



**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
October 5, 2017**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, October 5, 2017.

CLOSED SESSION

5:00 p.m. To Discuss Property, Personnel and Litigation

WORK SESSION

5:30 p.m. Council Questions and Comments

5:45 p.m. –Transit Signal and Transit Lane Updates **PAGE 5**

REGULAR MEETING

6:00 p.m.

I. ROLL CALL

II. COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Staff Communications Reports:

1. Parking Technology Progress Update **PAGE 6**
2. Latino Outreach & Fee Reduction Update **PAGE 14**
3. Historic District Grant Program **PAGE 17**
4. Bonanza Flat Lease Agreement- REDUS Park City LLC. **PAGE 20**
5. Hillside Soft-Surface Trail Enhancement Update **PAGE 23**
6. Park City Transit Awarded Low-No Grant **PAGE 27**
7. Transit App MyStop Update **PAGE 29**

III. PUBLIC INPUT (*ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA*)

IV. CONSIDERATION OF MINUTES

1. Consideration to Approve the City Council Meeting Minutes from September 15, 2017
PAGE 32

V. CONSENT AGENDA

1. Request to Authorize the City Manager to Execute Contract Change Order No. 11 to the Construction Contract with Granite Construction for Construction of the Lowell Avenue Re-Construction Project in a Form Approved by the City Attorney and for an Amount of \$165,430.69 **PAGE 35**
2. Request to Authorize the City Manager to Execute Amendment No. 2 to the Professional Service Contract with Stanley Consultants for Construction Engineering Management for the Lowell Avenue Re-Construction Project in a Form Approved by the City Attorney and for an Amount of \$82,158 **PAGE 44**
3. Request to Authorize the City Manager to Execute a Professional Services Agreement, in a Form Approved by the City Attorney, with SKM, Inc. for the SCADA Integrator Services for Creekside Water Treatment Plant Project in an Amount Not to Exceed \$74,533.00 **PAGE 53**
4. Request to Authorize the City Manager to Enter into Transit Lane Operation Agreement with the Utah Department of Transportation (UDOT) in a Form Approved by the City Attorney **PAGE 63**
5. Request to Authorize the City Manager to Enter into Transit Signal Priority Cooperative Agreement with the Utah Department of Transportation (UDOT) in a Form Approved by the City Attorney **PAGE 74**
6. Request for Assignment of the Quinn's Junction Property Annexation and Master Planned Development Agreement (a.k.a. Park City Film Studio Development Agreement) from Quinn's Junction Partners L.C. to Quinn Capital Partners, LLC **PAGE 83**
7. Request to Authorize the City Manager to Sign a Professional Services Agreement with Global Traffic Technologies, LLC for Professional Services Related to the Installation of a Traffic Signal Preemption and Priority Control System in the Amount of \$389,409.92 in a Form to be Approved by the City Attorney **PAGE 112**

VI. OLD BUSINESS

1. Consideration to Approve Ordinance No. 2017-51, an Ordinance to Repeal and Replace Municipal Code Title 4, Licensing; Adopt 4A, Special Events; Adopt 4B, Franchised Utilities and Taxes; Adopt 4C, Freedom from Discrimination **PAGE 118**
(A) Public Hearing (B) Action
2. Consideration to Approve Ordinance 2017-41, an Ordinance Approving the Lilac Hill Subdivision-First Amended Located at 632 Deer Valley Loop, Park City, UT Pursuant to Findings of Fact, Conclusions of Law, and Conditions of Approval in a Form Approved by the City Attorney **PAGE 229**
(A) Public Hearing (B) Action

VII. NEW BUSINESS

1. Consideration to Approve Ordinance No. 2017-52, an Ordinance Approving the Vacation of the John Doyle House Condominium Plat at 339 Park Avenue, Park City, Utah According to Findings of Fact, Conclusions of Law, and Conditions of Approval in a Form Approved by the City Attorney **PAGE 303**

(A) Public Hearing (B) Action

2. Consideration to Approve the use of the Richardson Flat Park & Ride for Fire and Ice Productions, a film production at Park City Film Studios, from October 8 to December 20, 2017 and authorize the City Manager to enter into a License Agreement for Temporary Parking in a form approved by the City Attorney **PAGE 358**

(A) Public Input (B) Action

VIII. ADJOURNMENT

IX. PARK CITY REDEVELOPMENT AGENCY MEETING

I. ROLL CALL

II. PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)

III. NEW BUSINESS

1. Consideration to Grant an Exclusive Utility Easement Across City Property to Dominion Energy, in a Form Approved by the City Attorney, for the 1450/1460 Park Avenue Housing Project **PAGE 387**

(A) Public Hearing (B) Action

X. ADJOURNMENT

XI. PARK CITY WATER SERVICE DISTRICT MEETING

I. ROLL CALL

II. PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)

III. NEW BUSINESS

1. Consideration to Authorize the Chair of the Park City Water Service District to Execute the Spiro Tunnel Water Agreement with VR CPC Holdings, Inc., a Delaware Corporation, D/B/A Park City Resort **PAGE 395**

(A) Public Hearing (B) Action

XII. ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting. Wireless internet service is available in the Marsac Building on Wednesdays and Thursdays from 4:00 p.m. to 9:00 p.m.

Posted: See: www.parkcity.org



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

At tonight's meeting, staff will be appearing before Council and seeking Council direction on three related items, all associated with Park City Transit operations on Utah Department of Transportation (UDOT) rights-of-way. These items are as follows:

Work Session: Professional Services Contract for Traffic Signal Preemption and Priority Control System

Consent Agenda: Request to Authorize the City Manager to Enter Into Transit Signal Priority Cooperative Agreement with UDOT in a Form Approved by the City Attorney

Request to Authorize the City Manager to Enter Into Transit Lane Operation Agreement with UDOT in a Form Approved by the City Attorney

While reporting to Council during Work Session on the first item listed above, staff will also discuss with Council the two Consent Agenda items listed - demonstrating how all of the above items relate, what possible actions Council can take on these three items, and the consequences of any direction Council chooses to provide.

The above items - in order - relate to (1) the installation and servicing of the infrastructure and systems integration to implement a Traffic Signal Preemption and Priority Control System, (2) implementation of a formal agreement with UDOT to permit use of this system by Park City Transit vehicles, and (3) implementation of a formal agreement with UDOT allowing Park City Transit to operate dedicated transit lanes along a segment of State Route (SR) 224. Together, these implementations stand to significantly improve the quality of service provided by Park City Transit, particularly along the SR-224 corridor.

Respectfully:

Michelle Kellogg, City Recorder



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The purpose of this Communications Report is to provide an update on progress and anticipated timeline for the Parking Technology project launching December 15, 2017. Additionally, it aims to serve as an update on community outreach and development of employee alternatives.

Respectfully:

Kenzie Coulson,



City Council Staff Communications Report

Subject: Parking Technology Progress Update
Author: Kenzie Coulson, Parking & Fleet Manager
Robbie Smoot, Parking Data Analyst
Department: Public Works/ Parking
Date: 10/5/17
Type of Item: Informational

The purpose of this Communications Report is to provide an update on progress and anticipated timeline for the Parking Technology project launching December 15, 2017. Additionally, it aims to serve as an update on community outreach and development of employee alternatives.

Parking technology and infrastructure improvements are currently focused on cleaning, painting, and concrete work for China Bridge Garage. While the construction continues, staff is also committed to continued local outreach. Door-to-door outreach with the goal of informing employers and employees on Main Street has been active and is ongoing.

A survey disseminated to Main Street employers and employees began on August 24, 2017 and closed on September 22, 2017. The survey was developed with the aim of collecting data on employee shift times and interest in the Homestake Employee Park-and-Ride Lot, which will launch December 15, 2017 and will include a free shuttle to Main Street at 10 minute intervals during peak times. The opportunity for the Park-and-Ride ensures that Main Street employees will have a reliable alternative after the implementation of demand-based paid parking in Old Town.

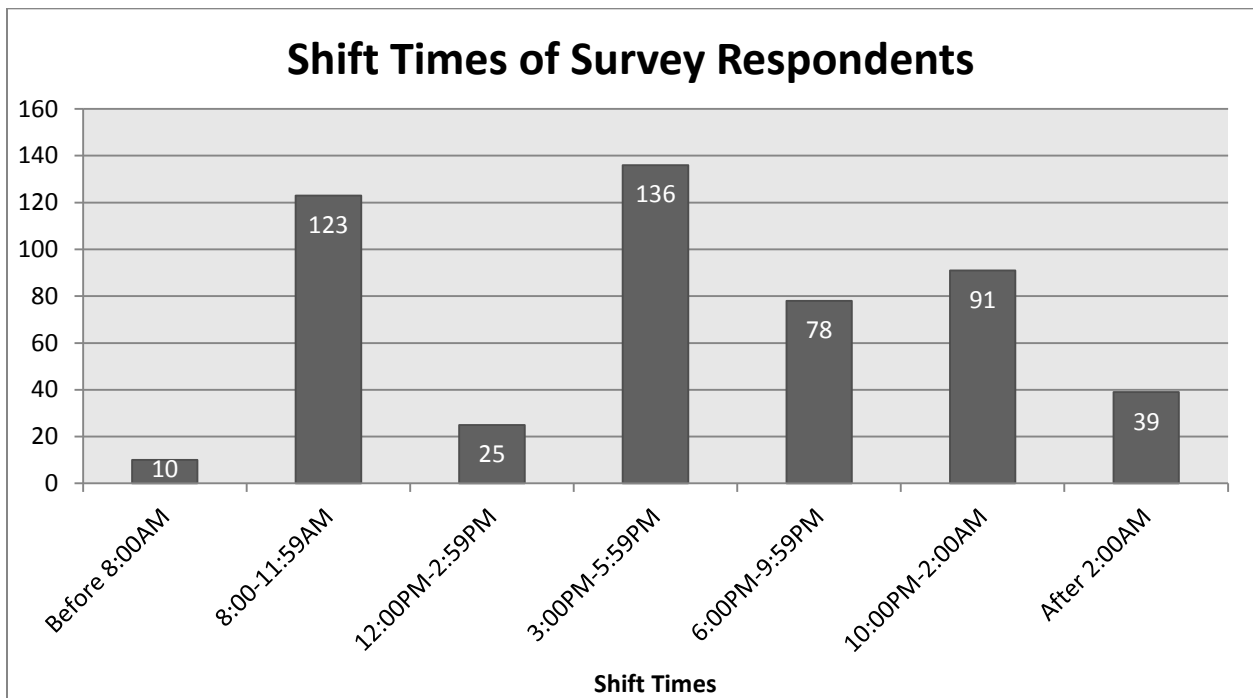
The survey requested that respondents leave questions and comments about the parking program, including a question to indicate interest in the proposed carpooling incentive, which allows established carpools of two or more employees to receive free parking in China Bridge. The survey results indicate that there is significant interest in the carpool permit. The survey also expressed concern from respondents that there wasn't enough information regarding how permits will work. Based on the comments and feedback, staff plans to create an educational instruction sheet specifically to address permit changes. It will be posted on the Park City website and will be included with staff's door-to-door community outreach efforts.

Survey responses have been accumulated below and will be shared with the HPCA for further review and comment.

There were a total of 196 survey respondents, of which 40 were Main Street business owners and 156 were Main Street employees. A breakdown of employee shift times is included in a chart below. The survey collected 502 shift start times and shift end times.

Sixty-eight percent (68%) of the shift times fall between the hours of 3:00pm and 4:30am. Data will continue to be collected in order to optimize scheduling efficiency and changes may be made accordingly; however, this data will serve as a starting point in establishing the employee Park-and-Ride shuttle schedule. The free shuttle is currently planned to operate between the hours of 3:00pm to 4:00am each day of the week from the Homestake Employee Lot, 1875 Homestake Road, to the Old Town Transit Center. The shuttle service will be designed to accommodate the peak demand demonstrated from the survey. Cutaways or vans will be used to implement the service and will be equipped with the automatic vehicle location/ GPS devices so that employee shuttles will demonstrate in real time on the City's transit mobile app.

It should be noted that from the survey responses received, the latest scheduled shift time ends at 2:00am but many employees expressed that they don't leave until 4:00am on busy evenings.



Parking Technology Implementation Timeline

- 9/26/17 - 9/30/17: Parking meter installation on Main Street.
- 9/26/17 - 10/10/17: Cement pad installation for pay-on-foot meters in surface lots (Swede Alley, North Marsac, Library, Mawhinney and Bob Wells Plaza).
- 10/5/17 - 10/23/17: Continued improvements to China Bridge. This includes concrete repair, waterproof membrane repair, electrical work, and concrete pads for parking gate islands.
- 10/5/17- ONGOING: Community outreach to include door-to-door interactions, including distribution of FAQs and timeline documents to Main Street employers and employees. In addition to providing informational reading material, the outreach has been heavily focused on answering questions and understanding concerns of individuals, who all have a unique travel pattern.
- 10/5/17: parkcity.org/departments/parking website content updated.
- 10/5/17-10/8/17: Surface lot pay-on-foot meter installation.
- 10/9/17: Mobile app “Go Park City” will be available for download.
- 10/9/17: Launch of new parking meters on Main Street. Pricing remains \$1.50/hour, 11:00am to 11:00pm, three hour maximum time limit. Main Street pricing will change per the updated Fee Resolution on December 15, 2017.
- 11/1/17-11/30/17: Infrastructure clean-up and development for Homestake employee parking lot, to include pavement patching, shelter, and lighting for increased safety.
- 11/6/17: LPR (license plate recognition) technology will begin to be deployed for parking enforcement.
- 11/6/17- 11/10/17: Wayfinding signage installed in China Bridge.
- 11/15/17: Carpool, Homestake, Blue Square Permits available at Public Works.
- 12/15/17: Parking Program begins. New annual permits become active.
- 12/16/17 and beyond: Continual assessment will ensure that the program evolves in positive ways.

