



DEVELOPMENT AGREEMENT

EAGLE MOUNTAIN CITY

And

EAGLE MOUNTAIN PROPERTIES, LLC

For

HARMONY PRELIMINARY PLAT

ENT 93083:2018 PG 1 of 16
JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Sep 27 4:30 pm FEE 60.00 BY CS
RECORDED FOR EAGLE MOUNTAIN CITY

This Development Agreement for the Harmony Preliminary Plat (this "Agreement") is entered into as of the 6th day of January, 2015, by and between Eagle Mountain City, Utah, a Utah Municipal Corporation (the "City") and Eagle Mountain Properties, LLC, a Utah limited liability company ("Developer").

This Agreement is made with reference to the following facts:

A. Developer has received conditional approval from the City Planning Commission for a new preliminary plat known as Harmony (the "Project"), which is attached as Exhibit "B."

B. The Project consists of approximately 772 acres of land (the "Property") located west of Pony Express Parkway, south and southwest of the existing Overland Trails Subdivision. A legal description of the Property is attached as Exhibit "A."

C. The Project is zoned as residential and commercial in accordance with the Eagle Mountain Properties Master Development Plan, and will be improved in compliance with procedures and standards in the Eagle Mountain 1997 Interim Development Code, as well as the Public Works Standards and Specifications, Building Codes, Fire Codes, etc. that are in effect at the time an application for final plat approval is submitted to the City, and the terms of this Development Agreement.

D. The parties wish to define the rights and responsibilities of the parties with respect to the development of the land and funding of improvements in the Harmony Preliminary Plat.

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

1 Governing Standards. The Project shall be governed by the procedures, standards and requirements of the Eagle Mountain City 1997 Interim Development Code and the Public Works Standards and Specifications, Building Codes, Fire Codes, this Agreement, and the preliminary plat, etc. that are in effect at the time a substantially complete application for final plat approval is submitted to the City. All plats and site plan applications submitted after December 22, 2017 shall be governed by the preliminary plat and this Agreement, and the City

Code and standards and specifications at the time of submittal.

2 Zoning, Density and Land Use Standards. The Project is zoned as residential and commercial in accordance with the Eagle Mountain Properties Master Development Plan, and the uses for the Project are regulated by the Eagle Mountain Properties Master Development Agreement.

2.1 Project Areas and Densities. The total Project calculations are as follows:

Total Land Area:	772.49 acres
Total Acreage in Single-Family Lots:	344.30 acres
Total Acres Alternative Design Blocks:	17.690 acres
Total Multi-Family Acreage:	92.186 acres
Total Acreage Commercial	26.806 acres
Total Acreage Church Sites (6 sites)	23.845 acres
Total Acreage Schools	28.88 acres
Total Open Space	40.64 acres
Total Improved Open Space	35.98 acres
Single-Family Lots	2,360 lots
Alternative Design Block Units (maximums)	182 units
Multi-Family Units (conceptual, not vested)	1,935 units
Total # of Units (conceptual, not vested)	4,477 units
Single-Family Density	4.23 lots/acre
Multi-Family Density (conceptual, not vested)	21 units/acre
Overall Density	5.8 units/acre

The Developer acknowledges that the Eagle Mountain Properties Master Development Agreement expires December 22, 2017. Despite that expiration, the Harmony project is vested with the Single-Family density, the street configuration, and the lot layouts. Any multi-family or commercial site plan **or final plat application** for this project submitted after that date shall comply with the current City Code at the time of submittal. The City makes no guarantee or warranty that the maximum multi-family densities can be achieved and the parties acknowledge that as development progresses certain market, infrastructure, and/or other similar constraints beyond the control of the parties may be presented which could prevent the practical use of all vested densities. Future City Codes shall not apply to the single-family areas unless the Council, on the record, finds that a compelling, countervailing public interest would be jeopardized without applying such ordinance, amendment or standard to the Property.

3 Church Sites. The Project includes six church sites located throughout the development. In the event the church sites are not purchased, and remain undeveloped, the owner may elect to re-plat these blocks to a density of up to 3.86 dwelling units per acre. Half-width of the surrounding public streets may be included in the density calculations. No lot in any

re-platted church block shall have a width of less than fifty feet, and no multi-family product may be platted on the church blocks. No lot or street configurations are vested for these parcels.

4 Junior High School Site. The Junior High School block has been reserved for a future school. In the event the School District does not choose this block for another school, the school block may be platted to a maximum density of 3.86 dwelling units per acre. Half-width of the surrounding public streets may be included in the density calculations. No lot in this re-platted block shall have a width of less than fifty feet, and no multi-family product may be platted on the school blocks. No lot or street configurations are vested for these parcels.

