

Fee Exempt per Utah Code  
Annotated 1953 21-7-2

GRANT OF PRESERVATION EASEMENT  
TEXAS RED'S PIT BARBEQUE

This Grant of Preservation Easement is executed  
this 21st day of August, 1987, by and between JOHN H. NEWMAN  
and KATHLEEN M. KAHN, ("Grantors") and PARK CITY MUNICIPAL  
CORPORATION, ("Grantee").

WITNESSETH:

Grantors are the owners in fee simple of certain  
real property in Summit County, in the state of Utah, which  
property is commonly known as Texas Red's Pit Barbeque, said  
property including an historically and architecturally  
important structure, located at 440 Main Street, Park City  
all of which is more particularly described as follows:

Lot 11, Block 23, Park City Survey.

The Texas Red's Pit Barbeque Building has played a  
prominent role in Park City history and should be preserved  
if possible for the benefit of future generations, and the  
building is a contributory structure in the Main Street  
Historic District. Grantee has the power to accept and  
administer grants of real and personal property and  
interests therein, including easements for land conservation  
and historic preservation to be held and administered for  
public benefit.

BOOK 446 PAGE 136

REC'D NOTE 48  
277421  
Park City Municipal Corp.  
SEP 30 AM 9:50  
ALAN STUBBS  
SUMMIT COUNTY RECORDER  
NC

The State of Utah recognizes restrictions, easements, covenants, conditions, and other agreements appropriate to the preservation of a structure or site which is historically significant for its architecture, archaeology or historical associations.

Grantee has determined that the grant in perpetuity of a preservation easement will assist in preserving and maintaining the Premises and the building and its architectural, historical and cultural features. To this end, Grantors desire to grant to Grantee and Grantee desires to accept this Grant of Preservation Easement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Title 63, Chapter 18a of the Utah Code Annotated (1953) as amended, Grantors do hereby grant and convey unto Grantee, its successors and assigns, a perpetual preservation easement in gross, as more specifically described herein, in and to that certain real property described in Exhibit "A" hereto (hereinafter the "Property") and the improvements located 440 Main Street, all owned by the Grantors (the property and the improvements hereinafter collectively the "Premises"). Said easement shall constitute a binding servitude upon the Premises in the nature of a restrictive covenant which will run with the land.

In furtherance of the intent of the parties to this instrument, Grantors covenant and agree on behalf of themselves, their successors and assignees that obligations and restrictions attach to the Premises as follows:

(1) "Facade" shall mean the exterior surfaces of the improvements located on the property including, without limitation, the exterior walls and roofs of the improvements, which are visible from the public street adjacent to the Premises. The photographs incorporated in Exhibit "B" hereto depict the condition and appearance of the Facade as of the effective date of this instrument.

(2) Without the express written permission of the Grantee signed by a duly authorized representative thereof, no construction, demolition, alteration, remodeling, addition or extension shall be undertaken on the Premises which would affect the Facade or otherwise alter the appearance of the Premises, or would adversely affect the structural soundness of the Premises. The reconstruction, repair, maintenance, repainting or refinishing of presently existing parts or elements of the Premises, to which damage due to casualty loss, deterioration or wear and tear has occurred, will be permitted without prior approval of Grantee, provided that such reconstruction, repair, maintenance, repainting or refinishing is performed in

a manner which will not alter the appearance of the Premises from that set forth in Exhibit "B" hereto. In all events, Grantors, in painting the Facade, agree to obtain the prior written consent of Grantee, signed by a duly authorized representative thereof, as to the quality and color of the paint to be used if different from that set forth in Exhibit "B". Grantors agree to, at all times, maintain the Premises in a good and sound state of repair, subject only to the provisions of Paragraph (3) hereof. Grantee may, in its sole discretion, waive all or any portion of the requirements of this Paragraph (2).

