

**Citizens' Open Space Advisory
Committee
(COSAC IV)
Council Chambers, 445 Marsac Ave.
February 24, 2015**



AGENDA

MEETING CALLED TO ORDER - 8:30 a.m.

ROLL CALL

REGULAR AGENDA

ADOPTION OF MINUTES: October 28, 2014 (Attachment I)

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

PUBLIC INPUT

New Business

Welcome Tyler Dustman- BOSAC Chair Update- (10 min verbal)
COSAC Chair and Vice-Chair election- (5 min)

Old Business:

Gambel Oak Easement- (10 min)
Clark Ranch Timeline- (10 min)

Upcoming Action Items- Clark Ranch Easement Discussion

CLOSED SESSION

ADJOURN

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Sustainability Department at 435-615-5201 24 hours prior to the meeting.

**Attachment I-
COSAC IV Meeting Minutes
City Council Chambers
October 28, 2014, 8:30 a.m.**

COSAC members in attendance: Charlie Sturgis, Cheryl Fox, Wendy Fisher, Jan Wilking, Suzanne Sheridan, Kathy Kahn, Cara Goodman, Megan Ryan, Jim Doilney, Tim Henney, Suzanne Sheridan, Bill Cunningham, Bronson Calder
Judy Hanley arrived at 9:47.

Staff: Heinrich Deters, ReNae Rezac, Polly Samuels-McClean, Mark Harrington

Public: Kate Sattelmeier

Excused: Steve Joyce, Rhonda Sideris

Call to Order: Megan called the meeting to order at 8:35 a.m.

Adoption of July 22, 2014 Minutes

Motion: Kathy moved to approve the minutes as written; Bill seconded.

Vote: The motion carried.

Staff and Board Communications/Disclosures

Heinrich announced the Round Valley Annexation would be voted on by City Council at their October 30 meeting. He encouraged any COSAC members who could attend to do so.

The Summit County Open Space Bond is up for a vote in the November 4 election. Jan explained it is a \$25 million bond; \$15 million of which is earmarked for open space; \$10 million for recreation. He is optimistic the bond will pass due to all the support it is receiving. Jim added in the past Stanton Jones has done last-minute door-hangers against the bond. He is hoping that will not be the case this year. There was general discussion about methods that will be utilized to get the word out including:

- Email blasts (Megan asked Wendy to include the COSAC members in the email so they could be ambassadors for the bond, as appropriate.)
- Letters to the editor
- Informal chats on the sidelines between parents at sporting events
- HOA meetings
- Postcard mailings
- Signs available for posting in neighborhoods
- Ads in the Park Record

Cheryl added that if anyone hears that Stanton is planning a negative tactic against the bond to let her, Wendy or Jan know. Jim offered to contribute \$1,000 towards door-hangers in favor of the bond if it is so desired.

Heinrich suggested those interested in pursuing this type of campaign meet after the COSAC meeting adjourns

Heinrich noted the regularly scheduled meetings in November and December are the 25th and 23rd respectively. He asked for feedback from the group as to whether they want to meet in those months. After discussion, it was decided to meet only if there were pressing items to be addressed.

Megan asked for a slight modification to agendas. Some wording to reflect a "to do", or "upcoming", or "work in process" section to remind the committee what items require discussion at a future meeting, so nothing falls through the cracks.

Megan then read a resolution of the Citizens Open Space Advisory Committee that she is proposing be brought before City Council. Paraphrasing, it is a resolution recognizing the staff (Heinrich, ReNae, Mark, and Polly) and thanking them for the support they provide to the Committee.

Motion: Wendy made a motion to forward the resolution to City Council; Charlie seconded. The motion carried. Tim was tasked with taking the resolution to City Council.

Public Comment

Megan called for public comment on any item not included on the agenda. There was none.

Open Meetings Act Training

Polly gave a training presentation to the group on the open meetings act that is required to be done annually by the state. She reminded the Committee members to turn in their disclosure statements or update them if they had not already done so, as well.

Old Business

Gambel Oak – Review of the draft easement

Heinrich thanked the COSAC committee for their patience while the details relating to this easement were worked out. He also expressed his gratitude to Kate who he worked closely with to draft the easement. Staff is recommending COSAC approve the draft easement and forward a positive recommendation to City Council for consideration at their November 13 meeting.

Heinrich indicated the easement language related to utilities is similar to the Risner Ridge easement. If utilities are to be added, they will be placed in the existing utility corridor first. If that is not possible, utilities will be placed in such a manner as to have a minimal effect on the conservation values. Kate added that it is specific enough to limit new types of utilities going in. Heinrich added there is an amendment clause that can be utilized if it becomes necessary.

Kathy asked if bicycling should be added as one of the permitted recreational uses. Kate and Heinrich agreed that it should be added.

Another restriction is that if the land is to be used for small gatherings, motorized vehicles cannot be utilized for set up or to transport folks up there.

Suzanne asked about parking. Heinrich responded that the parking that was appropriated for this parcel was part of the April Mountain plat. There is not another suitable place for parking on the Gambel Oak parcels. He feels that the parking that is available is adequate. Suzanne added additional parking may not be needed now, but may be needed in the future. She asked that the possibility of adding parking be kept flexible. Cheryl said that if the committee agrees that additional parking should be added to the easement, it would be easier to add it now.

Kathy thought she remembered reading somewhere in the easement about there being the possibility for restrooms. She asked if that needed to be considered as a potential use. Heinrich recommended locating porta-potties close to the site, but not on the parcel. Wendy mentioned that could fall under the management language in the easement. Kathy said that having porta-potties available would maintain the integrity of the property.

Cara asked for the terms "grantor" and "grantee" to be defined in the easement language.

Suzanne said the neighborhoods Prospector, Old Town and Deer Valley are mentioned. She requested, the Aerie and April Mountain be added.

Meg asked Mark if hunting is prohibited within Park City limits. He said it is prohibited within City limits, BUT is permitted in some surrounding open space that is not part of the City limits.

Since the parcel is an "undeveloped park", benches honoring the memory of someone who is deceased are permitted.

Motion: Jim moved approval of the easement subject to adding flexibility with parking, biking as a recreational use, definitions of grantor and grantee, and adding the neighborhoods Aerie & April. Jan seconded.

Vote: The motion carried with Cheryl abstaining.

Cheryl encouraged COSAC Committee members to attend the City Council meeting November 14 when the Council would be voting on whether to approve the easement.

Motion: Jan moved to go into closed session; Suzanne seconded.

Vote: The motion carried.

Motion: Jan moved to open the meeting; Charlie seconded.

Vote: The motion carried.

Megan mentioned she thought Judy was supposed to be chair now and asked Heinrich to research what the Committee decided and report back at the next meeting.

COSAC Staff Report



Subject: Gambel Oak Easement and Update Clark Ranch Easement Timeline

Author: Heinrich Deters

Department: Sustainability

Date: February 24, 2015

Type of Item: COSAC Discussion

Topic/Discussion:

1. Review adopted Gambel Oak Easement (Attachment II- Easement)
2. Update of Clark Ranch Easement Timeline

Staff Recommendation:

1. Review of Gambel Oak Easement is informational
2. COSAC should review the Clark Ranch Easement Timeline

Topic/Discussion

1. Gambel Oak Easement

Background

Council approved placing a conservation easement on the Gambel Oak/Hope properties on December 11, 2014. Council signed the document on December 12th.

Analysis

- On October 28, 2014, COSAC provided input on the Easement document, which was incorporated into the final document.

2. Clark Ranch Easement Timeline

Background

Park City Municipal acquired the 340 acre Clark Ranch properties on December 17, 2014. Staff recommended the following timeline to determine uses, secure a land trust for purposes of providing a third party preservation easement, draft the easement and collect baseline information and finally determine the easement parameters.

<i>December 17, 2014</i>	<i>Closing</i>	<i>-\$6.2M one-time payment, Title transfer, Escrow Preservation Easement Funds</i>
<i>January 2015</i>	<i>RFP for Preservation Easement Submittals Received/Selected</i>	<i>Advertise RFP January 2015 Selection February 2015</i>
<i>January-June 2015</i>	<i>City Needs Analysis, Easement Documentation, Trail Development Planning</i>	<i>Council identify use and locations of possible City needs</i>
<i>Summer/Fall 2015</i>	<i>Adopt Preservation Easement</i>	<i>Work with COSAC and Land Trust per values/Uses Provide Escrowed Easement funds/Return any unused funds to City</i>

Council Award of the Clark Ranch Preservation Service Contract is scheduled for the beginning of March.