5 Improved Open Spaces and Trails. The Project contains 40.64 acres of total open space, including parks, decorative open space areas, and 4.66 acres of land to be preserved for the historic Pony Express Trail corridor. The open space breakdown is as follows:

Improved Park Area (Acres)

A	1.49
B	0.31
C	1.90
D	0.27
E	3.13
F	0.86
G	1.06
H	1.62
I	1.79
J	4.23
K	3.70
L	13.84

Unimproved Open Space Area (Acres)

M	4.66
---	------

Improved Open Space Area (Acres)

N	0.23
O	0.20
P	0.20
Q	0.17
R	0.07
S	0.06
T	0.21
U	0.40
V	0.15

W

0.09

- 5.1 Improved Open Space. The Project currently contains the following open space areas: twelve (12) areas to be improved by Developer as parks for a total of 34.2 acres; and ten (10) open space areas to be improved by Developer with decorative landscaping, park benches, etc. for a total of 1.78 acres; and a 4.66-acre area to remain as unimproved open space, reserved for the future improvement of the historic Pony Express Trail corridor. These open space areas are to be designed in detail (including type and quality of amenities and improvements) according to the City Code in effect at the time a substantially complete application for final plat or site plan approval is submitted to the City. All parks which are used as open space should have drainage piped through the park so that the park becomes usable and nuisance water is allowed to flow through, and spill over when flows begin to exceed historical runoff. Also, a pad for pavilions, tot lots, and other amenities should be provided above the pond water mark to allow full use of these facilities without increasing the required maintenance. These will be designed with each phase of development.
- 5.2 Trails. An inter-connective trail system has been included between all of the parks and the schools in the Project. Trails are included along the major roadways, as required, and widened sidewalks are included along some neighborhood streets. There are a total of 10.30 miles of widened sidewalk and trails within this development. The "development" trails shall be built along with the infrastructure for each associated subdivision, according to the Harmony "typical road cross sections" approved with this preliminary plat, or the City's current standards in effect at the time a substantially complete application for final plat or site plan approval is submitted to the City.
- 5.3 Linear Park. The linear park in the center of the project shall continue until it intersects with Many Bears Street on the north and Pole Canyon Boulevard on the south, to provide a linear park and trail connection through the project.

6 Park Completion / Timing. A park must be designated with each final plat for partial improvement along with required infrastructure for that plat at time of submittal. Parks must be improved at a rate of at least 2.5 acres/400 lots, or approximately 273 square feet per lot. For example, Plat A-1 includes 34 lots, so 9,282 square feet of park space plus amenities must be improved in a park within 1,320 feet of the plat as part of the infrastructure improvements for that plat. The location and type of improvements/amenities are to be approved as part of the final plat application. A fee-in-lieu of improved open space may be approved at the discretion of the approval authority along with each final plat application.

- 7 Alternative Block Designs. Blocks A through D (to be added to the Preliminary

Plat) are to be platted and designed as either single-family detached cluster home, patio home, or garden court developments, as defined in the Eagle Mountain Municipal Code Section 17.10.030, or other similar product as approved by the Planning Commission and City Council. The homes/lots fronting onto a green court may have a minimum frontage of 35 feet, and the homes/lots fronting a public street may have a minimum frontage of 40 feet, with no garages facing the public street. The fronts of homes shall face the public street or the green court. The final design will be approved at the Final Plat and Site Plan stage. The City makes no guarantee that the density maximum shown on the preliminary plat for these areas can be achieved.

8 Lot Layout / Lot Size Variation. There shall be a variety of lot sizes throughout the Harmony plat, with no single street having more than four lots in a row that are less than 52 feet wide; or, in other words, for every four lots in a row, that are less than 52 feet, the next lot shall be at least 52 feet wide. No more than three homes of the same elevation or color shall be located along a single row of homes.

9 Driveways. Residential driveways shall be a minimum of 22 feet in length from the property line.

10 Multi-Family Review. All multi-family or commercial site plans or plat applications for this project shall comply with the Eagle Mountain City 1997 Interim Development Code if submitted before the expiration of the Eagle Mountain Properties Master Development Agreement (October 7, 2017). All multi-family and commercial applications submitted after the expiration date shall comply with the then current City Code at the time of submittal to the City of a complete application including all required application fees. The multi-family areas are not vested with density, and any reference to the number of units on the Preliminary Plat is conceptual and informational only. The multi-family areas must be designed with density and product transitions between the single family lots and the high density or commercial areas. Appropriate density and product transitioning will be determined at the time of site plan applications.