(3) If the Premises, or any part thereof, is damaged or destroyed as a result of casualty, Grantors shall be required to reconstruct or restore the Premises to the condition depicted in Exhibit "B", if such repair or reconstruction can be accomplished within the limits of available insurance proceeds and any additional funds which Grantee might elect to advance as a loan to Grantors. In the event repair or reconstruction cannot be accomplished within the limits of available insurance proceeds and funds advanced by Grantee, Grantors grant to Grantee the right to select and remove from the Premises salvageable architectural fragments without charge. In the event the Premises are damage by casualty loss to an extent that, in the

Grantee's sole judgment, the repair or reconstruction of the Premises is impracticable, the Grantee may permit the erection of a new structure with a Facade that duplicates or, in the Grantee's sole discretion, replicates the Facade depicted in Exhibit "B" hereto. Grantors and Grantee agree that the easement created and covenants contained herein shall survive complete or partial destruction of the improvements located on the Property. The interest in real property created hereby may, however, be reconveyed to Grantors at the sole discretion of Grantee.

(4) Grantors and Grantee agree that the real property interest conveyed herein possesses an ascertainable market value. If casualty damage to the Premises or any other change in circumstances occurs, including extinguishment by foreclosure of a senior lien, which, in Grantee's sole judgment, warrants the extinguishment of the interest herein conveyed, Grantee may seek to have the interest extinguished by of a court of competent jurisdiction. Upon such extinguishment, Grantee shall be entitled to receive from Grantors compensation for the extinguished property interest in the sum of \$15,000.00, being the agreed value of the consideration being given by Grantee to Grantors to induce Grantors to make this conveyance.

(5) Grantors agree to maintain, at their own cost, property damage insurance on the Premises, naming Grantee as an additional insured, in an amount that would prudently be carried on a property like the Premises. Such insurance shall provide for at least thirty (30) days' advance written notice to Grantors and Grantee prior to cancellation.

(6) No utility transmission lines, except those required for the existing improvements and uses on the Premises may be erected on the Premises.

(7) No dumping of ashes, sawdust, bark, trash, rubbish, or any other unsightly or offensive materials which are visible from public roads or streets shall be permitted on the Premises.

(8) Grantors agree that representatives of Grantee shall be permitted, at all reasonable times, to inspect the Premises. Inspections will normally take place from the adjacent public street. However, Grantors agree that representatives of Grantee shall be permitted to enter and inspect the interior of the improvements on the Premises to insure maintenance of structural soundness. Inspection of the interior will not, in the absence of evidence of deterioration, take place more often than annually. Inspection of the

interior will be at a time mutually agreed upon by Grantors and Grantee and Grantors covenant not to unreasonably withhold their consent in determining a date and time for such inspections.

(9) In the event of a violation by Grantors of any covenant herein, the Grantee may, thirty (30) days after written notice to Grantors, institute actions to enjoin by ex-parte, temporary, and/or permanent injunction, such violation and to require the restoration of the Premises to their condition as depicted in Exhibit "B" hereto. In the alternative, representatives of the Grantee may enter upon the Premises, correct any such violation, and hold Grantors responsible for the cost thereof, together with interest thereon at the rate of one and one half (1½) percent per month, which sums shall constitute a lien against the premises. Grantee shall also have available all legal and equitable remedies to enforce Grantors obligations hereunder, including the right to foreclose the lien above mentioned, and, in the event Grantors are found to have violated any of their obligations, Grantors shall reimburse Grantee for any costs or expenses incurred in connection therewith, including court costs and attorneys fees. In the event of a violation by Grantors deemed by the Grantee to be an emergency which endangers life or property, Grantee

may immediately proceed to seek injunctive relief without written notice to Grantors.

(10) Grantors agree that a reference to this instrument and its restrictions will be inserted by Grantors in any subsequent deed, sales or purchase contract, financing instrument, or other legal instrument by which Grantors are divested of either the fee simple title or equitable title to a possessory ownership interest in the Premises, or any part thereof. Said reference shall be as follows: "The property conveyed herein is subject to a Preservation Easement which restricts the ability of any owner or other possessor of the Premises to alter its appearance or historic character. This easement is recorded on Page \_\_\_\_\_, Book \_\_\_\_\_ in the records of the Summit County Recorder, State of Utah."

