

When Recorded Return To:

Tooele County Clerk
47 South Main Street
Tooele, UT 84074

DRAFT

PERPETUAL CONSERVATION EASEMENT

DATE: _____, 2013
GRANTOR/OWNER: JRL HOLDINGS #2, LLC
GRANTEE: TOOELE COUNTY
PROPERTY: THE RESERVE SUBDIVISION, PHASE 1

For and in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Conservation Easement (the "Easement") is granted and effective this ____ day of _____, 2013, by JRL Holdings #2, LLC ("Grantor") to Tooele County ("Grantee"), for certain real property located in Tooele County, Utah as more particularly described as The Reserve Subdivision, Phase 1, Lot A, which is incorporated herein by this reference (the "Property"). Grantor represents that it possesses sufficient ownership interest in the property to grant the rights conveyed by the Easement.

CONVEYANCE: In consideration of and subject to the covenants, terms, conditions, and restrictions contained herein, the Grantor does hereby grant and convey unto the Grantee, its successor and assigns, in perpetuity, an Easement over and across all of the Property to preserve and protect conservation values of the property, thereby restricting and limiting the uses of the Property in certain respects, and reserving unto the Grantor, its successors, and assigns forever, fee title to the Property and all the incidents of ownership thereof other than the Easement. The scope of this Easement is set forth in this agreement.

THE GRANTOR AND THE GRANTEE AGREE TO THE FOLLOWING:

1. PURPOSES OF THE EASEMENT AND COMMITMENTS OF THE GRANTOR AND THE GRANTEE.

A. This Easement, "the Property", assures that the Property will be perpetually preserved in its predominately natural, agricultural, and open space condition. It is to protect the Property's conservation values and to maintain and enhance the natural features of the Property. Any uses of the Property which may impair or interfere with the Conservation Values are expressly prohibited.

B. The Grantor is the Owner of the Property and is committed to preserving the Conservation Values of the Property. The Grantor agrees to confine use of the Property to activities consistent with the Purposes of this Easement and the preservation of the Conservation Values.

C. The Grantee is a qualified recipient of this Easement, is committed to preserving the Conservation Values of the Property, and is committed to upholding the terms of this Easement. The Grantee intends to protect and preserve open spaces, including farms and grasslands, where such preservation is for the scenic enjoyment of the general public or pursuant to clearly delineated governmental conservation policies and where it will yield a significant public benefit.

2. CONSERVATION VALUES. The Property possesses natural, agricultural, and open space of prominent importance to the Owner, the Grantee, and the public. These values are referred to as the “Conservation Values” in this Easement. The Conservation Values include the following except as the same may be modified by the Permitted Uses specified below:

OPEN SPACE AND SCENIC:

- A. Maintaining a natural character which would be impaired by development of the Property.
- B. Maintaining a scenic panorama visible to the public from publicly accessible sites which would be adversely affected by modifications of the natural habitat.
- C. Providing a sense of rural character to the development.
- D. Providing biological integrity of other land in the vicinity has been modified by intense development, and the trend is expected to continue.
- E. Providing the County with an opportunity for a synergistic increase in the worth of the Conservation Values preserved by this Easement if the County acquires other valuable property rights on nearby or adjacent properties.

3. PROHIBITED ACTIONS: Any activity on, or use of the Property which is inconsistent with the Purpose of this Easement and which is detrimental to the Conservation Values is expressly prohibited. By way of example, but not by way of limitation. The following activities and uses are explicitly prohibited:

- A. **Division.** Any division or subdivision of the Property is prohibited, unless granted as a park.
- B. **Commercial Activities.** Commercial activity not related to the growing of crops, grazing of farm animals, horse riding and or any agriculture use.
- C. **Industrial Activities.** Industrial activity on the Property.
- D. **Construction.** The placement or construction of human occupied structures (except what is permitted in Section 4. Paragraph 1).

- E. **Cutting Trees.** Any cutting of trees, including pruning or trimming is prohibited, except for the cutting or removal of trees which pose a threat to human life, pose a threat to property, or are necessary to the enjoyment of land uses allowed herein, subject to Grantee approval. Trees may be replaced or relocated with Grantee approval.
- F. **Dumping.** Dumping of waste and unsightly or offensive material accumulation on the Property.
- G. **Off-road Recreational Vehicles.** Motorized off-road vehicles such as, snowmobiles, dune buggies, all-terrain vehicles, and motorcycles may not be operated off of designated roads on the Property for recreational purposes. Such vehicles may be used for agricultural purposes.
- H. **Signs and Billboards.** Commercial Billboards used to advertise are not permitted. Such signs may be used for No Trespassing, no dumping, or an advertisement for the sale or rent of the Property.
- I. **Parking Lots.** No parking lot shall exceed more than 15% of the open space.

