall establish a process for resolving any objections by the Town of any such submissions. The Town shall maintain a record of all such submissions and actions thereon.

The Development Agreement shall also be modified to provide that the average density and general usage configurations of the Master Plan also apply to any after-acquired property currently surrounded by or contiguous with properties owned by Eagle Mountain Properties and/or Monte Vista Ranch or can be included by the submission procedure specified above. After-acquired properties lying primarily inside (either as islands or peninsulas) properties currently owned by Owner/Developer shall carry the same average densities as allowed under the Master Plan. After-acquired properties not constituting islands or peninsulas within Owner/Developer properties currently in the Master Plan shall carry the densities and uses provided by the Town's current General Plan as may be amended from time to time.

Further, the modified Development Agreement shall clarify the existing intent of the parties that the overall built-out density of the project does not need to be maintained in any individual phased submission for the project. Eagle Mountain Properties and/or Monte Vista Ranch can submit individual phases consistent with the Master Plan of whatever individual density otherwise complies with applicable zoning in their absolute discretion so long as the final built-out density for the entire project is maintained.

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Handwritten initials and date: JAW 10/20/97

Also, the Development Agreement shall further be amended to provide that the executive departments of the Town shall not initiate or favorably recommend to the Town Council, Planning Commission or any other body including, without limitation, Utah County or the Utah State Legislature, any legislation, rule or action which would adversely impact Owner/Developer's rights under the Development Agreement and/or Master Plan. This provision shall not be construed to prevent the Town from enacting any ordinance, standard or rule regulating development generally applicable to the entire area of the Town such as requiring utility connections, utility capacity, street development or other such similar rules so long as these ordinances or rules do not materially interfere with Owner/Developer's rights under the Development Agreement or Master Plan. The Town shall join Owner/Developer in any appeal of any such adverse legislation, rule or action enacted or adopted by any third-party.

Future Utility Users. The Town acknowledges that Eagle Mountain Properties, Monte Vista Ranch, John W. Walden individually and other related parties are financially obligated under various guarantees related to bonds which have been sold for certain utility systems in the Town. The Town further acknowledges that it would be unfair to allow future users of utility services to tie into or be allocated resources from these utility systems without in some way relieving the guaranteeing parties of a proportionate share of the guarantee or requiring similar guarantees or payments from the subsequent connectors or users. The Town shall create a mechanism to provide the required element of fairness.

Cedar Valley Water Agreement. The Water Agency and Equity Participation Agreement (the "Water Agreement") effective as of July 30, 1997 shall be modified to insure, to the maximum extent possible, that goals of the Water Company as set out in this letter are met. Specifically, the parties acknowledge that the Water Company has a unique asset in its existing well site, the well structure itself and the existing water rights. Owner/Developer also intends to acquire significant additional volumes of water rights and other wells for its benefit and for the benefit of the Town as required by the Town with the agreement of Owner/Developer.

The Water Company desires to protect the unique well site, and other such similarly unique well sites which may be acquired in the future and to recapture its investment in both the well and the water. The Town acknowledges that the Water Company's goals expressed above are also beneficial to the Town. The Town therefore intends, as soon as possible, to enact such ordinances or create such other mechanisms as may be reasonably necessary to provide that any other party desiring to use water within the Town contributes appropriately to meeting the Water Company's needs stated above, insuring the usability of the well site(s) for the Eagle Mountain Properties and Monte Vista Ranch developments and to adequately compensate the Water Company for the depreciation or depletion factors occasioned by the additional users of the well site(s) and/or structure(s).

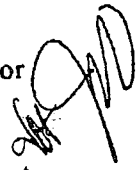
To insure that these goals are met, the Town agrees that the Water Agreement shall be amended in the following three specific ways:

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JW 10-20

1. In consideration of the immediate transfer to the Town of an undivided fifty percent (50%) interest in the well site, other existing and future transfers of water rights held or to be acquired, and the significant value of the well site and well structure, the Town shall relinquish any claim in the Water Agreement to any equity position in the Water Company. Alternatively, the Town, if it desires to maintain its interest in the Water Company, shall consent to an amendment of the Articles and Operating Agreement of the limited liability company providing for: 1) a right of first refusal to the Owner/Developer of the interests of the Town in the Water Company; 2) a dispute resolution mechanism to insure the continued liability and operation of the Water Company in the event of a disagreement between the owners of the Water Company; 3) an option for the Owner/Developer to purchase any interests of the Town in the Water Company in the event of an irreconcilable difference of opinion regarding the operation or management of the Water Company; and, 4) the right of Owner/Developer to require the Water Company to not approve the placement for diversion into the well (or future well sites) any water share rights from any third-party unless the Owner/Developer and/or the Water Company is compensated to the extent (though not necessarily through the exact same mechanism) that is currently provided in the existing Water Agreement.

