



# **Citizens' Open Space Advisory Committee (COSAC IV)**

**April 9, 2013**

**Citizens' Open Space  
Advisory Committee  
(COSAC IV)  
City Hall, Council Chambers  
April 9, 2013**



## **AGENDA**

|  | <u>Page</u> |
|--|-------------|
| <b>MEETING CALLED TO ORDER - 8:30 a.m.</b>   |             |
| <b>ROLL CALL</b>   |             |
| <b>PUBLIC INPUT</b>  |             |
| <b>MINUTES-March 26, 2013</b>  |             |
| <b>PUBLIC COMMENT</b>  |             |
| <b>STAFF AND BOARD COMMUNICATIONS/DISCLOSURES</b>  |             |
| <b>REGULAR AGENDA</b>  |             |
| Council Update on Alternates   |             |
| Review Edits to Mission Statement  | 3           |
| Nancy McLaughlin (professor at the University of Utah School of Law)<br>Discussion on Conservation Easements                                   |             |
| <b>ADJOURN</b>   |             |
| “Committee members Jan Wilking and Kathy Kahn may participate in some or all of the meeting, including closed session, by teleconference.”     |             |
| Supplemental Packet Information:   |             |
| Staff report from 6/14/2012 - Summit Land Conservancy request for Endowment funds and general discussion of the role of Conservation Easements | 4           |
| Staff report from 12/6/2012 - Risner Ridge Open Space Parcels  | 25          |
| Permanent Protection Conservation Easement Stewardship White Paper (SLC&UOL)   | 40          |
| Conservation Easements vs. Deed Restrictions (SLC)   | 43          |
| Previous Open Space Definitions  | 44          |

**Park City Municipal Corporation**  
**Citizens' Open Space Advisory Committee IV**

## **MISSION STATEMENT**

*It is the mission of the Citizens' Open Space Advisory Committee to make timely recommendations and input to the Park City Council ~~on~~on-acquiring and permanently acquiring, managing and/or preserving~~preserving~~ public open spaces in the greater Park City area by wisely leveraging the public's monies, by using other resources as available and by entering into appropriate partnerships. The Citizens' Open Space Advisory Committee will employ a variety of innovative strategies and tools to accomplish this goal in an expeditious manner.*

# City Council Staff Report



**Subject:** Summit Land Conservancy Request for Endowment Funds and General Discussion of the role of conservation easements

**Author:** Heinrich Deters & Diane Foster

**Department:** Sustainability & Executive

**Date:** June 14, 2012

**Type of Item:** Discussion and Direction

## Summary Recommendations:

1. Staff recommends Council discuss Summit Land Conservancy's \$1,500,000 request for an endowment and the possible options for an endowment structure within the budget process and provide staff with direction.
2. Staff would also like Council to have a high level discussion on the desire to place additional conservation easements on existing and future City-owned property.

Because of the complex nature of this staff report, staff recommendations are provided in a list below:

1. Staff recommends Council not place endowments on parcels that currently have conservation easements or on recently acquired property where Council wishes to place a new conservation easement.
2. Staff recommends that Council suggest endowment funding for future conservation easements at the time of purchase as part of the transaction.
3. Staff recommends that should Council wish to place conservation easements on current or future open space parcels, that Council consider each parcel individually, rather than making a blanket statement to place conservation easements on any and all open space.

**Topic/Description:** Staff would like to discuss two topics with Council:

1. Review Summit Land Conservancy's request to receive funds from Park City Municipal to create an endowment to provide a secure source of future funding for the stewardship/monitoring of conservation easements on City-owned open space?
2. Does Council wish to place additional conservation easements on existing and/or future City-owned property?

## Background

On March 29, 2012, staff presented Council with an initial work session report on the endowment request by Summit Land Conservancy and the placement of future conservation easements. Council had several questions and asked staff to return during the budget process with more information. Staff has provided a list of those questions and their answers.

1. What is stewardship? *Stewardship can have several deliverables, depending on the issue but basically involves third party monitoring of the easement property and subsequent reports to ensure the conservation values associated are being upheld. Much of the cost is associated with staff time and administrative costs, such as meetings, site visits and other aspects which are essential for third party monitoring of reserved rights and possible violations.*
2. What is stewardship vs. maintenance? *Stewardship is the oversight, education and communication of maintaining the conservation values associated with an easement. Most often the deliverable of this function is notification through email, call or verbally. Maintenance is the direct or physical implementation of caring or rectifying a possible violation associated with an easement.*
3. Can Conservation Easements be transferred? *Yes. There is a specific clause in the easement noting the ability to transfer the easement for various reasons. Easements may only be passed to qualified organizations per Section 170(h) of the Internal Revenue Code.*
4. Would an endowment funded by incremental appropriations be subject to the City annual budget process? *Yes.*
5. Is a multi-year public Request for Proposal required for stewardship/monitoring costs if the easement is held in perpetuity by an entity such as Summit Land Conservancy? *Yes. The City's procurement code dictates this process as noted below:*

*The selection of professional service contracts in an amount exceeding \$25,000 shall be based on an a formal documented evaluation process such as Request for Proposals (RFP), Statement of Qualifications (SOQ), Qualification Based Selection (QBS), etc. (see Park City's Best Practices in Procurement for details).The evaluation process should include an objective assessment, preferably by multiple reviewers, of the services needed, the abilities of the contractors, the uniqueness of the service, the cost of the service, and the general performance of the contractor. Special consideration may also be given to local businesses during the evaluation in instances where knowledge of local issues, geography, statutes, etc., may enhance the quality of service rendered. The lowest quote need not necessarily be the successful contractor. Usually, emphasis will be placed on quality, with cost being the deciding factor when everything else is equal. The manager shall determine which contracts are professional service contracts. Major professional service contracts (\$25,000 and over) must be approved by the City Council.*

6. Could future special interests be in conflict with the bond language- *It is definitely possible. A good example of this is currently taking place in Northern California.*  
*[www.pressdemocrat.com/article/20120325/articles/203251091?p=1&tc=pg](http://www.pressdemocrat.com/article/20120325/articles/203251091?p=1&tc=pg).*

Summit Land Conservancy has also JlfOvided a fact sheet and budgetary breakdown to help clarify any questions"ouncil may have. (Exhibit A)

*Endowment Discussion*

Recently Summit Land Conservancy has asked if Council would be willing to consider providing an endowment to provide for stewardship/monitoring services in perpetuity, as well as, their position on moving forward with easements without specific funding.

*Summit Land Conservancy is unwilling to take on the liability of additional conservation easements unless those easements are accompanied by an ongoing, protected source of funding, such as an endowment. (Exhibit B Letter from Summit Land Conservancy)*

*Why provide an endowment?*

Summit Land Conservancy would like Council to consider funding an endowment that would provide ongoing funding for third party stewardship/monitoring of conservation easements outside of economic and political uncertainty, as well as, the fact that it would potentially save taxpayers in the future.

ANALYSIS

*Funding stewardship of existing and possible future conservation easements:*

Stewardship/monitoring of existing conservation easements, of which the existing Summit Land Conservancy contract is part of, are paid out of the Flagstaff Fees budget. The annual cost for the stewardship of 2095 acres of property at \$15.24/acre (taken from current Park City Municipal contract with Summit Land Conservancy) is \$31,927 per year. (Contract Scope of Services Exhibit C) This does not include 'land conservation' costs which include the drafting of new easements and one time baseline documents for each parcel. Summit Land Conservancy has quoted approximately \$7000/new easement for this service. The annual totals of 2009-2011 for Stewardship and Land Conservation in the existing contract were \$43,057, \$55,208 and \$39,090

*The Osguthorpe Parcel was an unanticipated cost at time of contract  
"Gambel Oak and White Acre Easements have yet to be finalized"*

The Open Space Maintenance Fund has a current balance of \$558,523. This fund is restricted to costs of "recreation improvements, and/or open space acquisition, maintenance, or preservation."

*Existing/potential costs associated with Maintenance of existing open space:*

Maintaining City-owned open space is vital to upholding the open space values set forth in bond language, deed restrictions and conservation easements. Below is a table of existing and potential open space expenditures:

|   |          |
|---|----------|
| Noxious Weed Maintenance                                    | Existing |
| Open Space Staffing: Trails and Open Space Project Manager  | Existing |
| Capital Projects: Fences, Signage, Trails                   | Existing |
| Monitoring of Easements                                     | Existing |
| Educational Programs (often in conjunction with Summit Land | Existing |

|   |   |
|---|---|
| Conservancy or other local non-profits)   |   |
| Management Plans: Studies   | Potential   |
| Management Plans: Capital projects, such as wetland restoration, wildlife infrastructure, wildfire mitigation, forestry enhancements or other environmental restoration projects. | Existing on certain properties, but no current comprehensive plan |
| Additional Conservation Easements   | Potential   |
| Open Space purchases  | Potential   |

In 2011, costs associated with the maintenance of Open Space, totaled **\$120,306**. This included maintenance costs detailed above and monitoring of easements. *Therefore, the City spent an additional \$72,500 towards stewardship in addition to the SLC contract. It should be noted, that the 2011 expenditures did not include the costs of any internal staff time or any capital projects, such as the 2012 Osguthorpe fence and trail project.*

Any future expenditure associated with additional easements or open space purchases of open space may likely from this funding source, unless an alternate is identified.

*Requested Endowment:*

Summit Land Conservancy is requesting a total endowment of \$1,500,000 or **\$500/acre**, over the next 15-20 years to provide sufficient funds to monitor the City's current easements. That endowment is expected to generate a 6% annual return, with 3% of that return (\$45,000) to be withdrawn from the fund to fund annual monitoring and 3% to be reinvestments (3% interest) to be used for monitoring. Below is a table of the stewardship or monitoring cost for City-owned parcels with easements held by Summit Land Conservancy and the endowment requested to monitor each parcel.

