

When Recorded Return to:  
Payson City  
439 W Utah Avenue  
Payson, Utah. 84651

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### **DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT (this “**Easement**”), made as of this \_\_\_\_ day of \_\_\_\_\_, 2025, by Payson City, a political subdivision of the State of Utah (“**Grantor**”), whose address is 439 West Utah Avenue Payson, Utah 84651 and \_\_\_\_\_, a political subdivision of the State of Utah (“**Grantee**”), whose address is \_\_\_\_\_. Collectively Grantor and Grantee are referred to as the “**Parties.**”

#### **EXHIBITS AS FOLLOWS**

Exhibit A: Legal Descriptions of Parcels

Exhibit B: Property Location Map

Exhibit C: Existing Conditions (Maps, Easements, Encumbrances, Site Photos at time of approval)

#### **WITNESSETH:**

WHEREAS, Grantor is the owner of several tracts of land, located in Utah County, State of Utah, known as the Payson City Forebay Recreation Area, consisting of approximately 480 acres described in the attached Exhibit A and located on the “**Property Map**” attached as Exhibit B which together constitute the “**Property**”; and

WHEREAS, Grantor intends to convey this Easement under the Utah Land Conservation Easement Act, Utah Code Sections 57-18-2 through -7 (2018) Utah statutory and common law; and

WHEREAS, at the time of adoption of this Deed of Conservation Easement, the Property consists of existing conditions as more fully identified in maps, documents, and photos included as Exhibit C; and

WHEREAS, the Property possesses predominantly natural open space that supports scenic, educational, recreational, cultural, watershed and wildlife habitat values (collectively referred to as the “**Conservation Values**”) and considered of great importance to Grantor, Grantee and the residents of Payson City, Utah County, and the State of Utah. These Conservation Values include but are not limited to the following:

A. Protection of the Property’s scenic and aesthetic open space, especially its views from vantage points such as Payson Canyon, Gladstan Golf Course, and Utah Valley; and

B. Protection of public recreation and education values as this Property has served as a place for multiple-use non-motorized recreation and is accessible to the public for mountain biking, horseback riding, and hiking among other passive recreational experiences; and

C. Preservation of the Property's proximity to several permanently protected open spaces including Uinta-Wasatch-Cache National Forest and Gladstan Golf Course; and

D. Protection of vistas looking down upon Walker Flat, a cultural resource along the Mt. Nebo National Scenic Byway; and

H. Long-term conservation of the watershed and water collection, storage, and conveyance facilities by restricting activities that could negatively impact water quality, availability, and the natural ecosystem; and

G. Protection of natural habitats for wildlife, ensuring the continued survival of diverse species and maintaining ecological balance within the region; and

WHEREAS, Grantor desires and intends that the Conservation Values be preserved by the continuation, initiation, or introduction of activities on the Property that sustain said values, including, but not limited to open space preservation, watershed protection, wildlife viewing and protection, public recreation, cultural, education and ecological interpretive use; and

WHEREAS, Grantor, as the fee owner of the Property, holds the right to identify, conserve, enhance, and protect in perpetuity the Conservation Values of the Property; and

WHEREAS, Grantor values the undeveloped nature of the property and its recreational value; and

WHEREAS, the State of Utah has recognized the importance of both public and private efforts to conserve and protect the state's natural resources by the enactment of Utah Code Annotated §§ 57-18-1 to 57-18-7; and

WHEREAS, Grantee has agreed to accept this Easement upon the condition and understanding that the mutual intentions of Grantor and Grantee regarding the future preservation of the Property as expressed in this Easement shall be forever honored and defended; and

WHEREAS, the Parties desire that any interpretation of this Easement be construed to further the conservation, protection, and enhancement of the Property's Conservation Values;

