

**RESOLUTION NO. R-02-2017**

**A RESOLUTION OF EAGLE MOUNTAIN CITY, UTAH,  
APPROVING THE BRANDON PARK ESTATES  
MASTER DEVELOPMENT AGREEMENT**

*PREAMBLE*

The City Council of Eagle Mountain City, Utah finds that it is in the public interest to adopt the first amendment to the Arrival Master Development Agreement, as set forth more specifically in Exhibit A.

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

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

ADOPTED by the City Council of Eagle Mountain City, Utah, this 7<sup>th</sup> day of March, 2017.

EAGLE MOUNTAIN CITY, UTAH

  
Chris Pengra, Mayor

ATTEST:

  
Fionnuala B. Kofoed, MMC  
City Recorder



## CERTIFICATION

The above resolution was adopted by the City Council of Eagle Mountain City on the 7<sup>th</sup> day of March, 2017.

Those voting aye:

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

Those voting nay:

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

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

# EXHIBIT A

**EAGLE MOUNTAIN CITY**  
**MASTER DEVELOPMENT AGREEMENT**  
**FOR THE**  
**BRANDON PARK DEVELOPMENT**

This Master Development Agreement for the Brandon Park Development (this **“Agreement”**) is entered into between Eagle Mountain City, a municipal corporation of the State of Utah (the **“City”**), Plumb Holdings EM, LLC, a Utah limited liability company (**“Plumb”**), referred to herein as **“Property Owner”** and Paul Linford, an individual (**“Linford”**) is referred to herein as **“Developer”**).

This Agreement is made with reference to the following facts.

A. Developer has submitted to the City an application for a new development known as Brandon Park (the **“Project”**).

B. The Project consists of approximately 215 acres of the land (the **“Property”**) located Southwest of Eagle Mountain Blvd and West of the City Cemetery and Pony Express Regional Park. A legal description of the Property is attached as Exhibit A.

C. The City has approved the Land Use Plan for the Project, which generally depicts the road layouts and lots for the Property. The approved Master Development Plan and Land Use Plan (**“Land Use Plan Map”**) are attached as Exhibit B.

D. The Project will be zoned for single family residential development and improved in compliance with procedures and standards in the Eagle Mountain City Code (the **“Code”**) and the terms of this Agreement.

E. Plumb is the owner of the Property, and Lindford is the developer of the Project and has contractual rights with respect to the development and approval of the Project.

F. The City and Developer wish to define the rights and responsibilities of the parties with respect to the development of the Property, vested rights, and funding of improvements on the Property, which is approved by the City in this Agreement.

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

1. Governing Standards. Unless otherwise specifically set forth herein, the Project shall be governed by the procedures, standards and requirements of the Code.

2. Zoning, Density and Land Use Standards. The Project will be zoned as residential in accordance with Chapter 17.25 of the Code. The residential zone must be a predominately residential use. The project is a Tier II Residential development with a minimum lot size of 8,000 sq. ft. The Project includes a 4.9-acre church option site and a 7.85-acre school option site. Any residential lots displaced or lost by either of these options cannot be transferred to other areas of the Project. The Project is comprised of the following elements:

Total Acreage:	Approximately 215.75 acres
Maximum Residential Lots:	542 single family lots
Maximum Number of Lots Per Square Footage:	8,000 to 10,000 sq. ft. - 141 lots 10,001 sq. ft. to ½ acre - 341 lots ½ acre or larger - Remainder of approved lots.
Maximum Density:	2.52 units/acre

3. Development Requirements. In accordance with Section 17.25.130 of the Code, the Project is categorized as Tier II Residential. Developer is required to construct improvements to meet the bonus density criteria as set forth in Chapter 17.30 of the Code.

4. Park and Trails Improvements.

A. Park Improvements. Developer shall construct 12.44 acres of park and improved open space (the “Parks”) in the approximate locations shown on the Land Use Plan Map and shall meet the requirements of Section 16.35.105. Specifically, detention or retention basins may only be considered towards meeting the required improved open space if the useable