## Easement Monitoring Costs & Endowment Request

| Property                               | #of acres       | annual cost=<br>\$15/acre (or<br>minimum*) | Endowment<br>Needed<br>(assuming 3%<br>interest) |                                      |
|--|-----------------|--|--|--------------------------------------|
| <b>City Owned Easements</b>            |                 |  |  |                                      |
| Bilogio- Round Valley                  | 143.7           | \$ 2,156                                   | \$ 71,850  |                                      |
| Cranbrook- Round Valley                | 40              | \$ 600                                     | \$ 20,000  |                                      |
| Ed Gillmor- Round Valley               | 186             | \$ 2,790                                   | \$ 93,000  |                                      |
| Grover- Round Valley                   | 40              | \$ 600                                     | \$ 20,000  |                                      |
| McMillian- Round Valley                | 280             | \$ 4,200                                   | \$ 140,000                                       |                                      |
| McPolin Farmlands                      | 115.57          | \$ 1,734                                   | \$ 57,785  |                                      |
| Rail Trail*                            | 1.977           | \$ 500                                     | \$ 16,667  |                                      |
| Richards' Ranch                        | 18.92           | \$ 284                                     | \$ 9,460   |                                      |
| UP& L*                                 | 0.51            | \$ 500                                     | \$ 16,667  |                                      |
| Virginia Mine Claims*                  | 13.3            | \$ 500                                     | \$ 16,667  |                                      |
| New Round Valley                       | 340             | \$ 5,100                                   | \$ 170,000                                       |                                      |
| Gambel Oak                             | 200             | \$ 3,000                                   | \$ 100,000                                       |                                      |
| <b>City-County Easements</b>           |                 |  |  |                                      |
| Quarry Mountain                        | 183             | \$ 1,373                                   | \$ 45,750  | this is 50% since County is co-owner |
| <b>Easements Co-held with ParkCity</b> |                 |  |  |                                      |
| Lady Morgan*-- DeerValley              | 1.79            | \$ 500                                     | \$ 16,667  |                                      |
| Ski Area-- Deer Valley                 | 883             | \$ 13,245                                  | \$ 441,500                                       |                                      |
| Osguthorpe Farm                        | 121             | \$ 1,815                                   | \$ 60,500  |                                      |
| Prospect Ridge-- Talisker              | 64.75           | \$ 971                                     | \$ 32,375  |                                      |
| Warren Claims-- Talisker               | 105             | \$ 1,575                                   | \$ 52,500  |                                      |
| <b>TOTALS</b>                          | <b>2738.517</b> | <b>\$ 41,442</b>                           | <b>\$ 1,381,387</b>                              |                                      |

\* stewardship based on \$15/acre per year or a minimum of \$500 per year

### *Recent Summit County funding of similar endowment requests:*

Summit County has provided 'Stewardship Endowment' funding for two of their recently acquired Open Space parcels, as one time capital expenditure, outside of the property purchase. The County utilized the 'Open Space Management' budget, for this funding. It should be noted, that the County has a separate 'Weed Management budget". Below is the endowment cost and acreage for both parcels:

| Parcel/Acres            | Endowment Provided | Cost per acre |
|-------------------------|--------------------|---------------|
| Keleman- 10 acres       | \$25,000           | \$2,500       |
| *PRI Kimball- 316 acres | \$23,500           | \$65.10       |

*'Private fundraising was used to offset this endowment cost.*

### *Endowment Structure:*

The Summit Land Conservancy is proposing that the endowment would be held by The Park City Foundation. Municipal funds could be deposited into a specially identified Park City Municipal Conservation Easement Monitoring Fund that would be used exclusively for the monitoring of Park City Municipal properties or can be placed



in the Summit Land Conservancy already existing permanently restricted stewardship endowment fund. **Staff has consulted with the City's auditor, Piercy, Bowler, Taylor & Kern, and they recommend that City funds not be held in this manner by a third party. The City holding the funds would be more appropriate in their opinion.**

#### Non-Endowment option

The creation or appointment of existing boards could be delegated the power to approve annual monitoring payments for services rendered, as opposed to a taxpayer funded "endowment," for the non-profit entity holding the easement. This would provide separation from the political bodies and monitoring, provided an established long term funded CIP stewardship account is identified. If further separation is desired, a stewardship fund could be placed in an escrow account with a designated trustee(s) to authorize payments rather than another non-profit.

#### *Current Summit Land Conservancy Professional Service Provider Contract*

The term of the contract is three years, ending in June of 2012. Staff is looking to provide a three month extension to the existing contract while Council provides direction associated with this report.

#### ***Additional Conservation Easement Discussion:***

Protecting open space from future development has been a long standing goal for Park City residents and it's Council. Over the past twenty years, the City has preserved over 7,000 acres of open space, through development agreements, the purchase of property or acquisition of easements. Mechanisms to ensure that the use of these parcels remain 'undeveloped' into the future include but are not limited to; deed restrictions, zoning, and associated bond language.

Park City has traditionally employed all of the following measures on all parcels purchased with Open Space Bond funds:

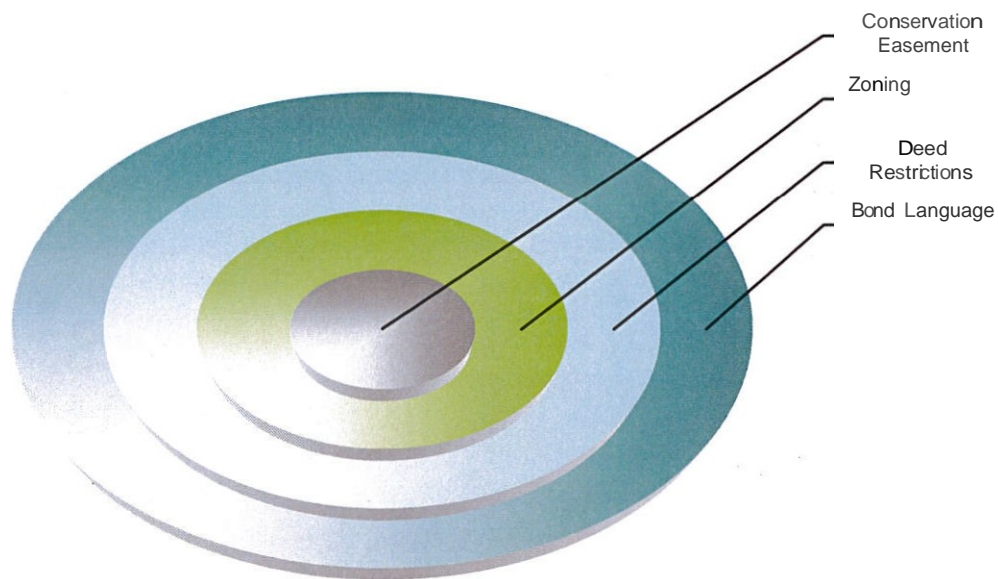
1. *Deed Restrictions:* Language which restricts use of the property as open space with a reversionary interest for the benefit of the prior owner should the terms be violated.
2. *Zoning:* Purchased properties within Park City limits are typically zoned as Recreational or Protected Open Space.
3. *Bond Language:* Every parcel purchased by the City with bond funds must be used in compliance with the terms of the issuance of the bonds restricting such use, in perpetuity, to open space.

A fourth option available for open space acquisition and subsequent stewardship is the use of conservation easements. These easements have two main goals:

1. Assigns enforcement rights of the open space deed and bond terms by which the City acquired the property to a third party conservation organization; and
2. Depending on the easement terms, the easement may further restrict the City's or the public's use of the property in perpetuity by narrowing the definition of permitted uses and conservation values of the property.

The City Council previously established that the additional protection in the form of granting such easements provide a desired degree of additional public assurance that the City government will not on their own compromise the open space values of the land in contradiction of the applicable bond language, deed restrictions and zoning. However, if drafted too narrowly, the conservation easements can limit public uses that would be otherwise permitted under the bond language and deed restrictions. Therefore, these permanent easements should be carefully drafted. Park City staff and legal counsel have consistently recommended against further limiting "permitted uses" for this reason, unless such restrictions are known and required by the seller at the time of acquisition (Armstrong for example).

The graphic below illustrates the three layers of protection that exist prior to placing a conservation easement on a piece of property, as well as, how permitted uses may come into conflict with one another if additional 'layers' are established at later intervals:



Staff maintains the position that the placement of conservation easements on parcels with existing restrictive covenants, such as deed restrictions, as well as, additional layers of 'protection', such as zoning and bond language is a 'redundant' application. However, staff recognizes that current council direction to place easements on existing parcels purchased with bond funds does provide a beneficial third party oversight of the parcels, as well as, reinforces the public's will and commitment to fund said parcels as open space in perpetuity. However, the City Attorney points out that this could also be done by simply assignment of enforcement rights of the original deed restrictions (create third party beneficiaries of the original deeds and/or bond restrictions). Staff also recognizes the importance of a national accreditation of an organization. . However, the priorities and tax purposes underlying most of the accredited organizations may not be in alignment with the purpose(s) underlying why the City chose to acquire certain properties **l**orexample, entering into the easements should in no way reduce the ta ayers' ability to recover compensatory

damages in the event of a third party violation or condemnation by another government entity.

**Summary of Questions for Council:**

1. Does Council wish to fund stewardship endowments that already have conservation easements on them? In answering this questions, the Council should ask itself are the City's management goals and reasons the City wants easements aligned or the same as the "stewardship" concepts articulated in the attached material from Summit Lands.
2. If Council wished to place conservation easements on some or all, of the city's open space parcels that currently do not currently have easements, does Council wish to fund stewardship endowments for those properties?
3. Does Council wish to establish a policy for funding future stewardship endowments, in the case where a new open space bond fund was established?
4. Does Council wish to place conservation easements on some or all City-owned open space that does not currently have a conservation easement? If so, should this be policy direction for the future?
5. Does Council wish to place conservation easements on some or all City-owned open space on a case-by-case basis? If so, should this be policy direction for the future?
6. Should staff incorporate this Council direction (received in response to questions 1-5) in the new RFP?

**Department Review:** This report has been reviewed by the Sustainability, Legal and Executive Departments. Input for this report was also received from the Finance and Budget Department.

The City Manager agrees with the City Attorney's opinion listed below.

The City Attorney recommends that:

- 1) Continue to contract annually for direct expenses of third party monitoring of the open space and other services as agreed but limit the use of conservation easements for future purchases to only when part of the original acquisition so that endowments and other consideration may be negotiated with the seller;
- 2) Unless established by the seller or City at the time of purchase, the "permitted uses" in conservation easements should mirror the bond language and deed restrictions only and future permitted, public uses are determined by the appropriate governing body in accordance with such restrictions, local zoning and open/public meeting requirements;
- 3) Conservation easements should affirmatively state that all damages and third party compensation for violations go to a designated City open space [bond replacement] fund, including condemnation; and
- 4) By enabling ordinance, the Council should specifically empower their Recreation Advisory Board (assuming COSAC is to remain temporary in

nature) or a new board to make long term use recommendations and oversee specific management plans actively and proportionately funded by each jurisdiction. Delegate to RAB the power to approve annual monitoring payments for services rendered, as opposed to a taxpayer funded "endowment," for the non-profit entity holding the easement. This would provide separation from the political bodies and monitoring, provided the Council decided to establish long term funded CIP stewardship accounts. If further separation is desired, the stewardship fund could be placed in an escrow account with a City designated trustee(s) to authorize payments rather than yet another non-profit contract that will create difficulties with government accounting rules.

### **Significant Impacts**

Funds are not available in the budget to fund the endowment. If Council wishes to place funds in a CIP project for monitoring, those funds should come from the Resort Tax ballot initiative if passed.

**Summary Recommendations:** Staff recommends Council discuss Summit Land Conservancy's request for an endowment and the possible options for an endowment structure and provide staff with direction. Staff would also like Council to have a high level discussion on the need for future conservation easements on existing and future City-owned property.