2. The Town shall not challenge or assist in any challenge of the existing Water Agreement, including these amendments, and/or any successor agreement. Further, the Town, to the maximum extent legally permissible, shall actively participate and affirmatively support the enforcement of the existing Water Agreement (including these amendments) and/or any successor agreement in any filed or threatened action or litigation by any third-party against the Water Company or in any challenge to any compensation paid or to ~~the~~ paid to the Water Company, whether such action is to interpret, enforce, modify, terminate, void or otherwise adversely impact the rights of the Water Company and/or Owner/Developer to receive the compensation and rights specified in the Water Agreement as amended by this letter or in the subsequent agreement.



3. In the event the existing Water Agreement either with or without these amendments or the subsequent agreement contemplated by this letter is found or declared by any Court or administrative agency to be unenforceable, is otherwise rendered unenforceable by subsequent legislation or if any compensation paid to, or rights accrued by, the Water Company and/or Owner/Developer are reduced by any such declaration or legislation the Town shall be liable to the Water Company and/or Owner/Developer for the value of any such compensation or rights lost in an amount to be determined by the court.

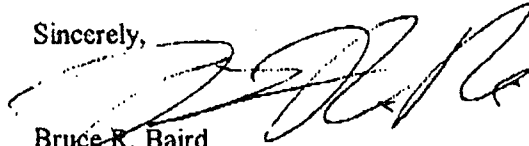
The enforceability of these provisions must be opined to by counsel for the Town.

I trust that these items are acceptable to both you and your client. If they are not, please call either me, John Walden or Eric Jones as soon as possible. Otherwise, I look forward to the return of this letter from you executed as indicated below.

John Walden
10/20/97

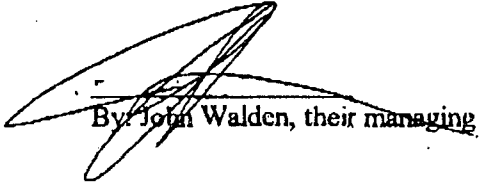


Sincerely,



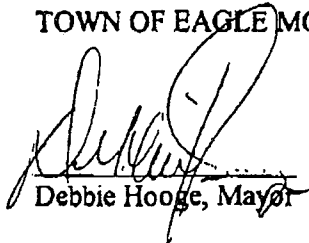
Bruce R. Baird
Special Counsel for Eagle Mountain Properties,
L. C.; Monte Vista Ranch, L. C.; and, Cedar Valley
Water Company, L. C.

Eagle Mountain Properties, L. C.; Monte Vista Ranch, L. C.; and,
Cedar Valley Water Company, L. C.



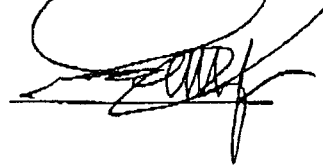
By: John Walden, their managing member

TOWN OF EAGLE MOUNTAIN



Debbie Hooge, Mayor

PARSONS, DAVIES, KINGHORN & PETERS
Special Counsel to the Town of Eagle Mountain



SA 10/20/97

CHAPTER V - ZONING DISTRICTS AND MAP

A. What This Chapter Does. This chapter establishes zoning districts and zoning overlays in Eagle Mountain by adopting an official zoning map. It also provides a procedure for the interpretation of zoning district boundaries.

B. Zoning Districts. The following zoning districts and their boundaries, as shown on the Official Zoning Map of Eagle Mountain, Utah, are hereby established:

1. Manufacturing & Industrial; Airpark PUD; Satellite Commercial; Entry Commercial; PUD Campus; Commercial Core; Residential; Resort Mixed Use; the uses establishes are described and defined as follows:

a. Summary of Allowable Uses. The Eagle Mountain Development Code delineates standards for development which require open space preservation. The development pattern encouraged by the code will be compact, with small lot residential development in the town core. The higher density, more compact form of development is intended to make the open spa" and trail network economically feasible. Open space and recreational uses are encouraged in all Eagle Mountain land use designations.

i. Airpark. The Airpark Zone is intended to provide sites for offices, professional services, light manufacturing, warehousing, lodging, restaurants, and residential uses with the option of taxiway access. All development within the Airpark Zone must comply with height restrictions and FM requirements for runway protection. The Airpark Zone is to be a high amenity environment for mixed use development. Uses allowed within the Airpark include, but are not limited to, the following.

