

AMENDED AGREEMENT

This Agreement entered into effective this 21st day of August 2024, by and between Payson City, a Utah municipal corporation (hereinafter "Payson") and JKLMN Investments L.C., a Utah limited liability company (hereinafter "JKLMN") is hereby further amended as follows:

WITNESSETH

WHEREAS, Payson is the owner of certain real property located in Utah County, more specifically described on Exhibit A attached hereto ("Property"); and

WHEREAS, Payson is desirous of using the Property as a continuation and expansion of its present landfill operation; and

WHEREAS, the Property contains certain surface materials as well as limestone and other deposits usable for a sand and gravel operation, which JKLMN is desirous of extracting and mining and which Payson is desirous of having removed from the Property in order to better utilize the Property for future landfill operations.

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

1. Payson agrees to lease the Property to JKLMN for a period of ten (10) years ("Term") commencing on January 15, 2020. The lease will be an exclusive lease with regards to sand and gravel extraction as well as limestone and other hard rock mining, crushing, and processing operations on the Property. Other areas of the Property that are not being utilized by JKLMN can be utilized by Payson if it does not interfere with JKLMN's operations. JKLMN shall have the option to renew the lease upon the same terms as set forth herein for an additional ten (10) year term by providing written notice to Payson at least ninety (90) days prior to the expiration of the initial term.
2. JKLMN agrees to pay Payson as a royalty for the use of and extraction of materials from the Property ("Royalty") the sum of \$0.80 per ton. A reduced \$0.50 Royalty shall be paid to Payson on single jobs whose volume exceeds 250,000 tons. Upon completion of power to the scales the amount of tonnage of material removed shall be weighed at the new scales, and a weigh slip shall be given to the driver at the time each load is weighed. A copy of the weigh slip shall also be given to Payson. The amount of tonnage in any given month shall be calculated by Payson and sent to JKLMN no later than the fifteenth (15th) of the month following its removal and shall be paid for by JKLMN no later than the thirtieth (30th) of the month following its removal.
3. JKLMN shall have full rights to utilize improvements of the large scales and roadway for its mining operation until such time mining activities are complete or the lease is complete. Upon completion, all improvements will be turned over and become property of Payson City.

4. Either party shall be entitled to request that the royalties paid hereunder be reviewed by making a request for such review of the royalties (a "Royalty Review") by sending written notice to the other party at least sixty (60) days prior to the end of each calendar year (hereafter such 60 day period to the end of the calendar year shall be referred to as the "Royalty Review Period") If either party shall request a Royalty Review, the parties shall consider royalties being paid for comparable materials along the Wasatch Front, the sand and gravel industry as a whole in Utah, and general market conditions in Utah to determine if there should be an adjustment in the royalties to be paid by JKLMN. If the parties agree as to an adjustment in the royalties, such adjusted royalties shall apply until a request for a subsequent Royalty Review or the expiration of the term of this Lease. If, however, the parties fail to reach agreement as to a royalty adjustment by the end of the Royalty Review period, the matter will be submitted to an independent appraiser. The appraiser shall be mutually selected by the parties within ten days (10) after the expiration of the Royalty Review period. If the parties cannot agree as to a mutually agreeable appraiser, then each of the parties shall select a qualified appraiser. A fair royalty shall be determined by the mutually agreed appraiser or by the two separately appointed appraisers within 60 days of the expiration of the Royalty Review period. The royalty rate as determined by the mutually agreed appraiser or the average of the royalty rates as determined by the appraisals made by the separate appraisers shall constitute the adjusted royalty under this Agreement until the earlier of the next Royalty Review request or the expiration of this Lease. If according to the Royalty Review, the royalty rate increases by more than 50%, JKLMN may exercise an option to terminate this Agreement by written notice to Payson given within fifteen (15) days after the determination of the adjusted royalty rate.
5. JKLMN will provide \$2,286,000.00 to Payson to be used for the construction costs of a new sports complex for Payson. The \$2,286,000.00 provided by JKLMN shall be treated as a reserve or credit against the royalties to be paid by JKLMN under the terms of this Agreement. The amount of such royalty reserve credit shall be reduced monthly by the amount of the previous month's royalties determined and applied as provided above until the \$2,286,000.00 is depleted. At such time as the \$2,286,000 credit has been depleted JKLMN will again pay royalties as follows: If in any said twelve (12) month period there has not been sufficient material removed from the Property to equate to a Royalty of \$100,000.00, JKLMN agrees to pay Payson the difference between the Royalty charged and the sum of \$100,000.00 ("Shortfall"). At the end of each annual period where there was a Shortfall, JKLMN shall be able to add the amount of the prior one-year material Shortfall to the current year and shall be able to extract the increased amount of material prior to paying additional compensation to Payson for any sum in excess of the \$100,000.00 minimum. (i.e. 2020 = \$60,000.00 worth of materials extracted. 2021 JKLMN can extract \$140,000.00 worth of materials before having to pay an additional amount above the \$100,000.00 minimum). It is understood by the parties that royalties for such subsequent year shall be credited first to the Shortfall and then credited to the then current year Royalty. Payson shall provide JKLMN with monthly calculations of the royalties due and applied against the royalty credit reserve. The parties shall cooperate in an effort to ensure that both Payson and JKLMN are aware of total

royalties earned and applied against the \$2,286,000.00 credit. The parties also understand that at the end of ten (10) year term and the optional ten-year extension, if the royalties paid for material extracted is less than the \$2,000,000.00 up front payment, Payson is not required to refund the remaining royalty credit. JKLM shall fund and install scales at the landfill/mine site and City shall add \$1,395,928.53 in credits against the payment of royalties.