Analysis

Once Council has awarded the contract for the Clark Ranch Preservation Easement, the selected land trust will work to collect baseline information associated with the properties. Additionally, Council will make a final determination on whether any aspects of the property should be reserved for uses other than open space. Finally, after sufficient baseline information has been collected and Council has determined the geographic parameters of the easement, staff and COSAC will make recommendations to Council per the appropriate values associated with the easement.

Final adoption of the proposed easement is tentatively scheduled for late summer 2015.

Attachment II- Gambel Oak Conservation Easement-signed

WHEN RECORDED, RETURN TO:

Summit Land Conservancy

P.O. Box 1775

1650 Park Avenue, Suite 202

Park City, Utah 84060

PERPETUAL RECREATION AND OPEN SPACE EASEMENT

THIS PERPETUAL RECREATION AND OPEN SPACE EASEMENT ("Easement") is made this 12th day of December, 2014 ("Effective Date") by and between Park City Municipal Corporation ("Owner"), and Summit Land Conservancy, a Utah nonprofit corporation ("Conservancy") (Owner and the Conservancy are referred to individually as a "Party" and collectively as the "Parties").

The following Exhibits are attached to and are incorporated into this Easement by this reference:

- Exhibit A: Legal Description of the Property;
- Exhibit B: Property Map;
- Exhibit C: Permitted and Restricted Uses and Practices.
- Exhibit D: Signed "Acknowledgement of Property Condition"

RECITALS

A. Owner owns certain real property located in Park City, Summit County, Utah (the "Property"), consisting of 222.45 acres, comprised of parcels known as the Gambel Oak, White Acre and Hope Mining parcels, and more particularly described in Exhibit A and depicted on Exhibit B, both attached hereto and made a part hereof ("Property"); and

B. The Property has significant conservation values of great importance to the Owner, Conservancy, and the people of Park City, Summit County, and the State of Utah. The conservation values intended to be preserved and protected for the public trust under this Easement include: (i) non-motorized, passive public recreational access (hereafter "Recreational Value"), and (ii) ridgeline and hillside views with natural vegetation and wildlife habitat (hereafter "Open Space Value"). More particularly:

- i. Recreational Value: Trails accessible from the Prospector, Old Town Masonic Hill and Deer Valley neighborhoods are currently located on the Property and are used for passive, non-motorized recreation. The trails connect to other trails that are part of the greater Park City trail system. The Property is also used for picnics and similar recreational purposes consistent with an undeveloped public park.
- ii. Open Space Value: The Property has (a) natural and undeveloped ridgelines and hillsides visible from Deer Valley, Park City Mountain Resort, Old Town, Prospector, Park Meadows and Highway 248, and (b) a variety of wildlife and diverse natural vegetation. Existing

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RECORDING ONLY**

unpaved trails, trail amenities and utilities have a minimal impact on the Open Space Value.

C. The Open Space Value and Recreational Value are hereafter described as the “Conservation Values” and are further documented in the Baseline Document Report (the “Baseline Documentation”), a copy of which is on file at the offices of Owner and Conservancy, and the Owner and Conservancy have acknowledged and hereby acknowledge said Baseline Documentation memorializes the condition of the Property as of the effective date of this grant.

D. The Easement is granted with the approval of the Citizens Open Space Advisory Committee (COSAC), appointed by the Park City Council to facilitate the acquisition and preservation of open space within the greater Park City area.

E. The Gambel Oak and White Acre parcels were given and granted by the United States of America, to the Owner, on or about September 2, 2009, subject to the restriction and requirement that the land be maintained as open space and used solely for public recreation purposes or other purposes consistent with their maintenance as open space, and that the restriction shall not be interpreted to prohibit the construction or maintenance of recreational facilities, utilities or other structures that are consistent with the maintenance of the lands as open space or its use for public and recreation purposes.

F. The Hope Mining parcel was purchased by the Owner on or about January 3, 2005 with proceeds from a special bond, authorized by Park City voters in a 2002 special bond election, for the express purpose of acquiring open space.

G. The original owners of the Hope Mining parcel conveyed the property subject to the restrictive covenant that the property be maintained in perpetuity as open space, in perpetuity as an undeveloped park and recreational land, and that no improvements are placed on the property except those which are consistent with the preservation and protection of the natural amenities.

H. The Hope Mining parcel has a water tank and appurtenant utilities for the provision of water services, and the Owner and Conservancy acknowledge that the continued operation, maintenance and possible replacement or expansion of the water utility may be in the public interest and shall be permitted pursuant to the terms of this Easement.

I. By entering into this Easement, the Owner and Conservancy intend to protect the afore-mentioned open space interests and purposes in a manner consistent with the terms of the afore-mentioned deed restrictions and the land patent restriction.

J. Owner intends, as owner of the Property, to convey to Conservancy the right to preserve and protect the Conservation Values in perpetuity and represents that the Property is free and clear of all encumbrances except for rights-of-way, easements and reservations of record as of the effective date of this grant.

K. Owner warrants and represents that Owner has the authority to enter into the Easement and that Owner freely and voluntarily conveys this Easement to Conservancy in

perpetuity. Owner acknowledges receipt of the information and disclosures required under Utah Code Section 57-18-4 more than three days prior to executing this Easement.

L. As of the Effective Date, Conservancy is a nonprofit corporation incorporated under the laws of Utah as a tax-exempt public charity described in Sections 501(c)(3) and 509(a)(1) of the IRS Code (defined below), organized to protect and conserve natural areas and ecologically significant land in its natural, scenic, historical, agricultural, forested and/or open space condition for scientific, charitable, and educational purposes; and is a qualified “holder” of a conservation easement under the Utah ‘Land Conservation Easement Act’ statute, sections 57-18-1 to 57-18-7.

M. Conservancy agrees by accepting this grant to honor the intentions of Owner stated herein and to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and generations to come.

EASEMENT TERMS

IN CONSIDERATION of the recitals set forth above, the mutual covenants, terms, conditions, and restrictions contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and pursuant to the Utah state law, in particular, the ‘Land Conservation Easement Act’, Owner irrevocably grants and conveys to, and the Conservancy accepts, a perpetual easement in, on, over, and across the Property, subject to the terms and conditions set forth in this Easement, restricting forever the uses that may be made of the Property and granting the Conservancy certain rights in the Property; and Owner and the Conservancy agree as follows:

1. CONSERVATION PURPOSES. In keeping with Park City Municipal’s stated goals to maintain a world-class, multi-seasonal resort destination and to preserve and enhance the natural environment, the purposes of this Easement are to preserve and protect in perpetuity for the public trust and, in the event of their degradation or destruction, to assure the restoration of the Conservation Values of the Property. In particular, the primary purpose of this Easement is to protect forever the Property’s Recreation Value for non-motorized “passive” public recreation consistent with an undeveloped park and its Open Space Value with undeveloped view-shed, natural vegetation and wildlife habitat.

2. EASEMENT DOCUMENTATION REPORT. By its execution of this Easement, the Conservancy acknowledges that Owner’s present uses of the Property are compatible with the purposes of this Easement. In order to evidence the present condition of the Property (including both natural and man-made features) and to facilitate future monitoring and enforcement of this Easement, the Parties acknowledge that a Baseline Document Report (the “Report”) has been prepared, which provides a collection of baseline data on the Property and its natural resources and an assessment of the consistent uses. The Parties agree that the Report contains an accurate representation of the biological and physical condition of the Property as of the Effective Date and of the historical uses of the Property, including historical water uses. In addition to the public benefits described as the Conservation Values, the Report identifies public

policy statements and/or other factual information supporting the significant public benefit of this Easement. Conservancy may use the Report in enforcing provisions of this Conservation Easement Deed, but is not limited to the use of the Report to show change of conditions. The Report is incorporated into this Conservation Easement Deed by reference. Owner and the Conservancy approve the Report, a copy of which is on file with the Owner and the original of which is on file with the Conservancy at their respective addresses for notices set forth below.