- Aviation Services
- Aircraft Sales & Service a Corporate offices
- Restaurants
- Lodging a Light Manufacturing a Warehousing
- Residential

ii. Business Park. The Business Park Zone is intended to provide a campus style environment for business, research, professional offices, and light manufacturing. Uses in the Business park Zone are approved by compliance with the standards set forth in the development code. The Business Park designation can also accommodate services such as restaurants and day care for the convenience of employees. The following conditional us" are allowed within the Business Park Zone, subject to the performance criteria.

- Restaurants
- Delicatessens
- Coffee Shops
- Lodging Facilities
- Day Care Facilities
- Medical and Dental Clinics
- Veterinary Services
- Computer and Equipment Sales and Repair

Uses that can be developed in a manner deemed compatible with the design standards for the Business Park Zone may be allowed as a conditional use.

iii. Downtown Commercial Core. The Downtown Commercial Core is intended to be developed at a higher density with two story buildings considered to be a minimum

9/30/97

building height. Allowable uses include retail sales and service businesses, professional offices, restaurants, theaters, and galleries. Mixed use developments are encouraged within the Downtown Commercial Zone. In addition to the usual retail and service businesses of a downtown core area, compatible residential uses are permitted.

The following are examples of the range of uses allowed in the Downtown Core. Other compatible uses meeting the performance standards can be approved as conditional uses.

- Retail Trade
- Services
- Professional offices
- Eating & Drinking Establishments
- Entertainment
- Hotels
- Apartments and Condominiums
- Banks
- Theaters
- Galleries and Studios

iv. **Industrial.** The Industrial Zone is designed to accommodate industrial and manufacturing uses that cannot fit within the performance standards for other land use designations. Industrial processes that generate noise or require the use of materials and equipment that must be stored on site can be accommodated within the Industrial Zone. Generally uses that cannot fit into other zone, due to scale and character will be accommodated within the Industrial Zone.

Typical examples of the uses allowed within the Industrial Zone include, but are not limited, to the following.

- Manufacturing
- Heavy Equipment
- Lumber & Building Material Sales
- Warehousing
- "Big Box" Retailing
- Concrete Batch Plants

v. **Residential.** The Residential Zone is for development of housing and other compatible uses. The performance standards of the Eagle Mountain Development Code require residential scale and character for development within the Residential Zone. Residential neighborhoods may be multi-family structures, higher density single family homes, or homesites on acreage. The following conditional uses are allowed within residential neighborhoods providing the requirements for compatibility can be met.

- Grocery Stores
- Delicatessens
- Restaurants
- Coffee Shops
- Professional offices
- Day Care Facilities
- Art & Craft Studios

Other uses that can meet performance criteria for compatibility may be approved.

9/30/97

vi. **Resort Commercial.** The Resort Commercial designation is to accommodate the development of lodging facilities and the hospitality industry. Within this zone there will be hotels, restaurants, and commercial uses generally oriented to ward tourism. Additionally, residential uses and condominium development will be allowed within the Resort Commercial designation. The resort Commercial Zone may include golf courses and golf facilities including transient lodging and residential uses. Resort areas are by nature places requiring high quality amenities.

Generally permitted uses within the Resort Commercial Zone will include uses with the scale and character of the following.

- Hotels
- Bed & Breakfast
- Eating & Drinking Establishments
- Condominiums
- Gift Shops
- Golf Course
- Residential
- Professional offices

vii. **Satellite Commercial.** The Satellite Commercial Zone is intended to provide space for businesses that need more of a highway or major arterial orientation than the Downtown Core or the Business Park. The Satellite Commercial Zone allows all the uses permitted in the Downtown Core. Additionally, Satellite Commercial permits automobile dealers and repair services. Satellite Commercial is not intended to allow the "strip mall" style development. Various building heights are allowed. The following are examples of Satellite Commercial allowable uses.

- Auto Dealerships & Repair Services
- Gas Stations
- Retail Trade
- Services
- Professional Offices
- Eating & Drinking Establishments
- Entertainment
- Hotels
- Supermarkets
- Banks
- Theaters
- Galleries and Studios

→ **b. Designations:**

i. **Airpark** The airpark design concept is to offer office and business locations with collocation of corporate workspace and aircraft hangars. Taxiway access for business aircraft is one of the advantages this area provides. In addition to the aviation related functions to be accommodated in the air park, the design/development standards will encourage a variety of uses to make the air park a functional business environment offering a diversity of aviation and non aviation services including the uses described in the Business Park area, light manufacturing, professional offices, restaurants, and lodging.