portion of the pond is improved with sod and the basin is designed to be an amenity, including trails around the pond, boardwalks, bridges, or other features, and the 10-year flood area will not be counted. The Developer shall be responsible for installation of a total of 1244 amenity points for Parks as set forth in Table 16.35.130(c). The Parks shall be fully improved prior to recording the first plat in the Project, or a separate cash deposit or cash escrow must be put in place with the City with each plat to cover 150 percent of the pro rata anticipated cost of Park improvements. The Parks shall be fully constructed prior to issuance of more than 50% of the building permits in the Project. A detailed parks plan showing the improvements and sprinkler system must be approved by the City prior to approval of any subdivision including the Park or adjacent to the Park. The Pocket Park shall be dedicated to the City together with the first final plat; the Neighborhood Park will be dedicated to the City with the first final plat which includes property adjacent to the Park. With the completion of all Parks improvements dedicated to the City shall be subject to collateral requirements established by the City consisting of cash escrow or improvement bonds in form approved by the City Attorney and in accordance with municipal code 16.30.060. At the Developer's request, partially released pro rata as work is completed, to a maximum of ninety percent (90%). The unreleased ten percent shall remain as security for a one (1) year warranty against defects in materials and workmanship. At the end of the one (1) year warranty, unless the Developer has been notified by the City of any repairs required under the warranty or of a reason to extend the warranty period to cover repairs to improvements within three months of the date of expiration of the warranty, the remaining security shall be released to the Developer.

B. Trails. Trails are planned throughout the Project in the location as shown on the Land Use Plan Map. Unless otherwise agreed to by the parties, all off-street trails shall be not less than six (6) foot wide asphalt trails. The asphalt portion of all trails shall be considered public infrastructure improvements and shall be subject to the City's security and warranty requirements. Developer shall construct a natural trail from the West exit of the Project to the Southeast corner of the Project. The Developer shall work with City staff on trail connectivity in the northeast quadrant; semi-privacy fencing along all of the internal trails; and trail landscaping and appropriate lighting for trails.

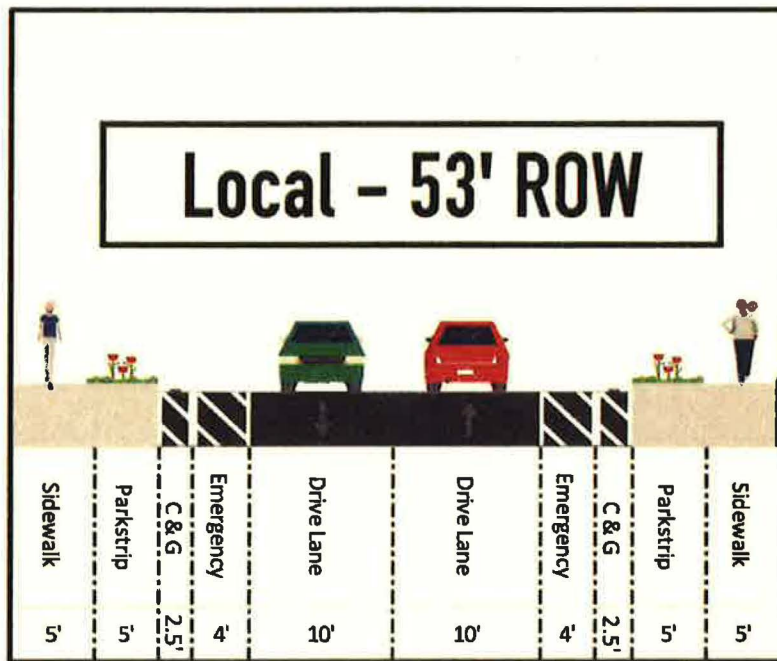
5. Roadway Improvements.

A. Lehi-Fairfield Road / Second Access. In conjunction with the recording of the first subdivision plat in either Phase 3 or Phase 5 that includes lots adjacent to current Lehi Fairfield Road, Developer shall dedicate to the City a 50' strip of property over the current Lehi-Fairfield Road as shown on Exhibit B. Subject to approval by the Unified Fire Agency, City

shall allow Developer to utilize the current Lehi-Fairfield Road as a temporary second access for the initial phases of the Development, until another permanent access is improved as part of the Project.

B. Roadways. The Project has minor and major collector roads running along the exterior of the Development. Developer shall construct the minor collector road on the north border of the Project according to the City's 77-foot wide ROW described in Section 16.35.130(b), and Developer shall dedicate and construct 42.5 feet, including 24 feet of asphalt. Developer shall construct the portion of the major collector road on the west border of the Project from the Northwest corner of the Project to the first entrance on the West side of the Project in according to the City's 94-foot wide ROW described in Section 16.35.130(b). The road shall be paved up to the West entrance prior to any building permits being issued in Phase 8 of the Project.