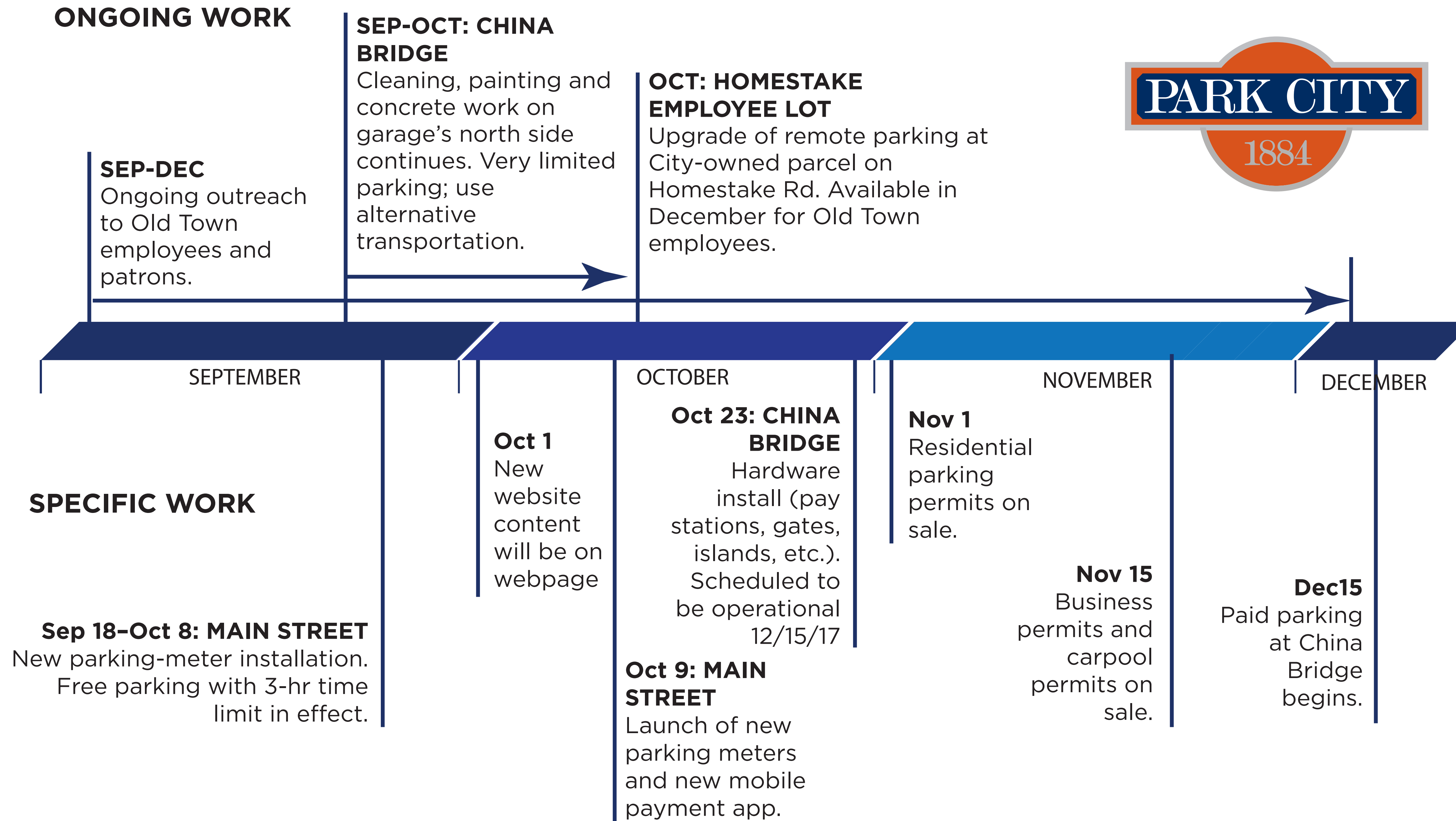
Summary

Parking technology and infrastructure improvements are ongoing. Most infrastructure work will be completed by the end of November and the most invasive work has already been completed. During the next few months staff will be introducing new technologies including the Go Park City App and License Plate Recognition enforcement.

Feedback and questions from the survey will be compiled and considered in community communication. One of the most occurring comments was that employees would like a free place to park that has lighting and security, which is a current item in the scope of work for the Homestake parcel. Community outreach is a core priority and will continue throughout the upcoming months.

Old Town Parking Management

PROJECT TIMELINE



ALTERNATIVE TRANSPORTATION OPTIONS:

- > Homestake Employee Park & Ride (with direct service every 10 minutes)
- > FREE permit parking for established carpools
- > Electric Express between OTTC & Junction
- > PC/SLC Connect additional service
- > Guaranteed Ride Home for Main Street employees
- > Kamas transit commuter pilot program
- > E-bikes for commuting and errands (early May to early November)



FREQUENTLY ASKED QUESTIONS ABOUT THE UPCOMING PARKING MANAGEMENT PROGRAM

How will parking work on-the street and in the China Bridge parking structure?

- **On the street:** There will be parking meters just like today, but we will soon deploy a pay-by-phone option. At the meter, you'll enter your license plate number and not have to return to your car.
- **China Bridge:** Gated/ticketed parking 24/7. Paid parking will begin at 5pm, but the first hour is free. For example, if you enter at 1pm and leave at 7pm, you'll be charged for one hour. From December 15-April 15, it's \$3/hour.

What about other surface lots like Sandridge, Gateway, North Marsac?

- **North Marsac:** Paid parking 5pm-midnight. Peak season rate is \$1/hour.
- **Gateway:** Valid for Blue Square and "C" permit parking only.
- **Bob Wells Plaza and Swede Alley On-Street:** Paid parking 5pm-midnight. Peak season rate is \$3/hour. Four-hour time limit.
- **Main Street and Brew Pub:** Paid parking 11am-midnight. Peak season rates are as follows: \$2/hour 11am-5pm, \$4/hour 5pm-midnight. Three-hour time limit.
- **Flag Pole:** Paid parking 5pm-midnight. Peak season rate is \$3/hour. Four-hour time limit.
- **Sandridge:** Free parking. Select spots will be designated for residential use.

Why not just build more parking?

Traffic congestion is one of the biggest complaints from local residents and businesses alike. Unfortunately, simply building more parking for vehicles in the core of Old Town prior to implementing various parking and transportation only invites more traffic congestion into our town. As a result, Park City is working to create viable alternatives to reduce congestion and single-occupancy-vehicle trips. The first step is to better manage the existing parking supply, combined with viable transportation and transit alternatives.

What alternatives are there for employees and visitors beyond driving?

The solutions are many.

- Carpools of two or more people will receive free parking in China Bridge.
- Free employee parking at the Homestake Employee Lot, located at 1875 Homestake Road. Free shuttles will depart for the Old Town Transit Center every 10 minutes during peak times.

- Free Guaranteed Ride Home program for employees during emergencies.
- Transit service increases, including the new Kamas Commuter, Electric Xpress (10-minute frequency) from Kimball, and twice the number of PC/SLC Connect services.
- Electric bike share offers in-town transportation

Learn more about these options and routes at www.parkcitytransit.org.

How will carpooling be enforced and where will carpool lots be?

Two employees may sign up for the carpool program together, and their license plates will be registered as one carpool. With license plate-recognition capability, both cars in the program will not be allowed in the carpool lot at the same time. There will also be strict monitoring, and violators will have their carpool privileges revoked. China Bridge will be the carpool parking location.

How are business permits being handled?

Each business will be given a window of opportunity to purchase one Blue Square permit. This will entitle the business to unlimited parking at no additional charge, and the permit is transferrable between employees within the business. Once each business is given a chance at purchase, additional permits may be sold.

Will there be changes for parking on Park Avenue or other streets in proximity to Main Street?

No. Parking will remain the same on Park Avenue and surrounding residential streets. This is in part because Park Avenue will be the focus of a larger reconstruction project, estimated for 2019. No substantial parking changes will be made before that time.

What about load zones?

The Transportation Planning team is currently assessing shuttle and taxi load areas. Active loading/unloading is permitted on Main Street; use flashers and comply with the City's anti-idling ordinance.

Commercial loading/unloading is permitted prior to noon each day.

Wasn't China Bridge engineered for more parking?

When China Bridge was built, it was engineered for about 65 more spots, which is a small number. The construction would also be very expensive (estimated \$40,000 per spot). While in the future that could be built, current Council direction addresses issues of availability by using technology to understand and manage the existing supply.

Won't locals stop coming to Main Street if we charge for parking?

The City receives many complaints suggesting that locals currently shy away from Old Town during peak hours because they can't find parking. Many say that they'd rather pay \$5 and know there's

available parking than avoid Old Town. If there's available parking during the peak times so locals can bring their guests, it's more likely that they'll come in the off-season to support our local businesses.

Documented numbers from other cities demonstrate that the implementation of demand-based paid parking results in an increase in business and average sales tax revenues.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The report provides an update on Latino Outreach efforts and recent enhancements to the Fee Reduction Program at the Ice Arena.

Respectfully,
Amanda Angevine, Ice Arena General Manager

Respectfully:

Amanda Angevine, Ice General Manager



City Council Staff Communications Report

Subject: Latino Outreach & Fee Reduction Update

Author: Amanda Angevine, General Manager

Department: Ice Arena

Date: October 5, 2017

Type of Item: Informational

Abbreviations:

Park City Community Foundation PCCF

In the spring, staff met with Sarah MacCarthy with the Park City Community Foundation (PCCF), and learned that the most significant barriers affecting participation from the Latino Community at the Ice Arena were communication and transportation.

PCCF has since provided translating services for program materials as well as Fee Reduction information and has included program information in their newsletter. Additionally, the Ice Arena was able to participate in Back to School Night at McPolin Elementary and the Solomon Fund outreach event at St. Mary's Church on September 12. The Outreach Event was a huge success with 32 children registered for Early Fall programs and eight of those children registered for multiple classes. As a reference, the Ice Arena has never had more than three children participate in the Fee Reduction Program for any one session of classes. The translating services and connection the staff at the Park City Community Foundation have provided over the last few months has really helped reach the Latino families in the community.

The recent increase in Latino participants tells us the communication and outreach is improving and staff is now working towards minimizing the barrier of transportation. Matt Genther has applied for a grant from the Solomon Fund to provide funding to coordinate transportation to Basic Skating Camps that take place during various school breaks. We hope this opportunity will be the first step in providing and understand more about the transportation needs and opportunities in the community. With the experience learned through an initial offering, we will evaluate offering transportation for other classes and programs.

In addition to improving communication and transportation, the facility has also made improvements for affordability including increased communication and offerings of the Fee Reduction Program. The Ice Arena enhanced the Fee Reduction Program through the Fee Schedule changes effective July 1st, 2017. The new offering provides a 75% discount to programs for each child and a \$3.00 public skate rate (including skate rentals) has been added for individuals within a family qualifying for the Fee Reduction Program. Previously, there was no Fee Reduction available for any public programs at the Ice Arena, only skating and hockey classes and camps.

	Previous Fee Reduction Program	Fee Reduction Program Effective July 1, 2017
First Child- Classes & Camps	70% Discount	75% Discount
Second Child-Classes & Camps	75% Discount	75% Discount
Third Child- Classes & Camps	75% Discount	75% Discount
Public Skate w/ Skate Rental	N/A- Regular Rate \$9.50	\$3.00

The Fee Reduction program currently stipulates a maximum benefit of \$350 per year per child. Currently, the facility is able to absorb the expenses associated with the increased utilization of the Fee Reduction Program and will monitor the impact on our budget and cost recovery moving forward. We are encouraged by the increased participation and will continue to enhance the accessibility and communication for all members of the community.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

On January 8, 2015, City Council approved changes to the Historic District Grant Program and adopted a policy to manage the grant program. Grants were to be used toward specific rehabilitation projects. Primary residents (either the homeowner or a full time renter) could be awarded up to fifty percent (50%) of total eligible construction costs, while homes which are used as a secondary-home or nightly rental could be awarded up to forty percent (40%) of total eligible construction costs. Commercial property owners are eligible for up to fifty percent (50%) total eligible construction costs. Grant applicants may receive up to 10% increased funding for those renovation projects that improved a site's designation from "significant" to "landmark."

The program has largely been "on hold" since 2015 as we consider amendments to the eligibility and administration of the Historic District Grant Program.

Respectfully:

Michelle Kellogg, City Recorder



City Council Staff Communications Report

Subject: Historic District Grant Program
Author: Anya Grahn, Historic Preservation Planner
Bruce Erickson, Planning Director, AICP
Department: Planning
Date: October 5, 2017
Type of Item: Staff Communication

On January 8, 2015, City Council approved changes to the Historic District Grant Program and adopted a policy to manage the grant program. Grants were to be used toward specific rehabilitation projects. Primary residents (either the homeowner or a full time renter) could be awarded up to fifty percent (50%) of total eligible construction costs, while homes which are used as a secondary-home or nightly rental could be awarded up to forty percent (40%) of total eligible construction costs. Commercial property owners are eligible for up to fifty percent (50%) total eligible construction costs. Grant applicants may receive up to 10% increased funding for those renovation projects that improved a site's designation from "significant" to "landmark."

The program has largely been "on hold" since 2015 as we consider amendments to the eligibility and administration of the Historic District Grant Program.

The following selected links relate to passing the revisions to the grant program in 2015 (note that these reports include previous staff reports and minutes to the City Council and HPB):

October 9, 2014	City Council Report (starting page 81) + Minutes (starting page 3)
December 4, 2014	City Council Report (starting page 25) + Minutes (starting page 10)
January 5, 2017	City Council Report (starting page 20)

In January 2017, the Planning Department contracted Kjersti Monson of Duval Companies to conduct a study of our Historic District Grant program and recommend changes for its administration. A preliminary draft has been linked [here](#). This document is still in draft form and staff is working with the consultant to correct any misinformation and include additional information.

The Planning Department had organized a Historic District Grant Program work session with the City Council and Historic Preservation Board (HPB) on September 19th; however, this meeting was cancelled due to the lack of board members availability.

The Planning Department staff will organize a joint HPB- City Council work session as an opportunity to further discuss administration of the Historic District Grant Program.

Consultant Kjersti Monson will be presenting her research findings and also hosting a fascilitated workshop to solicit input from the HPB and City Council on criteria for awarding grants as well as the administration of the grants at that time. City Council will be reviewing the grant program revisions in the future and looking to the HPB for direction.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

In 2015, Wells Fargo foreclosed on several assets owned and operated by Talisker Corp. Bonanza Flat was one property but there were several others, including an entity referred to as 'The Talisker Club'. For over ten years, the Talisker Club held a lease on the current Bonanza Flat property. The lease hold included the ability to have some small structures, a yurt and deck and teepee on approximately six acres, in which members could participate in campfire dinners and winter sledding in a backcountry setting. Currently, visitors to the property will recognize these improvements as they can be seen from Pine Canyon road.

Respectfully:

Heinrich Deters, Trails and Open Space Program Manager

City Council Staff Communications Report



Subject: Bonanza Flat- Lease Agreement REDUS Park City LLC.

Author: Heinrich Deters

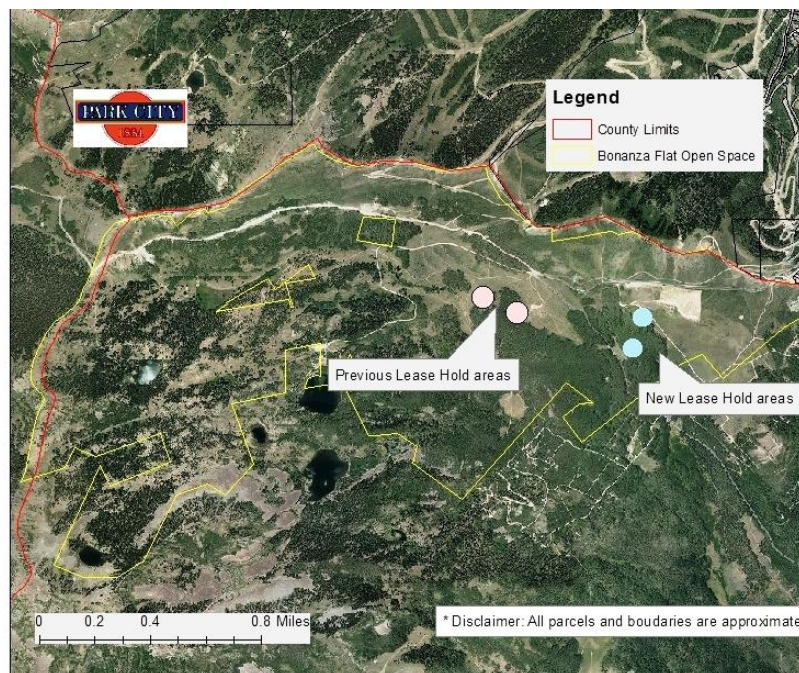
Department: Sustainability

Date: October 5, 2017

Type of Item: Informational

In 2015, Wells Fargo foreclosed on several assets owned and operated by Talisker Corp. Bonanza Flat was one property but there were several others, including an entity referred to as 'The Talisker Club'. For over ten years, the Talisker Club held a lease on the current Bonanza Flat property. The lease hold included the ability to have some small structures, a yurt and deck and teepee on approximately six acres, in which members could participate in campfire dinners and winter sledding in a backcountry setting. Currently, visitors to the property will recognize these improvements as they can be seen from Pine Canyon road.