The development standards will specify landscaping, setbacks, and parking design requirements for the air park. Setbacks and the physical requirements of taxiway corridors will dictate some of the design standards within the Airpark.

9/30/97

The airpark will also include an area(s) for residential development with the option of taxiway access. All building in the Airpark shall meet all setback and height requirements of the FM as described in the airport layout plan.

ii. **Business Park** The purpose of the Business Park designation is to establish a very high amenity environment for businesses, professional offices, research facilities, and other compatible uses.

The Business Park area is to be low density development. Due to the mix of building sizes likely to occur in this use designation the performance standards will establish a combination of floor area ratio and impervious surface percentage to determine the maximum utilization of a site.

The Business Park, while primarily a location for business, technology, and research facilities, can allow services such as restaurants, lodging, and other uses able to meet the requirements of the performance standards.

Parking areas shall be visually screened by vegetation, berms, and walls. Parking lots shall include interior and perimeter landscaping. The number of required parking spaces and standards for parking area design shall be established by industry standards for each use and the landscape standards in the Eagle Mountain Development Code.

Signs erected within the Business Park area are primarily for identification, not advertising. Signs adjacent to streets are to be landscaped monuments using materials and colors relating to the buildings. The only illumination allowed shall be external lighting, neon and internally illuminated signs are prohibited. Monument signs, exclusive of the monument structure, cannot exceed 20 square feet per sign face for a single business. Monument signs for complexes containing several businesses may have a faces of up to 30 square feet. Monument signs located in landscaped areas, at a distance of more than 50 feet from the street and signs on buildings will be granted square footage on the basis of design review and the standards of the Signage Standards of the Eagle Mountain Development Code.

Projects in the Business Park area shall dedicate an amount equivalent to 1% of the building cost for public artwork to be located at or near the building(s), or within public areas of the Town of Eagle Mountain as approved by the Planning Commission and the Design Review Board.

iii. **Commercial Core** The "Downtown" The purpose of the Commercial Core or Downtown designation is to lead to the creation of a pedestrian friendly commercial center for Eagle Mountain. The appropriate uses for the commercial core location are the usual downtown businesses, offices, governmental functions, restaurants, retail shops, professional services and entertainment. Downtown Commercial Core buildings shall be at least two stories. Upper levels of Commercial Core businesses may include any of the normally permitted uses of the Commercial Core use designation. Additionally, the upper levels may include residential use such as apartments and condominiums. other uses can be allowed in the Commercial Core area by addressing the performance standards.

The downtown commercial core will develop around a town square, or a series of squares. Buildings will generally be constructed with no front setback. Side and rear setbacks will be determined on the basis of compatibility with adjacent uses and the proposed use of the space within the building setback. Because the downtown is essentially a public space, each building project will be required to provide certain public amenities. The public amenities can include mini parks and outdoor eating

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areas. Each building project will contribute a minimum of 1% of the project cost for public artworks at or near the site.

Parking for commercial core development shall be behind the buildings. In no case will a building be granted a front setback to accommodate parking. The downtown commercial core blocks will be large enough to have a perimeter of buildings surrounding a interior block parking area. The block interior parking area shall be landscaped in accordance with the parking and landscape standards in the Eagle Mountain Development Code. The Landscaping Standards of the Eagle Mountain Development Code require trees, street furniture, and planting along the pedestrian space in front of, and adjacent to, buildings in the downtown commercial core.

The overriding emphasis of the commercial core development standard is that the downtown be built to a scale dedicated to the use by humans rather than being reserved almost exclusively for automobiles. The open town squares will be public space consisting of landscaping, playground equipment, sitting areas, and recreation areas

Signs allowed in the downtown commercial core area can be mounted flush to the building front surface. Such building signs shall not exceed XX% of the front surface. Commercial core businesses may have externally lighted signs that overhang the building line up to a maximum of 4 feet. Neon signs may be placed inside business windows, such signs shall be no larger than 4 square feet. Neon lettering may be placed on building fronts, but shall be placed no higher than the floor line of the second story or a maximum height of 12 feet above the sidewalk. Such wall mounted neon signs may not exceed 18 vertical inches. Internally illuminated lettering will be allowed and shall follow the same general guidelines for signs described in the development code. Moving, flashing, and portable signs are prohibited. Internally illuminated awnings are prohibited.

iv. **Industrial and Manufacturing** The industrial and manufacturing area allows heavy industrial uses that would require equipment and services that would not be acceptable in the other use designation areas. This designation can accommodate warehousing and other large buildings. Large warehouse style retailing operations not allowed within the Downtown or Satellite Commercial areas could fit into the Industrial/manufacturing use area.