NOW, THEREFORE, in consideration of the recitals as set forth above and the covenants terms and conditions and restrictions contained herein, which the Parties hereby agree constitute adequate consideration for this agreement and pursuant to the laws of the State of Utah and in particular Utah Code Annotated §57-18-1, *et seq.* (2018), Grantor hereby irrevocably grants and conveys to Grantee and its successors in interest a perpetual conservation easement (this "**Easement**"). This Easement is made over, under and across all of the Property to preserve and protect the natural, ecological, watershed, habitat, riparian, educational, recreational, public access, open space, scenic and other conservation values present on the Property. This Easement shall forever bind Grantor and Grantor's successors in ownership and use of the Property as well

as Grantee and any qualified successor of Grantee as identified in Section IX below. This Easement is granted in perpetuity, and any mortgage lien or other encumbrance other than encumbrances of sight or record existing at the time of this instrument's signing, shall be subordinate to this Easement, to the rights and intentions of the Parties to this Easement and to Grantee's ability to enforce the protection of the Conservation Values described herein. The scope of this Easement is set forth in this Easement.

## **SECTION I - PURPOSE**

The purpose of this Easement is to enable the Property to remain forever open and accessible to the public for recreation and scenic enjoyment, protecting in perpetuity its unique natural, wildlife habitat, open space, educational, public recreational, public access and scenic Conservation Values, preventing any use of the Property that may materially impair or interfere with its Conservation Values and that this Easement constitutes a public trust in the perpetual protection of the Property.

## **SECTION II - RIGHTS OF GRANTEE**

**Affirmative Rights of Grantee.** Grantor hereby grants the following rights to Grantee, which rights shall be in addition to and not in limitation of, all other rights and remedies available to Grantee:

A. To prevent Grantor or third persons (whether or not claiming by, through, or under Grantor) from conducting any activity on or use of the Property that is inconsistent with the purpose of this Easement, and to require of Grantor or third persons the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use;

B. Upon two (2) business days prior notice to Grantor pursuant to the notice requirements in Section XI, Subsection P to enter upon the Property at reasonable times and in a reasonable manner in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement, provided that in the absence of evidence which gives Grantee a reasonable basis to believe there has been a violation of the provisions of this Easement (which evidence shall be made available to Grantor), such entry shall not occur more often than four times annually;

C. To enter onto the Property in the case of an emergency as determined by Grantee, in which event Grantee shall notify Grantor prior to entering onto the Property, if possible, or as soon thereafter as is reasonably practical;

D. To obtain injunctive and other equitable relief against any violations, including restoration of the Property to the condition that existed prior to any such violation (it being agreed that Grantee will have no adequate remedy at law); and

E. To enforce this Easement in the case of breaches by Grantor or by third persons (whether or not claiming by, through, or under Grantor) by appropriate legal proceedings, after providing Grantor with reasonable notice and a reasonable opportunity to cure.

### SECTION III - PERMITTED USES AND PRACTICES

A. The uses and practices described in this Section III may not be precluded or prevented by this Easement, except the uses and practices in this Section III may be precluded if Grantee believes that a certain use or practice is occurring in a manner, or to a degree that causes harm to the Conservation Values.

B. The uses and practices may be precluded when such uses or practices are conducted or allowed to take place in a manner which violates the terms of this Easement, poses a serious threat of material damage to the Conservation Values protected by this Easement, constitutes a prohibited use or practice as set forth in Section V of this Easement.

C. While not an exhaustive recital of permitted uses and practices, and subject to the limitations listed above, the following uses are consistent with this Easement:

- i. **Public Access and Education.** The right to construct trailheads and define access points including restroom facilities, picnic tables, benches, shelters, scenic overlooks, observation towers, informational kiosks, access roads and/or bridge crossings to parking lots and other trailhead related facilities provided that these trailheads and access points comply with the Payson City Forebay Management Plan, or any subsequent plans as adopted by the City. The right to construct educational facilities and interactive exhibit spaces where visitors, students, and researchers can learn about the park's diverse ecosystems, wildlife and conservation efforts. Provide areas to engage in passive wildlife viewing and wildlife and nature related educational activities on the Property.
- ii. **Recreation.** The right to engage in open water and non-motorized recreational activities such as hiking, mountain biking, horseback riding, picnicking, non-motorized winter activities, or similar activities are permitted, provided these uses align with and support the Conservation Values of the area.
  - a. Electric--assisted bicycles (excluding electric dirt bikes and electric ATVs) are allowed for use on trails.
- iii. **Trails.** The right to construct new trails and maintain developed trails as identified in the Payson City Forebay Management Plan, subject to the following provisions:
  - a. All new trails must be designed to minimize environmental impact and align with the conservation goals of the area, to provide multiple opportunities for various interest groups to access and enjoy the property. The location of new trails must follow the guidelines outlined in the Payson City Forebay Management Plan.
  - b. Grantor retains the right to close, reroute, restore and relocate existing trails as may be necessary to ensure safe recreational use, avoid or eliminate erosion, or for any other reason deemed appropriate by Grantor.