All interior roads in the Project shall be built in accordance with cross-sections described in Section 16.35.130(b) table of the Code. Unless the City and Developer agree to an alternative road cross-section in the future, all interior roads in the Project, except for roads shown as 60 feet wide on Exhibit B, shall be constructed according to the following 53-foot wide local road section:





6. Transitioning and Setback Requirements. Developer agrees to comply with all transitioning and setback requirements set forth in Title 17 of the Development Code.

7. Utility Services and Infrastructure Improvements. The parties agree and acknowledge that the Developer will provide funds to construct all necessary on-site and off-site infrastructure improvements for the Project. All proposed improvements which are to be transferred to the City under the terms of this paragraph must be reviewed and approved by the City and shall be constructed in accordance with the review comments and concept approved by the City. No subdivision plat will be recorded until improvements required for that particular plat are constructed by Developer, or Developer has placed into escrow adequate funds to construct the Improvements, which the City determines, in the City's sole and absolute discretion, are necessary for the phase of the subdivision to be developed. In the event Developer constructs utilities or other infrastructure in excess of the capacity necessary to provide services to the Property, Developer may request that the City enter into a reimbursement agreement for cost of excess capacity. The City may revise and amend the Capital Facilities Plan and Impact Fee Ordinance and payment requirements to collect the amounts required to reimburse Developer for the cost of excess capacity. In addition, the following specific requirements shall apply:

A. Water Infrastructure and Capacity. Developer agrees to prepare a water model for the entire Project, in a form acceptable to the City, to determine water capacity and required water infrastructure improvements to serve the Project prior to final plat approval for the first plat of the Project, and to update the water model for each final plat of the Project as required by the City. Developer further agrees to fund an update to the portions of the City's Water Master Plan that impact the Project prior to final approval for the first plat of the Project.

B. Electric Infrastructure. Electric capacity must be evaluated for each phase of the Project and the City may withhold approval if sufficient capacity is not available.

8. Stormwater, Drainage and Erosion. Prior to Developer recording any final plats in the Project, the City Engineer must approve a drainage plan for the Project. Developer shall improve all detention and retention areas with sod and any other required landscape materials acceptable to and approved by the City.

9. Dedication of Facilities. Developer agrees to dedicate and donate free and clear of all encumbrances to the City all required spaces for the location of City owned utilities, utility facilities and improvements for the construction and use of utilities, roads, and other public ways.



10. Security for Public Improvements. The completion of all improvements dedicated to the public (“Public Improvements”) shall be subject to collateral requirements established by the City consisting of cash escrow or surety bonds in form approved by the City Attorney. Any such security shall be, at the Developer’s request, partially released pro rata as work is completed, to a maximum of ninety percent (90%). The unreleased ten percent shall remain as security for a one (1) year warranty against defects in materials and workmanship. At the end of the one (1) year warranty, unless the Developer has been notified by the City of any repairs required under the warranty or of a reason to extend the warranty period to cover repairs to improvements within three months of the date of expiration of the warranty, the remaining security shall be released to the Developer. The City shall perform regular inspections of the improvements as they are made and notify Developer and applicable contractors of any observed defect and of any improvement installed contrary to the City’s standard specifications.

11. System Improvements and Upsizing. Based on the design and engineering provided by the Developer, the Parties do not anticipate that the Project will require Developer to construct any System Improvements or upsize any facilities that would be subject to reimbursement by the City. However, to the extent the Developer is required to construct any system improvements (including, without limitation, system improvements that are identified in an impact fee facilities plan), Developer shall be entitled to reimbursement for any system improvements that are not reasonably necessary to provide service for the Project. The Parties shall enter into a reimbursement agreement to reimburse Developer for the costs incurred by Developer to construct the City’s portion of the system improvements.

12. Water Rights. Developer shall comply with the City’s Development Code, as amended, related to providing water or water rights to the City for the Project, including the park areas.

13. Term of Agreement. The term of this agreement shall commence upon execution of this Agreement and shall continue until the ten (10) year anniversary following the date hereof.

14. Default Notice to Developer. Upon the occurrence of an event of default by Developer, the City shall provide not less than fifteen (15) days’ notice to the Developer of a meeting of the City Council where the Developer’s default shall be heard and reviewed by the City Council. The Developer shall be entitled to attend the hearing and comment on the evidence presented concerning the default.

15. Default Notice to City. Upon the occurrence of any default by City, the Developer may request in a hearing before the City Council where the City’s default shall be heard and reviewed by the City Council. City shall schedule such hearing within thirty (30) days of written request of Developer.