3. THE CONSERVANCY'S RIGHTS. In order to accomplish the Conservation Purposes, the rights and interests that are granted and conveyed to the Conservancy by this Easement include the following:

A. Preserve and Protect. The right to preserve, protect, identify, monitor, and enhance the Conservation Values in perpetuity, and, in the event of their degradation or destruction, the right to require the restoration of such areas or features of the Property that are damaged by any inconsistent activity or use .

B. Entry and Access Rights. The Conservancy is, by this Easement, granted rights of access, whether by public ways or otherwise and including, but not limited to, any access easements appurtenant to the Property or held by Owner, to enter upon the Property in order to monitor compliance with and otherwise enforce the terms of this Easement, to study and make scientific observations of the Property and of natural elements and ecosystems and other features of the Property, to take photographs of the property and to determine whether the Owner's activities are in compliance with the terms of this Easement, all upon reasonable prior notice to Owner and in a manner that does not unreasonably disturb the use of the Property by Owner consistent with this Easement. The Conservancy has the right of immediate entry to the Property if, in its sole judgment, such entry is necessary to investigate, prevent, terminate, or mitigate a violation of this Easement, or to preserve and protect the Conservation Values.

C. Enforcement. The Conservancy has the right to prevent or enjoin any activity on or use of the Property that constitutes a breach of this Easement or is inconsistent with the preservation of the Conservation Values, and the Conservancy has the right to require the restoration of such areas or features of the Property that might be damaged by any breach or inconsistent use or activity.

4. USES OF THE PROPERTY. Except as prohibited or otherwise limited by this Easement, Owner reserves the right to use and enjoy the Property in any manner that is consistent with the Conservation Purposes and the preservation of the Conservation Values. Owner will not perform, nor allow others to perform, any act on or affecting the Property that is inconsistent with the Conservation Purposes. The uses set forth in Exhibit C, though not an exhaustive list of consistent uses and practices, are consistent with this Easement and will not be precluded, prevented, or limited, except as specifically set forth in Exhibit C. Except as provided in Exhibit C or which is otherwise a pre-existing use right, any activity on or use of the Property that is inconsistent with the Conservation Purposes (including, without limitation, any activity or use that diminishes or impairs the Conservation Values) is prohibited. Though not an exhaustive list of prohibited and restricted uses, Exhibit C also describes such uses or activities that are inconsistent with the Conservation Purposes and are thus prohibited or restricted.

5. APPROVAL REQUEST.

A. The Conservancy's Approval. Owner will not undertake or permit any activity requiring prior approval by the Conservancy without first having notified and received approval from the Conservancy as provided herein. Prior to the commencement of any activity for which this Easement requires prior written approval by the Conservancy, Owner will send the Conservancy written notice of Owner's intention to undertake such activity. The notice will inform the Conservancy of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and all other relevant information. If in the Conservancy's judgment additional information is required to adequately review the proposal, the Conservancy will send written notice requesting such additional information within 15 days of receipt of Owner's notice.

B. The Conservancy's Decision. No later than 45 days from the Conservancy's receipt of information adequate to review the proposal, the Conservancy will notify Owner of its disapproval or approval of Owner's proposal, or that the Conservancy may approve the proposal with certain specified modifications. The Conservancy's decision must be based upon the Conservancy's assessment of the proposed activity in relation to its consistency or inconsistency with the terms of this Easement. Approval to proceed with or failure to object to, any proposed use or activity will not constitute consent to any subsequent use or activity of the same or any different nature.

6. ENFORCEMENT AND REMEDIES.

A. Notice of Violation; Corrective Action. If the Conservancy becomes aware that a violation of the terms of this Easement has occurred or is threatened to occur, the Conservancy will give written notice to Owner of such violation who will, in the case of an existing violation, promptly cure the violation by (a) ceasing the same and (b) restoring the Property to the condition before such violation, or in the case of a threatened violation, refrain from the activity that would result in the violation. If Owner fails to cure the violation within thirty (30) days after receipt of notice from the Conservancy, or under circumstances where the violation cannot reasonably be cured within a thirty (30)-day period, fails to begin curing such violation within the thirty (30)-day period or fails to continue diligently to cure such violation until finally cured, the Conservancy will have all remedies available at law or in equity to enforce the terms of this Easement, including, without limitation, the right to seek a temporary or permanent injunction with respect to such activity, to cause the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity (regardless of whether the costs of restoration exceed the value of the Property), and to otherwise pursue all available legal remedies, including, but not limited to, monetary damages arising from the violation. The Conservancy's rights under this Paragraph apply equally to actual or threatened violations of the terms of this Easement. Owner agrees that the Conservancy's remedies at law for any violation of the terms of this Easement are inadequate and that Conservancy is entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which the Conservancy may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Furthermore, the provisions of the 'Land Conservation Easement Act' of Utah's statutes,

Sections 57-18-1 to 57-18-7 are incorporated into this Easement by this reference, and this Easement includes all of the rights and remedies set forth therein.

(i) Owner is responsible for the acts and omissions of persons acting on its behalf, at its direction or with its permission, and the Conservancy has the right to enforce this Easement against Owner for any use of or activities upon the Property which are a violation of this Easement and which result from such acts or omissions. However, as to the acts or omissions of third parties other than the those described in the preceding sentence, the Conservancy does not have a right to enforce against Owner unless Owner is complicit in said acts or omissions, fails to cooperate with the Conservancy in all respects to halt or abate the event or circumstance of non-compliance with this Easement terms resulting from such acts or omissions, or fails to report such acts or omissions to the Conservancy promptly upon learning of them.

(ii) The Conservancy has the right, but not the obligation, to pursue all legal and equitable remedies provided under this Paragraph against any third party responsible for any activity or use of the Property that is a violation of this Easement and Owner will, at the Conservancy's option, assign its right of action against such third party to the Conservancy, join the Conservancy in any suit or action against such third party, or appoint the Conservancy its attorney in fact for the purpose of pursuing an enforcement suit or action against such third party.

B. Costs of Enforcement. Owner will reimburse the Conservancy for all reasonable expenses incurred by the Conservancy in enforcing the terms of this Easement against Owner, including, without limitation, reasonable attorneys' fees and any costs of restoration necessary to cure the violation. In any action, suit or other proceeding undertaken to enforce the provisions of this Easement, the prevailing Party will be entitled to recover from the non-prevailing Party all reasonable costs and expenses, including attorneys' fees, and if such prevailing Party recovers judgment in any action or proceeding, such costs and expenses will be included as part of the judgment. In addition, any costs of restoration will be borne by the Owner if Owner is deemed to be responsible for damage to the Property. However, Owner shall be entitled to any costs or damages received from any third party, for an action brought by Owner at Owner's expense.

C. Emergency Enforcement. If the Conservancy, in its sole discretion reasonably exercised, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values or to prevent breach or extinguishment of this Easement, the Conservancy may pursue its remedies under this Easement with concurrent oral and written notice to Owner and without waiting for the cure period to expire, provided, however, that any such remedy pursued shall be a remedy solely and directly related to the damage which has occurred, or the imminent threat to the Conservation Values. Conservancy shall give concurrent oral and written notice for all such actions and shall provide Owner with written notice of all actions taken by it pursuant to this paragraph immediately (or as soon as possible) thereafter. In response to Conservancy's actions pursuant to this paragraph, Owner may intervene to take actions that, in its sole discretion reasonably exercised, Owner

determines are appropriate and upon request from Owner, Conservancy shall cease emergency enforcement actions.

D. The Conservancy's Discretion. Enforcement of the terms and provisions of this Easement will be at the sole discretion of the Conservancy, and the failure of the Conservancy to discover a violation or to take action under this Easement will not be deemed or construed to be a waiver of the Conservancy's rights under this Easement with respect to such violation in the event of any subsequent breach.

E. Remedies Cumulative. No single or partial exercise of any right, power or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder and all remedies under this Easement may be exercised concurrently, independently or successively from time to time. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies which may be available at law or equity.