The January 2017 Bonanza Flat Purchase Agreement between REDUS Park City LLC (which was created by Wells Fargo) and Park City Municipal, includes a similar lease to the rebooted Talisker Club 2.0. The new lease is different in one important respect: Wells Fargo and the Talisker Club 2.0 agreed to relocate operations within the leasehold from the central meadow portion of the property to a more north easterly location. This lease was a condition of the final agreement between the parties. Map below:



REDUS Park City LLC. representatives have secured the appropriate temporary use permits from Wasatch County and notified City staff of their intentions to deconstruct and relocate the improvements to the new leasehold area. This process will require some temporary minor access improvements to allow for large trucks and equipment to facilitate the move.

Staff is monitoring the process and is available to answer any questions Council or the public may have. Additionally, staff will be posting information about the lease and relocation to our website and social media outlets to notify members of the public who may have questions.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

Staff has been working to provide trail enhancements to an existing soft surface trail connection between Hillside Avenue and Swede Alley. Alliance Engineering Inc. was procured to support the engineering design, survey and construction support for the project. This project will provide additional connections and provide improvements that support walkability near Hillside Avenue and Swede Alley.

Respectfully:

Julia Collins, Senior Transportation Planner

City Council Staff Communications Report



Subject: Hillside Soft-surface Trail Enhancement Update

Author: Julia Collins, Senior Transportation Planner

Logan Jones, Trails and Open Space Coordinator

Lynn Ware-Peek, Community Engagement Liaison

Department: Transportation Planning and Sustainability

Date: October 3, 2017

Type of Item: Informational

Staff has been working to provide trail enhancements to an existing soft surface trail connection between Hillside Avenue and Swede Alley (see attachment 1). Alliance Engineering Inc. was hired to support the engineering design, survey and construction support for the project. This project will provide additional connections and provide improvements that support walkability near Hillside Avenue and Swede Alley.

As part of the design development and review, staff conducted extensive outreach by means of in-person discussions with 16 residents, email communication and hand delivered 35+ letters with the surrounding neighbors from Grant Avenue, Main Street, Hillside Avenue, Prospect Street and Sandridge Avenue (see Exhibit A for letter). The public outreach effort aimed to gather and incorporate the community's comments in the development of a final design, trail features, and alignment for the trail enhancement project. The neighborhood comments were in support of the project, features and incorporated into the design.

The scope of the design of the trail will look to enhance the function, safety, and aesthetics by addressing the following goals:

- Beautify and enhance the existing soft surface trail
- Control erosion and drainage
- Enhance the neighborhood connectivity, and providing safer options to avoid Hillside Avenue
- Provide additional connection to the Old Town pocket park at 144 Main Street. Trail will link into the existing trail that emerges from the City-owned pocket park and borders Poison Creek
- Create sidewalk continuity at the top and bottom of the trail
- Provide enhanced simple landscaping with native plants
- Re-route the bottom entrance of the trail
- The new name for the trail will highlight the original platted name of Chambers, and now be called, "Chambers Trail"

The intended timeline for the project delivery and construction is below:

- Construction proposals are due on Thursday, October 5, 2017.
- Staff and Alliance Engineering Inc. anticipate returning to City Council in October with a recommendation for construction and a construction timeline.
- Construction is anticipated to start the end of October.

Hillside Soft Surface Recreational Trail

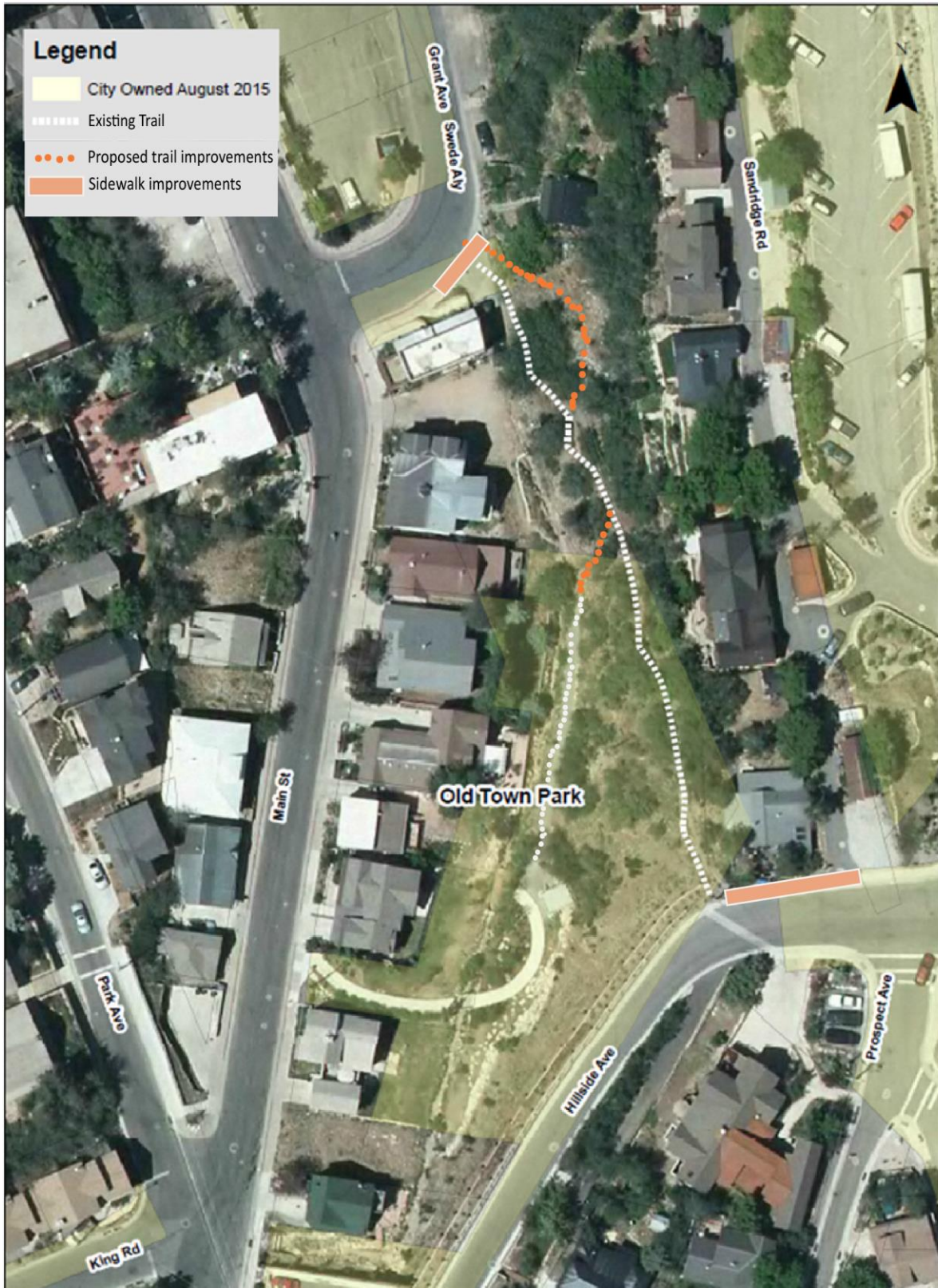


Exhibit A



WHAT: Trail Beautification and Pedestrian Improvements to Chambers Trail (aka Dog Poop Trail) between Hillside and Swede Alley

WHEN: Fall, 2017

WHY: One of City Council's critical priorities involves creating better transportation solutions. One of those solutions is making better pedestrian connections. Chambers Trail, (as we are calling it although we, just like you, have called it by its other name for years!) is one such connection. Strengthening the pedestrian connection was requested by Council years ago, and, frankly, the trail needs some love.. The goal of the project is to:

- Beautify and enhance the existing soft surface trail.
- Control erosion.
- Enhance the neighborhood connectivity, and providing safer options to avoid Hillside Ave.
- Create a small re-route toward the bottom of the trail so that the trail is all on the City right-of-way or City-owned property.
- Provide additional connection to the Old Town pocket park at 144 Main Street. Trail will link into the existing trail that emerges from the City-owned pocket park and borders Poison Creek.
- Create sidewalk continuity at the top and bottom of the trail.
- Provide enhanced yet simple landscaping

This is a small project, but our crews will be working on the trail so we wanted you to know. Approximate start date is Fall 2017.

Please let us know if you have any questions. In addition, we are trying to grow our email list so we can give regular updates about the Main Street (Brew Pub) Plaza project, anticipated for 2018. Please send your email and state your street address to lynn.ware-peek@parkcity.org if you'd like to be included in the information.

Best regards,

Julia Collins, Senior Transportation Planner

Logan Jones, Trails and Open Space Coordinator

Lynn Ware Peek, Community Engagement Liaison



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

In June 2017 Park City Transit submitted an application for the 2017 Low-No Federal Transit Authority(FTA) Grant. This is a \$55 Million dollar program from the FTA to help promote Low or No Emmission technologies. Last year Park City was the recipient of \$3.9 Million dollars to help with the purchase of battery electric buses and implementation of the Electric Express route.

Respectfully:

Blake Fannesbeck, Public Works Director



City Council Transit Staff Communications

Subject: Park City Transit Awarded Low-No Grant
Author: Blake Fonnesebeck
Department: Transit & Public Works
Date: October 5, 2017
Type of Item: Informational

In June 2017 Park City Transit submitted an application for the 2017 Low-No Federal Transit Authority(FTA) Grant. This is a \$55 Million dollar program from the FTA to help promote Low or No Emmission technologies. Last year Park City was the recipient of \$3.9 Million dollars to help with the purchase of battery electric buses and implementation of the Electric Express route.

At first Transit staff was hesitant to apply two years in a row for these limited funds thinking that maybe we would not have a chance since we had already been awarded in the prior year, however we were encouraged to apply again because we have been very successful at implementing the Express Route in such a short time. Transit staff partnered again with Utah Department of Transportation (UDOT) and Proterra to submit an application for \$1.7 Million dollars to offset the additional cost of replacing seven diesel buses with seven battery electric buses in our fleet. It was announced September 15th that we were successful and were awarded \$500,000 dollars from the 2017 Low-No grant program. This is exciting news, Transit staff was told that there was much more competition for these monies than in past years and the FTA reduced the highest amount awarded to \$1.7 Million (vs the \$3.9 Million awarded to Park City in the last round of grant funding, which was the largest grant awarded). For Park City to receive an award two years in a row from this grant is a vote of confidence in what Park City Transit is doing in regards to Battery Electric technology.

This \$500,000 will help us with the purchase of seven Proterra 35 foot battery electric buses to replace seven worn out 35 foot diesel buses. This will be the first set of diesel buses that have reached their 12 year useful life in our fleet to be replaced by battery electric buses. The new buses will be Proterra's new 35 foot EV (Extended Range) buses. This will allow them to remain in service most of a day on a single overnight charge. They also have the ability to hit the fast charge stations at either transit center if needed.

Transit staff is working with Proterra to order these seven buses quickly in order to have them in operation by December 2018. We will keep you informed as Transit staff works through the grant and ordering process.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The purpose of this report is to provide updates regarding the MyStop App for Transit services, which has experienced some technical difficulties in the recent past. We identified the various issues and problems and worked with Avail, the technology company that has developed the app, as well as much of our other bus technology, over several weeks to resolve them. It appears that the MyStop App is now working correctly, though Transit continues to test and verify that all information contained in the App is accurate.

Respectfully:

Darren Davis, Transit Admin Supervisor



City Council Staff Communications Report

Subject: Transit App MyStop update
Author: Darren Davis
Department: Transit
Date: October 5th, 2017
Type of Item: Informational

The purpose of this report is to provide updates regarding the MyStop App for Transit services, which has experienced some technical difficulties in the recent past. We identified the various issues and problems and worked with Avail, the technology company that has developed the app, as well as much of our other bus technology, over several weeks to resolve them. It appears that the MyStop App is now working correctly, though Transit continues to test and verify that all information contained in the App is accurate.

Avail has recently released a new version of the app (version 2.1.13) and users with auto-updates enabled on their devices should have already received the updated version. Though the release of the new version has caused some issues, Park City and Avail maintain a good working relationship and share a commitment to resolving problems as we become aware of them. Transit is still evaluating the new version, though it appears that some of the issues may be related to configuration and data entry functions on the backend of the software or within the app itself.

The Avail team was on site at the end of August and had a successful week training staff, fixing glitches, and corrected issues with the App. Some of the issues that have been addressed include:

- Made adjustments to backend software regarding driver departure times, which appears to have corrected the “spinning wheel” issue that prevented information from loading within the app.
- System software configurations changed on the backend to correct an issue with information for the White - (Electric Xpress) route was not showing up in the App.
- Updated the vehicle location threshold for improved accuracy and changed the departure estimation software configuration to correct an issue with departure and schedule information for the Brown (Kimball East) route was not loading.
- Updated the backend data and driver schedule information sheets for improved accuracy and speed to correct an issue with information loading slowly for routes at the Fresh Market stop.

Transit is working both internally and externally with Avail on recommended improvements to the App and future improvement and Avail support include:

- Suggestions for visual improvements and other enhancements for the app have been provided to Avail and are being taken back to the development team, who will attempt to incorporate the suggestions in the next update.
- Redirect/redesign QR codes on signs prior to the start of the winter season.
- GoogleRT (Real Time) is working with Avail to become certified by late-November. Which will provide users of the Google Trip Planner Real-Time bus schedule and location information. Once our GoogleRT is certified, it can become the software backbone for developers to intergrate a Tranist and Parking App.
- Avail will be providing additional training and support to staff and plans to have a team on site mid-November to assist in preparation for winter service.

As with any technology project glitches do happen. Therefore, it is important if you hear of any App issues please let us know so we can try to resolve them prior to the busy winter season.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

Attached for your approval, please find the minutes for the September 15, 2017 City Council meeting. Thank you for your consideration.

Respectfully:

Michelle Kellogg, City Recorder



PARK CITY COUNCIL MINUTES-DRAFT
445 MARSAC AVENUE
PARK CITY, SUMMIT COUNTY, UTAH 84060

September 15, 2017

The Council of Park City, Summit County, Utah, met in open meeting on September 15, 2017, at 3:15 p.m. in the City Council Chambers.

ROLL CALL

Attendee Name	Title	Status
Jack Thomas	Mayor	Present
Andy Beerman	Council Member	Present
Becca Gerber	Council Member	Present
Tim Henney	Council Member	Present
Cindy Matsumoto	Council Member	Present
Nann Worel	Council Member	Present
Diane Foster	City Manager	Present
Mark Harrington	City Attorney	Present
Matt Dias	Assistant City Manager	Present

COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council and staff did not have anything to report.

PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)

Mayor Thomas invited any who wished to address the Council on items not listed on the agenda to do so at this time. No comments were given.

Council Member Gerber moved to close the meeting to discuss property, personnel and litigation at 3:20 pm. Council Member Beerman seconded the motion. Voting Aye: Council Members Beerman, Gerber, Henney, Matsumoto, and Worel.

CLOSED SESSION

1 Council Member Worel moved to adjourn from Closed Meeting. Council Member
2 Beerman seconded the motion. Voting Aye: Council Members Beerman, Gerber,
3 Henney, Matsumoto, and Worel.

4

5 With no further business, the meeting was adjourned.

6

7

Michelle Kellogg, City Recorder



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

This Contract Change Order No. 11 with Granite Construction is for field changes that were determined to be outside of the original scope of the Lowell Avenue Re-Construction project.