Because of the complex nature of this staff report, staff recommendations are being provided in a list below:

1. Staff recommends Council not place endowments on parcels that currently have conservation easements or on recently acquired property where Council wishes to place a new conservation easement.
2. Staff recommends that Council suggest endowment funding for future conservation easements at the time of purchase as part of the transaction. The City Attorney recommends an alternative escrow or long term CIP fund administered by RAB.
3. Staff recommends that should Council wish to place conservation easements on current or future open space parcels, that Council consider each parcel individually, rather than making a blanket statement to place conservation easements on any and all open space

### **Attachments**

Exhibit A: Summit Land Conservancy Fact sheet and budget breakdown

Exhibit B: Letter from Summit Land Conservancy

Exhibit C: Summit Land Conservancy 2009-2011 Contract- Scope of Services

## Exhibit A



WE SAVE LAND

Stewardship

Preserving land for ever and all eternity

As the holder of conservation easements on City-owned property, the Summit Land Conservancy has an "affirmative obligation" to steward these lands in perpetuity.

In order to fulfill this obligation to protect the citizens' investment in open space, the Conservancy must find non-political funding for the on-going stewardship of these properties.

### Questions and Answers:

*What does Stewardship entail?*

1. **Annual Monitoring** -- Includes site visits to each property, monitoring property boundaries, comparing GPS photo locations with previous years' photo documentation, compiling written reports that include issues that have arisen during the last year which are distributed to the City and to on-site archives. Staff also follow up with City staff on any issue needing resolution and works collaboratively to see the issue to closure.
2. **Archives** -- Each monitoring report must be duplicated and stored with multiple layers of redundancy. The annual monitoring reports may form the basis for the Conservancy's ability to defend the conservation easement in the future. Paper and digital copies are stored in the Conservancy's office and in the off-site archive location. These archives are reviewed every three years to insure the quality of the documents and continued readability of digital files.
3. **Reserved Uses** -- Every easement document allows some "reserved uses" that are permitted, for example trail construction or temporary structures for special events. Many of these uses require the City to notify the Conservancy that something is going to happen on the property. Some of these uses also require the Conservancy to grant approval. In each case, the Conservancy staff must investigate the request, visit the site to see what the impacts on the ground will be, and prepare a memo for the Conservancy's board. The Conservancy's board will consider each request and notification and direct staff on how to proceed.
4. **Easement Violation** -- The Conservancy is required to document any easement violation by any landowner or any third party. Again, the Conservancy's board will direct staff on how to proceed. Naturally, any easement violation takes considerable staff time both in the field and in discussions with the parties involved.
5. **Amendments** -- Any time a land owner wishes to make a change to an easement, the Conservancy's staff must again prepare a thorough report for the Conservancy's board. This report will detail the requested amendment and analyze the impacts upon the

conservation values as well as whether or not the proposed amendment is consistent with the conservation easement and the Conservancy's Amendment Policy. The board will direct staff on how to proceed. If the amendment moves forward, the staff must document the discussions regarding the amendment, and the Conservancy will have to engage legal counsel.

6. Public Use – Because the City properties permit public use and public events, the Conservancy staff is frequently contacted regarding issues. Each of these requires staff time to discuss, investigate, and resolve.
7. Landowner Relations -- One of the best ways to avoid easement violations is for the Conservancy and the City to maintain a good relationship, where each party understands the purpose and intents of the other. Conservancy staff and City staff meet monthly, and often have more frequent conversations regarding the variety of issues that come up on these properties. Additionally, unlike a private landowner who tends to stay the same over many years, the face of the City changes with each election, necessitating numerous meetings between the Conservancy's staff and elected officials.

### *Is the City Getting a Fair Deal?*

The direct costs associated with the Conservancy's stewardship include staff time, GPS & camera equipment, computer programs, legal fees, other professional services as needed such as environmental reports or surveys, and document preparation. Since Stewardship is one of the public benefits the Conservancy supplies to the community, a portion of the organization's administrative costs are also allocated to Stewardship.

In 2009, at the request of City Council member, Jim Heir and Candy Erickson, the Conservancy developed a stewardship cost per acre model.

How Costs are Estimated:

Total Budget for Stewardship in 2009 = \$22,900  
 Divided by total acres under easement = \$22,900/2,095 (acres)  
 Direct Costs per acre = \$11 per year.

Allocation for Overhead.

Stewardship in 2009 budget was 21% of total programs (excluding: easement purchases)  
 21% of Administration budget = \$9,034 administrative expenses allocated to stewardship  
 Divided Administration allocation by total acres under easement = \$9,034/2,095 (acres)  
 Administrative "burden" of Stewardship = \$4.31

Total Cost per Acre = \$4.31 + \$11 = \$15.31

Comparables:

- \$7/acre. The Minnesota Land Trust estimates \$7/acre for agricultural easements averaging 100 acres, with a single landowner and no public access. This land trust is in the process of reevaluating this price as it is not adequately covering the actual costs of stewardship.
- \$10/acre. Similarly the Vermont Land Trust averages \$10/acre again for primarily agricultural easements on private land. Here too, the organization is finding that this funding is inadequate. In both cases the private, agricultural easements being monitored require far fewer organizational resources than the public, intensively managed City-owned easements.
- \$30/acre. Bainbridge Island Land Trust holds easements on publicly owned land with recreational use and access. In 2011, their cost per easement was over \$45/acre, but this included some exceptional remediation and restoration work. They estimate their annual cost in a normal year to be closer to \$30/acre.

Leveraging:

The Summit Land Conservancy has found that the \$15/acre generally covers our actual costs.

We have found ways to leverage our costs/acre by bringing in AmeriCorps and other interns and volunteers to support the Conservancy's paid staff. This leveraging results in a savings to the Conservancy, and therefore to the City.

Additionally, we hope that some economies of scale will keep our costs in the \$15/acre range, despite inflation, even as the number of acres we monitor continues to increase. The Conservancy also hopes to supplement our stewardship funds with additional donations from other sources, such as bequests.

*What if the Conservancy isn't doing its job?*

1. Donor Restricted Funds: If the City establishes a "designated" or "field of interest" fund with the Park City Foundation, the contract can specify that the organization receiving the money for stewardship is the organization charged with stewarding the easement properties.
2. Maintaining national standards. The Contract can specify that the recipient of the funds is accreditation with the Land Trust Accreditation Commission, or adhere to other well-established best practices for the stewardship of conservation easements. If the Conservancy were to let its accredited status drop and could not prove to the satisfaction of the Park City Foundation's board of trustees that it was still performing to the Land Trust Alliance's standards, the funding for stewardship could be withheld or allocated to another organization that was able and qualified to do the work.

*How might the City pay for this?*

If the City wished to fund a stewardship endowment over 20 years, a contribution of \$75,000/year would be necessary.

Empire Pass Fees. Understanding that the Empire Pass fees are an important, but fluctuating source of revenue for the City, the Conservancy suggests that the City establish minimum amount from this revenue source that is used for other purposes. If the City receives more than the minimum or base in any given year, then it can make the contribution to the stewardship fund.



## Exhibit B

### Summit Land Conservancy Stewardship Letter



WE SAVE LAND

March 19, 2012

Dear Mayor Dana Williams and members of the Park City Council:

Park City should be honored for its many positive environmental initiatives. One of its greatest successes has been the City's open space acquisition programs. Recognizing the critical importance of open space to the character, economy, and quality of life of Park City, Park City has not only acquired important properties, but has employed the best tool to insure that the citizen's investment in these landscapes is protected forever: permanent third party conservation easements.

As the holder of conservation easements on much of the City's open spaces, the Summit Land Conservancy monitors each property each year, inventories the ecology, and works with City staff to mitigate any adverse uses. The Conservancy's mission to permanently protect the open spaces of Park City and Summit County means that it must take measures to insure its ability to continue these monitoring activities permanently.

Accordingly, the Conservancy has established a Stewardship Endowment. This money is permanently restricted, meaning that only the interest can be used and then only for the purposes of making sure that the conservation values (open space, recreation access, wildlife habitat, etc.) are in fact still protected.

The Summit Land Conservancy is unable to accept conservation easements without appropriate stewardship funding. The IRS requires land trusts, like the Conservancy, to have funding set aside in such stewardship endowments in order to insure that these organizations will be able to fulfill their obligation to protect the land forever. Likewise, the Land Trust Alliance, having reviewed the Summit Land Conservancy's easements and their additional protections, recommends substantially increasing our existing stewardship endowment.

The Conservancy will honor its current contract with the City to place conservation easements on the North Road Valley Parcel and the Gambol Oak/Hope White-Acre Parcels, hoping to find stewardship funds from the neighbors or other sources. If the City moves forward and continues to acquire open space, we advise it to include stewardship funding as part of the transaction costs, for without such funding the conservation process is not complete.

As you know, the Conservancy has already accepted 10 conservation easements from Park City Municipal without any stewardship funding, and it is a co-holder of 5 additional easements: 4 of these also lack adequate stewardship funding. Despite this lack of funding, the Conservancy remains obligated to monitor these properties each year and has done so, with support from a contract with the City. But the contract must be renewed every few years and done so in a public

process. It is entirely possible that the City could chose not to renew its contract \With the Conservancy, but the Conservancy would still have to the obligation of monitoring the properties. If the Conservancy \vere to go a-way or lose the ability to monitor these easements, the open space would be imperiled.

While we understand that other proteftions have been placed on these lands, but these additional measures lack one very important factor: a third party. Without a third party (in this case the Summit Land Conservancy) there may be no one \who realizes that a piece of property was supposed to be protected. There may be people who wish such protections to be forgotten. The Summit Land Conservancy *exists* for the very prupose of remembering and speaking up on behalf of those \lho protected the land in the first place.

In the 1920's a group of people in the town of Huntsville acquired land high up on Ogden Mountain. The property had been over-grazed resultng in a degradation of the to\>n's water source. After purchasing the land, the people of Huntsville gave this property to the forest service, thinking that the US Government would protect the land from future development and insure that their investment would be maintained forever.

They were -.wrong. In the 1990's the federal government, influenced by Utah's Congressional Delegation, decided to give that land to a developer instead, and it is now owned by Snow Basint

This is why Park City decided to use third party conservation easenlents on the lands that it tmly wants to protect. But without stev'ardship funding today, a fhture government could cripple the Summit Lmd Conservancy's ability to protect the land and honor the investment made by Park City citizens.

Thank you for all that you do to keep Park City green and open..



Cheryl Fox  
Executive Director  
Stmlll.lit L.md Conservancy

c<.lto,,o  
- ;!)