F. Acts Beyond the Owner's Control. Nothing contained in this Easement will be construed to entitle the Conservancy to bring any action against Owner for, or to require the Conservancy or Owner to actively restore destruction of or damage to the Conservation Values resulting from, any injury to or change in the Property resulting from causes beyond Owner's control, including fire, flood, storm, earth movement, and other natural disasters or from any prudent action taken by Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. This Paragraph will not be construed to relieve the Owner of the obligation to clean-up garbage or materials dumped on the Property by third parties and the obligation to prevent third party violations of this Easement, or to otherwise maintain the Property in a condition consistent with the purposes of this Easement.

2. REPRESENTATIONS AND WARRANTIES.

A. Hazardous Materials. Owner represents and warrants that Owner will comply with all Environmental Laws in using the Property and that Owner will keep the Property free of any material environmental defect, including, without limitation, contamination from Hazardous Materials (defined below).

B. State of Title. Owner represents and warrants that Owner has good and marketable title to the Property , free and clear of any liens or encumbrances that might cause extinguishment of this Easement, or that would materially impair the Conservation Purposes, except as noted as exceptions in the (Add final title commitment reference)

C. Compliance with Laws. Owner has not received notice of and has no knowledge of any material violation of any federal, state, county, or other governmental or quasi-governmental statute, ordinance, rule, regulation, law, or administrative or judicial order with respect to the Property.

D. No Litigation. Owner represents and warrants that there is no action, suit, or proceeding that is pending or threatened against the Property or any portion thereof relating to or arising out of the ownership or use of the Property, or any portion thereof, in any

court or before or by any federal, state, county, or municipal department, commission, board, bureau, agency, or other governmental instrumentality.

E. Authority to Execute Easement. The person or persons executing this Easement on behalf of the Conservancy represent and warrant that the execution of this Easement has been duly authorized by the Conservancy. The person or persons executing this Easement on behalf of Owner represent and warrant that the execution of this Easement has been duly authorized by Owner.

3. COSTS, LEGAL REQUIREMENTS, AND LIABILITIES. Owner will be responsible for and will bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property and agrees that the Conservancy will have no duty or responsibility for the operation or maintenance of the Property, the monitoring of hazardous conditions on the Property, or the protection of Owner, the public, or any third parties from risks relating to conditions on the Property. Owner agrees to pay before delinquency any and all real property taxes and assessments levied on the Property and agrees that the Owner will keep the Conservancy's interest in the Property free of any liens, including those arising out of any work performed for, materials furnished to, or obligations incurred by Owner. Owner will be solely responsible for any costs related to the maintenance of general liability insurance covering Owner's acts on the Property. Owner remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use by Owner on the Property and permitted by this Easement, and any activity or use will be undertaken in accordance with all applicable federal, state, and local laws, rules, regulations, and requirements. If more than one person or entity constitutes Owner, the obligations of each and all of them under this Easement will be joint and several.

4. RUNNING WITH THE LAND. This Easement burdens and runs with the Property in perpetuity. Every provision of this Easement that applies to Owner or the Conservancy also applies forever to and burdens or benefits, as applicable, their respective agents, heirs, devisees, administrators, employees, personal representatives, lessees, and assigns, and all other successors as their interest may appear.

5. SUBSEQUENT TRANSFERS AND SUBORDINATION. Owner may transfer the Property in its entirety, but not in any portion less than its entirety. Owner agrees that the terms, conditions, restrictions, and purposes of this Easement or reference thereto will be inserted by Owner in any subsequent deed or other legal instrument by which Owner divests either the fee simple title or a possessory interest (including, but not limited to, any leases) of the Property; and Owner further agrees to notify the Conservancy of any pending transfer (including, without limitation, leases) at least forty five (45) days in advance of the transfer. The failure of the Owner to comply with this Paragraph will not impair the validity of this Easement or limit its enforceability in any way. Any successor in interest of the Owner, by acceptance of a deed, lease, or other document purporting to convey an interest in all or any portion of the Property, will be deemed to have consented to, reaffirmed, and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Easement.

6. INDEMNIFICATION.

A. Cross Indemnification. Notwithstanding any other provision of this Agreement to the contrary, the Parties indemnify, defend, and hold harmless each other, including, without limitation, each Party's directors, officers, employees, agents, contractors, and their successors and assigns (collectively, the "Indemnified Parties"), from and against any costs, liabilities, penalties, damages, claims, or expenses (including reasonable attorneys' fees) and litigation costs that the Indemnified Parties may suffer or incur as a result of, or arising out of use of or activities on the Property by the Party.

B. Owner Indemnification. Owner indemnifies, defends, and holds harmless the Conservancy and its Indemnified Parties for any real property taxes, insurance, utilities, or assessments that are levied against the Property, including those for which exemption cannot be obtained, or any other costs of maintaining the Property, any claims pertaining to the Owner's title to the Property, and any injury to or the death of any person, or damage to any property resulting from any act, omission, condition, or any other matter related to or occurring on or about the Property except to the extent of the negligence or intentional torts of any of the Indemnified Parties.

C. Limitations on Indemnifications. Pursuant to the provisions of this Section, the Conservancy is not indemnifying the Owner against, and is not liable or responsible for, injuries or damage to persons or property in connection with respect to the condition of the Property. The limitation in this Subsection (C) does not absolve the Conservancy of any liabilities it might otherwise have, independently of this Agreement, for wrongfully and directly, without the participation or consent of the Owner, causing any dangerous condition to come into existence on the Property. No provision of this Easement shall waive any defense or limitation of the Government Immunity Act of Utah (Utah Code Ann. §63G-7-101, et seq.).

7. CHANGE OF CONDITIONS. In granting this Easement, Owner has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may be used entirely for such prohibited uses in the future. It is the intent of Owner and the Conservancy that any such changes will not be deemed circumstances justifying the extinguishment of this Easement. In addition, the inability of Owner, or Owner's heirs, successors or assigns, to conduct or implement any or all of the uses permitted under this Easement, or the unprofitability of doing so, will not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

8. EXTINGUISHMENT. This Easement can be released, terminated, or otherwise extinguished, whether in whole or in part, only (a) in a judicial proceeding in a court of competent jurisdiction and (b) upon a finding by the court that a subsequent unexpected change in conditions has made impossible or impractical the continued use of the Property for conservation purposes. Each Party will promptly notify the other when it first learns of such circumstances. In accordance with IRS Regulations, the amount of the proceeds to which the Conservancy will be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, will be determined, unless otherwise provided by law at the time, in accordance with Paragraph 14 below. The Conservancy will use all such proceeds in a manner consistent with its mission and conservation purposes.

9. CONDEMNATION. If all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Easement, Owner and the Conservancy will join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, which proceeds will be first entitled to Owner up to the original purchase price (such funds to be used solely for open space purchases as originally limited or defined by the funding source/bond) and then any additional amounts divided 50/50, it being expressly agreed that this Easement constitutes a compensable property right. Each party shall bear their own expenses.

10. AMENDMENT. If circumstances arise under which an amendment to or modification of this Easement might be appropriate, the Conservancy and Owner may by mutual written agreement jointly amend this Easement, provided that no amendment will be made that will adversely affect the qualification of this Easement or the status of the Conservancy as a qualified holder under any applicable laws, including the IRS Code or Utah statute. Any such amendment will: be at the discretion of the Conservancy; will be consistent with the preservation of the Conservation Values of the Property and the Conservation Purposes of this Easement; will be approved by the Park City Council or other council, committee, entity or agency after being duly noticed and discussed during at least two meetings that are duly noticed and open to the public, or approved by a similar council, committee, entity, or agency as part of a similar process that facilitates notice to the public and public input in the decision making process; will not affect its perpetual duration or its qualification under any laws; will not permit any private inurement or impermissible private benefit to any person or entity, in accordance with rules and regulations governing charitable organizations qualified under Section 501(c)(3) of the IRS Code; will have a positive or not less than neutral conservation outcome; and will be consistent with the Conservancy's internal policies and procedures regarding easement amendments as may be in effect at the time of the amendment proposal. Any such amendment will be recorded in the land records of Summit County, Utah. Nothing in this Paragraph will require either Party to agree to any amendment or to consult or negotiate regarding any amendment.

11. INTERACTION WITH STATE LAW. The provisions of the above paragraphs addressing EXTINGUISHMENT, CONDEMNATION, and AMENDMENT shall apply notwithstanding, and in addition to, any provisions addressing such actions under Utah law.