Respectfully:

Matthew Cassel, City Engineer



City Council Staff Report

Subject: Lowell Avenue Re-Construction Project
Contract Change Order No. 11 to Granite
Construction's Contract
Author: Matthew Cassel, Engineering
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendations:

Staff recommends City Council authorize the City Manager to execute Contract Change Order No. 11 to the Construction Contract with Granite Construction for construction of the Lowell Avenue Re-Construction Project in a form approved by the City Attorney and for an amount of **\$165,430.69**.

Executive Summary:

This Contract Change Order No. 11 with Granite Construction is for field changes that are outside of the original scope of the Lowell Avenue Re-Construction project.

Acronyms

CEM – Construction Engineering Management
OTIS – Old Town Improvement Study
PCMR – Park City Mountain Resort
ROW – Right-of-Way
SBWRD – Snyderville Basin Water Reclamation District

The Problem:

Previous to this Contract Change Order No. 11, Contract Change Orders No. 1 to 10 were executed. The total cost of Contract Change Order No. 1 to 10 is \$154,179.14, which is almost 10.0% of the construction contract amount. Per Park City purchasing policy, once change orders exceed 10% of the original contract amount (10% of \$1,542,017,455 is \$154,202) must be approved by City Council. Contract Change Order No. 11 pushes the cumulative charge orders to exceed the 10% change order threshold. The total change orders from 1-11 is \$319,609.83.

Background:

- City Council adopted the Old Town Improvement Study in 2002.
- During the summer of 2014, the Water Department installed the Judge Tunnel water transmission line down the length of Lowell Avenue.
- Additionally, Questar Gas replaced their gas line in Lowell Avenue during the summer of 2014.
- A traffic study was performed by Parametrix (InterPlan) in the winter of 2015 to determine the existing and future traffic levels on Lowell Avenue. This study included future traffic generated by the Treasure Hill Development and the full development of the Bernalfo properties, the study determined that Lowell Avenue

should remain a residential street as defined in the 2011 Traffic and Transportation Master Plan.

- On September 24, 2015, Council approved the professional service agreement with Stanley Consultants to provide design, bidding and CEM services for the Lowell Avenue re-construction project,
- On April 14, 2016, Council approved the construction contract with Granite Construction,
- On March 16, 2017, Council approved Amendment No. 1 to the Stanley Professional Service Agreement,
- Concurrent with this Contract Change Order No. 11 to Granite Construction's contract is Amendment No. 2 to Stanley Consultant's agreement.

Alternatives:

A. Approve the Request:

This alternative approves Contract Change Order No. 11 to Granite Construction's contract.

Pros – Approving the change order will allow the OTIS program, Water Department and SBWRD to pay the contractor for work outside the original scope of the project.

Cons – Capital cost impacts

B. Deny the Request:

This alternative would deny Contract Change Order No. 11 to Granite Construction's contract.

Pros – City funds used for this change order could be used for other OTIS projects.

Cons – Without this change order approved, staff would not be able to process the change order and pay Granite Construction for work completed.

Analysis:

This analysis details the changes to Granite Construction's contract and summarizes the budget available and remaining.

Contract Change Orders No. 1 to 10 were previously approved by staff. A summary of these 10 change orders total cost and contract time added is provided below;

<u>Contract Change Order</u>	<u>Total Cost</u>	<u>Time Added to Contract</u>
No. 1	(\$14,191.53)	0 Days
No. 2	(\$1,961.83)	0 Days
No. 3	\$3,500.27	0 Days
No. 4	\$3,188.81	0 Days
No. 5	\$54,577.55	0 Days
No. 6	\$4,654.97	0 Days
No. 7	\$41,709.47	0 Days
No. 8	\$40,099.54	0 Days
No. 9	\$7,719.55	7 Days
No. 10	<u>\$14,882.35</u>	<u>0 Days</u>

Total Cost \$154,179.14

Total Days Added

7 Days

Funding for Contract Change Orders No. 1 to 10 is broken down per funding agency as follows;

- OTIS Funding \$16,056.44
- Water Funding \$11,496.16
- SBWRD Funding \$126,626.55

The elements of Contract Change Order No. 11 are as follows;

- Soft spot repair under curb and gutter. While installing new curb and gutter, numerous sections of existing ground would not adequately compact so the road base and curb and gutter could be installed. A unit cost was developed for soft spot repairs. The cost for this item is \$2,783.96 and is an OTIS (road) cost.
- Contractor directed to use of flow fill for 1114 Lowell Avenue driveway. Installation of this water service created voids below the existing driveway for 1114 Lowell Avenue. Staff directed the contractor to fill the voids with flow fill (flow fill is a very low strength concrete that is used in places where the soil cannot be adequately compacted. Even after the flow fill concrete hardens, it is extremely easy to excavate and remove with a backhoe). The cost for this item is \$488.41 and is a Water Department (water) cost.
- Contractor directed to use of flow fill for 1001 Lowell Avenue sewer lateral. Installation of this sewer lateral created voids below the existing driveway for 1001 Lowell Avenue. Staff directed the contractor to fill the voids with flow fill. The cost for this item is \$792.48 and is a SBWRD (sewer) cost.
- Manor Way roadway changes - The intersection of Manor Way and Lowell Avenue was originally scoped to install the utilities and provide an asphalt T-patch over the utility trenches and then seal coat the intersection so it would look new. The problem was that the road continued to fall apart outside the original project boundaries. This change order item expands the area to be repaved so the intersection will hold up for years to come. The cost for this item is \$30,987.60 and is an OTIS (road) cost.
- Sewer rock excavation and use of a drop manhole – Near the end of the sewer construction, the contractor encountered rock. This change order item compensates the contractor for two days of excavating in rock and then using a drop manhole to get the sewer line above the rock formation. The cost for this item is \$20,663.50 and is a SBWRD (sewer) cost.
- Import backfill for sewer installation – Throughout this project, the existing soil has been found to be excessively wet and not suitable to be used for backfill around the new sewer line or in the trench above the sewer line. This change order item hauls away the unsuitable material and imports new backfill soils. The cost for this item is \$107,184.74 and is a SBWRD (sewer) cost.
- Additional cost to mobilize sub-contractor to complete the manhole work in the Marriott driveway. As the contractor started their fall work in the intersection of

Manor Way and Lowell Avenue, they needed to temporarily close the drive to Marriott for five days. The problem is that there is a manhole that needed to be fixed in the middle of the Marriott that was not scheduled to be fixed for another two weeks (would have required another three day shutdown of the Marriott's drive). I directed the contractor and agreed to absorb the cost to mobilize the sub-contractor and fix the manhole while the drive was temporarily closed the first time. The cost for this item is \$2,530.00 and is an OTIS (road) cost.

- Five (5) additional work days were requested for the work effort associated with Contract Change Order No. 11. Staff reviewed the request and granted the additional contract time. The new Substantial Completion date is now October 31, 2017 with Final Completion on December 1, 2017.

The total amount of Contract Change Order No. 11 is \$165,430.69. Funding for Contract Change Orders No. 11 is broken down per funding agency as follows;

- | | |
|-----------------|--------------|
| • OTIS Funding | \$36,301.56 |
| • Water Funding | \$488.41 |
| • SBWRD Funding | \$128,640.72 |

Staff and staff's consultants have reviewed the above costs and request for contract time extension and have found them to be reasonable.

The total amount of Contract Change Order No. 1 through 11 is \$319,609.83. Overall funding for Contract Change Orders No. 1 through No. 11 is broken down per funding agency as follows;

- | | |
|-----------------|--------------|
| • OTIS Funding | \$52,358.00 |
| • Water Funding | \$11,984.57 |
| • SBWRD Funding | \$255,267.27 |

The 10% Rule

Most construction projects are graded by the dollar value of change orders processed. A rule of thumb is that a project was a well-designed and good construction project if the total cost of the change orders amounted to less than 10% of the original construction contract amount. A project going sideways is one that starts to exceed the 10% threshold. Park City's purchasing policy requiring Council to approve change orders over 10% is a common policy nationwide and is an indicator that the project may not be going well and potential future costs may be impactful.

Although this project is currently over 10% staff finds that this project is still on track and will not be a possible larger problem. One single issue has driven up the cost for SBWRD and they have been managing it to their best extent possible. The issue is that the contractor was to use native soil for backfill over the sewer line. The native soil has been too wet to reuse and the decision to export the native material and import clean backfill was made. This one issue is \$218,354 of the total change orders of \$319,610 (68.0% of the total change order amount).

This project is nearing the end of construction but staff does expect at least one more change order. This final change order will include the balancing of the unit cost quantities over runs and unit cost quantities under runs and will include a few to date unresolved items that were not presented in Contract Change Orders No. 1 to 11.

Project Budget

Granite Construction's bid for the project was \$1,542,017. SBWRD will be responsible for \$237,936 of Granite's bid, which is for sewer work, Park City Water Department will be responsible for \$390,251 and the OTIS funds would cover the remaining road and storm drain portion of \$913,830.

Capital Project cp0157 is the capital account approved for OTIS Phase III projects, which includes Lowell Avenue Re-construction. These OTIS Phase III funds will be used to pay for half of this addendum (Water funds will pay for the other half). The following breakdown only includes impacts to the OTIS fund.

OTIS Phase III Budget at start of the project:	\$1,436,177
Stanley Consultants Design and CEM Fee:	<u>\$ 397,323</u>
Funds Available for Construction:	\$1,038,854
Granite Construction Contract (OTIS Portion):	\$ 913,830
Add Treasure Hill Participation*	(\$ 183,020)
Less Amend. No. 1 and 2 to Stanley's Agreement	\$ 85,009
Less OTIS Construction Change Orders No. 1 to 10	\$ 16,056.44
Less this Contract Change Order No. 11	<u>\$ 36,301.56</u>
Remaining Funds Available:	\$ 170,677

*Treasure Hill elected to participate in the project as stipulated in their MPD agreement. As agreed upon, they were responsible for \$183,020 of the \$913,830 OTIS portion of the contract.

Barring any significant issues arising over the next four weeks, the contractor is anticipated to complete the Lowell Avenue Re-construction project this fall.

Department Review:

This report has been reviewed by Public Utilities, Engineering, Legal, Budget and the City Manager's office. All issues have been resolved.

Funding:

Capital Project cp0157 to originally contained approximately \$1,436,177 which was approved for OTIS Phase III projects (this dollar amount does not match the project budget above as money is moved into and expenditures have been taken out of this fund over the last year and a half). Funding for OTIS projects are part of the Council

adopted 10-year Additional Resort Communities Sales Tax plan and the 5-year CIP. Snyderville Basin Water Reclamation District (SBWRD) will finance the construction of their sewer portion of the project while the Park City Public Utilities Department will fund the construction of their water portion of the project.

Recommendation:

Staff recommends City Council authorize the City Manager to execute Contract Change Order No. 11 to the Construction Contract with Granite Construction for construction of the Lowell Avenue Re-Construction Project in a form approved by the City Attorney and for an amount of **\$165,430.69**.

Attachments:

Exhibit – Contract Change Order No. 11 with Granite Construction

Date of Issuance: 9/08/17	Effective Date: 9/08/17
Owner: Park City Municipal Corporation and Snyderville Basin Water Reclamation District	Owner's Contract No.:
Contractor: Granite Construction	Contractor's Project No.: 2320
Engineer: Stanley Consultants - David Osborn	Engineer's Project No.: 26612
Project: Lowell Avenue Reconstruction	Contract Name: Lowell Avenue Reconstruction

The Contract is modified as follows upon execution of this Change Order:

Description:

1. Curb and soft spot repair under gutter. - \$2,783.96
2. Flow fill 1114 Driveway. - \$488.41
3. Flow fill 1001 Sewer Lateral. - \$792.48
4. Manor Way roadway changes. - \$30,987.60
5. Sewer Rock excavation and drop manhole. - \$20,663.50
6. Sewer Backfill. - Not to exceed 6,126 tons less 3,093.90 tons paid to date = 3,032.10 @ 35.35 = \$107,184.74
7. Additional cost to mob Arrow twice to adjust manhole in Marriot driveway to grade. - \$2,530.00

Attachments: Cost breakdown from contractor

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>1,542,017.00</u>	Original Contract Times: Substantial Completion: <u>October 15, 2016</u> Ready for Final Payment: <u>November 15, 2016</u> days or dates
[Increase] from previously approved Change Orders No. <u>1</u> to No. <u>10</u> : \$ <u>154,179.14</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>10</u> : Substantial Completion: <u>7 Days</u> Ready for Final Payment: <u>7 Days</u> days
Contract Price prior to this Change Order: \$ <u>1,696,196.14</u>	Contract Times prior to this Change Order: Manor Way Intersection Completion: <u>June 15, 2017</u> Substantial Completion: <u>October 24, 2017</u> Ready for Final Payment: <u>November 24, 2017</u> 7 days
[Increase] of this Change Order: \$ <u>165,430.69</u>	[Increase] of this Change Order: Manor Way Intersection Completion: <u>June 15, 2017</u> Substantial Completion: <u>October 31, 2017</u> Ready for Final Payment: <u>December 1, 2017</u> 5 days
Contract Price incorporating this Change Order: \$ <u>1,861,626.83</u>	Contract Times with all approved Change Orders: Manor Way Intersection Completion: <u>June 15, 2017</u> Substantial Completion: <u>October 31, 2017</u> Ready for Final Payment: <u>December 1, 2017</u>

RECOMMENDED:

By: _____
Engineer (if required)
Title: David Osborn – Senior Engineer
Date: 8/28/17

ACCEPTED:

By: _____
Owner (Authorized Signature) Park City
Title: _____
Date: _____

ACCEPTED:

By: _____
Owner (Authorized Signature) Snyderville Basin Water
Reclamation District
Title: _____
Date: _____

ACCEPTED:

By: _____
Owner (Authorized Signature) Park City Water
Title: _____
Date: _____

ACCEPTED:

By: _____
Contractor (Authorized Signature)
Title: _____
Date: _____



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

This Amendment No. 2 with Stanley Consultants is for modifications to their professional service agreement to continue to provide construction engineering management (CEM) for the re-construction of Lowell Avenue from Manor Way south to the bend in the road.

Respectfully:

Matthew Cassel, City Engineer



City Council Staff Report

Subject: Lowell Avenue Re-Construction Project
Amendment No. 2 to Stanley Consultant's
Professional Service Agreement
Author: Matthew Cassel, Engineering
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendations:

Staff recommends City Council authorize the City Manager to execute Contract Amendment No. 2 to the Professional Service Contract with Stanley Consultants for construction engineering management for the Lowell Avenue Re-Construction Project in a form approved by the City Attorney and for an amount of **\$82,158**.

Executive Summary:

This Amendment No. 2 with Stanley Consultants is for modifications to their professional service agreement to continue to provide construction engineering management (CEM) for the re-construction of Lowell Avenue from Manor Way south to the bend in the road.

Acronyms

CEM – Construction Engineering Management
MPD – Master Plan Development
OTIS – Old Town Improvement Study
PCMR – Park City Mountain Resort
ROW – Right-of-Way
SBWRD – Snyderville Basin Water Reclamation District

The Problem:

The Lowell Avenue Re-construction project was anticipated to take approximately 14 weeks to complete the installation of sewer and laterals, water line along with service lines, storm drain system and road and curb and gutter replacement. Progress has been slow and the most recent schedule has completion in 29 weeks. Amendment No. 1 funded the completion of the work through the first 14 weeks. This Amendment No. 2 addresses costs to be incurred during the final 15 weeks of construction.