6. Payson will allow JKLMN to construct an additional small office building West of the new scale houses at the sole cost and expense of JKLMN. When built, the office will be the property of Payson City. Payson grants to JKLMN the occupancy and utilization of the building for the duration of JKLMN's lease and operation. At the conclusion of the lease agreement, JKLMN shall vacate the premises, including the scale houses and the office building. JKLMN shall be responsible for submitting plans and securing the required permits to construct the small office building.
7. In the event that according to JKLMN's mining plan the Property has been exhausted of its extractable materials, or at such time as JKLMN in its reasonable opinion determines that it is not economically in its best interest to continue to extract materials from the Property, JKLMN shall provide written notice of such a cessation of extraction activities to Payson ("Cessation Notice"). Upon providing of the Cessation Notice, this Agreement shall nonetheless continue, but on the basis that thereafter and for the remaining portion of the Term JKLMN shall have the right to utilize a portion of the Property, as JKLMN shall determine, and as to which area Payson has no reasonable objection, provided that such portion shall not be less than twenty (20) acres for use as a staging area where JKLMN may sell and exhaust all remaining stockpiled materials, together with access from such portion of the Property to a public road.
8. All permits deemed necessary by JKLMN, including a crusher permit, will be the responsibility of JKLMN. JKLMN will also be responsible for all rezoning requests. The parties will fully cooperate with each other in seeking such permits and rezoning. JKLMN will pay the annual bond costs which are required by the DOGM. However, Payson city ordinance waives bond requirements on Payson owned property.
9. JKLMN agrees to provide an updated detailed mining reclamation plan for the Property. Should JKLMN petition to move its excavations to a new location to locate more accessible or productive aggregate, the new area must be included within the mining reclamation plan and if JKLMN shall have no intention to return to the vacated area, then the abandoned area shall be reclaimed by JKLMN. In all other respects, JKLMN agrees to abide by all State, Federal, and local government requirements, including the Utah Department of Air Quality and the Utah Division of Solid and Hazardous Waste, and will provide to the Payson City Council and pertinent Payson City staff reasonable access to the Property and the facilities erected on the Property to determine compliance.
10. Payson shall be entitled to obtain processed materials from JKLMN on the cost plus 8% basis for use on Payson City public works projects, whether the work is performed by Payson or by third party contractors, to the extent such materials are

available on the Property. Public work projects shall not include projects wherein Payson is acting as a commercial developer (i.e. economic development projects). JKLMN agrees that its cost for the following material is as follows: 1" road base \$4.15; 1 1/2" UDOT Road base \$6.60; 1/2 - 1" floor gravel \$9.00; 1-1 1/2" drain rock \$8.50; 1 1/2-6" cobble \$11.75; bank run \$2.59; 1-2' landscape \$18.27; over 2' landscape \$18.27; reject 1/2" crusher fines \$3.70; screened topsoil \$7.82; unscreened topsoil \$4.00; bank run sand \$2.59; 3" minus A1A \$5.25. A loading fee of \$0.81 shall be added if JKLMN loads the materials as well as the 8% profit. In the event Payson shall elect to load for itself the above-described materials, JKLMN shall determine the location for removal or extraction of such materials, which shall be consistent with its plan for extraction from the Property. The costs and prices for the above-described materials does not include any royalty to Payson and no royalty shall be paid to Payson with respect to any of the above-described materials purchased by Payson. Payson has the ability to process its own material located on Payson's property for public works projects. However, Payson agrees to give JKLMN the first right of refusal to provide the material at a negotiated price. JKLMN shall not be required to make available to Payson processed materials to the extent that it does not have them available on the Property at the time requested. The price of such materials will be set in January of each year for the year's operations and will not be changed during that year without Payson's approval.