4. PERMITTED USES. The Owner retains all ownership rights which are not expressly restricted by this Easement. In particular, the following rights are reserved:

A. **Right to Convey.** The Owner retains the right to sell, mortgage, bequeath, or donate the Property. Any conveyance will remain subject to the terms of the Easement and the subsequent owner will be bound by all obligations in this agreement.

B. **Right to Maintain and Replace Existing Fence.** The Owner retains the right to maintain, renovate, and replace the perimeter fences in substantially the same location.

C. **Right to Continue Designated Uses.** The Owner retains the right to use the land for the following purposes:

1. The raising of forages, grains, and feed crops.
2. The raising and grazing of livestock.
3. The raising, grazing, recreation, boarding and enjoyment of livestock.
4. Agricultural Uses that are allowed in the RR-1 zone, permitted or conditional.

D. **Right to Add Designated Structures or Uses.** The Owner retains the right to add the following structures, modifications, or uses, subject to the Grantor's approval:

1. Structures designed and constructed to house farm implements, hay, grain, livestock or other horticultural products. These structures shall not be places of human habitation or places of employment where agricultural products are processed, treated or packaged.

2. Fences, gates and accesses necessary and incidental to approved land uses.
3. Ditches and waterways necessary and incidental to approved land users.

Prior to the beginning of construction or the commencement of a land use, the Owner will provide a written plan to the Grantee for the Grantee's review and approval. Such approval shall not be withheld unless such use is deemed to unreasonably conflict with the purpose of the Easement.

5. RIGHT OF THE GRANTEE/Owner. The Owner confers the following rights upon the Grantee to perpetually maintain the Conservation Values of the Property:

A. Rights to Enter. The Grantee has the right to enter the Property at reasonable times to monitor the Property. Furthermore, the Grantee has the right to enter the Property at reasonable times to enforce compliance with or otherwise exercise its rights under, this Easement. The Grantee may not, however, unreasonably interfere with the Owner's use and quiet enjoyment of the Property. The Grantee has no right to permit others to enter the Property. Access to the property will be allowed via a designated trail for the Reserve Subdivision lot owners.

B. Right to Preserve. The Grantee has the right to prevent any activity on or use of the Property that is inconsistent with the Purposes of this Easement or detrimental to the Conservation Values of the Property.

6. GRANTEE'S REMEDIES. This section addresses cumulative remedies of the Grantee and limitations on these remedies.

A. Delay in Enforcement. A delay in enforcement shall not be construed as an approval of the violation or a waiver of the Grantee's right to eventually enforce the terms of this Easement.

B. Acts Beyond Owner's Control. The Grantee may not bring an action against the Owner for modification to the Property resulting from causes beyond the Owners' control, including, but not limited to, unauthorized actions by third parties, natural disasters such as unintentional fires, floods, storms, natural earth movement, or the Owner's well-intentioned action in response to an emergency resulting in changes to the Property. The Owner has no responsibility under this Easement for such unintended modifications.

C. Notice and Demand. If the Grantee believes that the Owner is in violation of this Easement, or that a violation is threatened, the Grantee shall provide written notice to the Owner. The written notice shall identify the violation and request corrective action to cure the violation and, where the Property has been injured, to restore the Property.

D. Failure to Act. If, within 30 business days after written notice, the Owner does not implement corrective measures requested by the Grantee, the Grantee may bring an action in law or in equity to enforce the terms of the Easement. In the case of immediate

or irreparable harm, or if an Owner is unable to be notified, the Grantee may invoke these same remedies without notification and/or awaiting the expiration of the 30-day period.

E. Cumulative Remedies. The preceding remedies of the Grantee are cumulative. Any, or all, of the remedies may be invoked by the Grantee if there is an actual or threatened violation of this Easement.

7. NOTIFICATION PROVISION. The Grantee is entitled to 60 Days written notice whenever its approval is required under this Easement. If the Grantee fails to respond within 60 Days after it receives the written request, then its approval shall be deemed given. This implied approval shall not extend to any activity contrary to this Easement or impairing a Conservation Value. The Grantee's approval shall continue for three years. If the approved activity is not completed within three years after the approval date, then the Owner must re-submit the written application to the Grantee.