Background:

- City Council adopted the Old Town Improvement Study in 2002.
- During the summer of 2014, the Water Department installed the Judge Tunnel water transmission line down the length of Lowell Avenue.
- Additionally, Questar Gas replaced their gas line in Lowell Avenue during the summer of 2014.
- A traffic study was performed by Parametrix (InterPlan) in the winter of 2015 to determine the existing and future traffic levels on Lowell Avenue. This study

included future traffic generated by the Treasure Hill Development and the full development of the Bamberger properties, the study determined that Lowell Avenue should remain a residential street as defined in the 2011 Traffic and Transportation Master Plan.

- On September 24, 2015, Council approved the professional service agreement with Stanley Consultants to provide design, bidding and CEM services for the Lowell Avenue re-construction project,
- On April 14, 2016, Council approved the construction contract with Granite Construction,
- On March 16, 2017, Council approved Amendment No. 1 to the Stanley Professional Service Agreement,
- Concurrent with this Amendment No. 2 to Stanley Consultant's agreement is Contract Change Order No. 11 to Granite Construction's contract.

Alternatives:

A. Approve the Request:

This alternative approves Amendment No. 2 to Stanley Consultant's agreement.

Pros – Approving the amendment will allow engineering staff to provide the proper amount of resources to the project to ensure it is constructed correctly.

Cons – Capital cost impacts

B. Deny the Request:

This alternative would deny Amendment No. 2 to Stanley Consultant's agreement.

Pros – City funds used for this amendment could be used for other OTIS projects.

Cons – Without this amendment, Stanley Consultants would not be able to provide CEM over sight to the end of the project. This would require engineering staff to cover the inspection construction administration during the last few months of the construction. Engineering staff's resources are not adequate to provide over sight until completion of the construction.

Analysis:

This analysis details the changes to Stanley Consultant's agreement and summarizes the budget available and remaining.

Stanley Consultants was awarded the professional service contract to provide design, bidding services, construction engineering management services and post construction services for the Lowell Avenue Re-Construction Project. Stanley Consultant's original fee was \$397,323.

Amendment No. 1 was approved by Council on March 16, 2017 in an amount of \$87,860. Granite did reimburse the City and SBWRD \$14,192 at the start of the project for the inspection costs incurred from the contractor's 2016 start and retreat.

This Amendment No. 2 to the contract with Stanley Consultants is for the following items:

1. The original construction observation estimate was that the contractor would work five (5) days a week for 10 hours per day;
 - a. The Contractor has worked more hours than estimated to maintain schedule.
 - b. The Contractor has worked five (5) Saturdays that required on site observation. It is estimated that the contractor will work an additional 5 Saturdays prior to the end of the project.
 - c. There have been 11 days of rain and or snow where the contractor performed work that required observation, but did not accomplish as much as on a normal day necessitating additional hours on other days.
 - d. Some of the additional hours have been necessary to monitor excavation near the Judge pipeline to make sure it is not damaged by the contractor during work.
 - e. The additional hours have also been necessary to make quick decisions to keep the contractor progressing. The inspector has many years of experience and is able to make same day recommendations to remedy on site changed conditions.
 - f. The contract time has been extended by 12 working days so far due to changed conditions on the project site.
 - g. Once the utilities were completed, a road inspector was to come to site to provide inspection services for the road portion of the project. Because the water inspector has developed an excellent relationship with the team, contractor and more importantly, the residents, staff finds it was beneficial to keep this inspector on site instead of bringing another inspector in to finish the work. The downside to this decision is that the current inspector bills \$33.00/hour higher than the proposed road inspector. Staff believes this is the right decision.
 - h. The cost for this item is \$53,530.
2. Park City Water requested a specific inspector for the water system installation versus the inspector originally proposed;
 - a. The water system installation was assumed to take 14 weeks. The contractor's most recent schedule will have the water work occurring over 25 weeks of the 29-week schedule.
 - b. This inspector will remain on site until substantial completion to maintain project knowledge and consistent relationships with residents and construction crews.
 - c. The cost for this item is \$19,800.
3. The water design engineer has attended the weekly meetings to facilitate quick responses to contractor's questions related to the water design.
 - The cost of this item is \$8,828.

Stanley Consultant's total fee for Amendment No. 2 is \$82,158. Stanley Consultant's new total fee for the project including this Amendment No. 2 is \$567,341. Staff has reviewed the fee and finds it to be reasonable. The Water Department and Engineering have agreed to share the cost of this Amendment No. 2. The OTIS program will fund half (\$41,079) while the Water Department will fund the

remaining half (\$41,079).

Project Budget

Granite Construction's bid for the project was \$1,542,017. SBWRD will be responsible for \$237,936 of Granite's bid, which is for sewer work, Park City Water Department will be responsible for \$390,251 and the OTIS funds would cover the remaining road and storm drain portion of \$913,830.

Capital Project cp0157 is the capital account approved for OTIS Phase III projects, which includes Lowell Avenue Re-construction. These OTIS Phase III funds will be used to pay for half of this addendum (Water funds will pay for the other half). The following breakdown only includes impacts to the OTIS fund.

OTIS Phase III Budget at start of the project:	\$1,436,177
Stanley Consultants Design and CEM Fee:	<u>\$ 397,323</u>
Funds Available for Construction:	\$1,038,854
 Granite Construction Contract (OTIS Portion):	 \$ 913,830
Add Treasure Hill Participation*	(\$ 183,020)
Less Amendment No. 1	\$ 43,930
Construction Change Orders No. 1 to 11	\$ 52,358
Less this Amendment No. 2	<u>\$ 41,079</u>
Remaining Funds Available:	\$ 170,677

*Treasure Hill elected to participate in the project as stipulated in their MPD agreement. As agreed upon, they were responsible for \$183,020 of the \$913,830 OTIS portion of the contract.

Slower Than Expected Construction Progress

This section tries to explain why this project is taking longer even though the contractor has been working diligently on the project and, hence, why there is a cost to the City.

Project estimated timeline – the project was originally estimated to take 12 weeks to complete. In Amendment No. 1 to Stanley Consultants, City staff bumped this estimate up to 14 weeks of work. As we near the end of the project, the timeline to complete the work has stretched out to 28 weeks. What impacted this schedule?

- Impacts from the Judge pipeline – With the Judge pipeline installed in Lowell Avenue, staff knew the contractor's production would be slower than normal but did not anticipate how much slower production would actually be. The pace of installation most impacted was to the sewer laterals and water services that needed to go over or under the Judge pipeline.
- Extremely slow pace of construction for the sewer line – The sewer line was installed in the exact location of the existing sewer line. The normal procedure for sewer line installation is to install the main line first and then

come back to install the sewer laterals to the homes. Because the existing sewer had to be taken out for the new main sewer line to be installed, the sewer laterals had to be addressed immediately when encountered. The result, staff anticipated 100 feet per day of sewer line installed, instead staff was lucky to see 20 feet per day throughout the summer.

- Manor Way and Lowell Avenue intersection - The first order of business was to get the sewer line and water lines through the Manor Way and Lowell Avenue intersection by June 15. Staff originally anticipated this work would take five (5) weeks to complete. Since the contractor was on board early, they were able to start in mid-April instead of the second week of May as anticipated. Ultimately it took the contractor eight (8) weeks to complete this intersection work. The issue found was that none of the utilities were in the location as shown in the original design and the issues with the poor quality native soil had to be addressed. Even the Judge water line was two feet off (Both water and sewer lines had to cross the Judge line near this intersection. Additionally, contaminated soils were found and had to be addressed. Re-designing the utilities in the intersection and installing the new layout caused a three week delay to the project.

The construction contract and engineering agreement both reference the project but the engineers providing CEM is not a party to the construction contract and no contractual relationship exists between the engineer and contractor. In other words an increase in the contractor's cost through change orders may cause an increase in the engineer's budget but the contractor is not contractually obligated to pay for the increase in the engineering's cost.

Department Review:

This report has been reviewed by Public Utilities, Engineering, Legal, Budget, Planning and the City Manager's office. All issues have been resolved.

Funding:

Capital Project cp0157 to originally contained approximately \$1,436,177 which was approved for OTIS Phase III projects. Funding for OTIS projects are part of the Council adopted 10-year Additional Resort Communities Sales Tax plan and the 5-year CIP. Snyderville Basin Water Reclamation District (SBWRD) will finance the construction of their sewer portion of the project while the Park City Public Utilities Department will fund the construction of their water portion of the project.

Recommendation:

Staff recommends City Council authorize the City Manager to execute Contract Amendment No. 2 to the Professional Service Contract with Stanley Consultants for construction engineering management for the Lowell Avenue Re-Construction Project in a form approved by the City Attorney and for an amount of **\$82,158**.

Attachments:

Exhibit A - Stanley Consultant's Scope of Work and Fee

Lowell Avenue Reconstruction

Scope of Work – Contract Amendment 2

Construction Observation and Coordination.

This modification is for the additional effort required to match the Contractor's construction efforts during 2017 construction.

Stanley Consultants and BC&A require additional fee for the following items:

1. The original construction observation estimate was that the contractor would work 5 days a week for 10 hours per day
 - a. The Contractor has worked longer hours than estimated to maintain schedule.
 - b. The Contractor has worked 9 Saturdays and one Sunday that required on site observation. It is estimated that they will work an additional 5 Saturdays and one Sunday prior to the end of the project.
 - c. There have been 11 days of rain and or snow where the contractor performed work that required observation, but did not accomplish as much as on a normal day necessitating longer hours on other days.
 - d. Some of the longer hours have been necessary to monitor excavation near the Judge pipeline to make sure it is not damaged by the contractor during work.
 - e. The longer hours have also been necessary to make quick decisions to keep the contractor progressing. The inspector has many years of experience and is able to make same day recommendations to remedy on site changed conditions.
 - f. The contract time has been extended by 12 working days so far due to changed conditions on the project site.
 - g. Total Cost - \$53,530.00
2. Park City Water requested a specific observer for the water work than originally proposed. The hourly cost for this individual exceeds the original contract cost.
 - a. The water work was assumed to take 14 weeks. The contractors most recent schedule will have the water work occurring over 25 weeks of the 29-week schedule.
 - b. This observer will remain on site until substantial completion to maintain project knowledge and consistent relationships with residents and construction crews.
 - c. Total Cost - \$19,800.00
3. The water design engineer has attended the weekly meetings to facilitate quick responses to contractor questions related to the water design.
 - a. Total Cost - \$8,827.50

[illegible]

Basic Expenses

Client: Park City Municipal Corporation

Project : Lowell Avenue Re-Construction Design and Construction Management - Amendment 2

Engineering Services Estimate

Prepared: 09/14/17

Item	Quantity	Unit	Unit Cost	Cost
Mileage BCA	10750	Miles	\$0.75	\$8,062.50
Mileage (Stanley reduce 14 weeks inspection) (100 Miles per day 5 days per week)	-7000	Miles	\$0.75	(\$5,250.00)
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0
				\$0
				\$0
				\$0
TOTAL ESTIMATED EXPENSES				\$2,812.50



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The Creekside Water Treatment Plant project construction is nearing completion. Staff has identified specific SCADA Integration related items that require support from a Systems Integrator. To address these needs, Staff, in conjunction with SKM, Inc. has developed a scope of SCADA Integration services and requested a fee proposal from SKM.

Respectfully:

Nicholas Graue, Water Project Engineer



City Council Staff Report

Subject: SCADA Integrator Services – Creekside Water Treatment Plant
Professional Services Agreement
SKM Engineering, LLC
Author: Nick Graue, Public Utilities Engineer
Department: Public Utilities
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendation

Staff recommends Council authorize the City Manager to execute a Professional Services Agreement, in a form approved by the City Attorney, with SKM Engineering, LLC. for the SCADA Integrator Services – Creekside Water Treatment Plant Project for an amount not to exceed \$74,533.00.

Executive Summary

The Creekside Water Treatment Plant project construction is nearing completion. Staff has identified specific SCADA Integration related items that require support from a Systems Integrator. To address these needs, Staff, in conjunction with SKM Engineering, LLC. has developed a scope of SCADA Integration services and requested a fee proposal from SKM.

Council previously approved this agenda item on 09/21/2017 as a Construction Agreement, however due to the nature of the work; a Professional Services Agreement is required.

The Problem

To ensure that the Creekside Water Treatment Plant construction meets the requirements of the design and issued permits, specific SCADA integration services which are not included in the general construction contract are required to for facility automation and startup

Acronyms and Abbreviations in this Report

The following acronyms and abbreviations have been used in this report:

SCADA:	Supervisory Control and Data Acquisition
GWUDI	Groundwater Under the Direct Influence of Surface Water
City:	Park City Municipal Corporation
DDW:	Utah State Division of Drinking Water
CWTP:	Creekside Water Treatment Plant
SKM:	SKM, Incorporated
CA/EO:	Compliance Agreement/Enforcement Order
PMW:	Park Meadows Well
SOQ:	Statement of Qualification

PLC: Programmable Logic Controller
HMI: Human Machine Interface

Background

A summary listing of key project related activities and, where applicable, associated links to material presented at City Council and Planning Commission meetings is provided below:

- January 9, 2014: RFQ issued for *Well Source Alternatives Analysis*
- January 30, 2014: RFQs received for *Well Source Alternatives Analysis*
- March 6, 2014: City Council Meeting ,Original PSA CH2M Engineering Services
<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2013&Inline=True>
- May 8, 2014: City Manager Execution, PSA First Addendum, CH2M Engineering Services, time extension
- July 2014: Received *Park Meadows Well Source Alternatives Analysis Report*, prepared by CH2M
- August 6, 2014: The Utah Division of Drinking Water (DDW) declared the Park Meadows Well to be groundwater under the influence of surface water (GWUDI)
- September 29, 2014: A Compliance Agreement/Enforcement Order (CA/EA) was executed by DDW requiring filtration to be added to the existing well treatment process or removal of the well from the potable water system.
- November 13, 2014: City Manager Execution, PSA Second Addendum, CH2M Engineering Services, time extension
- September 3, 2015: City Council Meeting, PSA Third Addendum, CH2M Engineering Services
<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2068&Inline=True>
- December 3, 2015: City Council Work Session, Park Meadows Well Filtration Site Planning
<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2080&Inline=True>
- January 12, 2016: CUP application submitted to the Planning Department
- March 23, 2016: Planning Commission Meeting, *2392 Holiday Ranch Loop Road- Conditional Use Permit*. Staff was informed that the building location was non-conforming with the Sensitive Lands Overlay Zone requirements.
<http://52.26.130.11/Home/ShowDocument?id=21271>
- April 5, 2016: CUP application, updated proposal, submitted to the Planning Department
- May 12, 2016: City Council Work Session, Creekside Water Treatment Plant - Building Site Relocation
<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2137&Inline=True>
- July 13, 2016: Planning Commission Meeting, *2392 Holiday Ranch Loop Road- Conditional Use Permit*. CUP approved.
<http://52.26.130.11/Home/ShowDocument?id=29472>
- June 16, 2016: City Council Meeting, PSA Fourth Addendum, CH2M Engineering Services

<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2143&Inline=True>

- September 21, 2016: Per CA/EO, Construction Plans submittal to DDW
- January 26, 2017: DDW Construction Plan approval
- February 2, 2017: City Council Meeting, Construction Agreement, COP Construction, LLC

<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2222&Inline=True>

- September 21, 2017: City Council Meeting, Construction Agreement Approval, SKM Engineering, LLC

<http://parkcityut.igmp2.com/Citizens/FileOpen.aspx?Type=1&ID=2291&Inline=True>

Alternatives for City Council to Consider

This section provides pros and cons with the recommendation of entering into a Construction Agreement

Pros

Completion of facility SCADA programming and startup would ensure compliance with DDW regulations by the CA/EO deadline and allow the City to continue to use PMW as a drinking water source.