12. NOTICE.

A. Notice for Entry. Where notice to Owner of the Conservancy's entry upon the Property is required under this Easement, the Conservancy will notify any of the persons constituting Owner or their authorized agents by telephone or in person or by written notice in the manner described in Paragraph 17(B) prior to such entry.

B. Written Notices. Written notices pertaining to matters that, in the parties' reasonable opinion, concern routine management of the Property or minor Easement violations, may be delivered via e-mail or in the manner described in sections (i), (ii), (iii) or (iv) of this paragraph B. Other written notices called for in this Easement will be delivered: (i) in person; (ii) by certified mail, return receipt requested, postage prepaid; (iii) by facsimile with the original deposited with the United States Post office, postage prepaid on the same date as sent

by facsimile; or (iv) by next-business-day delivery through a reputable overnight courier that guarantees next-business-day delivery and provides a receipt. Notices must be addressed as follows:

To the Conservancy:

Summit Land Conservancy
P.O. Box 1775
1650 Park Avenue, Suite 201
Park City, Utah 84046
Attention: Cheryl Fox, Executive Director

To Owner:

Park City Municipal Corporation
PO Box 1480, 445 Marsac Avenue
Park City, UT 84060
Attention: Heinrich Deters, Open Space &
Trails Manager

Either Party may, from time to time, by written notice to the other, designate a different address that will be substituted for the relevant address or addresses set forth above. Notice is deemed to be given upon receipt.

13. INTERPRETATION.

A. Intent. It is the intent of this Easement to protect the Conservation Values in perpetuity by prohibiting and restricting specific uses of the Property, notwithstanding economic or other hardship or changes in circumstances or conditions. If any provision in this Easement is found to be ambiguous, an interpretation consistent with protection of the Conservation Values and Conservation Purposes is favored, regardless of any general rule of construction. In the event of any conflict between the provisions of this Easement and the provisions of any use and zoning restrictions of the State of Utah, the county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive conservation provisions will apply.

B. Governing Law. This Easement will be interpreted in accordance with the laws of the State of Utah.

C. Captions. The captions have been inserted solely for convenience of reference and are not part of this Easement and will have no effect upon construction or interpretation.

D. No Hazardous Materials Liability. Notwithstanding any other provision of this Easement to the contrary, nothing in this Easement will be construed such that it creates in or gives to the Conservancy: (a) the obligations or liabilities of an "owner" or "operator" as those words are defined and used in Environmental Laws (defined below), including, without limitation, (b) the obligations or liabilities of a person described in 42 USC Section 9607(a)(3); (c) the obligations of a responsible person under any applicable Environmental Law; (d) any obligation to investigate or remediate any Hazardous Materials associated with the Property; or

(e) any control over Owner's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

E. Merger. In the event that the Conservancy takes legal title to Owner's interest in the Property, the Conservancy must commit the monitoring and enforcement of this Easement to another qualified organization within the meaning of section 107(h) (3) of the United States Internal Revenue Code (1986), as amended, which organization has among its purposes the conservation and preservation of land and water areas.

F. Construction. The Parties acknowledge and agree that (a) each Party is of equal bargaining strength; (b) each Party has actively participated in the drafting, preparation and negotiation of this Easement; (c) each Party has consulted with its own independent counsel, and such other professional advisors as it has deemed appropriate, relating to any and all matters contemplated under this Easement; (d) each Party and its counsel and advisors have reviewed this Easement; (e) each Party has agreed to enter into this Easement following such review and the rendering of such advice; and (f) any rule of construction to the effect that ambiguities are to be resolved against the drafting Party do not apply in the interpretation of this Easement, or any portions hereof, or any amendments hereto

G. Definitions.

(i) The term "IRS Code" means the Internal Revenue Code of 1986, as amended through the applicable date of reference.

(ii) The terms "Owner" and the "Conservancy", and any pronouns used in place thereof, mean and include, respectively, Owner and Owner's personal representatives, heirs, devisees, personal representatives, and assigns, and all other successors as their interest may appear and the Conservancy and its successors and assigns.

(iii) The term "Hazardous Materials" includes, without limitation, any of the following wastes, materials, chemicals, or other substances (whether in the form of liquids, solids, or gases, and whether or not airborne) which are ignitable, reactive, corrosive, toxic, or radioactive, or which are deemed to be pollutants, contaminants, or hazardous or toxic substances under or pursuant to, or which are to any extent regulated by or under or form the basis of liability under any statute, regulation, rule, ordinance, order, or requirement concerning such wastes, materials, chemicals, or other substances (in each case, an "Environmental Law"), including, but not limited to, petroleum-based products and any material containing or producing any polychlorinated biphenyl, dioxin, or asbestos, as well as any biocide, herbicide, insecticide, or other agrichemical, at any level that may (a) constitute a present or potential threat to human health, safety, welfare, or the environment, (b) exceed any applicable or relevant and appropriate cleanup standard, or (c) cause any person to incur any investigation, removal, remediation, maintenance, abatement, or other cleanup expense; it being understood that such Environmental Laws include, but are not limited to Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC Section 9601 et seq.); the Hazardous Materials Transportation Act (49 USC Sections 6901 et seq.); similar Utah state environmental laws; and any rule, regulation, or other promulgation adopted under any of the foregoing laws.

(iv) All references to the “IRS Regulations” means the Internal Revenue Service Treasury Regulations, 26 C.F.R. Ch. 1, § 1.170A-14 as amended through the applicable date of reference.

14. RESTRICTIONS ON TRANSFER. Other than in the context of an extinguishment that complies with section 12 of this Easement or a condemnation that complies with section 13, this Easement may be transferred by Conservancy, only if (i) as a condition of the transfer, Conservancy requires that the purpose of this Easement continues to be carried out; (ii) the transferee, at the time of transfer, qualifies under section 170(h) of the Code and section 57-18-3 of Utah’s statutes as an eligible donee to receive this Easement directly; and (iii) the transferee has the commitment and resources to enforce, and agrees to enforce this Easement. Conservancy agrees to provide written notice to Owner at least sixty (60) days prior to any intended transfer of this Easement. Any subsequent transfer of this Easement shall also be subject to the provisions of this paragraph. Any attempted transfer by Conservancy of all or a portion of this Easement contrary to the terms hereof shall be invalid but shall not operate to extinguish this Easement.

15. SEVERABILITY AND ENFORCEABILITY. The terms and purposes of this Easement are intended to be perpetual. If any provision herein shall be held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party under this Easement will not be materially and adversely affected thereby, (a) such holding or action will be strictly construed; (b) such provision will be fully severable; (c) this Easement will be construed and enforced as if such provision had never comprised a part hereof; (d) the remaining provisions of this Easement will remain in full force and effect and will not be affected by the invalid or unenforceable provision or by its severance from this Easement; and (e) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Easement a legal, valid and enforceable provision as similar in terms to such illegal, invalid and unenforceable provision as may be possible

16. EXHIBITS. Each exhibit referred to in, and attached to, this Easement is an integral part of this Easement and is incorporated in this Easement by this reference.

17. COUNTERPARTS. This Easement may be executed in one or more counterparts, all of which taken together will be considered one and the same agreement and each of which will be deemed an original. This Easement shall become effective when each Party has received a counterpart signature page signed by all of the other Parties.

23. RECORDING. The Conservancy is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement, and Owner agrees to execute any such instruments upon reasonable request.

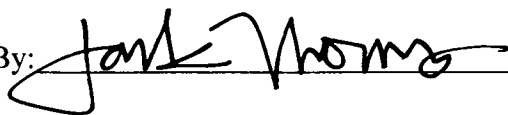
24. ENTIRE AGREEMENT. This Easement, including the Exhibits attached hereto, sets forth the entire agreement and understanding of the Parties with respect to the transactions contemplated by this Easement and supersedes all prior arrangements, promises, communications, representations, warranties and understandings, whether oral or written, by any

Party or any officer, employee, representative or agent of any Party with respect to the transactions contemplated by this Easement.

OWNER AND THE CONSERVANCY have executed this Conservation Easement as of the Effective Date.