- iv. **Recreation and Trail-related Structures.** The right to construct trail improvements and recreation structures, including but not limited to bridging, boardwalks, culverts, separated street crossings, gates, pavilions, and other trail-related enhancements, picnic shelters, observation towers, equipment sheds, camping-related facilities and camp site development, recreation ponds, docks and open water recreation facilities for non-motorized water uses, and other similar outdoor recreational facilities and improvements to ensure safe, accessible, and sustainable trail use while maintaining the integrity of the conservation values of the area.
- v. **Signs.** The right to place signs for informational and regulatory purposes, including but not limited to rules and regulations, wayfinding, safety or hazardous conditions, and identify trails, interpretive sites, kiosks, and interpretive signs on the Property.
- vi. **Fencing.** The right to repair or install fencing and gates to secure and delineate parking areas and trail heads, provide for convenience or safety of users, identify property lines, –maintain a perimeter barrier if desired to keep out motorized vehicles, or cattle.
- vii. **Event Related Temporary Structures.** Temporary structures associated with an event approved by Grantor and compliant with all applicable local and State laws are permitted provided that their location minimizes impacts to the natural environment and are located to the extent possible in areas where adequate infrastructure already exists such as at trail-head or public pavilions.
- viii. **Maintenance and Restoration of the Native Ecosystem.** Grantor may use techniques and methods recognized as effective in restoring and maintaining the native biological diversity of the Property including but not limited to invasive weed suppression, restoring existing cuts, erosion, and successional forest, oak brush foothill and savannah complex restoration and passive restoration.
- ix. **Chemicals and Biological Controls.** Grantor may use chemicals and biological controls on the Property as necessary to control noxious weeds, invasive insects, or mosquitoes. 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 objectives. The use of such agents shall be conducted in a manner to minimize any adverse effect on the natural values of the Property and to avoid any impairment of the natural ecosystems and their processes.
- x. **Problem or Diseased Animals.** Grantor may use legal methods to control diseased and problem animals as permitted by state and federal laws.
- xi. **Fire Suppression.** Grantor may remove brush and vegetation necessary to minimize the risk of wildfire on the Property while maintaining to the extent possible deadfall and brush considered valuable for wildlife. Potential means to reduce or remove high risk fuel loads may include, but would not be limited to:

biological controls, including short-duration grazing; and non-mechanized methods of removal of deadfall, and limited mechanized methods.

- xiii. Utilities.** Grantor may install new subsurface utilities to improve water resources in the area and develop water storage, and conveyance systems. Stormwater collection and retention systems may also be appropriate uses on the property. Utility facilities shall, to the extent reasonably possible, be sub-surface and/or visually obscured to maintain the natural open space and viewsheds that exist on the property. Existing Utilities may be maintained or relocated provided any disturbance to the property is restored, as much as is practical to the original undisturbed nature of the Property. Included in this Utilities Section is the right to provide utility connections deemed necessary and appropriate for any approved use allowed in this Conservation Easement by Grantor provided that all Payson City approvals are granted and provided that the minimum disturbance is achieved even if in achieving that minimum disturbance requires additional cost to a third party.