Cons

Commits capital improvement budget that could be utilized for other purposes

Consequences of not authorizing services

Would delay the project and could require use of the well, as a potable water source, to cease immediately.

Analysis

Contractor Selection

The request for qualification for the Water System SCADA Integrator Services was advertised on the Park City website beginning July 6, 2017 through July 27, 2017.

A review committee consisting of Public Utilities staff evaluated three SOQs from contractors as listed below:

- SKM, Inc.
- NKD Technologies
- AE2S

The SOQs were evaluated based on the following criteria:

1. Firm Identification and Organization (25% of total score)
2. Qualifications and References (50% of total score)
3. Additional Proposal Requirements (25% of total score)

SKM, Inc. was the top ranking firm and the selection committee opted not to shortlist interview the other firms. The final scope of services and proposed fee were negotiated with SKM, Inc.

The following are the deliverables to be provided by SKM per the final negotiated scope of work:

- Complete PLC Programming
- Complete HMI Programming
- PLC Panel Equipment, Manufacture and Installation
- Facility Start-up and Commissioning

Nick Graue, Public Utilities Engineer, will be coordinating the work, and will be working under the guidance of the Public Utilities Engineering Manager.

Furthering the Goals of the General Plan

Through the General Plan, City Council has set as an objective to “Provide reliable public resources to ensure the health, welfare, and safety of residents and visitors” (*Objective 1.4* <http://www.parkcity.org/home/showdocument?id=12388> page 99). Additionally, City Council has established, through the strategic planning process and the Biennial Plans, the following Desired Outcomes:

- Enhanced water quality and high customer confidence
- Effective water conservation program
- Adequate and reliable water supply
(<http://www.parkcity.org/Home/ShowDocument?id=13028> page 1)

Department Review

This report has been reviewed by representatives of Public Utilities, Legal, and Executive Departments and their comments have been integrated into this report.

Funding Source

The funding for this project is part of the approved FY2018 Water Department Capital Improvement Project budget.

Attachment

- A Scope of Services
- B Fee Proposal

Attachment A

Creekside Water Treatment Plant

Scope of Work

REVO

This scope of work defines the tasks for the integration and implementation portion of the Creekside project. Attached with the scope of work is our associated fee proposal. The following will be the tasks associated with the project:

1. Task 0 – Project and Construction Management
2. Task 1 – PLC Programming
3. Task 2 – HMI Programming
4. Task 3 – PLC Panel Equipment and Manufacture
5. Task 4 – Start-up and Commissioning

TASK 0 – PROJECT MANAGEMENT

Objectives and Activities

As part of the Project Management task, SKM will review and comment on RFIs and submittals as well as manage coordination with contractor and owner to ensure deadlines are hit. It is anticipated that during start-up for two months that we will be involved in coordination and status meetings.

Deliverables

- RFI/Submittal responses as needed.

TASK 1 – PLC Programming

Objectives and Activities

Task 1 includes all the programming of the main PLC to deliver an operational system. This task will require input from the city and civil engineer on the specific controls of the system. This includes programming in the PLC for the following systems:

1. Park Meadows Well – All controls associated with controlling the well starts, stops, flush.
 - a. PMP-44011 – Well Pump (Run, Fail, Auto, Leak, Start, Speed)
 - b. LT-44011 – Well Level Sensor
 - c. FIT-40011 – Well Flow
 - d. PIT-40011 – Well Pressure
 - e. FV-40011 – Well System Valve
 - f. FV-40081 – Well Flush Valve

Attachment A

2. Divide Well – All controls associated with controlling the well starts, stops, flush.
 - a. PMP-44041 – Well Pump (Run, Fail, Auto, Leak, Start, Speed)
 - b. LT-44041 – Well Level Sensor
 - c. FIT-40041 – Well Flow
 - d. FV-40041 – Well System Valve
 - e. FV-40082 – Well Flush Valve
3. Ancillary UV Controls – Controls for the valves that are before and after the UV system.
 - a. FV-40012 – UV Isolation Valve
 - b. FV-40013 – Unknown UV valve
 - c. FV-40014 – Filter Flush Valve
 - d. Controls with vendor PLC – includes interlocks and flow typically required by UV contractors.
4. Ancillary Chlorine Generation Controls – Controls for all the equipment surrounding the Microclor skid unit.
 - a. FIT-40051 – Softened Water Flow
 - b. FIT-40052 – Brine Flow
 - c. Microclor Inputs (Level, Enable, etc) Also includes ethernet interface programming for interlocks.
 - d. LSHH-40051 & LSH-40051 – Containment Sump Level Alarms
 - e. FV-44051 – Sodium Hypo Supply Valve
5. Chlorine Metering Pumps.
 - a. FV-44051 – Sodium Hypo Supply Valve
 - b. PMP-44051 – Sodium Hypo Pump 1
 - c. PMP-44052 – Sodium Hypo Pump 2
 - d. PMP-44053 – Sodium Hypo Pump 3
6. Filter System – Includes the controls for the Pre-Filters and Filter system. System will include a manual service button to indicate which filters should be operational.
 - a. PIT-44011 – Pre-Filter 1 Inlet Pressure
 - b. PIT-44012 – Pre-Filter 1 Outlet Pressure
 - c. PIT-44021 – Pre-Filter 2 Inlet Pressure
 - d. PIT-44022 – Pre-Filter 2 Outlet Pressure
 - e. PIT-44031 – Pre-Filter 3 Inlet Pressure
 - f. PIT-44032 – Pre-Filter 3 Outlet Pressure
 - g. PIT-44013 – Filter 1 Inlet Pressure
 - h. PIT-44014 – Filter 1 Outlet Pressure
 - i. PIT-44023 – Filter 2 Inlet Pressure
 - j. PIT-44024 – Filter 2 Outlet Pressure
7. Water Quality Monitoring – Monitoring and Alarming of the water quality instruments
 - a. AIT-40011 – Divide Well Raw Water Conductivity
 - b. AIT-40011 – Divide Well Raw Water Turbidity
 - c. AIT-40042 – Divide Well Finished Water Cl Residual
 - d. AIT-40042 – Divide Well Finished Water pH

Attachment A

- e. AIT-40042 – Divide Well Finished Temperature
- f. AIT-40013 – Park Meadows Well Raw Water Conductivity
- g. AIT-40013 – Park Meadows Well Raw Water Turbidity
- h. AIT-44011 – Filter 1 Outlet Turbidity
- i. AIT-44021 – Filter 2 Outlet Turbidity
- j. AIT-44012 – Combined Filter Turbidity
- k. AIT-40012 – Park Meadows Well Finished Water Cl Residual
- l. AIT-40012 – Park Meadows Well Finished Water pH
- m. AIT-40012 – Park Meadows Well Finished Temperature
- 8. Ancillary Building Alarms
 - a. HVAC Control Panel Alarm
 - b. Security Panel Alarm and Trouble

IO Totals:

- 1. DI – 16
- 2. DO – 6
- 3. AI – 31
- 4. AO – 3
- 5. Devicenet Valves – 7
- 6. Ethernet Drives - 2

Deliverables

- PLC Program

TASK 3 – HMI Programming

Objectives and Activities

The HMI Programming portion of the scope includes additions to the Ignition SCADA system to include all the additions in the project. HMI Additions include the following:

- 1. All programming from the PLC in Task 2 – Approximately 3,000 HMI Tags
- 2. Integration of IO points from UV PLC – Approximately 200 HMI Tags
- 3. Integration of IO points from MicroClor Panel – Approximately 100 HMI Tags
- 4. Integration of TED power system – Approximately 80 HMI Tags

Deliverables

- Updated HMI Program
- Training on new screens

Attachment A

TASK 4 – PLC Construction

Objectives and Activities

PLC cabinet needs to be provided for the project to accommodate the IO requirements. After discussions with the city it was decided to use a ControlLogix platform at the wellsite. The following major hardware pieces are being provided:

1. ControlLogix with IO cards to accommodate IO with 20% spare capacity.
2. Ethernet ring to accommodate the well VFDs
3. Devicenet bus to communicate to the valves
4. UL labeled enclosure
5. Separate panel outside for fiber termination

In addition to the added hardware it is also in our scope to provide PLC drawings and terminate all IO in the PLC cabinet.

Deliverables and Schedule

- PLC Panel – October 23rd, 2017
- IO Terminations inside the PLC cabinet – Completed by October 30th contingent on electrical contractor.
- Panel Drawings

PHASE 5 – STARTUP AND COMMISSIONING

Objectives and Activities

SKM will be on-site to loop test all devices that are landed in the PLC with the electricians. It is expected that this will happen over a period of seven business days.

In addition to loop testing we are anticipating two days of functional testing with PCMC staff.

Deliverables

- Functional System – Testing to take place starting on October 30th.

Attachment B

EXHIBIT J: FEE ESTIMATE
 Creekside Treatment Facility
 Park City Municipal Corporation

TASK DESCRIPTION	SKM TEAM HOURLY RATES						TOTAL ESTIMATED COSTS
	Allen Rogers Project Manager	Tovey Ashby Programmer	Nick Eggertz Programmer	Designer/Technicians	Total SKM Labor Hours	Total SKM Labor Costs	
Creekside Treatment Facility	\$125	\$115	\$115	\$95			
Task 0 - Project Management	56	0	0	0	56	\$7,000	\$7,000
Project Management Workshops, Meetings, Training	40						
Task 1 - PLC Programming	16	60	0	0	60	\$6,900	\$6,900
PLC Programming	0	0	100	0	100	\$11,500	\$11,500
Task 2 - HMI Programming	0	0	100	0	100		
HMI Programming	0	16	0	16	32	\$3,360	\$38,383
Task 3 - PLC Panel							
PLC Hardware(PLC, Isolators, Power Supplies) Enclosure Construction Network Cabinet Terminations Drawing Set		16		16		\$25,233 \$8,200 \$1,600	
Task 4 - Start-Up and Commissioning	16	76	0	0	92	\$10,740	\$10,740
Loop Testing Functional Testing	8 8	60 16					
Subtotals	72	188	100	32	340	\$38,500	\$74,533



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

Building on the City's implementation of express transit service along the SR-224 corridor, Transportation Planning and Transit staff continues to identify and implement additional solutions in order to further increase the mobility and accessibility afforded to residents, employees, and visitors using transit. Working with our partners, UDOT, staff has worked to develop an agreement related to the operation of City buses on SR-224 (a State owned and operated right-of-way) in order to improve the quality of service provided by Park City Transit between Park City proper and Kimball Junction. This Transit Lane Operation Agreement would permit Park City Transit buses to operate on the shoulders of SR-224 in both the northbound and southbound directions between MP 8.30 and MP 11.15. Extending transit lanes beyond either extent of the stretch identified in the agreement would first necessitate the completion roadway improvements.

In recent years, Park City has entered into agreements with UDOT similar to the one detailed in this report. This agreement would feature two key modifications from past agreements - allowing for the temporary operation of transit lanes for use by Park City Transit buses (1) in both directions rather than in just the northbound direction, and (2) for 24 hours a day rather than from 1 PM - 8 PM.

Staff recommends that Council authorize the City Manager to enter into this agreement, in a form approved by the City Attorney, as it would facilitate improved travel times for transit along the identified stretch of the SR-224 corridor. The term of this agreement would be from the date of execution of the agreement until conditions along the corridor change or until terminated by either party (the City or UDOT) with 30 days written notice.

Respectfully:

Matthew Hartnett, Transportation Analyst

Subject: Request to Authorize the City Manager to Enter Into Transit Lane Operation Agreement with the Utah Department of Transportation (UDOT) in a Form Approved by the City Attorney

Author: Alfred Knotts, Transportation Planning Manager
Blake Fannesbeck, Public Works and Transit Director
Julia Collins, Senior Transportation Planner
Matthew Hartnett, Associate Transportation Planner

Department: Transportation Planning and Transit

Date: October 5, 2017

Type of Item: Administrative

Summary Recommendation

Staff recommends that Council authorize the City Manager to enter into a Transit Lane Operation Agreement with the Utah Department of Transportation (UDOT) in a form approved by the City Attorney (see Exhibit A attached for a draft of the agreement). The agreement would permit the temporary operation of transit lanes for use by Park City Transit buses in both the northbound and southbound directions along State Route (SR) 224 between milepost (MP) 8.30 (roughly at White Pine Canyon Road) and MP 11.15 (at Olympic Parkway/Newpark Boulevard). The term of this agreement would be from the date of execution of the agreement until conditions along the corridor change or until terminated by either party (the City or UDOT) with 30 days written notice.

Executive Summary

Building on the City's implementation of express transit service along the SR-224 corridor, Transportation Planning and Transit staff continues to identify and implement additional solutions in order to further increase the mobility and accessibility afforded to residents, employees, and visitors using transit. Working with our partners, UDOT, staff has worked to develop an agreement related to the operation of City buses on SR-224 (a State owned and operated right-of-way) in order to improve the quality of service provided by Park City Transit between Park City proper and Kimball Junction. This Transit Lane Operation Agreement would permit Park City Transit buses to operate on the shoulders of SR-224 in both the northbound and southbound directions between MP 8.30 and MP 11.15. Extending transit lanes beyond either extent of the stretch identified in the agreement would first necessitate the completion roadway improvements.

In recent years, Park City has entered into agreements with UDOT similar to the one detailed in this report. This agreement would feature two key modifications from past agreements – allowing for the temporary operation of transit lanes for use by Park City Transit buses (1) in both directions rather than in just the northbound direction, and (2) for 24 hours a day rather than from 1 PM – 8 PM.

Staff recommends that Council authorize the City Manager to enter into this agreement, in a form approved by the City Attorney, as it would facilitate improved travel times for transit along the identified stretch of the SR-224 corridor. The term of this agreement would be from the date of execution of the agreement until conditions along the corridor change or until terminated by either party (the City or UDOT) with 30 days written notice.

Acronyms Used in This Report

MP	Milepost
SR	State Route
UDOT	Utah Department of Transportation

The Problem and Opportunity

The SR-224 corridor experiences significant traffic volumes throughout much of the year, and the resulting congestion creates significant challenges for Park City Transit operations, all stemming from increased travel times caused by traffic delays. In order to address this challenge, City staff has worked with UDOT to prepare an agreement that would permit City buses to operate on the shoulders of SR-224 in both the northbound and southbound directions between MP 8.30 and MP 11.15. Entering into this agreement would facilitate opportunity for Park City Transit services to operate in a dedicated transit lane, dramatically improving transit travel times along this stretch of the corridor, particularly during periods of peak congestion.

Background

- On January 14, 2013, Park City and UDOT entered into an agreement that permitted the temporary operation of a transit lane for use by City buses on SR-224 northbound from MP 8.30 to MP 11.15. The term of this agreement corresponded with the dates of the Sundance Film Festival – January 17 – 27, 2013.
- On February 23, 2017, Park City and UDOT entered into an agreement that permitted the temporary operation of a transit lane for use by City buses on SR-224 northbound from MP 8.30 to MP 11.15. This agreement is still active at this time. The northbound shoulder of SR-224 between Canyons and Kimball Junction is currently signed to permit use by Park City Transit buses from 1 PM to 8 PM.

Analysis

The operation of dedicated transit lanes for use by Park City Transit buses will dramatically improve transit travel times along the identified stretch of the SR-224 corridor. In 2013, City staff conducted a study of transit and general purpose travel times, respectively, along the one mile stretch of the SR-224 corridor between Cutter Lane and Newpark Boulevard during the Sundance Film Festival. This study determined that the temporary transit lane agreement active at that time facilitated travel time savings of approximately 30% for transit along this segment, on average.