---

<sup>1</sup>See Stephen Trimble's *Bargaining For Eden*, University of California Press, 2008

**Exhibit C**  
**ADDENDUM "A"**

SCOPE OF SERVICES

**Proposal for Contract to Monitor Conservation Easement Compliance**  
**Submitted by the**  
**Summit Land Conservancy**

**Experience:**

The Summit Land Conservancy has been working to protect open space in and around Park City through permanent conservation easements since its inception as COOL (Conserving Our Open Lands) in 1998. We currently hold over 847 acres of City-owned property in conservation easements and we co-hold with Park City Municipal another 1052 acres that represent the open space portion of the Flagstaff/Empire Pass Development.

These acres are held in 14 separate easements, each of which was drafted with input from the Summit Land Conservancy. The Summit Land Conservancy has also prepared baseline studies for each of these properties and monitors them annually. Copies of all baseline studies and monitoring reports have been given to the City's staff in charge of overseeing easement lands. The Summit Land Conservancy's staff meets regularly with the City's legal and sustainability staffs to address issues that our annual monitoring reveals.

The Summit Land Conservancy is proud to be a member of the Land Trust Alliance, a national educational and representative organization of over 1500 land trusts across the country. We follow the Alliance's Standards and Practices, striving for state of the art stewardship and conservation programs. This diligence has allowed us to do a better job monitoring easement properties.

In 2006 and 2007, we converted all of our monitoring documents to digital formats with GPS telemetry, and delved into other ownership issues, such as title reports. This work revealed that the acreage listed on one of the Round Valley easements was off by 90 acres. We also found that a parking lot had encroached on part of the Rail Trail easement. Finally, we discovered that the county recorder does not show the City as the owner of the entire UP&L parcel on lower Main Street. Our staff has documented these issues in each monitoring report and followed up with a series of meetings with city staff. Some of these issues have been resolved, but we are still pursuing others.

In addition our work for Park City, the Summit Land Conservancy has been granted conservation easements by private landowners, including developers. On July 1, 2009, we expect to close on our first purchase of a conservation easement from an Eastern County landowning family. We are also working with Summit County to place conservation easements on land purchased by BOSAC.

**Services & Deliverables:**

**Monitoring:**

Existing Easements:

The Summit Land Conservancy will visit each property annually once it is free of snow and perform a thorough inspection of its conservation values. Written reports for each property will be submitted to the City by December 31 of each year that this contract is in place.

The Summit Land Conservancy will monitor each of the following easement properties in 2009, 2010 and 2011:

Empire (Flagstaff Annexation Agreement), 4 easements: Ski Area, Lady Morgan, Prospect Ridge, as well as the Warren Claims on Iron Mountain, and Round Valley, 5 easements: Ed Gilmore, Bilogio, Cranbrook, Grover, McMillian, and Virginia Mine Claims  
Rail Trail Richards  
Ranch McPolin  
Farmlands **UP&L**  
Parcel

#### New Easements.

At this point, we expect to monitor the Clissold/Quarry Mountain and Iron Mountain properties in 2010 and 2011.

If the other new easements are completed before the estimated dates below, they will be added to the annual monitoring schedule sooner than is currently planned.

The Summit Land Conservancy will provide the City with written monitoring reports for each easement or group of easements. Conservancy staff will meet with the appropriate city staff to resolve any issues that the monitoring reveals. If the issues are not resolved by the next monitoring session, the Conservancy staff will take the issue to the City Manager and/or City Council.

Additionally, we will include these easements in our Adopt an Easement program to insure that more eyes and ears are attending to the conditions of the properties. Each monitoring report will also be archived both in our office safe and in a secure, off-site location.

#### **Conserving New properties**

The Summit Land Conservancy will complete baseline studies and conservation easements for the following properties:

Clissold/Quarry Mountain: The Summit Land Conservancy has already completed the baseline study for this property and drafted the easement. This baseline study features an expanded wildlife study. Conservancy staff has forwarded easement drafts to both County and City legal departments. Both the County and the Summit Land Conservancy are ready to sign the easement. We are currently waiting for final approval from the City's legal department. We expect this easement to be signed and recorded before the end of 2009. Copies of the baseline document will be supplied to the City.

Iron Mountain: The Summit Land Conservancy has already done preliminary work for the baseline of the Iron Mountain parcel, since it surrounds the easement we already hold on the Warren Claims. The Conservancy will prepare a baseline study, and the conservation easement by the end of 2009.

New Round Valley: The Summit Land Conservancy will complete a baseline study of the City's new purchase in Round Valley. Staff will also draft the easement and follow it through the appropriate processes at City Hall. Copies of the baseline and recorded easements will be provided to the City no later than December 2010. The Summit Land Conservancy will also keep archive copies of these documents in both our in-office safe, and at a secure off-site archival location.

White Acre/Hope Parcels: The City purchased the Hope Parcel with COSAC II funds, and has been working with Congress to have the White Acre parcels granted to the City. Once this has been finalized, the Summit Land Conservancy will prepare one baseline study and one conservation easement for the entire area. These will be finalized by December 2010, if the congress grants the land to the city by June 2010. Again, copies of all documents will be provided to the city and archives will be kept in two separate and secure locations.

## **Factors:**

Four unique factors give the Summit Land Conservancy an important advantage in meeting the City's needs:

1. The Summit Land Conservancy is based in Park City. Our staff and board live here and are intimately familiar with the lands that we protect. People don't have to call Salt Lake or somewhere else to get hold of us. The Board of Directors and staff understand and are honored by the trust that Park City has placed in us by granting conservation easements on tax-payer purchases and on the community benefit-open space components of local developments. We take this charge very seriously and strive to insure that the interests of the government and the citizens are well protected.
2. The Summit Land Conservancy mobilizes volunteers from the community. Our Adopt an Easement program asks locals to pay special attention to what they see on easement properties- good and bad- and let us know. We have a simple form for people to fill out on our website, or they can always call us. This increases our ability to watch these properties for compliance.
3. The Summit Land Conservancy focuses its efforts only on lands within Summit County. While we recognize and applaud efforts to protect other areas of this beautiful state and nation, the scope of our organization is strictly local. Our board believes that the development pressures faced by Summit County combined with the economic need to protect open space justifies the existence of an organization like the Summit Land Conservancy that works every day to insure that the open spaces that have been preserved, remain so. Our staff is readily available by phone and email to members of the local governments and their staff, as well as the citizens of Summit County.
4. The Summit Land Conservancy is committed to maintaining the highest standards of excellence as measured by the national Land Trust Alliance. Our policies and procedures for conservation and stewardship are based on the best practices as defined by the national organization. We are also a member of the Utah Nonprofits Association.

## **Other Factors/Limitations:**

This proposal represents our best efforts to calculate the actual costs of stewardship and new conservation over the next three years. Like any non-profit organization, we strive to keep overhead and administrative costs to a minimum. We realize, however, that in order to perform our obligations in a professional manner, we may need to hire additional staff and move to a slightly larger office space within the next three years. Nevertheless, the financial figures in this report are based on our budget for 2009.

## **Monitoring Policy:**

Please see appendix A

## **References:**

1. Mayor Dana Williams 435-901-8135
2. Chris Donaldson, Chair of BOSAC, [chris.donaldson@cushwake.com](mailto:chris.donaldson@cushwake.com)
3. Jan Wilking, co-Chair COSAC I, COSAC III liaison to BOSAC [janwilking@gmail.com](mailto:janwilking@gmail.com)
4. Richard Sheinberg, Board Chair, Summit Land Conservancy 435-901-9163

## **Compliance:**

The Summit Land Conservancy will comply with Park City Municipal's standard contract so long as nothing in that agreement modifies, amends or limits our rights under any of the conservation easements.



| Stewardship      | based on cost per acre |           |           |
|------------------|------------------------|-----------|-----------|
|                  | 2009                   | 2010      | 2011      |
| City Owned esmts | \$ 12,917              | \$ 23,435 | \$ 31,666 |
| 4- Empire/Warren | \$ 16,074              | \$ 16,074 | \$ 16,074 |
| Total            | \$ 28,991              | \$ 39,509 | \$ 47,740 |

| Land Conservation | based on cost per new easement |           |           |
|-------------------|--------------------------------|-----------|-----------|
|                   | 2009                           | 2010      | 2011      |
| 112 Clissold      | \$ 3,449                       |           |           |
| IronMt            | \$ 6,898                       |           |           |
| Round Valley .    |                                | \$ 6,898  |           |
| White Acre/Hope   |                                | \$ 6,898  |           |
| Total             | \$ 10,347                      | \$ 13,796 |           |
| tals              | \$ 49,686                      | \$ 46,407 | \$ 47,740 |

TOTAL 3-VEAR REQUEST\* \$ 143,833

\*if the city acquires other new easements not included here,  
we will submit additional invoices for those baseline and easements.

**ADDENDUM "B"**

PAYMENT SCHEDULE FOR "EXTRA" WORK

Summit Land Conservancy will establish a baseline and provide ongoing monitoring for any additional open space acquisition that the City requests to add to this contract for an incremental cost of \$6,898 per property and \$15.24 per acre for ongoing monitoring services.





## City Council Staff Report

**Subject:** Risner Ridge Open Space Parcels  
**Author:** Heinrich Deters  
**Department:** Sustainability  
**Date:** December 6, 2012  
**Type of Item:** Administrative

### **Summary Recommendations:**

Staff recommends Council review and discuss Summit Land Conservancy's (SLC) request to grant conservation easements on approximately 53 acres of City-owned open space property located near Risner Ridge. (Exhibit A) Staff recommends that Council provide direction to extend existing deed restrictions onto the parcels without deed restrictions and maintain municipal ownership.

### **Topic/Description:**

The granting of conservation easements on city-owned open space parcels.

### **Background:**

#### *Acquisition*

Park City Municipal acquired several platted open space parcels above Park Meadows, in the Risner Ridge area, via the Quarry Mountain Master Planned Development agreement (1994), and specifically, the Eagle Pointe subdivision process, between 1994 and 2004. Differing characteristics of the parcels are attributed to the 'phases' of the development

Additionally, the City acquired the 7.83 acre parcel (PCA-2-2100-4-A-X) in 1992 from Arnold Industries Inc., formally known as Arnold Resorts Inc., via a Quit Claim in what staff believes to be a development agreement associated with Park Meadows and the American Saddler waterline.

All of the property is zoned Recreational Open Space with several public trails and trailheads within the area.

In the fall of 2010, staff was contacted by a representative of the Risner Ridge home owner's association regarding the status of the open space lots within the subdivision. When it was determined that some of the lots were protected with a deed restriction prohibiting building and others were not, staff recommended petitioning the City Council to have the deed restriction extended to the lots that were not protected as such. After sending a letter in October 2010 (Exhibit B), staff did not hear back from the Risner Ridge HOA representative. The deed restriction was not extended onto the parcels without a deed restrictions.

In 2011, SLC was contacted by a several residents of the Risner Ridge neighborhood who wanted to ensure adjacent city-owned parcels would remain as open space. SLC

and the resident's discussed options, which included placement of conservation easements on the parcels, as well as, the costs associated with the process, monitoring and stewardship of the proposal.