OWNER:

Park City Municipal Corporation

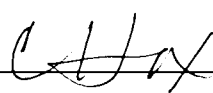
By:  _____

Print Name: Jack Thomas

Title: Mayor

CONSERVANCY:

Summit Land Conservancy, a Utah nonprofit corporation

By:  _____

Print Name: Cheryl Fox

Title: Executive Director

**EXHIBIT A
TO
EASEMENT**

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1:

Unitah Mining District – Summit County, Utah

The Emily Patented Lode Mining claim, Lot No. 686, as the same is more particularly described in that certain patent recorded December 6, 1910, as Entry No. 20518, in Book F of Mining Deeds, at Page 15 of the official records in the office of the Summit County Recorder.

The Hope Patented Lode Mining Claim, Lot No. 687, as the same is more particularly described in that certain patent recorded December 6, 1910, as Entry No. 20518, in Book F of Mining Deeds, at Page 15 of the official records in the office of the Summit County Recorder.

The Alvina Patented Lode Mining Claim, Lot No. 688, as the same is more particularly described in that certain patent recorded December 6, 1910 as Entry No. 20518, in Book F of Mining Deeds, at Page 15 of the official records in the office of the Summit County recorder.

The Hope No. 2 Patented Lode Mining Claim, Lot No. 3262, as the same is more particularly described in that certain patent recorded January 11, 1911 as Entry No. 20627, in Book F of Mining Deeds, at Page 34 of the official records in the office of the Summit County Recorder.

The Emily No. 2 Patented Lode Mining claim, Lot No. 3262, as the same is more particularly described in that certain patent recorded January 11, 1911, as Entry No. 20627, in Book F of Mining Deeds, at Page 34 of the official records in the office of the Summit County Recorder.

The Emma Patented Lode Mining claim, Lot No. 3262, as the same is more particularly described in that certain patent recorded January 11, 1911, as Entry No. 20627, in Book F of Mining Deeds, at Page 34 of the official records in the office of the Summit County Recorder.

TAX SERIAL NO. SA-S-35-X

PARCEL 2:

The following lots located in Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Section 9, Lot 1;
Section 10, Lots 17-18, inclusive;
Section 15, Lots 15-16 and 20-22, inclusive

Excepting therefrom the following described parcels:

- 1) Beginning at the northeast corner of Lot 11, Sunnyside Subdivision, and running thence South along the easterly line of Lot 11, 55.29 feet; thence South 30°10' West 104.72 feet; thence North 55.00 feet to a point on the northwesterly line of said Lot 11; thence North 30°10' East along said northwesterly line 104.72 feet to the point of beginning.
- 2) A parcel of land located in the west half of Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point on an existing fence line that is North 89°58'38" East 1042.46 feet from the east quarter corner of Section 16, said point being common to the north boundary of Lot 14, Sunnyside Subdivision, according to the official plat thereof on file and of record in the office of the recorder, Summit County, Utah, recorded August 3, 1979, as Entry No. 158192; thence along the existing fence line the following ten (10) courses: 1) North 29°02'40" East 4.24 feet; thence 2) North 37°47'34" East 12.94 feet; thence 3) North 31°03'41" East 47.10 feet; thence 4) South 58°40'56" East 8.06 feet; thence 5) South 63°03'06" East 8.11 feet; thence 6) South 55°31'47" East 40.01 feet; thence 7) South 60°32'48" East 16.06 feet; thence 8) South 54°08'39" East 15.79 feet; thence 9) South 49°41'08" East 7.77 feet; thence 10) South 65°38'40" East 3.76 feet to the north boundary of Lot 14, Sunnyside Subdivision; thence along the north boundary of said Lot 14 South 89°58'38" West 117.52 feet to the point of beginning.

- 3) A parcel of land located in the west half of Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point that is East 1601.51 feet and South 519.11 feet from the east quarter corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian, said point being the northernmost corner of the Dedication Plat of Mellow Mountain Road, recorded December 15, 1982, as Entry No. 199265 in the Office of the Recorder, Summit County, Utah, and also being on the northerly sideline of the Frida mining claim, Mineral Survey No. 5665 of the Uintah Mining District; thence along the northerly sideline of the Frida mining claim South 31°05'00" West 384.16 feet to the easterly end line of the Lilly No. 3 mining claim, Mineral Survey No. 5665 of the Uintah Mining District; thence along the easterly end line of the Lilly No. 3 mining claim North 556.69 feet; thence South 66°30'00" East 20.35 feet to a point on a curve to the right having a radius of 201.18 feet, of which the radius point bears South 23°30'00" West; thence along the arc of said curve 136.01 feet through a central angle of 38°44'16"; thence South 27°45'44" East 64.99 feet to a point on a curve to the left having a radius of 310.86 feet, of which the radius point bears North 62°14'16" East; thence along the arc of said curve 88.29 feet through a central angle of 16°16'26" to the point of beginning.

Also excepting therefrom any portion which may lie within the following subdivisions:

Sunnyside, Entry No. 158192; Solamere No. 1, Entry No. 170242; Chatham Crossing Subdivision, Entry No. 179465; Aerie Phase 1, Entry No. 187143; Amber Daystar, Entry No. 190374; Solamere No. 2A, Entry No. 192402; Pinnacle Condominiums First Supplemental,

Entry No. 214221; Pinnacle Condominiums Second Supplemental, Entry No. 228750; The Oaks at Deer Valley, Entry No. 311418; Hidden Meadow Subdivision Phase 1, Entry No. 436642; Hidden Oaks at Deer Valley Phase 1A, Entry No. 437480; April Mountain, Entry No. 636480; Mellow Mountain Estates, Entry No. 811542; Eagle Way Plat Amended, Entry No. 828447.

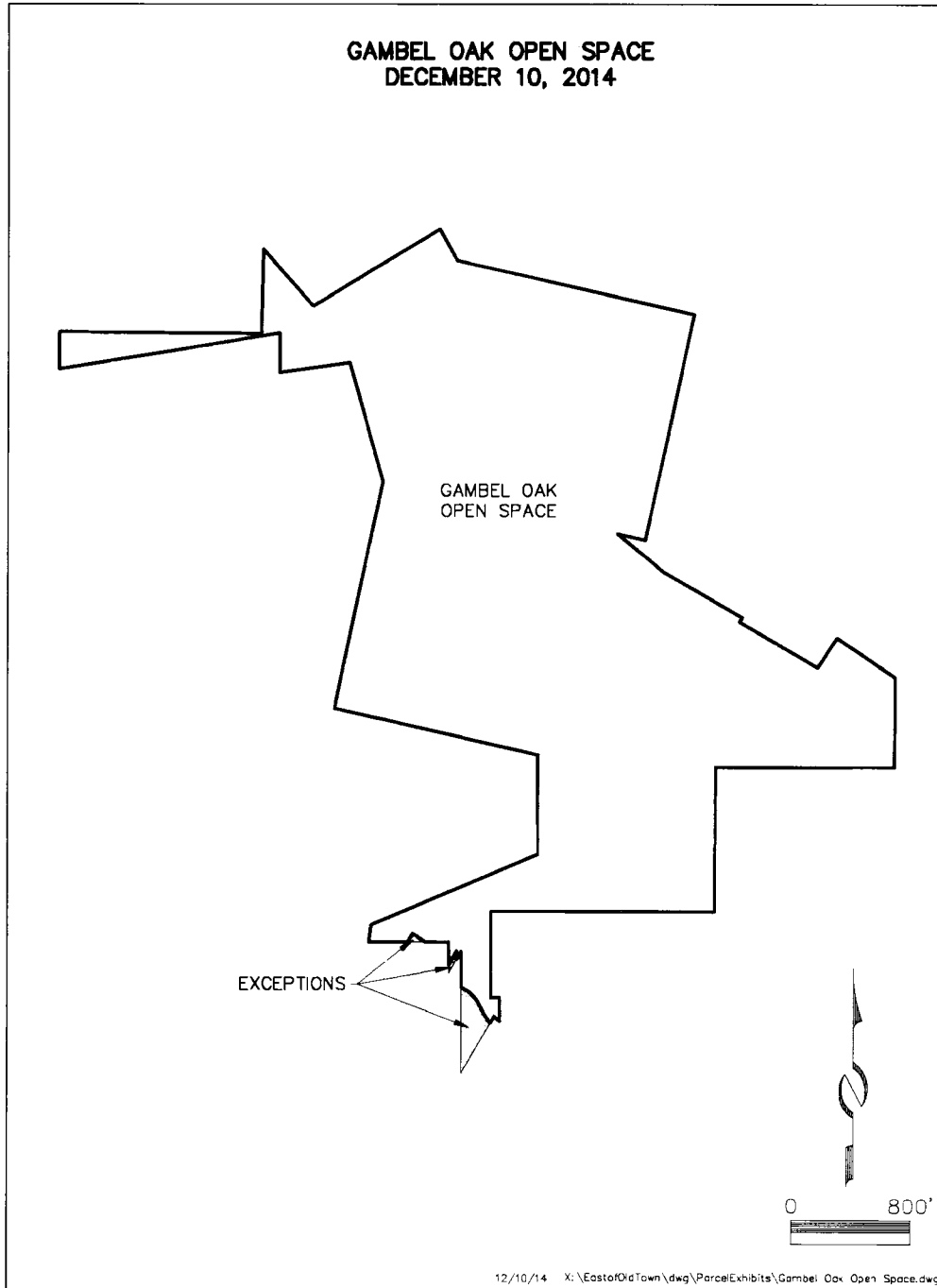
Also excepting therefrom any portion which may lie within the following described parcel:

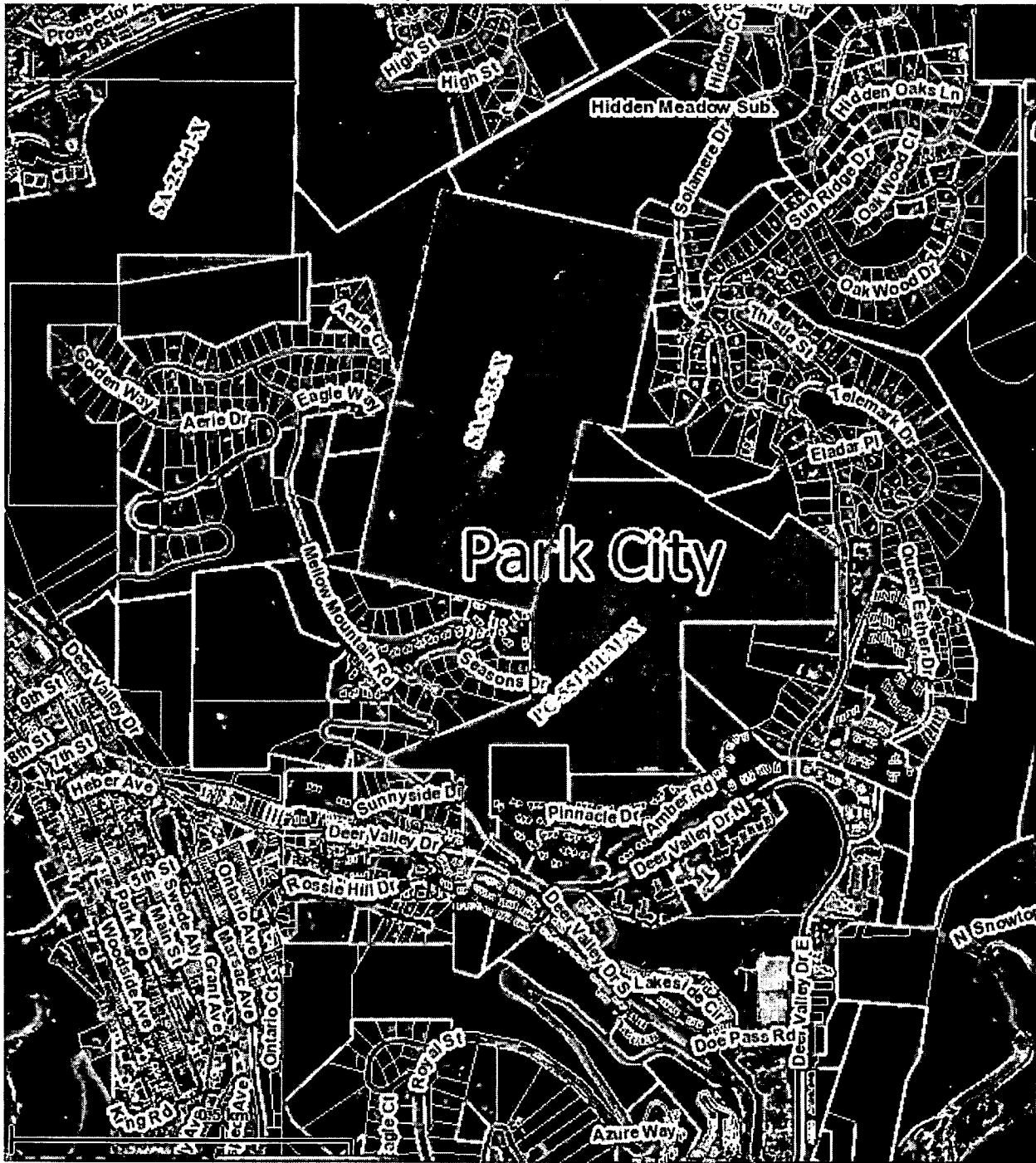
Beginning at Lode Claim Corner No. 4 of the Garey No. 1 Claim, Uintah Mining District, Summit County; said point (Corner) being situated 557.06 feet South and 565.39 feet East of the Southwest Closing Corner of Section 10, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 82°14' West 207.84 feet; thence North 19°30' West 430.19 feet; thence North 12°36'38" East 357.02 feet; thence North 82°20'31" East 448.55 feet; thence South 12°25' West 804.42 feet to the point of beginning.

TAX SERIAL NOS. PC-551-BLM-X, SA-254-BLM-L1-X, SA-254-BLM-L17-X, PC-551-BLM-L18-X

**EXHIBIT B
TO
EASEMENT**

PROPERTY MAP





**EXHIBIT C
TO
EASEMENT**

PERMITTED AND RESTRICTED USES AND PRACTICES

The Property shall not be used for residential or commercial purposes except as permitted in this Exhibit C. Industrial uses are not permitted. The uses set forth in this Exhibit C detail specific activities that are permitted or prohibited under this Easement. The uses set forth in this Exhibit C are also intended to provide guidance in determining the consistency of other activities with the Conservation Purposes. Notwithstanding the uses set forth in this Exhibit C and, notwithstanding any provision of this Easement to the contrary, Permitted uses of the Property (whether set forth in this Exhibit C or elsewhere in this Easement) shall not be conducted in a manner or to an extent that diminishes or impairs the Conservation Values or that otherwise violates this Easement, unless such conduct is otherwise permitted by the terms of this Easement or by pre-existing documents, recorded with Summit County.

1. RECREATIONAL USES. The property may be used for non-motorized, recreational activities including, but not limited to, hiking, biking, snowshoeing, cross-country skiing and horse-back riding on designated recreational trails, as well as, uses consistent with an undeveloped park.

2. MANAGEMENT. The Property will be managed by the Owner according to best practices for natural and undeveloped open space, with specific attention to maintaining the wildlife habitat. No dwelling, structure, or above-surface equipment or facilities of any kind shall be erected or placed on the Property except for the following: (a) improvements that maintain the natural qualities of the open space; (b) improvements necessary to protect the safety and physical integrity of the surrounding properties; (c) recreational improvements for trails and/or an undeveloped park; and (d) public utility improvements consistent with the terms of this Easement. The Property shall not be used for any purpose that is inconsistent with it being held as recreational open space.

3. TRAIL MAINTENANCE AND CONSTRUCTION. The maintenance of existing trails is permitted. Construction of new trails is permitted upon prior written approval to Conservancy, not to be unreasonably withheld. Trail uses, routing, construction and maintenance shall be managed in a way that minimizes impacts to the Conservation Values.

4. GATHERINGS OF PEOPLE AND EVENTS. Public recreational events on established trails and making use of undeveloped park areas are permitted, provided such events are approved by Owner pursuant to Park City Municipal's special event application process, and/or other municipal requirements applicable from time to time. Such special events may include, but are not limited to, mountain bike events, trail running races, organized hikes and small gatherings of people for educational or recreational purposes. Temporary uses and facilities incidental to the event are permitted,

such as a water station for a trail running event. Motorized vehicles may not be used for events.

