

**INTERLOCAL COOPERATION AGREEMENT ESTABLISHING
THE PAYSON/ELK RIDGE ANNEXATION AND DEVELOPMENT BOUNDARY**

THIS INTERLOCAL COOPERATION AGREEMENT (the "Agreement"), is made and entered into by and between ELK RIDGE CITY (ELK RIDGE) 80 East Park Drive, Elk Ridge, Utah 84651 and PAYSON CITY (PAYSON) 439 West Utah Avenue, Payson, Utah 84651, all of which are political subdivisions of the State of Utah.

WITNESSETH

WHEREAS, pursuant to the provisions of the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-101, et seq., as amended, public agencies, including political subdivisions of the State of Utah as defined therein, are authorized to enter into mutually advantageous agreements for joint or cooperative action; and

WHEREAS, ELK RIDGE and PAYSON, through their respective governing bodies, have voluntarily determined that the interests and welfare of the public within their respective jurisdictions will best be served by this Agreement to provide for joint and cooperative action in determining the annexation boundary line between the parties as well as jointly planning a development plan for the area commonly known as Haskleville; and

WHEREAS, ELK RIDGE and PAYSON, desire to preserve open space in the area South of the Current Southern Elk Ridge City Boundary and including the area commonly referred to as "Four Bay;" and

WHEREAS, each of the governing bodies have by resolution agreed to adopt this Agreement to provide for the joint and cooperative action contained herein.

NOW, THEREFORE, be it mutually covenanted and agreed as follows, each of the parties accepting as consideration for this Agreement the mutual promises and agreements of the other:

**SECTION ONE
EFFECTIVE DATE AND DURATION**

This Interlocal Cooperation Agreement shall be effective on the date it is signed by the parties, and shall continue for a period of up to fifty (50) years, unless sooner terminated as provided herein. Unless otherwise specifically provided, any subsequent restatement, amendment, or supplement of this Agreement shall extend the term of this Agreement fifty (50) years from the effective date of such restatement, amendment or supplement.

**SECTION TWO
ADMINISTRATIVE ENTITY**

The parties do not contemplate nor intend to establish a separate legal entity under the terms of this Agreement.

SECTION THREE
PURPOSE

The purpose of this Agreement is to establish the annexation boundary between the parties in order to avert any future dispute regarding annexation. The purpose of this Agreement is also to jointly develop a land use plan for the development of the properties between PAYSON and ELK RIDGE, that is commonly referred to as "Haskleville" and the surrounding areas. (See a copy of the attached map).

SECTION FOUR
MANNER OF FINANCING

This Agreement and the matters contemplated herein shall not receive separate financing, nor shall a separate budget be required. Each party shall be responsible for its own obligations under this Agreement.

SECTION FIVE
ADMINISTRATOR

Pursuant to Utah Code Annotated, Section 11-13-207, as amended, the parties agree that Payson City shall act as administrator responsible for this Agreement. This Agreement does not anticipate nor provide for any organizational changes within each City.

SECTION SIX
FILING OF AGREEMENT

A copy of this Agreement shall be placed on file in the Office of the City Recorder of each City and shall remain on file for public inspection during the term of this Agreement.

SECTION SEVEN
DESCRIPTION OF ARRANGEMENT

ELK RIDGE and PAYSON desire to agree upon a common boundary for the growth and expansion of each city. ELK RIDGE agrees that it will not annex any properties north of Goosenest Drive and west of 1600 South, with the exception of what is already annexed. ELK RIDGE also agrees that it will not annex any properties between the southern Elk Ridge City Boundary and the area commonly referred to as Four Bay without the written permission of PAYSON. This includes any area south of the Gladstan Golf Course. PAYSON agrees that it will not annex any properties east of 1600 West. PAYSON also agrees not to annex any properties between the southern Elk Ridge City Boundary and the area commonly referred to as Four Bay without the written permission of ELK RIDGE. ELK RIDGE and PAYSON also agree to establish a land use plan and a development pattern that would be mutually beneficial for both cities, for the area between the two cities. The purpose of the land use plan would be to develop a commercial corridor in the PAYSON annexation declaration that would benefit ELK RIDGE and PAYSON with the potential of revenue sharing for the taxes generated. A residential development plan would be generated in the PAYSON and ELK

RIDGE annexation declarations that would enhance property values surrounding the Gladstan Golf Course and other areas of common interest.