This past summer, SLC and a few Risner Ridge residents met with City staff, to discuss options available to ensure the open space remains undeveloped, in addition to, seeking clarity on what restrictions were already in place. In that meeting City staff explained the 2010 inquiry and that staff would provide a positive recommendation to Council if the neighborhood was interested in extending the deed restriction. As a product of the meeting, City staff requested that SLC and the applicable home owner's association's work together with the intent of demonstrating the neighborhood's collective support for a Council proposal. The Risner Ridge HOA, with the assistance of SLC, sent out mailers and went door to door and collected 143 petition signatures within the neighborhood. Petition language for the proposal has been provided below On August 24<sup>th</sup>, Summit Land Conservancy director Cheryl Fox formally requested that the Council review the easement proposal.

*//We the undersigned support the permanent preservation of the Risner Ridge open space parcels through the use of conservation easements. //We understand that other protections are currently in place on these parcels, but we encourage Park City to take all steps possible to insure that these properties remain open and undeveloped for the future.*

**Analysis:**

It is important to outline the process in which the City acquired these parcels, as well as, any restrictive covenants associated with the individual parcels. Staff has provided a matrix below, dictating each parcel and subsequent restrictions.

| Parcel/Acres                   | Acquisition | Zoning | Other Restrictions                                  |
|--------------------------------|-------------|--------|---|
| EP-1-A-X<br>5.78 acres         | 1995        | ROS    | Platted<br>'non-buildable lot' &<br>Deed Restricted |
| EP-11-B-X<br>7.28 acres        | 1997        | ROS    | Platted<br>'non-buildable lot' &<br>Deed Restricted |
| EP-IV-A-X<br>10.89 acres       | 2004        | ROS    | Platted 'open space'                                |
| EP-IV-B-X<br>21.92 acres       | 2004        | ROS    | Platted 'open space'                                |
| PCA-2-2100-4-A-X<br>7.83 acres | 1992        | ROS    | none  |

*Eagle Pointe Subdivision Process*

Several parcels identified above were dedicated to the City as part of the public benefit obligations of the Eagle Pointe subdivision process. Earlier dedications (EP-1-A-X & EP-11-B-X) included deed restrictions, while later dedications were simply transferred as platted open space to the City. Staff believes that the intent of the later dedications as

open space was established but the formal drafting of the deed restrictions were simply overlooked by the developer.

*American Saddler Waterline Parcel (PCA-2-2100-A-X)*

Arnold Industries Inc. transferred deed of this 7.83 acre parcel in what appears to be an obligation associated with the development of Park Meadows. Specifically, it seems that the parcel was integral to the implementation of the American Saddler waterline, which provides water to adjacent parcels.

*Granting an easement on City-owned open space parcels*

Staff maintains the position that the granting of conservation easements on parcels with existing restrictive covenants, such as deed restrictions is a 'redundant' application. Furthermore, Staff finds that conservation easements should be primarily considered at the time of the properties acquisition, where all relevant parties can identify and agree upon the process to preserve identified conservation values.

*Primary goals of conservation easements*

Conservation easements, as a tool, are most often utilized to preserve open lands with specific 'natural values', while providing a grantor tax benefits. Tax benefits, are contingent, per IRS code, on several factors including the perpetuity of the easement. Furthermore, easements can be utilized to stretch funding sources by placing an easement on a parcel without actually purchasing title. Staff does support the use of conservation easements where specific 'values' need to be addressed above and beyond deed restrictions and planning regulations. Staff cautions that by utilizing easements on inappropriate parcels, such as these, Council may be unknowingly giving up "permitted open space uses" which would otherwise be allowed.

The parcels that do not currently have deed restrictions are small parcels within a residential setting. While they are important to the neighbors as open space, they do not represent the significant public value of Round Valley or the land surrounding the McPolin Barn.

*Protections and process in place*

In short, the City would have to receive new title without the deed restrictions and an amendment to the existing MPD, a zone change and a plat amendment would be required. Additionally, any tax benefits and density issues would need to be addressed. Staff finds that this process sufficiently ensures that development of these parcels is sufficiently prohibited (provided the deed restrictions are extended to all parcels as recommended by staff).

Staff asserts the real issue is what are the allowed public uses of the property consistent with the deed restrictions and open space zoning. Staff firmly recommends that such uses are determined by a public process and by a body accountable to the public. There is a fundamental difference between a legal instrument intended to prohibit an undesired use (deed restriction prohibiting buildings- residential or commercial density) compared to a conservation easement which usually restricts the

land to existing baseline conditions/conservation values unless certain uses are expressly defined and reserved as permitted uses at the time the easement is granted).

*Middle Ground Option*

If Council wishes to provide the public with additional measures to prevent development of the parcels currently free of deed restrictions, it should simply place deed restrictions, with appropriate language, on the parcels.

| Pareel/Acres                   | Acquisition | Zoning | Council Option                             |
|--------------------------------|-------------|--------|--|
| EP-1-A-X<br>5.78 acres         | 1995        | ROS    | Property is properly protected             |
| EP-11-B-X<br>7.28 acres        | 1997        | ROS    | Property is properly protected             |
| EP-IV-A-X<br>10.89 acres       | 2004        | ROS    | Place additional deed restriction language |
| EP-IV-B-X<br>21.92 acres       | 2004        | ROS    | Place additional deed restriction language |
| PCA-2-2100-4-A-X<br>7.83 acres | 1992        | ROS    | Place additional deed restriction lanouage |

Finally, staff finds that funds earmarked by some of the Risner Ridge residents may be best served as a donation to Summit Lands Conservancy specifically for the acquisition of new open space in the area, or donated to the City for specific, permitted amenities or maintenance of the property. Paying for a conservation easement endowment on property already protected as open space is like tying up cash for a public improvement guarantee/bond when the public improvement is already constructed.

**Department Review:**

This report has been reviewed by the Legal, Planning, Sustainability and Executive Departments

**Alternatives:**

**Option 1:** Allow the neighbors to fund the conservation easement on city-owned open space. Granting of the easement should be expressly conditioned that the City under no circumstances is responsible for endowment funding (this is acknowledged in the request letter). Council must provide direction what specific reserved uses the City needs to retain.

**Option 2:** Allow the neighbors to fund the conservation easement on the property, but require the neighborhood/HOA to purchase the property (so they will have long-term maintenance responsibility)

**Option 3:** Extend the existing deed restrictions onto the parcels without deed restrictions and maintain municipal ownership (**This is the staff recommendation.**)

Option 4: Extend the deed restrictions and sell or give the property to the HOA for long-term maintenance

**Significant Impacts:**

While allowing the neighbors to use their own funds to place a conservation easement on land owned by the public may not seem significant, it does set a precedent. Additionally, staff believes that the same intent of protecting the land from development could be achieved by extending the deed restriction to the parcels without deed restrictions and the funds raised by the neighbors donated to Summit Land Conservancy for additional open space acquisition or open space monitoring. Staff is also concerned that allowing neighbors to fund a conservation easement could create a perception of "our open space" and could result in a higher level of service being demanded for weed maintenance or other open space maintenance responsibilities of the City.

|   | World Class Multi-Seasonal Resort Destination<br>(Economic Impact) | Preserving & Enhancing the Natural Environment<br>(Environmental Impact)               | An Inclusive Community of Diverse Economic & Cultural Opportunities<br>(Social Equity Impact) | Responsive, Cutting-Edge & Effective Government |
|---|--|--|---|---|
| Which Desired Outcomes might the Recommended Action Impact?               | Additional land would be made available for recreational programs  | Abandonment of public lands<br><br>Managed natural resources balancing ecosystem needs | Increased diversity of community  | Engaged and informed citizenry                  |
| Assessment of Overall Impact on Council Priority (Quality of Life Impact) | Neutral  | Neutral  | Neutral   | Vary Positive                                   |
| Comments:   |  |  |   |   |

**Funding Source:**

No additional funding is being sought.

**Consequences of not taking the recommended action:**

Staff requires Council direction to provide the Summit Land Conservancy and the associated Risner Ridge HOA with an answer to their proposal.

**Recommendation:**

Staff recommends Council review and discuss Summit Land Conservancy's (SLC) request to grant conservation easements on approximately 53 acres of City-owned open space property located near Risner Ridge. Staff recommends that Council provide direction to extend existing deed restrictions onto the parcels without deed restrictions and maintain municipal ownership.

Exhibit A-Proposal



WB SAVE LAND

August 24, 2012

Mayor Dana Williams and members of the Park City Council:

As most of you know, the Summit Land Conservancy was contacted in 2011 by seven neighbors of the Risner neighborhood of Park Meadows who wanted to insure the permanent protection of the open space located on five city owned parcels on their property. The Conservancy spoke with City staff and understood that the City did not wish to spend the money required to cover the transaction costs of placing an easement on the properties, nor did it wish to fund the stewardship endowment that the Conservancy would require.

When informed of this as well as of the estimated costs, the neighbors agreed to help the Conservancy raise the necessary funds, if the City would agree to grant an easement on the parcels,

Over the course of 2012, the Conservancy's staff has had several meetings with City staff, including Heinrich Deters and Drane Foster, to discuss this project. The City staff also participated in a meeting with the Conservancy and several neighbors. At that meeting the City was clear that there were already zoning restrictions on the property as well as deed restrictions on two of the parcels. Additionally, the City staff explained that a deed restriction could be used to accomplish a similar purpose as a conservation easement.

At the request of City staff, the Conservancy met with the members of the three HOAs whose neighborhoods border the five parcels. The Conservancy made it clear that there are other options for protecting these lands as open space besides permanent conservation easements. In each case, however, the HOA boards felt that an easement would be the best option.

Again, at the request of City staff, the three HOAs sent a mailing to all of the property owners with a letter explaining the proposal to place these five parcels in a conservation easement. These letters also included a petition form that homeowners could return. As of August 24th, the Conservancy has received 143 signatures of homeowners who support placing these properties in permanent conservation easements. Copies of these petitions have been submitted to City staff.

The Conservancy received no objections from anyone to the proposal to place these lands in easements. A copy of the letter that was sent to Risner Ridge HOA members is attached to this letter. The three HOAs coordinated their letters so that each said essentially the same thing and they were all mailed at the end of July 2012.

At this time, the Summit Land Conservancy would like to respectfully request that the City Council consider granting the Conservancy a permanent conservation easement on the five Risner Ridge properties. If the City agrees to place these lands in an easement, the Conservancy will initiate a fundraising campaign to cover our transaction costs as well as the stewardship and legal defense endowments necessary. The Conservancy will not expect the City to contribute funds to this campaign.

Summit Land Conservancy  
PO Box 1175, Park City, UT 84060

Risner Ridge Proposal

www.summitlandconservancy.org

These five parcels are important to the riparianity of Park Meadows as they provide wildlife corridors through this suburban neighborhood. Furthermore, these five parcels provide important trail connections to the adjacent Round Valley open space. These slopes and hillsides are also important view corridors for the Park Meadows neighborhoods.