#### **SECTION IV - AMENDMENTS TO ACTIVITIES, USES, OR ENTERPRISES NOT REQUIRING GRANTOR LEGISLATIVE BODY PRIOR APPROVAL**

Grantor's designated staff may modify permitted recreational activities, uses, or enterprises on the Property without Grantor's legislative body approval, provided that proper notice is given to Grantee in accordance with this section. Authorized staff include Grantor's Community Services Director, Development Services Director, and Parks Superintendent or their respective successors or designees. A simple majority of authorized staff is required to make such modifications. However, any material changes to the size or scope of the Easement must be made in accordance with the amendment procedures outlined in Section X of this agreement. A proposed change to activity, use, or enterprise requires Grantee's approval and Grantor shall not proceed until applicable requirements under this agreement have been met. Nothing in this Section shall in any way prohibit or limit the Grantee's ability to obtain writs or injunctive relief relating to any violation of this Easement.

##### **A. Grantor's Written Notice.**

Prior to the commencement of any new activity, use, or enterprise approved by Grantor's staff, Grantor shall provide written notice to Grantee. The notice must include all material aspects of the proposed activity, use or enterprise to allow for meaningful review. Notice shall be sent by registered or certified mail, return receipt requested, as outlined in Section Xi (P) of the agreement, or to such other address as Grantee may designate in writing.

##### **B. Grantee's Response.**

Grantee shall have forty five (45) days from the date such notice is received (as indicated by the registered or certified return receipt) to review the proposed new activity, use, or enterprise and to provide any objections in writing. Objections, if any, shall be based upon Grantee's determination that the proposed activity, use or enterprise is likely to cause material damage to the Property's Conservation Values or is otherwise inconsistent with the purpose and/or provisions of this Easement. If, Grantee determines, that the proposal may be modified to avoid material harm

and otherwise comply with the Conservation Values and the purpose and provisions of this Easement, then the response shall include recommendations for modification. Except as provided in Subsection C below, Grantor may proceed with the proposed activity, use, or enterprise only after receiving Grantee's express written approval, and only as proposed and approved. The Grantee will send such response to Grantor by registered or certified mail, return receipt requested, addressed to Grantor at Grantor's address as set forth in Section XI (P) below, or to such other address as Grantor may designate in writing.

**C. Grantee's Failure to Respond.**

If Grantee fails to post its response to a proposal presented by Grantor within forty five (45) days after it receives the proposal by registered or certified mail, or within forty five (45) days after Grantee has received adequate information to evaluate the proposed activity, whichever is later, then the proposed activity, use or enterprise shall be deemed consistent with the terms of this Easement, and Grantee will have no further right to object to the activity, use or enterprise described in the proposal. The forty-five (45) day period shall not begin to run for purposes of this Subsection C until such time that Grantee has received adequate information from Grantor to effectively evaluate the proposed activity. In the event the Grantee requires additional information to evaluate the proposed activity, Grantee shall request the information from Grantor as soon as practicable and in any case not later than forty-five (45) days after the receipt of the notice of the proposed activity.

**D. Force Majeure.**

Grantor will not be obligated to send a notice to Grantee, and Grantee will not be entitled to bring an action against Grantor for undertaking any prudent activity in a bona fide emergency situation to prevent, abate, or mitigate the immediate threat of significant damage to the Property resulting from causes beyond Grantor's control, including fire, flood, storm, and earth movement. Grantor will promptly notify Grantee of any injury to the Property caused by such events or the efforts to prevent, abate, or mitigate any damage caused by such events.

**SECTION V - PROHIBITED USES AND PRACTICES**

Any activity on or use of the Property inconsistent with the purpose of this Easement and which is likely to cause material damage to the Conservation Values is expressly prohibited. Grantor agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are explicitly deemed inconsistent with the purposes of this Easement, and shall be prohibited.

**A. Subdivision.**

Grantor does not have the right, nor will any attempt be made, to divide, subdivide, or take any action that would result in an actual or *de facto* subdivision of the Property. Boundary line adjustments shall not be considered a division of land, provided that no new parcel is created. This provision does not restrict the Grantor from considering or engaging in a land exchange involving portions of the Property and nearby land, so long as the exchange would benefit Payson City. In any such exchange, the total acreage of open space must not be reduced. Nothing herein will prohibit adding of additional land to the Property. However, any land exchange or addition of

property shall be considered a material change of the Easement and must follow the amendment procedure outlined in Section X of this Agreement.