11. In the event of a breach of this Agreement by JKLMN, Payson shall have the right to terminate this Agreement upon the giving of the thirty (30) day written notice of the default, identifying the default in sufficient detail as to provide JKLMN with understanding of the nature of the default. If at any time during the said thirty (30) day period JKLMN is able to cure the default or has commenced to cure the default but cannot completely cure the default due to circumstances beyond its reasonable control, but shall diligently prosecute such cure to completion, then and in that event the default shall be considered remedied, and the Agreement shall not be subject to termination for that stated default.
12. It is acknowledged that some of the material on the Property may be considered overburden and/or topsoil. Payson understands and agrees that JKLMN has the ability to market and sell topsoil and overburden. All overburden and topsoil shall be removed by JKLMN. JKLMN shall stockpile at a location designated by Payson sufficient overburden as is reasonably necessary for future use in connection with Payson's landfill operations. However, JKLMN shall not be required to generate additional overburden or topsoil beyond that necessarily produced from its excavation and mining operations. If the location to stockpile the overburden and/or topsoil for Payson's landfill operations is more than 1,000 feet from the point of extraction, Payson shall negotiate a reasonable agreed upon price to have JKLMN move the soil to such location. At such time or times as reasonably determined by JKLMN, JKLMN also agrees to stockpile on the Property at such locations as JKLMN shall reasonably determine sufficient topsoil or overburden for JKLMN to comply with its reclamation obligations.
13. JKLMN shall not import, in any form, outside wastes from demolition of construction sites or import overburden without permission of Payson.

14. JKLMN shall also assist Payson in reconditioning the access road leading from the new access gate to the canal crossing below the entrance of the city landfill.
15. At the end of the term of this Agreement, JKLMN shall immediately remove all of its equipment and within 30 days of the end of the term shall reclaim the Property in accordance with its reclamation plan, at no cost to Payson.
16. This Agreement is assignable or transferable to Kenny Seng Construction without any further written approval of the other parties hereto.
17. All notices or other communication required or permitted to be given hereunder shall be in writing and shall be delivered by hand, sent by facsimile, or sent postage prepaid by registered, certified, or express mail, or by reputable overnight courier service, and shall be deemed given when so delivered by hand or by facsimile or, if mailed, three days after mailing as follows:

If to Payson Payson City Corporation
 Attn: City Manager
 439 West Utah Avenue
 Payson UT 84651

If to JKLMN JKLMN Investments, L.C.
 814 South Lakeview Parkway
 Provo UT 84601

18. This Agreement contains the entire agreement and understanding among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. No party shall be liable or bound to any other party in any manner by and representations, warranties, covenants, or agreements relating to such subject matter, except as specifically set forth herein.
19. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more such counterparts have been signed by each of the parties and delivered to the other parties.
20. If any provisions of this agreement or any portion thereof, or the application of any such provision, or any portion thereof to any person or circumstance shall be held invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, or the remaining portion thereof or the application of such provision to any other persons or circumstances.
21. A party in breach of this Agreement shall, on final determination indemnify and hold harmless the other prevailing party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement. The payment of such expenses is in addition to any other relief to which such other party may be entitled.

22. In the event of any controversy or claim between or among the parties, including but not limited to those arising out of or relating to the Agreement or any agreements or instruments relating hereto, and delivered in connection herewith, the parties shall first engage in good faith mediation. In no event shall any litigation be initiated nor rights declared terminated before such mediation has been conducted.

The parties hereto have executed this agreement on the above date.

PAYSON CITY CORPORATION

By: William R. Wright
William R. Wright, Mayor

Attest:

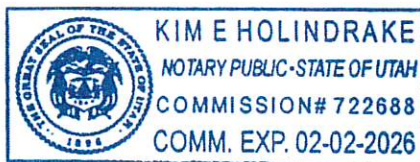
Kim E. Holindrake
Kim E. Holindrake, City Recorder



STATE OF UTAH)
 : ss
COUNTY OF UTAH)

William R. Wright, being first duly sworn, says that he is the Mayor of PAYSON CITY CORPORATION, and that he is authorized to make and has in fact signed the foregoing Agreement on behalf of PAYSON CITY CORPORATION, and that he has read and knows the contents thereof, and that the same are true to his own knowledge.

SUBSCRIBED AND SWORN to before me this 21st day of August 2024.



Kim E. Holindrake
NOTARY PUBLIC

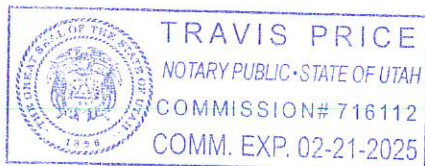
JKLMN INVESTMENTS, L.C.

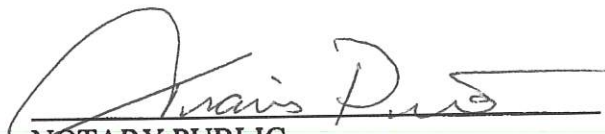
By: 
Kenny Seng, Manager

STATE OF UTAH)
 :SS
COUNTY OF UTAH)

Kenny Seng, being first duly sworn, says that he is the Manager of JKLMN INVESTMENTS, L.C., and that he is authorized to make and has in fact signed the foregoing Agreement on behalf of JKLMN INVESTMENTS, L.C., and that he has read and knows the contents thereof, and that the same are true to his own knowledge.

SUBSCRIBED AND SWORN to before me this 26th day of August 2024.




NOTARY PUBLIC