11 Corner Lots. All corner lots shall contain a "corner cutoff" setback to allow for proper distance for gas and electric utilities to round the corners of a lot while still keeping the required distance from a building foundation. This includes taking a triangle out of the potential building pad measuring five feet each direction at the corner of the setbacks.

12 Phasing of Construction. Phasing shall generally follow the phasing included in the Harmony Project Overall Phase Index, but the City understands that variations to this phasing for various reasons will occur. Every phase shall include approved emergency vehicle access and turnaround, and no more than fifteen (15) lots may be built on a dead-end street or cul-de-sac.

13 Traffic Studies / Road Failures. All roads within the development that are not

included in the City's Master Transportation Plan or Future Land Use and Transportation Corridors Plan must be paid for by the Developer. The City Engineer shall have the discretion to require traffic studies with each final plat application. If, according to developer's traffic study, the next plat would likely reduce the level of service to level of service D or worse as defined in the North American highway LOS standards Highway Capacity Manual (HCM) and AASHTO Geometric Design of Highways and Streets ("Green Book"), on Eagle Mountain Boulevard, Pony Express Parkway, or SR73, the developer would be required to fund the difference between the project cost and any impact fees previously collected by the City toward the required road project, under the terms of the Eagle Mountain Properties Master Development Agreement (2.6.7). In that event, an impact fee credit, if requested, will then be applied to the future development of the Project to effectively reimburse the owner/developer for this additional cost over time.

14 Utility Services and Infrastructure Improvements. Except as provided in a reimbursement agreement which may be entered between the City and the Developer, the Developer agrees to dedicate to the City all required easements, property, and rights of way necessary for the construction and location of City owned utilities, utility facilities, roads, and other public ways within the boundaries of Harmony at the time of final plat recordation. Any easements, property, and rights of way shall be conveyed to the City free and clear of any encumbrances.

15 Off-Site Utilities. Necessary off-site utility improvements must be completed to the satisfaction of the City Engineer and City Energy Director (or gas and electric companies) prior to issuance of any building permits in a phase that requires such off-site improvements.

16 Storm Drainage. Storm drain detention basins designed and built to the City's adopted specifications must be installed prior to issuance of any building permits for lots that would drain into such basin. Easements are required for all offsite storm drain infrastructure. Detention ponds that are designed to allow for a discharge may be designed as temporary retention ponds until the phasing allows for the completion of the offsite outfall storm drain, provided that an overflow storm drain can be provided. Drainage plans are required to be submitted along with each final plat for approval. Developer agrees to comply with drainage standards in the City Code at the time of final plat and/or building permit submittal.

17 Street Names. The street names provided with this Preliminary Plat are considered reserved, following any changes required by City Staff. The names shown on the preliminary plat for several streets will require name changes for addressing and safety purposes, as well as to avoid duplication or confusion. These include: Doris Parkway (changed to Pole Canyon Boulevard), Brittany Street, Oquirrh View, Gracie Way, and Natahki Street (to be changed to Shumate Street), and others. Street names will require review and approval by the City Staff prior to any final plat approvals.

18 Not-A-Part. The areas labeled "Not a Part" on the preliminary plat are not a part of the Project, and are not vested with any density, road configuration, or lot layout (this includes the future multi-family areas, the Kent & Deborah Sievers property, and the Mountain Trails Elementary School site).

19 Fencing. Six-foot high privacy fencing or a decorative wall is required to be installed by the developer for all rear lots along a collector or arterial road. This fencing shall be included in any improvement completion assurance (bond) with the City and shall be installed along with the infrastructure for the subdivision.

20 Architectural Standards. All homes on lots within the project shall have 'carriage' style, or decorative, garage doors. The front of all homes will have at least two textures, including rock, brick, stucco, or decorative material, similar to Hardy board. The texture shall wrap around the front of the home at least until the first windows along each side of the home. Typical vinyl siding will not be used on the front of the homes.

21 Home Owner's Association. The Harmony Development, including the commercial and multi-family areas, will be part of the Harmony Home Owner's Association (HOA). All of the parks and public spaces, identified as parcels 'A' through 'W' on the Harmony Preliminary Plat, will be dedicated to Eagle Mountain City with their respective final plats. All trail corridors and certain other spaces, 'M' through 'W', will be maintained by the HOA, which will have rights of access for that maintenance. All other parks and open space areas are to be maintained by Eagle Mountain City.