**B. Construction.**

Grantor will not construct any structures or facilities on the Property for use in human habitation or industrial activities. Only structures permitted under Section III, which are in accordance with a permitted use, are permitted.

**C. Wildlife Disturbance or Harassment.**

Harassment of wildlife on the Property by people, vehicles or domestic animals is prohibited. Fishing is allowed on the Property so long as the visitor possesses a valid fishing license and abides by the State of Utah daily catch limits. The taking, removal, translocation or captivity of wildlife is prohibited, except as allowed by law. Hunting is prohibited on the Property; however, nothing within this provision shall restrict Payson City from working with the Division of Wildlife Resources to determine healthy carrying capacities of big game species on the land and appropriate culling methods deemed appropriate and in consideration of governing ordinances.

**D. Alteration of Watercourses and Topography.**

Grantor will not change, disturb, alter, excavate, or impair any watercourse or the topography of the ground on the Property, except as expressly permitted by Section III of this Easement and with the necessary permits. Any alterations must be performed in accordance with best construction practices and with the intended goals of conservation in mind. Grantor shall conform to all applicable state and federal laws when constructing or altering watercourses and habitat, ensuring that any changes are made in a way that preserves the Property's Conservation Values.

**E. Non-native Species.**

Grantor will not introduce into the Property any non-native plant or animal species.

**F. Roads.**

No new roads over, through, or across the Property are permitted, except for the express purpose of providing necessary access to the Property for the Permitted Uses and Practices described in Section III.

**G. Motorized Vehicles.**

Motorized vehicles are not permitted to access the Property, except for the following:

- i. Emergency vehicles;
- ii. Vehicles used in routine maintenance and management of the Property;



- iii. Vehicles necessary to carry out a permitted use as identified under Section III of this Easement; and
- iv. Vehicles associated with a recorded right of access.

**H. Agricultural Uses.**

Agricultural uses are prohibited on the Property, except as it may be consistent with management practices for fire reduction or noxious weed management in conjunction with a permitted use as identified in Section III.

**I. Dumping.**

Trash, debris, and other non-compostable refuse may not be dumped or otherwise disposed of on the Property.

**J. Utilities.**

New utilities and new utility corridors are prohibited, except as expressly permitted by Section III of this Easement.

**K. Mineral Activities.**

Exploration, mining, mass grading, or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials found in, on, or under the Property by Grantor is prohibited. No surface or sub-surface exploration or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials (including the lease, sale, or other disposition of the rights to such materials) are permitted by this Easement.

**L. Billboards.**

Grantor will not construct, maintain, lease, or erect any commercial signs, political signs, or billboards on the Property. Not limiting the generality of the foregoing, a limited number of signs for the purpose of protecting the property and identifying trails, ecological and heritage values on the property are allowed.

**M. Hazardous Waste.**

Grantor will not store, dump, or otherwise dispose of any toxic and/or hazardous material on the property. Neither this specific prohibition nor any other right granted in this Easement makes Grantee an owner of the property. Nor does it permit Grantee to control any use of the Property by the Grantor, which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, Grantee may bring an action to protect the Conservation Values of the Property. This prohibition does not impose liability on Grantee, nor shall Grantee be construed as having liability as a “responsible party” under CERCLA or other similar State or federal statutes.

**N. Specific recreational uses prohibited.**

Grantor will not use the Property for recreational uses that significantly alter the character and/or landscape of the Property such as soccer or baseball fields, golf courses, playfields, rodeo grounds, stables, shooting ranges, moto-cross parks, or other similar uses not compatible with the Conservation Values of the Property. Grantor will not permit unauthorized camping nor permit the unauthorized harvesting of firewood with the exception of the collection of deadfall.