These travel time savings create significant benefits relating to transit operations and make transit increasingly attractive to potential riders. Pursuing this agreement is also consistent with the vision for transportation established in the 2014 General Plan and the 2016 Transportation Demand Management Plan, as it facilitates increased efficiencies in Park City Transit operations and affords increased mobility and accessibility to residents, employees, and visitors using transit.

Staff will look to continually evaluate the impacts associated with use of these dedicated transit lanes should Council elect to authorize staff to move forward on this item.

Alternatives for City Council to Consider

- 1. Council could authorize the City Manager to enter into Transit Lane Operation Agreement with UDOT in a form approved by the City Attorney. Staff recommends this alternative.**

Pros

- Improved transit travel times along the identified stretch of the SR-224 corridor
- Supports the City's transportation goals, making transit increasingly attractive to potential riders

Cons

- Staff has not identified any cons associated with this alternative

- 2. Council could choose to modify the item. Staff does not recommend this alternative.**

Cons

- Depending on the nature of any requested modifications, it is possible that implementation of this agreement would be delayed significantly

- 3. Council could choose to deny the item. Staff does not recommend this alternative.**

Cons

- Park City Transit riders will not benefit from improved travel times along the identified stretch of the SR-224 corridor
- The City will forgo an opportunity to attract additional transit ridership

- 4. Council could choose to do nothing. Staff does not recommend this alternative.**

Cons

- Park City Transit riders will not benefit from improved travel times along the identified stretch of the SR-224 corridor
- The City will forgo an opportunity to attract additional transit ridership

Department Review

This report has been reviewed by the following departments: Executive, Legal, Transportation Planning, and Transit.

Exhibits

Exhibit A Draft Transit Lane Operation Cooperative Agreement

Exhibit A

**COOPERATIVE AGREEMENT BETWEEN
THE UTAH DEPARTMENT OF TRANSPORTATION AND
PARK CITY FOR
TRANSIT LANE OPERATION**

SR-224 MP 8.30-11.15

This **Cooperative Agreement** is made and entered into this _____ day of _____, 2017, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, a state agency ("UDOT"), and **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation ("City").

RECITALS

WHEREAS, UDOT owns the right-of-way for State Route 224 ("SR-224") in Summit County, Utah; and

WHEREAS, northbound and southbound SR-224 at times experiences high inbound/outbound traffic volumes from, particularly during peak ski season and event in/out-load; and

WHEREAS, UDOT is willing to permit the operation of a transit lane ("Transit Lane") within the right-of-way of northbound and southbound SR-224 from milepost 8.30 to milepost 11.15 in SUMMIT COUNTY, Utah.

AGREEMENT

Now therefore, in consideration of the mutual promises, terms, and conditions hereof, the parties agree as follows:

1. Term.

- 1.1 This Cooperative Agreement shall be effective as of the date written above and continues until conditions of the corridor change or until terminated by either party with 30-days written notice.

2. Definitions of Key Terms.

- 2.1 **Bus:** A motor vehicle designed for carrying more than 15 passengers, not including the driver, and used for the transportation of persons, whether or not for compensation.
- 2.2 **City:** All officers, employees, and agents of Park City Municipal Corporation, as well as all independent contractors who perform any obligation of this Cooperative Agreement on behalf of City.
- 2.3 **Transit Lane:** The outside shoulder of the northbound and southbound portions of SR-224 including the right turn lane where it develops near the intersections. Beginning at SR-224 and White Pine Canyon Rd (MP 8.30) and continuing to Olympic

Parkway/Newpark Boulevard. (MP 11.15), allowing therein northbound and southbound travel of City buses and other buses as authorized by UDOT.

- 2.4 **UDOT:** All officers, employees, and agents of the Utah Department of Transportation, as well as all independent contractors who perform any obligation of this Cooperative Agreement on behalf of UDOT.

3. Obligations of the Parties.

- 3.1 UDOT shall permit the operation of City buses on SR-224 in the designated Transit Lane. City understands and agrees that UDOT may permit other entities to operate buses in the Transit Lane. The only licensed vehicles allowed to use the Transit Lane are buses.
- 3.2 UDOT shall install signs and markings in compliance with the Utah Manual on Uniform Traffic Control Devices to demarcate the Transit Lane. At its discretion, UDOT will remove the signs after the termination of the Agreement. City will pay the cost of signs, including any costs to replace or reface the northbound transit lane signs that need to be modified. Sign design must be approved by UDOT. UDOT will pay to install and maintain the signs.
- 3.3 UDOT has sole discretion concerning the operation of SR-224.
- 3.4 City shall provide training as necessary to City staff on the requirements of this Cooperative Agreement. City shall be responsible for City buses and drivers.
- 3.5 City shall comply with the Operating Rules attached hereto as Exhibit "A" and incorporated by reference.

4. Indemnification.

- 4.1 City shall at all times protect, defend, indemnify, and hold harmless UDOT from any and all claims, demands, judgments, costs, expenses and all damage of every kind, including attorneys' fees, and nature made, rendered, or incurred by or in behalf of any person or corporation whatsoever, in any manner due to or arising out of injury to or in death of any person, or damage to property of any person or persons whomsoever, including the parties hereto and their employees, arising from the negligent operation of a City bus by a City employee or independent contractor in the Transit Lane; however, if negligence by UDOT, or their agents, contributes to the injury or damage, City shall only be liable in proportion to its fault as determined by a court of competent jurisdiction.
- 4.2 Nothing herein shall be deemed a waiver of defenses or immunity of any party under the Utah Governmental Immunity Act.

5. Miscellaneous Provisions.

- 5.1 This Cooperative Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.
- 5.2 This Cooperative Agreement may be executed in counterparts by the parties.

- 5.3 This Cooperative Agreement does not create any type of agency relationship, joint venture or partnership between UDOT, and City. The obligations in this Cooperative Agreement are not assignable.
- 5.4 This Cooperative Agreement contains the entire agreement between the parties, with respect to the subject matter hereof, and no statements, promises, or inducements made by any party or agents for any party that are not contained in this written Cooperative Agreement shall be binding or valid. Any amendment to this Cooperative Agreement must be in writing and executed by the authorized representatives of each party.
- 5.5 Each individual executing this Cooperative Agreement does represent and warrant to each other that he or she has been duly authorized to sign this Cooperative Agreement in the capacity and for the stated entities where he or she signs.

DRAFT

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by its duly authorized officers as of the date indicated above.

UTAH DEPARTMENT OF TRANSPORTATION

By: _____

Title: UDOT Region 2 Director

PARK CITY MUNICIPAL CORPORATION

By: _____

Title: _____

UTAH DEPARTMENT OF TRANSPORTATION

By: _____

Contract Administrator
UDOT Comptroller's Office

EXHIBIT A

Operating Rules on the Transit Lane

1. City employees at their discretion will operate City buses on the Transit Lane during heavy traffic conditions determined by bus driver. .
2. Driving on the Transit Lane shall be allowed only between the “BEGIN” sign and the “END” sign installed by UDOT.
3. City bus operators shall exercise their best judgment in considering the safety of others, as well as that of bus passengers. City bus operators will not use the Transit Lane in such cases where a City bus will not safely fit on the Transit Lane. If the Transit Lane is obstructed in any way, the City bus operator must merge back into the regular travel lane to avoid the obstruction.
4. City bus operators shall not use the Transit Lane to pass a snow plow.
5. City bus operators shall yield to others lawfully entering the Transit Lane. This paragraph shall not impact a determination of fault.
6. City bus operators should exercise caution not to drive on the gutter pan next to the Transit Lane.
7. When driving on the Transit Lane, City bus operators shall turn on the bus four-way flashers. The City bus operators shall use the bus horn to alert motorists only when necessary at the City bus operator's discretion.
8. The maximum allowed speed of City buses driving on the Transit Lane is **35 mph**. While using the Transit Lane, the bus shall not exceed the speed of traffic using the regular travel lanes by more than **15 mph**. City bus speed on the Transit Lane should be reduced if water, snow, or ice are present.
9. All State and local traffic codes shall apply to the use of the Transit Lane by City buses, except those that would prohibit the use of the Transit Lane pursuant to the terms of this Cooperative Agreement.
10. Buses may queue between raised median and thru-lane at southbound Canyon Resort Drive. Only one bus at a time may queue between the raised median.
11. Prior to and during peak ski days and major events, UDOT may plow shoulder to the maximum extent practicable as to allow for safe travel by City buses.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

Building on the City's implementation of express transit service along the SR-224 corridor, Transportation Planning and Transit staff continues to identify and implement additional solutions in order to further increase the mobility and accessibility afforded to residents, employees, and visitors using transit. Working with our partners, UDOT, staff has worked to develop a cooperative agreement related to signal operations on SR-224 and SR-248 (State owned and operated rights-of-way) in order to improve the quality of service provided by Park City Transit.

TSP systems coordinate traffic signal operations to either hold a green light longer or to cut a red light cycle short in order to allow transit vehicles equipped with TSP hardware and software to pass through signalized intersections more reliably, while still balancing the needs of and impacts to general purpose traffic along the corridor. More information about implementation of the TSP system infrastructure and development can be found in the October 5, 2017 staff report requesting Council's authorization for the City Manager to enter into a Professional Services Agreement related to the installation of a Traffic Signal Preemption and Priority Control System.

Staff recommends that Council authorize the City Manager to enter into this agreement, in a form approved by the City Attorney, as it would facilitate improved travel times and travel time reliability for Park City Transit services. The Summit County Sheriff's Office and Park City Fire District are also planning to appropriately equip their vehicles in order to improve emergency response times by leveraging this Traffic Signal Preemption and Priority Control System. This TSP agreement is already consistent with UDOT Policy 06C-18, which identifies relative levels of prioritization for transit and emergency response vehicles, and therefore will in no way interfere with the future execution of an additional cooperative agreement relating to signal preemption for emergency response vehicles.

Respectfully:

Matthew Hartnett, Transportation Analyst

City Council Staff Report



Subject: Request to Authorize the City Manager to Enter Into Transit Signal Priority Cooperative Agreement with the Utah Department of Transportation (UDOT) in a Form Approved by the City Attorney

Author: Alfred Knotts, Transportation Planning Manager
Blake Fannesbeck, Public Works and Transit Director
Julia Collins, Senior Transportation Planner
Matthew Hartnett, Associate Transportation Planner

Department: Transportation Planning and Transit

Date: October 5, 2017

Type of Item: Administrative

Summary Recommendation

Staff recommends that Council authorize the City Manager to enter into a Transit Signal Priority (TSP) Cooperative Agreement with the Utah Department of Transportation (UDOT) in a form approved by the City Attorney (see Exhibit A attached for a draft of the agreement). The agreement would permit Park City Transit vehicles to benefit from prioritization of signal operations along the State Route (SR) 224 and SR-248 corridors, consistent with the terms of the TSP section of UDOT Policy 06C-18 (found [here](#)).

Executive Summary

Building on the City's implementation of express transit service along the SR-224 corridor, Transportation Planning and Transit staff continues to identify and implement additional solutions in order to further increase the mobility and accessibility afforded to residents, employees, and visitors using transit. Working with our partners, UDOT, staff has worked to develop a cooperative agreement related to signal operations on SR-224 and SR-248 (State owned and operated rights-of-way) in order to improve the quality of service provided by Park City Transit.

TSP systems coordinate traffic signal operations to either hold a green light longer or to cut a red light cycle short in order to allow transit vehicles equipped with TSP hardware and software to pass through signalized intersections more reliably, while still balancing the needs of and impacts to general purpose traffic along the corridor. More information about implementation of the TSP system infrastructure and development can be found in the October 5, 2017 staff report requesting Council's authorization for the City Manager to enter into a Professional Services Agreement related to the installation of a Traffic Signal Preemption and Priority Control System.

Staff recommends that Council authorize the City Manager to enter into this agreement, in a form approved by the City Attorney, as it would facilitate improved travel times and travel time reliability for Park City Transit services. The Summit County Sheriff's Office and Park City Fire District are also planning to appropriately equip their vehicles in order to improve emergency response times by leveraging this Traffic Signal Preemption and

Priority Control System. This TSP agreement is already consistent with UDOT Policy 06C-18, which identifies relative levels of prioritization for transit and emergency response vehicles, and therefore will in no way interfere with the future execution of an additional cooperative agreement relating to signal preemption for emergency response vehicles.

Acronyms Used in This Report

SR	State Route
TSP	Transit Signal Priority
UDOT	Utah Department of Transportation

The Problem and Opportunity

The SR-224 and SR-248 corridors experience significant traffic volumes throughout much of the year, and the resulting congestion creates significant challenges for Park City Transit operations, all stemming from increased travel times caused by traffic delays. In order to address this challenge, City staff has worked with UDOT to prepare a cooperative agreement that would permit Park City Transit vehicles to benefit from prioritization of signal operations on SR-224 and SR-248. Execution of this agreement would facilitate improved travel times and travel time reliability for Park City Transit services.

Background

- The 2016 Short Range Transit Development Plan identified implementation of a signal priority system as a tool for improving the efficiency of transit services – reducing travel times and improving schedule adherence.
- In July 2017, Park City Transit issued a Request for Proposals for implementation of a Traffic Signal Preemption and Priority Control System.
- On October 5, 2017, staff requested Council’s authorization for the City Manager to enter into a Professional Services Agreement with Global Traffic Technologies, LLC for professional services related to the installation of a Traffic Signal Preemption and Priority Control System.

Analysis

This TSP system will facilitate improved travel times and travel time reliability for Park City Transit services along the SR-224 and SR-248 corridors. These travel time advantages create significant benefits relating to transit operations and make transit increasingly attractive to potential riders. Pursuing this agreement is also consistent with the vision for transportation established in the 2014 General Plan and the 2016 Transportation Demand Management Plan, as it facilitates increased efficiencies in Park City Transit operations and affords increased mobility and accessibility to residents, employees, and visitors using transit.

In addition to benefits relating to the City’s transportation goals, executing this TSP agreement also advances the City’s energy and air quality goals, by reducing instances idling and stop and go travel by Park City Transit vehicles along the SR-224 and SR-248 corridors.

Staff will look to continually evaluate the impacts associated with use of this TSP system should Council elect to authorize staff to move forward on this item.

Alternatives for City Council to Consider

1. **Council could authorize the City Manager to enter into Transit Signal Priority Cooperative Agreement with UDOT in a form approved by the City Attorney. Staff recommends this alternative.**

Pros

- Improved transit travel times along the SR-224 and SR-248 corridors
- Supports the City's transportation goals, making transit increasingly attractive to potential riders
- Supports the City's energy and air quality goals, by reducing instances idling and stop and go travel by Park City Transit vehicles

Cons

- Staff has not identified any cons associated with this alternative

2. **Council could choose to modify the item. Staff does not recommend this alternative.**

Cons

- Depending on the nature of any requested modifications, it is possible that implementation of this agreement would be delayed significantly

3. **Council could choose to deny the item. Staff does not recommend this alternative.**

Cons

- Park City Transit riders will not benefit from improved travel times along the SR-224 and SR-248 corridors
- The City will forgo an opportunity to attract additional transit ridership

4. **Council could choose to do nothing. Staff does not recommend this alternative.**

Cons

- Park City Transit riders will not benefit from improved travel times along the SR-224 and SR-248 corridors
- The City will forgo an opportunity to attract additional transit ridership

Department Review

This report has been reviewed by the following departments: Executive, Legal, Transportation Planning, and Transit.