22 Expirations. Due to the magnitude of the Harmony Development, this Preliminary Plat Approval shall continue in full force and effect for 10 years after the date of the Harmony Development Agreement, which is the 6th day of January, 2015, and shall be automatically renewed for continuing periods of five (5) additional years on every five (5) year anniversary of the effective date of the Harmony Development Agreement. This automatic renewal and extension shall occur unless the City Council finds that a compelling, countervailing and substantial public harm will result from an automatic five year renewal prior to the date that the renewal would have otherwise occurred.

23 Developer's Remedies Upon Default. Developer acknowledges and agrees that Developer's sole and exclusive remedy under this Agreement shall be specific performance of the development rights granted in this Agreement and City's obligations under this Agreement. In no event shall city be liable to developer, its successors or assigns, for any indirect, special, punitive, incidental, or consequential damages, including, without limitation, lost profits, costs of delay, or liabilities to third parties for any breach or default under the terms of this Agreement and related to its duties under this Agreement. This provision shall not affect the respective rights and responsibilities of City or Developer under any other agreement or contract between them, or for any causes of action arising beyond the terms and provisions of this Agreement.

24 City's Remedies Upon Default. Upon default of any terms or conditions of this Agreement, City may require specific performances of Developer's obligations and City may withhold issuance of any building permits or further approvals with the Project until Developer has fully complied with the terms and conditions of this Agreement.

25 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. This Agreement shall be recorded against the Property and shall be deemed to run with the land and shall be binding on Developer and all successors and assigns of any of the foregoing.

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

27 Not Severable. The provisions of this Agreement are not severable, and should any provision hereof be deemed by a court of competent jurisdiction to be void, unenforceable or invalid, such provision shall affect the remainder of this Agreement, and shall provide grounds for dissolution or amendment of the Agreement at the option of the parties in the exclusive discretion of each of them.

28 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.

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

30 Governing Law. This 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.



Dated this 6 day of January, 2015.

EAGLE MOUNTAIN PROPERTIES, LLC



John Walden Managing Member

Dated this 7 day of January, 2015.

ATTEST:

EAGLE MOUNTAIN CITY

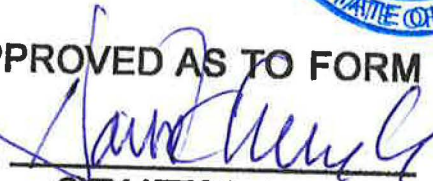


Fionnuala Kofoed, City Recorder



Christopher Pengra, Mayor



APPROVED AS TO FORM
BY: 

CITY ATTORNEY



Exhibit A

[Legal Description & Existing Site Plan]