**SECTION VI - BREACH, RESTORATION, AND REMEDIES**

**A. Breach and Restoration.**

Where Grantee becomes aware of a violation or potential violation of any restriction contained in this Easement, or becomes aware of any damage or potential damage to the Conservation Values associated with the Property, whether precipitated by Grantor or by a third party, Grantee may notify Grantor in writing of such violation, potential violation, damage or potential damage. Upon Grantor's receipt of such notice, Grantor agrees to immediately take action to prevent or stop the activity, which potentially or actually violates the terms or intent of this Easement.

Grantor shall have forty-five (45) days after receipt of such notice to undertake actions, including restoration of the Property, that are reasonably calculated to swiftly correct the conditions caused by such violation. If Grantor fails to take such corrective action, Grantee may undertake appropriate action, including legal action, to effect such corrections. Grantor shall pay the cost of such corrections, including Grantee's expenses, court costs, and attorney's fees.

**B. Injunctive and Other Relief.**

In the event Grantor undertakes or causes to be undertaken any activity on the Property that requires Grantee's prior approval and such approval is not obtained consistent with Section IV of this Easement, or where Grantor undertakes or causes to be undertaken any activity in violation or potential violation of the terms of this Easement; Grantee shall have the right to obtain injunctive relief or writs from courts of competent jurisdiction to stop any unauthorized activities and/or to force the restoration of that portion of the Property affected by such activity to a similar or equivalent condition that existed prior to the unauthorized activity. Such restoration may include, but is not limited to, restoring soils, replanting suitable native vegetation, removing of improvements, facilities, utilities, structures or other development that did not obtain proper approval, and/or taking such other action, as Grantee deems necessary to achieve restoration. In such case, the costs of restoration and litigation, including reasonable attorney's fees, shall be borne by Grantor or those of its successors or assigns against whom a judgment is entered. In the event a judgment is entered against Grantee in an effort to seek injunctive relief or restoration, then Grantor is not in violation of this Easement.

**C. Actual or Threatened Non-Compliance**

Grantor acknowledges that actual or threatened instances of non-compliance under this Easement constitute immediate and irreparable harm. Grantee may seek equitable relief in any

court of competent jurisdiction where the Property or Grantee is located to enforce this Easement. If Grantee is required to seek court intervention to enforce any part of this Easement, Grantor shall pay the Grantees attorney's fees.

**D. Cumulative Remedies.**

Grantee's remedies set forth in this Easement are cumulative. Any, or all, of the remedies may be invoked by Grantee if there is an actual or threatened violation of this Easement.

**E. Delay in Enforcement.**

A delay in enforcement shall not be construed as a waiver of Grantee's right to enforce the terms of this Easement.

**SECTION VII - MAINTENANCE COSTS, TAXES & FEES**

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including responsibility for the control of noxious weeds in accordance with all applicable Utah laws. Grantor agrees to bear all costs of operation, upkeep and maintenance of the Property, and agrees to reimburse Grantee and its successors and assigns for all claims and obligations arising from the operation, upkeep, and maintenance of the Property. Grantor shall pay any and all lawful assessments, fees, and charges levied by a relevant authority.

**SECTION VIII - INDEMNITY AND INSURANCE**

Grantor agrees to defend, indemnify and save harmless Grantee from and against any damage, liability and loss occasioned by, growing out of, or arising or resulting from any negligent, grossly negligent, intentional act or omission by Grantor, its agents or employees while on the Property.

**SECTION IX - ASSIGNMENT OF EASEMENT**

Grantee may not transfer or assign its interest in this Easement upon the Property created by this Easement except to a qualified non-profit or other governmental organization which is organized or operated primarily or substantially for one or more of the Conservation Values or the stated purposes in Section I of this Easement. Any such qualified organization shall agree to enforce the conservation purposes protected by this Easement. Grantee may not transfer its rights under this Easement, in whole or in part, without the prior written consent of Grantor, which consent shall not be unreasonably withheld.