5. PARKING AND MOTORIZED VEHICLE USE. Motorized vehicles are not permitted on the property other than for emergency services, for trail and Property maintenance, the maintenance of utilities, or for the construction of new trails or amenities approved by Conservancy. Parking is not permitted anywhere on the property other than temporarily, for the purposes described above. If parking areas at trailheads become insufficient for public recreational use of the Easement and Owner determines a need for additional parking spaces and trailhead amenities, existing parking areas and related amenities may be expanded onto the Property upon prior written approval of Conservancy, and shall not to be unreasonably withheld.

6. ADA ACCESS. The terms of this Easement shall not prevent the Owner from allowing the use of electric wheelchairs on the Property, or other power-driven mobility devices pursuant to Owner's obligations under the American's With Disabilities Act of 1990, or other laws and regulations pertaining to the rights of persons with disabilities.

7. HABITAT RESTORATION ACTIVITIES. Activities to restore or enhance native plant communities or wildlife habitat will be permitted pursuant to a restoration plan approved by both Owner and the Conservancy.

8. UTILITIES. Limitations on the maintenance of existing utilities and construction of new utilities pursuant to this Easement shall be subject to pre-existing utility easements and rights of record. The installation of new utilities on parts of the Property not subject to existing utility easements is subject to the Conservancy's prior written approval. Conservancy shall approve the installation of new utilities if, in Conservancy's reasonable opinion, (a) such utility will have a minimal impact to the Conservation Values, or (b) the utility is vital to the people of Park City and it's highly impractical to locate it anywhere other than on the Property, or (c) such new utility is to be located underground in an existing utility corridor. If the installation of a new utility and appurtenant road is considered necessary, the parties shall make all efforts to locate the utilities and road in a manner that minimizes the impact to the Conservation Values. Owner will notify the Conservancy prior to any use, modification, or work on the existing utility easements on the Property, and to the extent practicable, will conduct any such work in a way that minimizes any impact to the Conservation Values. To the extent practicable, any above-ground improvements to the existing water facilities shall be (i) designed to minimize the visual impact to the ridge line view; (ii) water tanks or appurtenant facilities made obsolete by new improvements shall be removed from the Property; and (iii) upon completion of the improvements, the Property shall be restored to its natural condition.

9. ROADS. The construction of new roads and the improvement or expansion of old roads for the purpose of vehicular access is prohibited, other than for the construction, improvement or maintenance utilities pursuant to paragraph 9 of this Exhibit. Any new road shall be constructed of an impervious surface. If construction of

a new road is considered necessary, the parties shall make all efforts to locate the road in a manner that minimizes the impact to the Conservation Values. Owner may post signs, design trails and place a gate across the utility access road to water tank area.

10. CHEMICAL AND BIOLOGICAL CONTROLS. In accordance with all applicable federal, state and local laws and regulations, Owner has the right to use agrichemicals and biological controls on the Property as necessary to control noxious weeds, pests and for mosquito abatement. Chemical and biological controls may only be used in accordance with all applicable laws, and in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable noxious weed, pest and mosquito abatement objectives. The use of such agents shall be conducted in a manner to minimize adverse effects on the natural values of the Property and to avoid any impairment of the natural ecosystems and processes.

11. PROBLEM OR DISEASED ANIMALS. Owner may use legal methods to control diseased and/or problem animals as permitted by state and federal laws.

12. ALTERATION OF WATERCOURSES AND TOPOGRAPHY. Owner may not make any change, disturbance, alteration, excavation, or impairment to any watercourse or the topography of the ground on the Property except as otherwise permitted by this Easement.

13. WATER RESOURCES. Owner may enhance, if applicable, water quality on the Property recognized as necessary or beneficial to wildlife, ecological or habitat values on the Property, provided such enhancements are consistent with the terms of the easement and the Conservation Values, and comply with all applicable laws and regulations.

14. FENCES. Fencing that exists on the Property as of the Effective Date may be repaired and replaced. New fences may be built on the Property upon prior approval of Conservancy, not to be unreasonably withheld and provided such fences (a) are reasonably necessary for the protection of property, wildlife resources or public safety, (b) will not unduly restrict or impair wildlife movement, and (c) will not unduly interfere with the Open Space Value of the Property.

15. SIGNS AND BILLBOARDS. Billboards and signs are prohibited on the Property, other than signs for the following purposes:

- A. To indicate that the Property is conserved with a "Conservation Easement" held by the Conservancy; and
- B. To identify trails or interpretive sites on the Property and provide educational information; and
- C. To state rules and regulations, safety, or hazardous conditions found on the Property in accordance with the Owner and the Conservancy's established guidelines for properties they own; and
- D. To close trails temporarily on the Property in order to protect wildlife; and
- E. To post "No Hunting or Trapping" signs; and

- F. To notify the public of temporary events, including but not limited to, directional markers for bike/running race participants, provided such signs are removed within two days after the culmination of the event; and
- G. For such other purposes as the Conservancy, in its discretion, approves

16. FIRE SUPPRESSION. Owner may remove brush and vegetation necessary to minimize the risk of wildfire on the Property. Potential means to reduce or remove high risk fuel loads may include, but would not be limited to: mechanized methods; biological controls, including short-duration grazing; slash, stack and burn; or controlled burns.

17. COMMERCIAL RECREATION. Owner may permit use of the Property for otherwise lawful commercial recreational uses that do not conflict with the Conservation Values and are consistent with the Conservation Purposes.

18. SUBDIVISION. The legal or de facto division, subdivision, or partitioning of the Property is prohibited. Notwithstanding the fact that, as of the Effective Date, the Property is comprised of separate legal parcels, the terms and conditions of this Easement will apply to the Property as a whole, and the Property will not be sold, transferred, or otherwise conveyed except as a whole, intact, single piece of real estate; it being expressly agreed that neither the Owner nor the Owner's personal representative, heirs, successors, or assigns will sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property. The existence of any separate legal parcels, if any, as of the Effective Date will not be interpreted to permit any use or activity on an individual legal parcel that would not have been permitted on such individual legal parcel under the terms and conditions of this Easement as applied to the Property as a whole.

19. MINING AND NATURAL RESOURCE DEVELOPMENT. Subject to pre-existing mineral rights of record, the exploration for or extraction of minerals, gas, hydrocarbons, soils, sands, gravel, or rock, or any other material on or below the surface of the Property is prohibited. Owner will not grant any rights to any minerals, oil, gas, or hydrocarbons, including the sale or lease of surface or subsurface minerals or any exploration or extraction rights in or to the Property, and Owner will not grant any right of access to the Property to conduct exploration or extraction activities for minerals, oil, gas, or hydrocarbons, or other substances on any other property.

20. NO HAZARDOUS MATERIALS. Use, dumping, storage, or other disposal of non-compostable refuse, trash, sewer sludge, unsightly or toxic materials or Hazardous Materials is prohibited. This Easement does not permit Conservancy to control any use of the Property by Owner which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, Conservancy may bring an action to protect the Conservation Values of the Property. This prohibition does not impose liability on Conservancy, nor shall Conservancy be construed as having liability as a "responsible party" under CERCLA or other similar state or federal statutes.

21. NON-NATIVE SPECIES. Introduction of any non-native plant or animal species is prohibited other than those generally accepted for habitat improvement or as mutually agreed upon by Owner and Conservancy.

22. DUMPING AND WASTE. No dumping, burying, storing, applying or releasing of waste, sewage, garbage, vehicles or appliances is allowed on the Property, except (a) appropriate routine storage of garbage and wastes from permitted uses of the Property pending transport for proper disposal and (b) garbage and wastes which flow into proper septic or other appropriate waste disposal systems.

23. DESTRUCTION OF NATIVE VEGETATION. The removal, cutting or destruction of native vegetation is prohibited except as reasonably incident to permitted activities or as otherwise permitted by this Exhibit C, for disease or insect control or to prevent property damage or personal injury.

**EXHIBIT D
TO
EASEMENT**

ACKNOWLEDGMENT OF PROPERTY CONDITION

In compliance with Section 1:170A-149g)(5) of the federal tax regulations, the undersigned accepts and acknowledges that the Gambel Oak Baseline Documentation Report is an accurate representation of the property at the time the Permanent Restriction Easement was transferred to the Conservancy.

Property Name: Gambel Oak

Park City Municipal Corp.:

Date _____

Jack Thomas, Mayor

Summit Land Conservancy:

Date _____

Executive Director