SECTION EIGHT
NOTICE OF DEFAULT; CORRECTIVE ACTION

The failure of any party to comply with each and every term and condition of this Agreement shall constitute a breach of this Agreement. The defaulting party shall have thirty (30) days after receipt of written notice from the other party of any breach to correct the conditions specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within thirty (30) days after receipt of the notice.

SECTION NINE
RIGHTS AND REMEDIES

In the event of any breach hereunder and after the lapse of the cure period as per Section Eight above, the non-breaching party shall have all the rights and remedies available under the laws of the State of Utah in effect. The rights and remedies of the parties hereto shall not be mutually exclusive, but shall be cumulative in all respects. The respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

SECTION TEN
GOVERNING LAW, JURISDICTION, AND VENUE

All question with respect to the construction of this Agreement and all right and liability of the parties hereto shall be governed by the laws of the State of Utah. Jurisdiction and venue for the enforcement of this Agreement shall be found in the courts of Utah County, State of Utah.

SECTION ELEVEN
COSTS OF ENFORCEMENT

In the event of a breach of this Agreement, the non-breaching party shall be entitled to recover from the breaching party all of the non-breaching party's costs (including, but not limited to, courts fees and expert witness costs) and attorneys' fees associated with the enforcement of this Agreement.

SECTION TWELVE
NOTICE

Any written notice which must or may be given relating to this Agreement shall be sufficient if mailed postage prepaid, registered or certified mail, in the United States mail addressed to a party at the address given above. Notice shall be mailed to the attention of the City Mayor at the above address. Either party may notify the other to designate a different address for mailing.

SECTION THIRTEEN
TERMINATION

This Agreement may be terminated by mutual agreement of the parties.

SECTION FOURTEEN
GENERAL PROVISIONS

A. **Severability.** In the event that any condition, covenant, or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

B. **Entire Agreement.** This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by the parties. All prior understandings, negotiations, or agreements are merged herein and superceded hereby.

C. **Amendments.** This Agreement may be modified only by a writing signed by each of the parties hereto.

D. **Covenants and Conditions.** Each provision of this Agreement performable by the Cities shall be deemed to be both a covenant and a condition.

E. **Not Assignable.** This Agreement is specific to the parties hereto and is therefore not assignable.

F. **Binding Effect.** This Agreement shall bind the parties and their respective successors and assigns.

G. **Captions.** The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.

H. **Time.** Time is of the essence of each term, provision, and covenant of this Agreement.

I. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

J. **Gender and Number.** The singular number includes the plural whenever the context so indicates. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, limited liability company, partnership, or other legal entity when the context so requires.

The word "person" means person or persons or other entity or entities or any combination of persons and entities.

K. Waiver or Forbearance. No delay or omission in the exercise of any right or remedy by any party hereto shall impair such right or remedy or be construed as a waiver. Any waiver of any breach must be in writing and shall not be a waiver of any other breach concerning the same or any other provision of this Agreement.

L. No Partnership, Joint Venture, or Third Party Rights. Except as specifically set forth herein, nothing in this Agreement shall be construed as creating any partnership, joint venture, or business arrangement among the parties hereto, nor any rights or benefits to third parties.

- SIGNATURES ON FOLLOWING PAGE -

IN WITNESS WHEREOF, the parties have signed and executed this INTERLOCAL COOPERATION AGREEMENT, after resolutions duly and lawfully passed, on the dates listed below.

DATED this 23rd day of May, 2005.

PAYSON CITY

By: Bernell C. Evans
BERNELL C. EVANS, Mayor



ATTEST:

By: Jeanette Curtis
JEANETTE CURTIS, City Recorder

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:

David C. Tuckett
DAVID C. TUCKETT,
Payson City Attorney

DATED this 15th day of August, 2005.

ELK RIDGE CITY

By: Vernon Fritz
VERNON FRITZ, Mayor

ATTEST:

By: Jeanice Davis
~~JEANICE DAVIS, City Recorder~~ Pam Knight, Payson Deputy Recorder

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:

Elk Ridge City Attorney