**SECTION X - AMENDMENTS REQUIRING GRANTOR'S LEGISLATIVE BODY  
APPROVAL**

If an amendment to the size or scope of this Easement is proposed, Grantor must first hold a public hearing on the proposed amendment or modification. Following the hearing, the amendment or modification must be approved by a supermajority of the Grantor's legislative body. However, no amendment or modification may be adopted if it will adversely affect the

qualification of this Easement under the laws of the State of Utah. Any such amendment or modification shall be consistent with the purpose of this Easement, shall not affect its perpetual duration, shall not permit residential, commercial or industrial development or any type of mining or grading of the Property, and shall not permit any impairment of the significant Conservation Values of the Property. All approved amendments or modification shall be filed in the Utah County Recorder's Office. Nothing in this Section shall require Grantor or Grantee to agree to any proposed amendment or to engage in consultation or negotiation regarding any such amendment.

## **SECTION XI - MISCELLANEOUS PROVISIONS**

### **A. Severability.**

If any provision of this Easement, or the application of this Easement to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, and the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

### **B. Enforcement.**

Grantor intends that enforcement of the terms and provisions of this Easement shall be at the discretion of Grantee, and that Grantee's failure to exercise its rights under this Easement, in the event of any breach by Grantor, shall not be considered a waiver of Grantee's rights under this Easement in the event of any subsequent breach.

### **C. "Grantor" and "Grantee".**

The term "**Grantor**", as used in this Easement, and any pronouns used in place thereof shall mean and include the above-named Grantor and its successors and assigns. The term "**Grantee**," as used in this Easement and any pronouns used in place thereof shall mean and include the above-named Grantee and its successors and assigns.

### **D. Titles.**

Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect.

### **E. Liberal Construction.**

This Easement shall be liberally construed in favor of maintaining the Conservation Values of the Property, and in accordance with Utah Code Annotated §§57-18-1 to 57-18-7. The Parties acknowledge that each has reviewed and revised this Easement with the assistance of counsel, and that no rule of construction resolving ambiguities against the drafting party shall be employed in interpreting this Easement.

**F. Successors.**

This Easement is binding upon and will inure to the benefit of Grantor's and Grantee's successors in interest and assigns. All subsequent owners of the Property are bound by all provisions of this Easement to the same extent as Grantor.

**G. Governing Law.**

This Easement will be interpreted and construed in accordance with applicable Utah laws.

**H. Entire Agreement.**

This Easement sets forth the entire agreement of the Parties. It is intended to supersede all prior discussions or understandings between the Parties pertaining to the subject matter of this Easement.

**I. Compliance With Law.**

All uses and practices permitted by this Easement shall comply with all applicable state and federal laws.

**J. Effective Date.**

The effective date of this Easement will be the date on which it has been signed by all of the Parties.

**K. Notice Requirements.**

Grantor hereby acknowledges that Grantee, at least three days prior to the execution of this Easement, discussed with it the types of conservation easements available, the legal effect of each easement, and the advisability of consulting legal counsel concerning the possible legal and tax implications associated with granting this Easement.

**L. Merger.**

The Parties intend that this Easement will not merge. It is the intent of the Parties that the Easement shall never be extinguished, but this Easement shall remain in full force requiring Grantor and Grantee and their successors in interest to perpetually comply with the terms and conditions of this Easement, regardless of who holds title to the underlying fee interest of the Property.

**M. Change of Conditions.**

The fact that any use of the Property expressly prohibited by this Easement or otherwise determined inconsistent with the purpose of this Easement may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Easement, has been considered by Grantor in granting this Easement. It is Grantor's belief that any such changes will increase the public's benefit and

interest in the continuation of this Easement, and it is the intent of both Grantor and Grantee that any such changes shall not be considered circumstances sufficient to terminate this Easement, in whole or in part. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination.

**N. Superiority of Easement.**

Any mortgage, trust deed, lien, judgment, or other financial interest executed that encumbers or affects the Property, subject to the date that this Easement is recorded in the Office of the Recorder of Utah County, shall be subordinate to this Easement and in no way shall enable the holder of such interest or their successor(s) in interest to breach the terms of this Easement or otherwise compromise the Conservation Values protected hereby.