The Conservancy staff and its Round Ridge subcommittee would like to meet with you to discuss this project further.

We look forward to working with you to continue your strong legacy of protecting local open space.

**Yours truly,**

Charyl Fox  
Executive Director



# RISNER RIDGE HOMEOWNER'S ASSOCIATION

July 23, 2012

From: Your Board of Trustees

To: Our Homeowner Members

Re: Summit Land Conservancy Project Adjacent to Risner Ridge

We want to update you on the project. The City has asked us to circulate a petition to ensure the parcels to ensure the project is in our members' best interest. We will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

Accordingly, the City has asked us to circulate a petition to ensure the parcels to ensure the project is in our members' best interest. We will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

Sp h.v can ail live: p-Ht ;J, \:fldt |p...ti<l \ \ nrr;nn: L;-w i:llfm;L'ft p.rntecllun III fFe\CFlllll;:; "ity :fi\U i:dlit: t:ht r:llt' f(tr ite("1-d))11T11:nt

Accordingly, the City has asked us to circulate a petition to ensure the parcels to ensure the project is in our members' best interest. We will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

the City to grant the Conservancy's request to fund the project is in our members' best interest and we hope you will support it. We will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

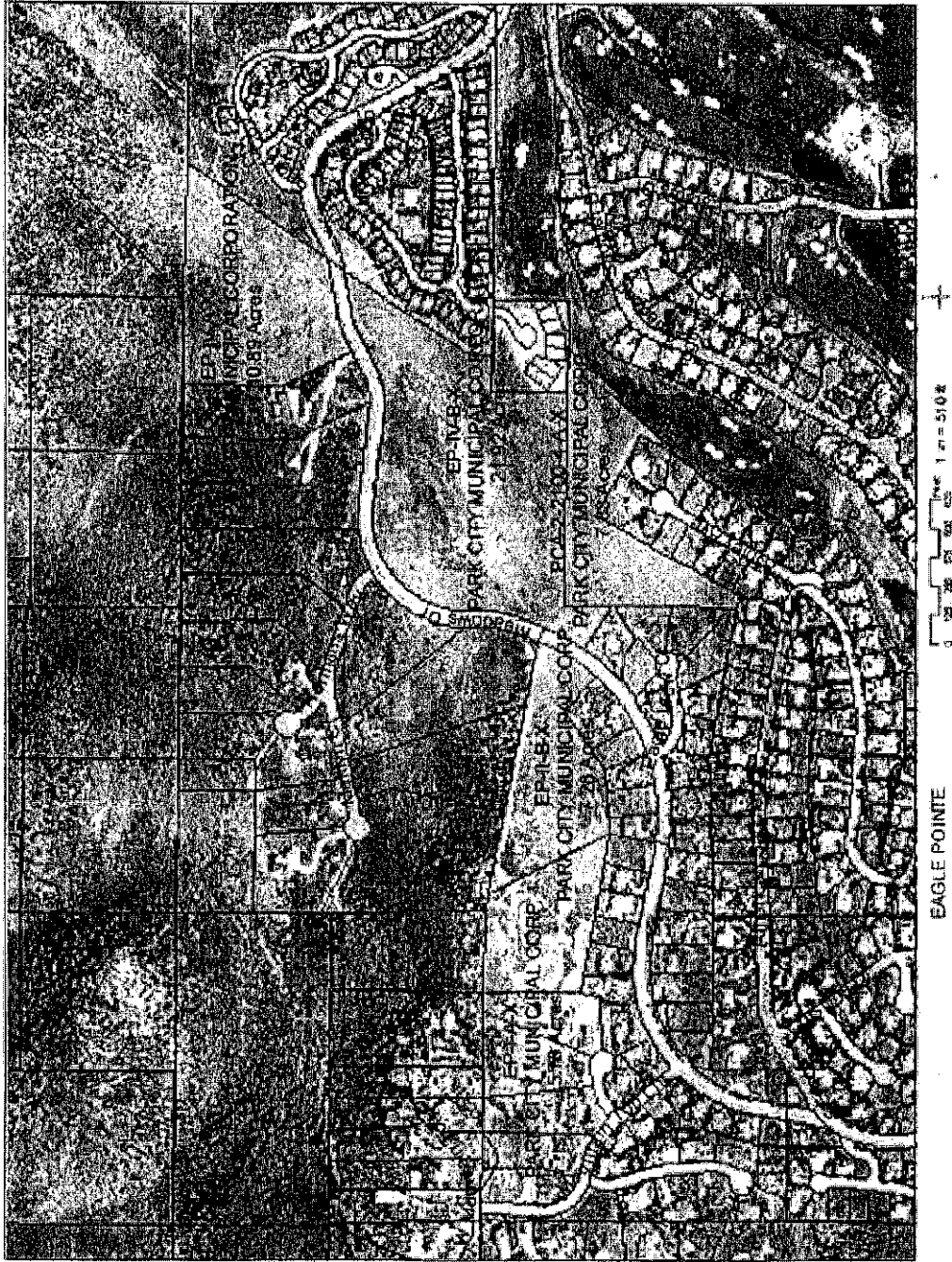
In order to ensure the project is in our members' best interest, we will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

support this project in whatever way you can. We will be providing you with a petition to sign and return to the City by August 1st. The petition will ask the City to grant the Conservancy's request to fund the project. We believe this project is in our members' best interest and we hope you will support it.

ONF ASTHEY  
PAFLL\_ Gt7l. urAH 14tMW



MAP SHOWING FIVE PARCELS



Map showing the five parcels:

**Exhibit B-October 2010 Letter with Existing Deed Restrictions**



October 13, 2010

Mr. Paul Boyer  
Secretary-Treasurer  
Risner Ridge Homeowner Association  
One Ashley Court  
Park City, UT 84060

Dear Mr. Boyer-

This letter is in response to your inquiry regarding City-owned parcels that are in the area of your home on Ashley Court.

**City-owned Parcels**

As you will see from the attached map, the City owns five parcels in that general vicinity. Some of the parcels were deeded to the City by the developer as part of the subdivision process and other parcels appear to have been dedicated/transferred to the City likely during or following the original development process.

**The parcels owned by the City are shown in the attached map.**

**Zoning**

Currently, all five parcels is found in the Recreation and Open Space (ROS) District (zone). The purpose of the ROS District is to

- A. establish and preserve districts for land uses requiring substantial Areas of open land covered with vegetation and substantially free from structures, streets and parking
- B. permit recreational Uses and preserve recreational Open Space land,
- C. encourage parks, golf courses, trails and other Compatible public or private recreational Uses, and
- D. preserve and enhance environmentally sensitive lands, such as wetlands, Steep Slopes, ridge meadows, stream corridors, and forests,
- E. encourage sustainability, conservation, and renewable energy.

For a complete list of allowed uses, administrative conditional uses, and mandatory uses please see the following link

<http://www.parkcity.org/Modules/ShowDocument.aspx?DocumentId=BI1>

Warranty Orders

Parcels EP+A-X and EP-11-B-X both have Special Warranty Deeds associated with them that specifically restrict building on the parcel as well as specify that the Property will be maintained with the natural qualities of open space. The deeds are attached, following the map.

The other three parcels do not have any of this type of restriction associated with them, however it is likely that the plat location and/or development approvals similarly restrict development on the parcels.

Question about the City to Change Designation

email you asked about the "procedures for interested citizens to petition the City to change the designation of this City-owned land and transfer it into the Open Space program?"

By open space program, I assume you mean the third party conservation easements. These are currently placed on property acquired by open space bond funds. A citizen may request that the City place a conservation easement on any other City property. A citizen may petition the Council by letter. Staff would provide both a planning and cost/benefit analysis in making a recommendation.

---

If you would like further assistance, please do not hesitate to contact me,

*Diane Foster*

Diane Foster  
Environmental Sustainability Manager

WHEN RECORDED, MAIL TO:  
CITY RECORDER  
PARK CITY MUNIC. CORP.  
P.O. BOX 1460  
PARK CITY, UT 84060

**SPECIAL WARRANTY DEED**

EAGLE MOUNTAIN PARTNERS, L.L.C., a Utah limited liability company, hereby CONVEYS AND WARRANTS ..... the certain interest therein to PARK CITY MUNICIPAL CORPORATION, for the use of THE AND NORTH DOLLARS (\$10.00) and 80011 and the following interest in land in the State of Utah:

LOT A, in the subdivision of Survey Map for EAGLE POINTE SUBDIVISION, PHASE I, Park City, Summit County, Utah,

SUBJECT TO THE DEED RESTRICTIONS CONTAINED IN BX 11111 'A' HERETO, AND MOSE CUM INCENTIVES AND RIGHTS OF WAY ON RECORD.

DATED this 11 day of December, 1995.

00444360 B>0093!P!(10:97-0019B

EAGLE MOUNTAIN PARTNERS, L.L.C.,  
a Utah limited liability company

AIAH SPRIGGS, SUMMIT COUNTY RECORDING  
1995 DEC 14 09:23 AM FEE \$1,00 P> ..  
REQUEST ASSOCIATE TITLE

BY: [Signature]  
ITS: President

**ACKNOWLEDGEMENT**

STATE OF Florida )  
COUNTY OF Ocala )

On this 11th day of December, 1995, I, the undersigned, a Notary Public in and for the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original instrument presented to me for recording, and that the signers of the instrument are the persons whose names are subscribed to the same, and that they are duly qualified to execute the same. My commission expires August 12, 1997.

[Signature]  
NOTARY PUBLIC SARA FLYNN-KRAMER  
Residing at: 7029 GREENBRIAR PARKWAY  
Orlando, Florida 32819

My commission expires:  
SARA FLYNN-KRAMER  
Notary Public, State of Florida  
My comm. expires Aug. 12, 1997  
Comm. No. CC308237  
Bolle-md 1111: 11 111111: 1 r

Page 1 of 2 pages.

EXHIBIT "A"

Dead Restrictions - Lot A, Eagle Pointe Subdivision  
Park City, Summit County, Utah

1111 -- by Gfllll:llr to O- ■ ■ IUI),ltu to 1bt t ■ romb below.

1. lilt A of lilt: J!qlt, 'fo:Jil!arli:cty, Slmcitrt.h (the 'L<I') is !letWy C(illveyed  
to Cranll>e 10 be bel(! ml matntaj!WI illpoby G<a!Dç 1s <p<O sp>cO !llld III;tJallrlri stat<.

Z. No dwetq, -- or all; rve..!U' lilt Cit facllltk\$ of any lcl!ld •boll be m<: ed ""plio<<  
on the l. <llr lle mUowin.!!: I) dime 'llllcb mail<>in lbt: noNt<ll qualtl.. of !lie orrn """""" 1)  
U!ole - .ry to Pllli<Ct lbm !U,gr!;y of theP"!>!lllS; mll) tml """"nit!<llll )llblic  
otiblo\$ a!o!> platted)llbil; tnil(S) llld utlliy - (-) .