This instrument may be recorded by any party the in land records of the County of Summit, State of Utah.

(11) In the event that the Grantee shall, at any time in the future, become the fee simple owner of the Premises, Grantee for itself, its successors and assigns, covenants and agrees, in the event of subsequent conveyances of the Premises to another, to create a new easement containing the same restrictions



and provisions as are contained herein, and either to retain such easement in itself or to convey such easement to a local or national non-profit organization whose purposes, inter alia, are to promote historic preservation.

(12) Grantors agree to allow the maintenance of a plaque on the street Facade of the Premises giving notice of this Grant of Preservation Easement.

(13) Nothing herein or in the Grant shall be construed to limit the ability of Grantors to place appropriate signs and advertising materials on the building which are proper for the conduct of the business of Grantors, the tenants and businesses on the Premises, pursuant to Park City regulations and ordinances.

(14) Grantee shall be prohibited from subsequently transferring this preservation easement, whether or not for consideration, unless the Grantee, as a condition of the subsequent transfer requires that the conservation purposes, which the Grant is originally intended to advance, continue to be carried out.

(15) If Grantors subsequently desire to avail themselves of benefits offered under Section 170 of the Internal Revenue Code, and if those benefits are not

available without reformation of this grant then this grant shall be reformed to be consistent with IRS Regulations as applied to Grantors, and with the effect of continuing this easement in force, and the parties hereto shall execute any and all writings necessary to effectuate the intent of this paragraph.

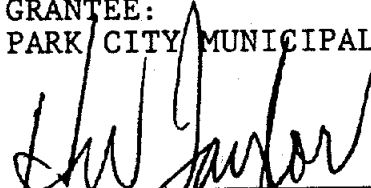
TO HAVE AND TO HOLD UNTO the Grantee forever.

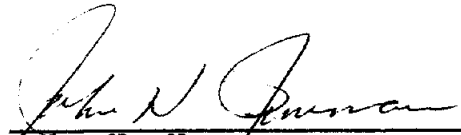
Each and every covenant and restriction imposed and agreed to as aforesaid shall not only apply to and be binding upon Grantors, but also upon Grantors successors and assigns, and all other successors in interest to Grantors, and shall continue as a servitude running in perpetuity with the land and shall survive any termination of Grantors or Grantee's existence. All rights reserved herein to Grantee shall run for the benefit of, and may be exercised by, its successors or assigns, or by its designee duly authorized in a deed of appointment executed by its duly authorized officer.


IN WITNESS WHEREOF, Grantors have executed, and delivered and said Grantee has caused same to be accepted and signed this 21<sup>st</sup> day of August, 1987.

GRANTEE:  
PARK CITY MUNICIPAL CORP.

GRANTORS:


  
\_\_\_\_\_  
Hal W. Taylor, Mayor

  
\_\_\_\_\_  
John H. Newman

  
\_\_\_\_\_  
Kathleen M. Kahn

STATE OF UTAH )  
 ) ss.  
COUNTY OF SUMMIT )

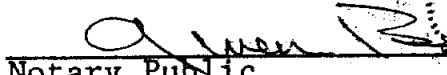
On the 21<sup>th</sup> day of August, 1987,  
personally appeared before me JOHN H. NEWMAN, who being  
first duly sworn and upon oath did acknowledge to me that he  
is the signer of the foregoing instrument.

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

Residing at: Park City, Utah  
My commission expires: 8/27/88

STATE OF UTAH )  
 ) ss.  
COUNTY OF SUMMIT )

On the 21<sup>th</sup> day of August, 1987,  
personally appeared before me KATHLEEN M. KAHN, who being  
first duly sworn and upon oath did acknowledge to me that  
she is the signer of the foregoing instrument.

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

Residing at: Park City, Utah  
My commission expires: 8/18/88