**O. Revenue Generation.**

Nothing in this Agreement prohibits Grantor from imposing fees for users to utilize the property, or collecting of revenues from uses on the property, or allowing third-party commercial recreational businesses to partner with the Grantor to operate and maintain recreational facilities on the site that are in conformance with the Conservation Values of the Property.

**P. Notices.**

Any notice, demand, request, consent, approval or communication shall be in writing and served personally or sent by first class mail addressed as follows:

Grantor: Payson City  
Attn: City Manager  
439 West Utah Avenue  
Payson, Utah 84651

Grantee: Lehi City  
Attn: Lehi City Mayor  
153 N 100 E  
Lehi, Utah 84043

*[Remainder of page left intentionally blank; signature pages follow]*

IN WITNESS WHEREOF, the Parties have executed this Easement of Conservation Easement on the dates set forth below.

PAYSON CITY

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF UTAH                    )  
   :  
COUNTY OF UTAH                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_ in such person's capacity as the \_\_\_\_\_ of Payson City.

\_\_\_\_\_  
Notary Public

On this \_\_\_\_ day of \_\_\_\_\_, , \_\_\_\_\_, who is known to me to be the \_\_\_\_\_ of Payson City , and the person whose name is subscribed to the instrument set forth above, personally appeared before me \_\_\_\_\_, a Notary Public for the State of Utah, and acknowledged that he executed the same on behalf of Payson City.

IN WITNESS WHEREOF, I hereunto set my hand and affix my notary seal on the date above written.

LEHI CITY

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

STATE OF UTAH )

:

COUNTY OF UTAH \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, , \_\_\_\_\_, who is known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and the person whose name is subscribed to the instrument set forth above, personally appeared before me \_\_\_\_\_, a Notary Public for the State of Utah, and acknowledged that he executed the same on behalf of \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and affix my notary seal on the date above written.

\_\_\_\_\_  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTIONS OF PARCELS**

**FOREBAY PARCELS**

30:096:0002

ALL THE E1/2 OF NE1/4 & THE E1/2 OF SE1/4 SEC 34, T 9 S, R 2 E, SLM; LESS: COM. SW COR E1/2 SE1/4 OF SD SEC 34; N 400 FT; E 544.5 FT; S 400 FT; W 544.5 FT.

TOTAL AREA 155 ACRES

30:096:0007

COM NE COR NW1/4 NE1/4 SEC 34, T9S, R2E, SLM; S 32'31"E 1065.55 FT; S 89 DEG 40'47"W 1092.12 FT; N 10 DEG 08'W 296.04 FT; N 89 DEG 25'E 312.08 FT; N 20 DEG 44'W 829.62 FT; N 89 DEG 56'34"E 1115.73 FT TO BEG.

AREA 24.80 ACRES

30:096:0013

ALL THAT PORTION OF THE E1/2 OF SW1/4 & W1/2 OF SE1/4 OF SEC 34, T 9 S, R 2 E, ALM. SITUATE TO THE E OF PAYSON CANYON ROAD

AREA 46.58 ACRES

30:096:0035

COM N 89 DEG 56' 34" E 1318.9 FT ALONG SEC. LINE & S 0 DEG 32' 31" E 1568.15 FT FR N 1/4 COR. SEC. 34, T9S, R2E, SLB&M.; S 0 DEG 32' 31" E 411.87 FT; S 89 DEG 40' 47" W 951 FT; N 3 DEG 12' 22" W 46.61 FT; N 15 DEG 48' 53" W 361.47 FT; N 0 DEG 47' 7" E 16.98 FT; N 89 DEG 40' 47" E 1047.99 FT TO BEG.

AREA 9.422 AC

30:097:0004

SW1/4 & S1/2 OF SE1/4 SEC 35, T 9 S, R 2 E, SLM; LESS 1 ACRE FOR ROAD.

AREA 239 ACRES

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**EXHIBIT B**  
**PROPERTY LOCATION MAP**

DRAFT

**EXHIBIT C**  
**EXISTING CONDITIONS**