8. EASEMENT REQUIREMENTS UNDER UTAH LAW.

A. This Easement is created pursuant to the Land Conservation Easement Act., Title 57, Chapter 18, Utah State Code, *et seq.*

9. OWNERSHIP COSTS AND LIABILITIES. In accepting this Easement, the Grantee shall have no liability or other obligation for costs, liabilities, taxes of any kind related to the Property. The Grantee's rights do not include the rights, in absence of a judicial decree, to enter the Property for the purpose of becoming an operator of the Property. The Grantee, its members, trustees or directors, officers, employees, and agents have no liability arising from injury or death to any person or physical damage to any property on the Property.

10. CESSATION OF EXISTENCE. If the Grantee shall cease to exist or if it fails to be a "qualified organization" for purposes of Utah State Code 57-18-3, or if the Grantee is no longer authorized to acquire and hold Easements, then this Easement shall become vested in another entity. This entity shall be a "qualified organization" for purpose of Utah State Code 57-18-3. The Grantee's rights and responsibilities shall be assigned to any entity having similar conservation purposes to which such right may be awarded under the *cy pres* doctrine.

12. TERMINATION. This Easement may be extinguished only by the Grantee, due an unexpected change in condition which causes it to be impossible to fulfill the Easement's purposes.

A. Unexpected Change in Conditions. If subsequent circumstances render the Purposes of this Easement impossible to fulfill, then this Easement may be partially or entirely terminated only by judicial proceedings. The Grantee is entitled to compensation in accordance with the provisions of Utah State Code, Title 78 Chapter 34 and Title 57 Chapter 18.

13. LIBERAL CONSTRUCTION. This Easement shall be construed in favor of maintaining the Conservation Values of the Property.

14. NOTICES. For purposes of this agreement, notices may be provided to either party by personal delivery or by mailing a written notice to the party (at the last known address of a party) by First Class mail.

15. SEVERABILITY. If any portion of this Easement is determined to be invalid, the remaining provisions will remain in force.

16. ASSIGNMENT. The Grantor may assign its interest in this agreement.

17. SUCCESSORS. This Easement is binding upon, and inures to the benefit of, the Grantor/Owner's and the Grantee's successors in interest. All subsequent Owners of the Property are bound to all provisions of this Easement to the same extent as the Grantor.

18. AMENDMENT. Except as expressly provided herein, this Agreement shall not be amended except in writing signed by a duly authorized officer of the Owner and a duly authorized representative of the Grantee.

19. TERMINATION OF RIGHTS AND OBLIGATIONS. A party's future rights and obligation under this Easement terminate upon transfer of that party's interest in the Property. Liability for acts or omissions occurring prior to transfer will survive the transfer.

20. UTAH LAW. This Easement will be construed in accordance with Utah Law.

21. ENTIRE AGREEMENT. This Easement sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

22. AUTHORIZATION OF EXECUTION.

A. County. The execution of this Agreement by the County has been authorized by a lawful vote of the Board of County Commissioners of Tooele County, Utah, at a regularly scheduled meeting of that body, pursuant to notice, held on the ____ day of _____, 2013.

B. JRL Holdings #2, LLC. The execution of this Agreement by JRL Holdings #2, LLC, Inc. has been authorized by a corporate resolution duly adopted by JRL Holdings #2, LLC, Inc., dated the __ day of ____, 2013, a true and correct copy of the resolution is attached hereto as EXHIBIT "A" and incorporated by reference herein.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives effective as of the date first above written.

GRANTOR:

JRL Holdings #2, LLC

By: Jesse Lassley, Manger

Its: _____

State of Utah }

: ss.

County of Tooele }

On this ____ day of _____, 2013, _____ personally appeared before me and, being duly sworn, acknowledged to me that he executed the foregoing Affidavit for the purposes stated therein.

Notary Public

GRANTEE:

ATTEST:

TOOELE COUNTY, a political subdivision
of the State of Utah

County Clerk

Bruce Clegg, Chairman

State of Utah }

: ss.

County of Tooele }

On this ____ day of _____, 2013, _____ personally appeared before me and, being duly sworn, acknowledged to me that he executed the foregoing Affidavit for the purposes stated therein.

Notary Public