3. The tQt 5Wl!OC be ll\$ed for any pwpoe ttw is j!Jieoi!Sistell with ltl:kl 1.1 Vpell \$!>o<o.  
llnl>ctlll!>rC, the L>t lllly not b< US<! as any !dod Of PlJt or locacl!) lOl gathering of people, O!ler lh:an fur lilt Ule of  
lilt !llblic tntil(t) loc.oted (be,....,

4. GWIlee •ball be re\$ll0<15i!)lo fMQf t!>e L:>t u referencein tlis Section 4. E<e!'t ••  
provll<d in this Secti>ll. 4, lilt ll#Snte01o:e \$Will. b< ""lilt e."ll!le of OrlllWe.

(a) Gmrt< qrnM tOVçpudon od llw L:>t in an e - woU4;<vt llml!><. AllllWgh  
!lie Lot oball be ■ ■ "!'t11 "">"!". k Is acl!ll;tlwed<d by OWIIM liltl Gllll!eO ttw !lie ll.<t1 ls located ill 1  
m noi >cnllOOD will! re: . .odjol!lling lle !. <. '!'beretorc, k Is W.ll!<lll!af this S<etion 4 W <!SSU!<  
ttw Gllllte<o, while mo!nr;Jinln,tl oalNtaJ. col!d.irioo of the Lot, will 001 al:klwlllt L< to t;euerally aweat WI-ki!pt or a  
geoOTlll e.

(b) Schlect 10dlOprior \*Wf""'11 of lbe IWk Cicy landscape ArebitOft, Grnntor, <rt ; dWy •Ullm<ized  
a&:<t, r - or qd!Qr ve of the Q!llllt(lr, may coll< uPOn the L:>t for Pl!Jlll\$<• olrtmtwing  
O<ttW> """"glllly pilo<O! lo<ated oo the Lor ill ol!IU to restof< llil. Lot 10 a oloal!, >lllac:live and \$i.glllly cmxlilion.  
Orau1:>rllm all cooswit! the rotOOval Qf!he>1: ll>!!;lluty piles of ""k will b< W. ""llQIWbilil)'  
of Grantor.

5. 'l'bc!lthiiD run wlltlll< 1w:1lllll •ball be 5j)<Cillool!)' and IDU1tlllly ent!>rceable by Gran10r  
ll;td Grant.et, thii;it su.ccesson and a.stans:

'!be#.Deedbov< be<oano1 "l"rov<<ly Gmw llllll Cl!llllleo effeitive . . or lhe e of Ute S  
W>mtll)' Deed 10 whloo this E:<hiblt 'A • 1\$ .W.Ched,

Warranty Deed for  
parcel EP-11-B-X

®

WITIN RECORDED, MAIVro:

CITY IIP.COIIDiR  
PAll(CIY MTJNICIPAL COIIP.  
P.O.OOXH111  
PARKC!"; OT !!'1 0

..It:iCtAL. WAlmANTY DEliO

fjAGLE MOUN'IAIN PAit.'Ntrms, L.L.C-v u Ulah Jjnftlmclllia-Dility comp(!!11Y, r r nlor,  
JHr.n.lby CONVEYS AND WARRANTS asahtsl <ll dailfling.: by c,r thliOttigranb.l-r, to  
PARK CII'V MUNICIPAL CORPORAUN,. grlrta(., fzyr th'l um i'lf TEN AND  
NO/IOOTHs: DOLLARS dft10.00) nnd other good tmd valu.nble conskie'ratlCIir lh8  
following deso::rHmd !!'1"ld 6f 111nri ir\ S m<lli: Counly, Stt,lc- {} 'Ul:<ih:

PARC!:'t< ""B"M Pt:fmIh on the offidalltec(trd ot' Surn-y .l,fap for t&r).CLE POINTE  
SHEDIVt UON, PHASE n Pil.rk ChyfSummH Cuunly, trtah.

SJH)JCI' TO !'HOSI! Dmm RESTIUCrIONS CCJNT/,!NED !N EXHIIIT "N"  
HEJ<E1'(), AND 'rtiOSE ENCT;M UR.NCES AN!ll.iGtffSOI' WJY OF IIEC:ORIJ.

DATI)D) !llls j/, day of j r.: 1991),

EAGLE MOUNTAIN PARTNERS, L.L.C.,  
a Utah limited liability company

BY: [Signature]  
Norman A. Rossman

President

sTmB OF Tlc<H:lc.c J  
COUNTY of O,CO 1Xj-( ) J S.S.

CI-047.2465 !!U:(lro14' Moh/l,.; O)b6?

AIA!! SPIGGS> SUIIIH IJJIU IY REcORDER  
1911 JA" 31 tM7 PrEE 11:1.00 \*Y IM  
Reff:ihSH AS-SOCTR!!!:O Tl.ILE

Th'l' foregoing It Itlltlmtl: "isackhIP\^-led.ged before m:C lbhf{O d'ly 1f...:P - 1) Jti....  
by NNtTrtn rA. R-ossmm . ...LJ.hc Is Q-"D)ffWsonnily known In nle iJ Pf pl\Jduco;>Jil

-----und Likl la.a oath.

[Signature]  
NOTARY PUBLIC

Print Name:  
My Commission Expires:

IR, .ID

FAW Ctn'  
Ntliit(CI rntiIT



KAREN M. GILMORE  
My Comm Exp. 3/04/93  
Bonded By Service Inc  
No. CC354470  
[Notary's Name] [Signature]

sgenrctd/wed1.doc

111<Hurr "A"

011"ed RC'slrkHon!!<- [utA, EagJ. Poinl(t Suhdh'IsIun  
Farl City, Summit Coun y. Uf th

This cmv ",Y1InC- try G""n'ftH' to Gi'tU,tU!!.-.is -11' -l re .r,ly ubjw;:,l. o liH'L s.tdt ::llons t:iff't (orl:h  
bçlOW.

1. PnlX'J?''"B" Of the Eli!gle PQf.l\l)t;Sul>dlvis.ioOn, Pl\l'k Sut.1111'k.l\lCoun'v, 'Ufth (the  
"Lot") ts twrol:l)J t14 weyed ro Gi'wot:C:Cl to lN? held .md m iin.1111(.>t.1 1.) p<:l'pr:h ity by  
Gn1nh;le ms Oj;en sp<h)fl fmd :fn\l rut.t:ll llif sl;:,;e.

Z. No dwell if'ig, s. ructuffl1 or f111J.O\l'te "u rlnC1J' -equiJ)1110111 (tr f.acHilic'i vf.1n\` h.ird !>hn'll lH-  
-r.e>tttd OI' phH>Od ort the Lo-G'X'i?pl fnr 1.h{" fo.lJOI'\*,;i'ing: 1) lHq<B4' impnn-ern0111s \\\hit:h  
lmtini iii tm:tl-t't11 IU llit(!<S. o( th0 OF' l'll sp.tce; :1) !!"lore n '&t.Sary to pwk-d th:l!  
u,lifo;)ty M'rl pbytdo.oi'l 1r!!r?&rity othe :=Uf'fOlld inprt:l'JX.rlies; llm13) tr 1Jliim r)ilii'" 11.nd  
tmbHt tl; il'fws <l:long th\_!- pla<<ed pu Mk h';-)!!h) 11nd. IHijj?' r.:t, IH1<t'nt(s).

3. The Lol thrl11 nol (d( H00d for any purpfiSILth;H j.: (nronstsrc-aH wuh 1: heing. ht>ld  
/1S op'lip:fl:l. ) urht l'N1{)!"-E, lhc- lA:tt ttay nt he uooJ (v; dny- kind o( pdt.k or Jocr,tkm  
for g,ntheit'ng OI' pe!<)>pl.:(. (tther lh.; tn (or lh<! tH+H) fil the piiblic (J;:il(s) lor.;ntJd E r!:-oon.

4. GJ<i!lnteshall be r-JOIT.Si Je for molnlt mu:re of tlw- L(H it' r tfc. rem:o:d irlt flfis  
Se:cli'ot'd 4. £l<cept 11S f'IOVideod-in t'l'ts StK inn 4, tlw tt&i'ten.n11 A. :;h.-ll h<: <ll the i!'Xj;elS'ff  
ofth• Gnm ,

(nJ Gnmte-e o tgl-ees Lo-.lYhNll,In ll'u' r'u)j<illJ ll'm onlhc Lol in m ,ur,l(\l\i(J-, "" f'n-  
h pt mH'itH+t. AHhN1.\$h five Lot r;hn!b;:ni\lft,hJ'u .:l o:l;i i:1Jitf1 H iol:ilt:km.Jwled jcd  
by Gf.lli Hl:lr nnd G-mttfc:' lht"t thv LI.t\ is. l;o("d,ed ir\ ll ri0(D,hborll'i.Jod wHh  
resh:l.<llv-tes. ;ldj->ining the Lot Th;::n'efon),, i:l [,the apeci'fk pw">OW of this S;:-<tiOl.f hJ  
MHt<.l thrl Or11ntee, whilm(1lrddintr.v, Hl< m'l'ttr.al cond\{fr)\ of tile LnL ' llw'ill not nllorv-  
tblt- Loi' to Rppear un ktpt -or t' genettl! nuismna:>.

(b) Subject to b<t prior appt'lorV4l M the Park l.n;dl;(.lr + A.t!12hiloct  
Grantor, or a duly authorized? It ci t)l dHL, (!fn!)l(loyr.e, subconi.mt:l:orr m alhc>r :repr'-.Sen'.fl.live"  
of the Grantor, may come t th'fr Lot (Qr punfNJS:l!nf ('C'(llln uns.fl hl.ly pJie-S-  
of rock located on the Lot O'l;.hr to J'le Store- t10 Lot lo A de<'ln, &HnH tiv'11nd slghH '  
c.,r.m'dillon. Grantor) r acknowlç;l\_g\_s that <ill co'.lds; (15 L)fi.i.'100d wJtthe r#M1HJvrd -r tw'ol  
un; ightly piles. of roo;lt; wtl k -lll( respon-sibility o(Gt.tiHOR.

5. These restrictions shall run with the land and shall be specificca and mutually  
enforceable by Grantor and Grantee, their successors and assigns.

TDeed [(lfrstridi Dn& hrt v08 hatn mvieWG<d ttnd appn:tved Cr.111\tta- arld CNH'11dL+  
ef.r:c:tlvo- as l.lf the d4t'\* of th>0 Spe;:i ll W<m'Hnl)' df!(J'd to this Ex-htblt ".N' is  
l'Z:ehi&cl.