Exhibit B

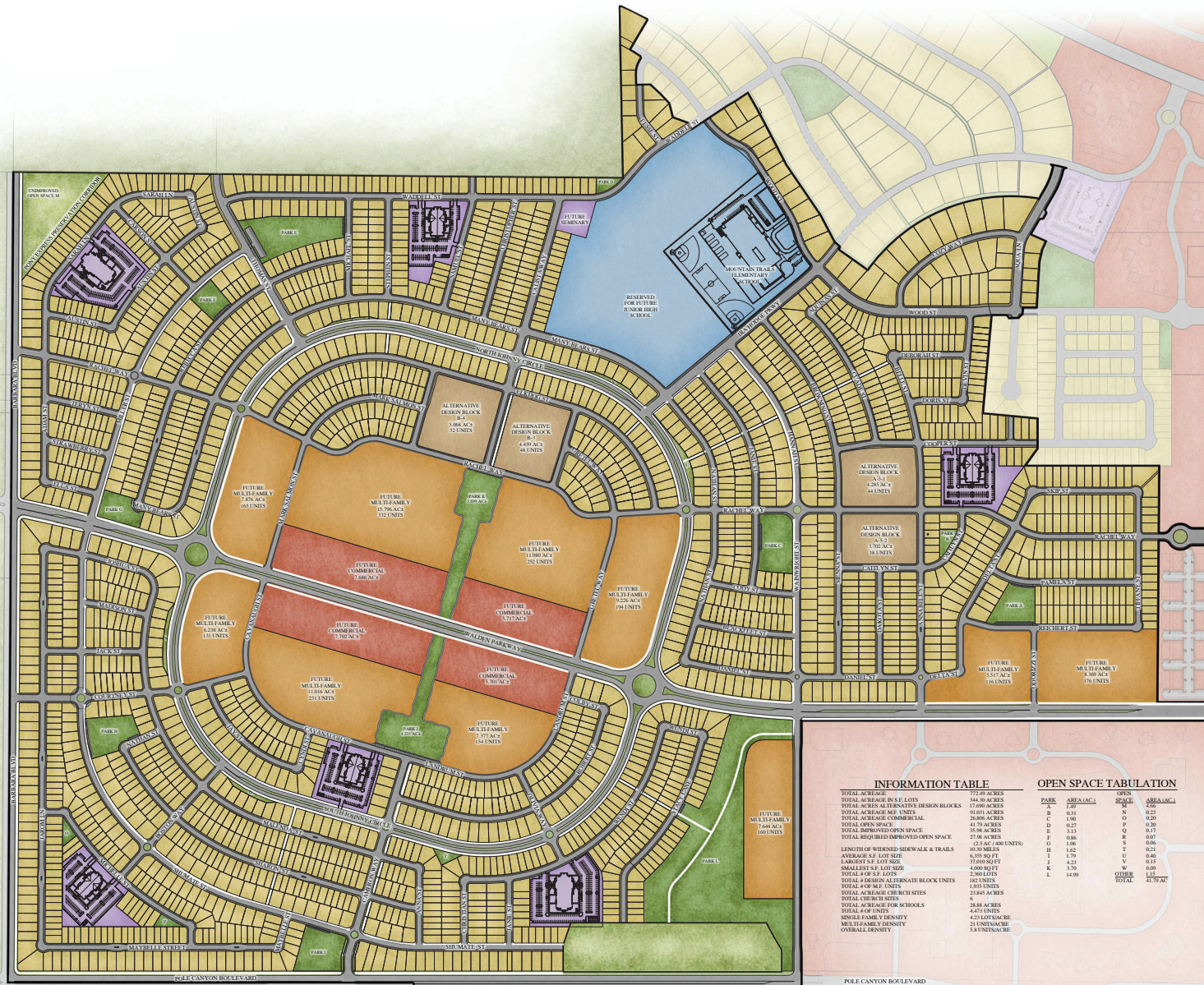
93083:2018 PG 14 of 16

[Harmony Preliminary Plan and Plat]

A handwritten signature in black ink, appearing to be a stylized 'M' or 'W'.

HARMONY AT CITY CENTER

EAGLE MOUNTAIN COMMUNITIES



INFORMATION TABLE

TOTAL ACRES	772.49 ACRES
TOTAL ACRES IN 1/2 LOTS	244.90 ACRES
TOTAL ACRES ALTERNATIVE DESIGN BLOCKS	17.60 ACRES
TOTAL ACRES M.F. UNITS	91,011 ACRES
TOTAL ACRES COMMERCIAL	26,000 ACRES
TOTAL OPEN SPACE	41.79 ACRES
TOTAL IMPROVED OPEN SPACE	35.98 ACRES
TOTAL REQUIRED IMPROVED OPEN SPACE	27.78 ACRES
LENGTH OF WIDENED SIDEWALK & TRAILS	(2.5 AC / 7,400 UNITS)
AVERAGE S.F. LOT SIZE	6,310 SQ. FT.
LARGEST S.F. LOT SIZE	10,000 SQ. FT.
SMALLEST S.F. LOT SIZE	4,000 SQ. FT.
TOTAL # OF LOTS	2,960 LOTS
TOTAL # DESIGN ALTERNATIVE BLOCK UNITS	182 UNITS
TOTAL # OF M.F. UNITS	1,001 UNITS
TOTAL ACRES CHURCH SITES	23.40 ACRES
TOTAL CHURCH SITES	6
TOTAL ACRES FOR SCHOOLS	28.40 ACRES
TOTAL # OF SCHOOLS	4,471 UNITS
SINGLE FAMILY DENSITY	4.2 UNITS/ACRE
MULTI-FAMILY DENSITY	21 UNITS/ACRE
OVERALL DENSITY	5.8 UNITS/ACRE

OPEN SPACE TABULATION

PARK	AREA (AC)	OPEN SPACE	AREA (AC)
A	1.00	A	0.00
B	0.11	B	0.00
C	1.00	C	0.00
D	0.27	D	0.00
E	3.13	E	0.17
F	0.66	F	0.00
G	1.06	G	0.00
H	1.62	H	0.00
I	1.79	I	0.00
J	4.23	J	0.13
K	3.70	K	0.00
L	14.99	L	0.00
TOTAL		TOTAL	41.79 AC

LEGEND

- PARKS AND OPEN SPACE
- UNIMPROVED OPEN SPACE
- TRAILS
- CPVC
- CHURCH
- COMMERCIAL
- MULTI-FAMILY RESIDENTIAL
- SINGLE FAMILY RESIDENTIAL
- ALTERNATIVE DESIGN BLOCK