16. Developers' Remedies Upon Default. Developer acknowledges and agrees that Developers' 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 DEVELOPERS, THEIR 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.

17. City's Remedies Upon Default. Upon default of a Developer of any of the requirements of this Agreement, the City may withhold all further reviews, approvals, licenses, building permits and/or other permits for development until the Default has been cured, or if the default is not able to be immediately cured, Developer is actively to cure the default. The City may further exercise its right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular default. The City may further exercise all rights and remedies available at law and in equity, including, but not limited to, injunctive relief or specific performance.

18. Reserved Powers. The parties agree that the City reserves certain legislative powers to amend its Development Code to apply standards for development and construction generally applicable throughout the City. It is the intent of the parties to vest the Developer with the specific land uses and development density defined specifically on the Land Use Map (Exhibit B) and to vest Developer with the Tier II requirements set forth in Paragraph 3 of this Agreement. Developer shall be required to comply with all other generally applicable standards, conditions and requirements enacted by the City to protect the safety, health and welfare of the current and future inhabitants of the City.

19. Impact Fees. Developer agrees to pay all impact fees when due as set forth more specifically in the City Impact Fee Ordinance as it may be amended from time to time.

20. Annual Review of Compliance. The parties agree that the City may conduct an annual review of compliance by the Developer within the terms of this Agreement. It shall be an event of default if the Developer has failed to fund roads, parks or other utility infrastructure facilities required by this Agreement or by the City Development Standards, or if work remains incomplete on public infrastructure facilities without having received an adequate extension of time for the completion of such facilities from the City. It shall be an event of default if the Developer fails to deposit adequate collateral for the improvements required by this Agreement or fails to cure any defect discovered by the City upon inspection of any infrastructure utility facilities.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors, heirs and assigns of the parties hereto, and to any entities resulting from the reorganization, consolidation, or merger of any party hereto.



22. Integration. This Agreement constitutes the entire understanding and agreement between the parties, and supersedes any previous agreement, representation, or understanding between the parties relating to the subject matter hereof; provided however, that the Code shall govern the procedures and standards for approval of each subdivision and public improvement.

23. Severable. The provisions of this Agreement are severable, and should any provision hereof be deemed unenforceable or invalid, such unenforceability or invalidity provision shall not affect the remaining provisions of this Agreement.

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

25. No Modification. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

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

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

28. Agreement to Run With the Land. This Agreement shall be deemed to run with the land and shall be binding on Developer and all successors and assigns of any of the foregoing. Developer agrees to execute a Notice of this Agreement to be recorded against the Property in a form acceptable to the City.

Dated this 24 day of April, 2017.

**DEVELOPER**

By: 

Print Name: Paul Linford

Title: Manager

Dated this 24 day of April, 2017.

**PROPERTY OWNER**

**Plumb Holdings EM, LLC**

By: Walter J Plumb III

Print Name: Walter J Plumb III

Title: manager

Dated this 25 day of April, 2017.

ATTEST:

**EAGLE MOUNTAIN CITY**

Fionnuala Kofoed  
Fionnuala Kofoed, City Recorder

Christopher Pengra  
Christopher Pengra, Mayor





# Exhibit A

## [Legal Description]

### Parcel 1

*Beginning at a point South 89°56'09" West along section line 1262.737 feet from the Northeast Corner of Section 11, Township 6 South, Range 2 West, Salt Lake Vase and Meridian, to a point located on the West right-of-way line of a road known as Eagle Mountain Boulevard; thence South 89°56'09" West along section line 1425.953 feet to the North Quarter Corner of said Section 11; thence North 89°50'15" West along section line 2638.950 feet to the Northwest Corner of said Section 11, thence South 0°23'07" West along section line 2640.140 feet to the West Quarter Corner of said Section 11; thence South 86°00'18" East along quarter section line 2410.228 feet to the southeasterly side of a road known as the Fairfield-Lehi Road and a 5/8" rebar and cap marked H&H ENG; thence along the southeasterly side of said Fairfield-Lehi Road North 36°58'28" East 2630.287 feet; thence South 1°11'13" West 39.173 feet; thence South 89°58'59" East 93.739 feet to the west right-of-way line of Eagle Mountain Boulevard; thence along the west right-of-way line of Eagle Mountain Boulevard north 0°15'37" West 749.965 feet to the point of beginning.*

*Containing 9,398,098 Sq. Ft. or 215.7506 Acres.*

# Exhibit B

## [Land Use Plan Map]