00472465 001024 P60067

<J&W/M&P/W&nd&coe>

# Permanent Protection

## Conservation Easement Stewardship White Paper

Prepared by Utah Open Lands and the Summit Land Conservancy

November 2009

The federal government and the state of Utah have recognized the importance of non-profit land trusts in conserving public values, such as agriculture, wetlands, wildlife, recreational lands, and scenic views. Land trusts, like Utah Open Lands and the Summit Land Conservancy derive their 501c3, non-profit status from working to insure that these values are preserved and protected. This work involves the careful crafting of conservation easements, initial baselines studies, annual monitoring of easement properties, and if necessary, legal action to enforce the terms of the easement.

Both Summit County and Park City Municipal recognized that perpetual third-party conservation easements are currently the best tool available for insuring that the community's investment in open space is protected in the long term, and have granted easements on their open space purchases to both Utah Open Lands and the Summit Land Conservancy.

Purchasing these important landscapes and placing them under the legal restrictions of conservation easements is a tremendous act of conservation. But it is only the first act.

### **Maintenance vs. Stewardship:**

Maintenance of a property under conservation easement is not the same as stewardship. Maintenance is the responsibility of the land owner. It includes all activities necessary for the up keep of the land and for compliance with local ordinances and laws. Weed control, paying taxes, keeping insurance current are all maintenance activities and are required of any landowner, not just those whose property is under easement. Conservation easements are not intended to allow any activity that is not permitted by the governing jurisdiction. On City and County-owned easements where trails are permitted, upkeep and maintenance of these trails is the responsibility of the landowner.

Stewardship, on the other hand, is the responsibility of the grantee easement holder, in this case either Utah Open Lands or the Summit Land Conservancy. Stewardship entails insuring that the land is being used in ways that are consistent with the terms of the conservation easement. In order to best steward the easement properties, the land trust prepares a baseline document that catalogues the conservation values on the property at



the time the easement is placed.

Additionally, it is essential that the Grantee land trust monitor the property on a routine enough basis that potential violations are caught and remedied to minimize damage to the conservation values of the land. For every property the potential for violations is different. A property adjacent to a subdivision under construction is likely to incur greater risk of violation than a property adjacent to national forest or already protected land. Permitted uses can also be a source of potential violation. Every land trust has developed a method for calculating the appropriate funds needed to both monitor and enforce the conservation easement restrictions in perpetuity.

Stewardship must continue as long as the easement is in force, so for perpetual easements, that means a very long time.

## The IRS

Just as maintenance of a property is required by law, the land trust's stewardship activities are also required by law. As non-profit organizations with the mission of protecting land in conservation easements, Utah Open Lands and the Summit Land Conservancy must meet the requirements of the IRS. The Internal Revenue Code section 170A-14(c) spells out what the IRS expects of land trusts:

To be considered an eligible donee under this section, an organization must be a qualified organization, have a **commitment to protect** the conservation purposes of the donation, and have the **resources to enforce** the restrictions. A conservation group organized or operated primarily or substantially for one of the conservation purposes specified in section 170(h)(4)(A) will be considered to have the commitment required by the preceding sentence.

Essentially, the land trust is obligated by the IRS to carry out these tasks for each easement that it holds, whether or not the landowner received a tax write off for granting the conservation easement. The land trust assumes this responsibility forever.

Both Utah Open Lands and the Summit Land Conservancy as part of their compliance with section 170(a)14(c) have dedicated stewardship staff members as well as dedicated stewardship volunteers. And we have had these in place long before the IRS required them.

## National Standards

The Land Trust Alliance, which is a national organization whose mission is to protect open lands across the nation by strengthening land trusts, has established a number of Standards and Practices that both Utah Open Lands and the Summit Land Conservancy follow. These Standards dictate that we have a Stewardship Endowment that will enable us to monitor our easements in the years to come as well as legal defense funds.

The Land Trust Alliance recommends that land trusts have the funds necessary for stewardship, because this is fundamental to perpetual preservation of the conservation resources protected by a conservation easement. Beyond the IRS requirement, land trusts recognize the forever guarantee that is being made to the public when an open space parcel is preserved and that guarantee must be paid for. Local organizations attend to the long term funding of easement stewardship not just because the IRS requires it, but because this stewardship is imperative to the maintenance of the open spaces we protect.

## Funding Forever

When either Utah Open Lands or the Summit Land Conservancy accepts the grant of a conservation easement, their policies mandate that they also develop a mechanism to fund the perpetual responsibilities of holding the easement.

Since City and County easements were placed to insure that the open space purchased by citizens today is not denigrated or misused by future governments, the funding for the perpetual monitoring and stewardship of these properties must come from a source outside of the political process. If a future government wanted to do something on a property that would violate the conservation easement, it seems unlikely that the government would be interested in paying the land trust to uphold that easement.

### Stewardship Endowments:

Both Utah Open Lands and the Summit Land Conservancy have existing Stewardship Endowments and Legal Defense accounts for the protection of the properties under easement. These are donor-restricted funds and have stringent rules for how they are invested, withdrawn, and used. These funds may NOT be used for general operating costs that are unassociated with stewardship activities.

With every transaction a stewardship calculation is applied to the specifics of the land and the conservation easement and the land trust typically suggests that easement grantors make a cash contribution to the stewardship based on that calculation. The Stewardship Endowment is a perpetual fund that would be transferred to a new easement holder, should the current organization cease to exist.



WE SAVE LAND

## Conservation Easements vs. Deed Restrictions

| Conservation Easements   | Deed Restrictions  |
|--|--|
| Permanent. Conservation Easements have become the preferred tool across the country for the permanent protection of open lands and conservation values | Not permanent. Deed Restrictions may be removed by the parties that placed them  |
| Monitored by an independent third party  | Not monitored by an independent party. A land trust has no legal standing to enforce the terms of a deed restriction   |
| Public Benefit is of great concern to a court of law if the conservation easement is challenged.   | Public benefit is NOT considered by a court of law when deciding whether or not to change the terms of the deed restriction. Courts will hold deed restrictions to the least restrictive uses, and will consider the issue of hardship to the landowner. |

Conservation easements were created to address the weaknesses of deed restrictions as a tool for permanently protecting conservation values. States created statutes enabling the use of conservation easements in order to provide a better tool for the permanent protection of open lands and other conservation values.

As you may expect, the Summit Land Conservancy advocates the use of conservation easements as the best tool for permanently protecting open space. Such easements provide the legal backing for the protection of open lands and, when held and monitored by a third-party land trust, also ensure that the conservation values are evaluated on a regular basis in perpetuity.

Please feel free to contact me if you have further questions.

Yours truly,

Cheryl Fox  
Executive Director

To: Members of the Park City Planning Commission

From: Paula Swaner, Nature Preserve, Utah Open Lands, Park City's Citizens Open Space Advisory Committee (COSAC), and Conserving Our Open Lands (COOL)

## Statement of Purpose

In recent years Summit County citizens have rallied around the cause of preserving our vanishing open spaces. In response, local governments have attempted to enact ordinances that preserve open spaces. Unfortunately because of the different ideas of what open space is, the public trust is often broken when what the community drinks is getting as open space turns out to be something quite different.

As a result of this community concern, all the Summit County open space organizations came together to define various amenities related to the concept of open space that a landowner or developer might consider offering.

The following document comes from our experience in dealing with open space and its preservation on a daily basis, as accredited preservation organizations. We understand the confusion of semantics, but we also have to justify our definitions of open space within both Utah State and Federal guidelines.

We hope that these definitions will clarify terminology for decision makers, developers, and citizens alike. Once we are all using the same terms to apply to the same ideas, we hope that the development approval process will be clearer for all parties.

We believe that these definitions will be useful tools for the community as a whole and will be most effective if they are incorporated into the Definitions sections of Land Management Codes or Master Plans. We are not making any suggestions as to zoning or policy, what bonuses might be granted, or how these amenities may be integrated into development agreements. Our intent is merely to clarify the language so that when these options are being everyone is talking about the same thing.

Thank you for your dedication.

Paula Swaner-Sargeta  
Swaner Nature Preserve

Bob Richer  
Citizens Open Space Advisory Committee

Wendy Fisher  
Utah Open Lands

Cheryl Fox  
Conserving Our Open Lands

# AMENITY DEFINITIONS

Submitted by The Swaner Natme Preserve, The Park City Citizens' Open Space Advisory Committee, Utah Open Lands and its Summit County affiliate, Conserving Our Open Lands

## I. Parameters:

1. We recognize that there are many sorts of community amenities that a landowner or developer pay to include in a development proposal. In many cases the development indicates which amenity is most appropriate. We believe that the specific type of amenity should be clearly defined so that all parties understand what is being offered/exacted by the development agreement.
2. The first step in deciding which amenity definition is appropriate is for the community and the landowner to agree on the primary purpose for a parcel of land. Determining the primary purpose will involve consideration of public access, view sheds, environmental protection, and community character. Once that primary purpose is established, one of the following definitions will be clearly appropriate. In some instances a large parcel of land may offer more than one of the amenities listed below.
3. Through the development process, landowners will generally receive some benefit for providing an amenity. In order to ensure that the community retains the amenity that it gained/included for granting this benefit, we encourage the perpetual protection of these lands through the use of mechanisms such as third-party conservation easements or deed restrictions so that the public trust is preserved forever. Landowners should consult a tax specialist to determine if they can receive tax benefits from placing a conservation easement on their property.

## II. Definitions:

### I. Green Lands:

*Primary Purpose:* To provide useable, public, non-improved, non-commercial, connected and contiguous open space for the community benefit when required by development agreements or planning and zoning regulations. This land remains fundamentally undisturbed, although trail development and maintenance may occur.

2. Sensitive Lands:

*Primary Purpose:* To comply with federal, state, or local policies and regulations that prohibit building on ridge lines, view sheds, historic sites, wetlands, watersheds, and steep slopes. As **ated** or zoned lands, these parcels typically receive limited value in the development process. Because zoning policies and state and federal regulations can change, and **it** can be difficult, we encourage perpetual protection through third party conservation easements or other mechanisms. Trail development and maintenance may occur.

3. Conservation Lands:

*Primary Purpose:* To perpetually protect the conservation resource that the landowner is working to preserve. The land may be preserved through a voluntary conservation easement placed upon the property by the landowner, through the purchase of a conservation easement or through a deed restriction once the development rights have been sold. Conservation resources that would be protected under Conservation Lands are defined by the IRS and state codes to include wildlife, scenic, historic, cultural, educational, and ecological values, non-commercial public recreation, as well as any clearly delineated government policy concerning conservation lands. Trail development and maintenance may occur as the terms of the easement provide for them.

4. Recreational Lands:

*Primary Purpose:* To provide recreational opportunities for residents and visitors consistent with the overall community character. Golf courses, ski runs, neighborhood parks, tot lots, playing fields, and similar amenities may qualify as Recreational Lands. Conservation easements are generally not placed on lands under this type of use, but we encourage permanent protection of these amenities through deed restrictions or other means. Trail development and maintenance should occur on these lands.