

PUBLIC WATER SUPPLY AGREEMENT

This Public Water Supply Agreement (this “Agreement”) is made by and between _____ (“Applicant”) and EAGLE MOUNTAIN CITY, a Utah municipal corporation, 1650 East Stagecoach Run, Eagle Mountain City, Utah 84005 (“City”).

RECITALS

A. The City has entered into an agreement (the “CWP Agreement”) with the Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah (the “District”), for the purchase of certain water (the “CWP Water”) as part of Central Utah Water Conservancy District Water Development Project.

B. Pursuant to the CWP Agreement, the City is entitled to purchase a certain quantity of CWP Water from the District for public use.

C. Applicant desires to contract with the City for the use of a certain amount of the CWP Water that the City is entitled to purchase on the terms and conditions set forth in this Agreement to satisfy building permit and development approval requirements for use on Applicant’s properties.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, payment by the Applicant under the terms and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, the Parties agree as follows:

TERMS

1. Reservation of CWP Water. The City hereby agrees to purchase from the District, and to allocate and use to meet the development standards of the City for the property owned by the Applicant the amount of _____ acre feet of CWP Water to meet the development standards of the City for the property the Applicant desires to develop.

2. Designation of Property for Use of CWP Water. Applicant owns certain property located in the City, as described on attached Exhibit “A” (the “Property”) which Applicant intends to develop and the CWP Water will be used to meet all or part of the development standards of the City for the Property.

3. CWP Water Cost. Applicant shall pay the amount of _____ per acre foot, or a total amount of _____ (“Purchase Price”) with the execution of this Agreement in order to compensate the City for the cost of the acquisition of a perpetual water supply for the Property using CWP Water.

4. Infrastructure and Impact Fees. Applicant recognizes and agrees that the price of the CWP Water only reflects the price of the water, and does not include the price of the infrastructure to deliver the water to the Property. Applicant shall be responsible for the construction of all infrastructure to deliver water to the Property from the City and/or payment of all City impact fees for water system infrastructure.

5. Assignment Limited. Applicant may not assign this Agreement or any of its rights under it without the prior written consent of the City. Applicant agrees that City may charge a fee, as determined by the City from time to time, to cover the administrative costs of transfers.

6. Availability of CWP Water. Applicant acknowledges and agrees that in the event that CWP Water is not available to the City prior to Applicant allocating water for a project, the City may, in City's sole discretion, terminate this Agreement and refund any amounts paid by Applicant to City without interest or penalties.

7. Severability. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

8. Construction. This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

9. Further Action. The Parties hereby agree to execute and deliver such additional documents and to take further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

10. Business Relationship. This Agreement neither acknowledges the existence of nor is it intended nor shall it be construed to establish, create or organize any principal-agent relationship, partnership, joint venture, or any other legal entity or form of business relationship between the Parties, and is limited solely to the purposes and interests expressed herein.

11. Entire Agreement. This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior undertakings, representations, or agreements of the Parties regarding the subject matter hereof.

12. Warranty of Authority. Each individual executing this Agreement does hereby represent and warrant that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified herein. City and Applicant each represent and warrant that it has full legal right and authority to enter into this Agreement.

13. Notices. Notices given by or to the Parties shall be in writing and may be served personally or served by depositing them in the United States mail, postage prepaid, certified or registered mail with return receipt requested, addressed to the Parties at the addresses set forth below, or at such other addresses as the Parties may designate in writing:

APPLICANT:

CITY:

Eagle Mountain City
Fionnuala B. Kofoed, City Recorder
1650 E. Stagecoach Run
Eagle Mountain City UT 84005

14. Rules and Regulations Governing Service. Applicant and the City agree that all water service to the Property is subject to the ordinances, rules and regulations of the City and the City reserves the right to adopt rules and regulations governing the delivery of water generally applicable throughout the City, and to exercise its full statutory powers, including specifically the right to amend its rates, fees, charges, and its rules and regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future. It is expressly agreed that the City, by signing this Agreement, does not waive or surrender any of its rights to make, amend or enforce any of its rules and regulations for water service.

IN WITNESS WHEREOF, the Parties hereto have executed this _____ day of _____, 20__.

APPLICANT

By: _____

Print Name: _____

Title: _____

EAGLE MOUNTAIN CITY

Paul Jerome, City Administrator

ATTEST:

Fionnuala B. Kofoed, MMC City Recorder

EXHIBIT A