Within the Industrial and Manufacturing Zone parking areas may be located between the building and the street. Parking lots shall have perimeter landscaping that shall include trees spaced no more than thirty feet apart. The number of parking spaces to be required shall be determined on the basis of standards established for each particular use or type of industry.

v. **Residential** The Residential land use designation allows development that conforms to the codes performance standards for residential development. Residential scale and character are the primary criteria for development in this zone. The Residential Zone allows limited commercial uses to be located within the zone designation. The neighborhood grocery (not convenience markets), coffee shops and restaurants are appropriate uses within this designation. other commercial uses could include professional offices, fitness centers, arts and crafts studios, galleries, and day care facilities. The mix of commercial and residential uses must maintain the scale and character of the neighboring residential uses.

All commercial uses shall be built in a style reflective of, and consistent with, the neighboring residential structures. Commercial uses will be allowed signs to identify the business. Signs erected in the Residential Zone shall comply with the development

code. Signs may be plaques mounted on the building at the primary entrance, or signs may be monument style. Monument style signs shall be part of the landscaping plan and shall be constructed of the same materials and utilizing the same color schemes as the adjacent buildings. Only external illumination is allowed. See Sign Code for specific details for commercial sign age in the Residential Zone.

Parking lots associated with any commercial or business use in the Residential Zone area must be located behind buildings so as to be hidden from the street view. Parking lots shall be landscaped in accordance with the Landscape Standards of the Eagle Mountain Development Code. Where a corner, terrain, or other site characteristic would allow the parking to be highly visible from the street additional landscaping or walls shall be utilized for visual screening.

Each Residential Zone neighborhood will be assigned a gross buildout density (such as three units per acre). A percentage of each Residential Zone neighborhood will be designated as permanent open space and the individual lots may be down sized to permit the number of units that would have been allowed under the gross buildout. The goal of the open space requirement is to preserve a meaningful portion of each residential neighborhood as natural open space and/or public recreation areas that are conveniently accessible from every lot. The unique characteristics of the topography, street layout, and design of each neighborhood shall dictate the area and amount of land to be held in open space.

vi. **Resort Commercial** The Resort Commercial designation is to accommodate the development of lodging facilities and the hospitality industry. Within this zone there will be hotels, restaurants, and commercial uses generally oriented toward tourism. Additionally, residential uses and condominium development will be allowed within the Resort Commercial designation. The design guidelines for this use designation shall include the parking lot and landscape guidelines of the downtown core area.

The resort Commercial Zone may include golf courses and golf facilities including transient lodging and residential uses. Resort areas are by nature places requiring high quality amenities. Since each resort area development has a strong economic incentive to meet high standards of design, resort commercial developers may choose to meet the Eagle Mountain Development Performance Code design standards, or negotiate a development agreement that specifies use, density, open space and design standards for the project.

vii. **Satellite Commercial** Satellite Commercial planned development will include retail business, professional offices, venous service business uses, and commercial uses that would not easily fit into the downtown commercial core such as automobile sales and service. Satellite commercial will also include supermarkets and other businesses that serve areas larger than just a neighborhood. By addressing the standards in the development code most uses could conceivably fit into the satellite commercial designation.

Like the downtown commercial core, the design standard for satellite commercial recommends parking to be located behind buildings and other visual barriers. The "strip mall" so common to most urban arterial streets is to be avoided. The design standard for satellite commercial areas will discourage the "big box" style of retailing architecture and will encourage the village or town center type of design with mixed use, multilevel buildings.

2. RESERVED FOR FINAL CODE

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● **C. Zoning Overlays.** The following zoning overlays, their boundaries, and in the case of approved development master plans, the approved use or range of uses and density or range of densities, as shown on the Official Zoning Map of Eagle Mountain, Utah, are hereby established:

1. RESERVED

● **D. Zoning District Boundaries.** Any person who disputes the location of a zoning district boundary, as interpreted by the administrator, may appeal the administrator's decision using the procedure of III.L.

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