Exhibits

Exhibit A Draft TSP Cooperative Agreement

Exhibit A

COOPERATIVE AGREEMENT – TRANSIT SIGNAL PRIORITY

Revision: May 19, 2017

THIS COOPERATIVE AGREEMENT, made and entered into this _____ day of _____, **20XX**, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**Department**," and **XXX AGENCY**, a Transit Agency of the State of Utah, hereinafter referred to as the "**AGENCY**,"

WITNESSETH:

WHEREAS, the **Agency** has requested the **Department's** concurrence to allow use of priority devices at certain signalized intersection locations on State Route **XXX** within its agency's project boundary.

WHEREAS, the **Department** desires to support the **Agency** in providing for signal priority where schedule needs would be served by such priority.

WHEREAS, the **Agency** will install and maintain traffic signal priority for the **Agency's** transit services use at specified locations according to UDOT Policy 06C-18 and the terms and conditions set forth herein.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. The **Agency** requests permission for prioritization of signal operations. Upon the **Agency** purchasing the equipment, the **Agency** will hire a qualified contractor to install, test, and maintain the **Agency's** prioritization equipment and will coordinate with the **Department** for any encroachment within the **Department's** right-of-way with the **Department's** permits office.
2. The **Agency** will use the devices only to support legitimate transit functions according to UDOT Policy 06C-18. The **Agency** will define the transit signal priority (TSP) features desired for the project to the **Department**
3. The **Department** will support the **Agency's** use of the TSP as defined in the agreement.
4. The **Agency** is not allowed to access or make changes to equipment in the traffic signal cabinet unless the work is performed by an authorized contractor under the **Department's** supervision.
5. The **Agency** hereby acknowledges that the **Department** makes no claim or guarantee of the reliability of the Agency's signal priority activities. The **Agency** further waives and releases any claims against the **Department** concerning the installation, operation, and maintenance of the priority equipment.

6. This Agreement may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto.
7. This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.
8. Nothing contained in this Agreement shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture, or other association between the Parties.
9. This Agreement contains the entire agreement between the Parties, with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party or agents for either Party that are not contained in this written Agreement shall be binding or valid.
10. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or paragraphs herein contained, shall not affect the remaining portions hereof, or any part thereof.
11. Either party may terminate this Agreement at any time or for any reason by giving the other party at least 30 days' prior written notice. The Agency will not receive any refund of the money spent for the priority equipment.
12. Each party represents that it has the authority to enter into this Agreement.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

ATTEST:

XXX AGENCY CORPORATION:

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

(IMPRESS SEAL)

RECOMMENDED FOR APPROVAL: UTAH DEPARTMENT OF TRANSPORTATION

By: _____
Region Traffic Operations Engineer

By: _____
Region Director

Date: _____

Date: _____

APPROVED AS TO FORM: COMPTROLLER OFFICE

The Utah State Attorney General's Office has previously approved all paragraphs in this Agreement as to form.

By: _____
Contract Administrator
Date: _____



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

This is a request for City Council approval of assignment of the Quinn's Junction Property Annexation and Master Planned Development Agreement (aka Park City Film Studios Development Agreement) Quinn's Junction Partners L.C. to Quinn Capital Partners, LLC. All uses of the property continue to be restricted by conditions of said Agreement, the Administrative Conditional Use Permit for Phase 1A and plat notes of the recorded Park City Film Studios Subdivision plat. Staff requests a condition of assignment regarding replacement of required landscaping.

Respectfully:

Michelle Kellogg, City Recorder

City Council Staff Report



Subject: Park City Film Studios- Assignment of Development Agreement
Author: Kirsten Whetstone, Senior Planner
Polly Samuels McLean, Assistant City Attorney
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendation

Staff recommends City Council review and approve this request for assignment of the Quinn's Junction Property Annexation and Master Planned Development Agreement (aka Park City Film Studio Development Agreement) from Quinn's Junction Partners L.C. to Quinn Capital Partners, LLC.

Description

Applicant: Quinn Capital Partners, LLC
Location: 4001 Kearns Blvd
Zoning District: Community Transition (CT) with Regional Commercial Overlay (RCO) per Annexation Agreement
Surrounding Land Uses: IHC Park City Medical Campus, Summit County Health Department and People's Health clinic, USSA Training Facility, Quinn's Recreation and Park City Ice Rink complex, US 40, Park City Heights residential MPD, open space and trails.
Reason for Review: Park City Film Studios Development Agreement requires City Council approval of any assignment of the Development Agreement to another party.

Summary of Proposal

This is a request for City Council approval of assignment of the Quinn's Junction Property Annexation and Master Planned Development Agreement (aka Park City Film Studios Development Agreement) Quinn's Junction Partners L.C. to Quinn Capital Partners, LLC. All uses of the property continue to be restricted by conditions of said Agreement, the Administrative Conditional Use Permit for Phase 1A and plat notes of the recorded Park City Film Studios Subdivision plat. Staff requests a condition of assignment regarding replacement of required landscaping.

Background

On May 12, 2012, the property was annexed into Park City with the Quinn's Junction Partnership (QJP) Annexation and was zoned Community Transition (CT) with Regional Commercial Overlay (RCO). The property is subject to Annexation Ordinance 12-12 and a Master Planned Development (MPD) Development Agreement (May 24, 2012). The

Development Agreement includes concept plans for a film studio campus, including film studios and support uses, a 100 key hotel with an events center/film screening theater component, as well as support retail uses for the campus, as further defined in the Agreement, and consistent with a January 17, 2012 pre-annexation Agreement. The permitted uses, density, and development requirements were part of a negotiated Annexation Agreement.

On April 30, 2014, the Planning Director approved the Administrative Conditional Use Permit for Phase 1-A.

On May 23, 2014, the Park City Film Studio Subdivision plat was recorded at Summit County creating one lot of record for the development and a building permit for Phase 1A was issued. A certificate of occupancy for Phase 1A was issued on October 13, 2015.

On September 8, 2017, a Special Warranty Deed was recorded in the Summit County Recorder's Office transferring the property from Quinn's Junction Partners L.C. to Quinn Capital Partners, LLC.

On September 18, 2017, Quinn Capital Partners (QCAP) submitted a written request asking the City to consent to assign the Development Agreement. (Exhibit A) QCAP stipulated to allow the City to hear this matter at the October 5, 2017 meeting.

Analysis

The property is subject to the Quinn's Junction Property Annexation and Master Planned Development Agreement (Exhibit B) that identified uses, site layout for buildings and parking, specific building heights and setbacks, architectural character, green building requirements, landscaping, and pedestrian connectivity. The Agreement includes an Assignment paragraph as follows:

3.4 Assignment. Neither this Development Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Development Agreement and without the prior written consent of the City directed to the City Recorder, which consent shall not unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. If no response is given by the City within 14 calendar days following Developer's delivery of a request for consent, the City consent will be deemed to have been granted. This restriction on assignment shall not prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Development Agreement.

This request for assignment of the Development Agreement does not include any changes to requirements and adds a condition to address replanting of failed landscaping.

On October 13, 2015, the constructed Phase 1-A (Buildings 7, 7A, and 7B) received a certificate of occupancy and a landscape bond for completion of a portion of the landscaping for this phase was posted. All of the required landscaping was installed and inspected per the landscape plan approved with the Administrative Conditional Use Permit for Phase 1-A.

The area south of the studio building, used for the access road, construction trailers, stockpiling of materials as well as excess top soil and dirt, had not been sufficiently graded and seeded at the time of requested certificate of occupancy. Due to weather and contract for studio uses the applicant posted a landscape bond for completion of this landscaping. Re-vegetation of the disturbed area south of Phase 1-A has not been completed, an inspection has not been requested and the bond has not been released.

On April 19, 2016, staff visited the site and observed that many trees along the perimeter fence and in the parking islands at the rear of the building were not thriving. Staff verbally communicated to the applicant that they should check on the landscape warranty and have the dying trees replaced while still on warranty.

October 3, 2016, staff met with the applicants to discuss a proposed plat application and reminded the applicant that the dying and now dead trees needed to be replaced.

On January 30, 2017, following a meeting regarding the plat amendment application staff again reminded the applicant to inspect the trees and arrange to have someone replace the dead trees in the Spring (of 2017) when the weather would be conducive to planting.

On May 10, 2017 staff visited the site to post the notice sign and again observed that the trees previously identified as dead or dying and not been replaced and communicated this to the applicant.

Staff recommended a condition of approval of the plat amendment that prior to recordation a revised landscape plan shall be submitted to the Planning Department for approval and planting completed by September 2017. The plat amendment was put on hold at the request of the applicant and is still on hold.

Therefore, staff recommends a condition of assignment of the Development Agreement that a revised landscape plan shall be submitted to the Planning Department for approval and the planting shall be completed by May 31, 2018. The landscape plan would be for landscaping in Phase 1-A that did not survive initial planting, e.g. primarily the perimeter landscaping and trees within the parking islands located north and east of the building, as well as re-seeding the disturbed area south of Phase 1-A. The landscape plan shall include appropriate drought tolerant trees and shrubs and shall

indicate the methods of irrigation. A landscape bond for this landscaping shall be posted prior to issuance of a grading permit by the Building Department.

Department Review

The request has been reviewed by the Planning, Executive, and Legal departments.

Alternatives

- City Council may approved the assignment of the Development Agreement as conditioned and/or amended; or
- City Council may deny the assignment of the Development Agreement; or
- City Council may continue the discussion and request additional information on specific items.

Significant Impacts

There are no significant fiscal and environmental impacts of this action.

Consequences of not taking the Suggested Recommendation

The Agreement will not be assigned to the party responsible for it as required by the Agreement.

Recommendation

Staff recommends City Council review and approve this request for assignment of the Quinn's Junction Property Annexation and Master Planned Development Agreement (aka Park City Film Studio Development Agreement) from Quinn's Junction Partners L.C.to Quinn Capital Partners, LLC with the following condition:

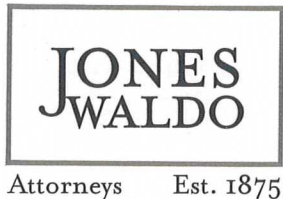
A revised landscape plan for Phase 1A shall be submitted to the Planning Department for approval. The landscape plan shall include appropriate drought tolerant trees and shrubs, methods of irrigation and shall include re-vegetation of disturbed area south of Phase 1-A. The landscaping required in the revised plan shall be installed by May 31, 2017.

A financial guarantee, acceptable to the Planning and Building Departments, for the installation of landscaping and irrigation as shown on the approved, revised landscape plan, and for replacement of any materials at the end of a one year time period (warranty period) from the completion of inspections, shall be posted prior to issuance of a Grading Permit for the landscaping work. The Building Department shall approve release of the financial guarantee for this landscaping at the end of the warranty period.

Exhibits

Exhibit A- Written request from QCAP asking the City to consent to assign the Development Agreement

Exhibit B - Quinn's Junction Property Annexation and Master Planned Development Agreements



TEL: 435-200-0085
FAX: 435-200-0084

1441 WEST UTE BOULEVARD
SUITE 330
PARK CITY, UT 84098

WWW.JONESWALDO.COM

AFFILIATED FIRM
LEAR & LEAR, LLP

September 18, 2017

VIA EMAIL AND CERTIFIED MAIL

MARK D. HARRINGTON, ESQ.
City Attorney, Park City
mark@parkcity.org
and
POLLY SAMUELS McLEAN, ESQ.
Assistant City Attorney, Park City
pmclean@parkcity.org
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060
Attn: City Attorney

Re: Consent to Assignment of Development Agreement pertaining to Film Studio
Property located at 4001 Kearns Blvd., Park City, Utah (the "Studio Property")

Mark and Polly:

As you know, this firm represents Quinn Capital Partners, LLC ("QCAP"), in connection with the Studio Property, and this correspondence is delivered to Park City Municipal Corporation ("Park City") on QCAP's behalf.

QCAP is now the record title holder of the Studio Property, pursuant to the Special Warranty Deed I previously provided to you. In connection with the transfer of record title to the Studio Property, the Developer under the Development Agreement governing the development of the Studio Property (the "Development Agreement") assigned all of its rights and obligations thereunder to QCAP. Section 3.2 of the Development Agreement provides that the Development Agreement runs with the land and is binding on all successors and assigns of Developer in the ownership or development of the Studio Property. Section 3.4 of the Development Agreement requires the consent of Park City to any assignment of the Development Agreement, which consent may not be unreasonably withheld. I have attached copies of the Assignment of Development Agreement for Quinn's Junction Partnership Annexation Master Planned Development Park City, Summit County, Utah (the "Assignment"), together with the relevant pages from the Development Agreement itself, for your reference.

Mark D. Harrington, Esq.
Polly S. McLean, Esq.
PARK CITY MUNICIPAL CORP.
September 18, 2017

The purpose of this correspondence is to: (i) notify Park City that QCAP expressly assumes all of the obligations of Developer under the Development Agreement; and (ii) request Park City's express, written consent to the assignment of the Development from Developer to QCAP pursuant to the Assignment. Please indicate such consent by arranging for the execution of this request for consent by an authorized signatory of Park City in the space provided below, and thereafter returning this request for consent to me.

Thank you for your attention, and please do not hesitate to contact me with any questions or comments regarding this matter.

JONES WALDO HOLBROOK & McDONOUGH



Gregory L. Cropper

PARK CITY MUNICIPAL CORPORATION, a municipality and political subdivision of the State of Utah, hereby consents to the assignment of the Development Agreement and the rights and responsibilities thereunder from Developer to QCAP pursuant to the Assignment attached hereto.

By _____
Its _____

"Park City"

cc: Mr. Gary Crandall (*via Email*)

**ASSIGNMENT OF DEVELOPMENT AGREEMENT FOR THE QUINN'S JUNCTION
PARTNERSHIP ANNEXATION MASTER PLANNED DEVELOPMENT PARK CITY,
SUMMIT COUNTY, UTAH**

("As-Is, Where-Is" – "No Warranties Given")

THIS ASSIGNMENT OF DEVELOPMENT AGREEMENT FOR THE QUINN'S JUNCTION PARTNERSHIP ANNEXATION MASTER PLANNED DEVELOPMENT PARK CITY, SUMMIT COUNTY, UTAH (this "Assignment") is made and given as of the 8th day of September, 2017 by QUINN'S JUNCTION PROPERTIES, LC and QUINNS JUNCTION PARTNERSHIP (collectively, "Assignor") in favor of QUINN CAPITAL PARTNERS, LLC, a Utah limited liability company ("Assignee").

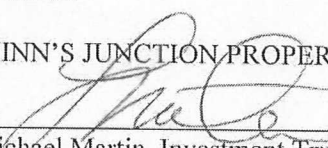
1. **Assignment.** Assignor hereby assigns and delegates to Assignee all of its rights and obligations under that certain Development Agreement for the Quinn's Junction Partnership Annexation Master Planned Development Park City, Summit County, Utah (the "Development Agreement"), which was recorded on July 20, 2012, as Entry No. 00949721 in the official records of Summit County, Utah.

2. **"As-Is; Where-Is".** The assignment and delegation hereunder is made on an "as is," "where is" basis, subject to all faults and defects, including without limitation all liens, claims and encumbrances.

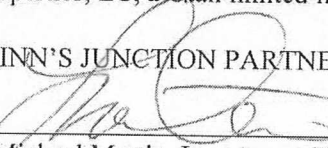
3. **No Representations or Warranties.** Assignor makes and gives no representations or warranties, express or implied, and expressly disclaims any and all representations and warranties.

IN WITNESS WHEREOF, Transferor has executed and delivered this Assignment of Development Agreement as of the date first written above.

QUINN'S JUNCTION PROPERTIES, L.C.

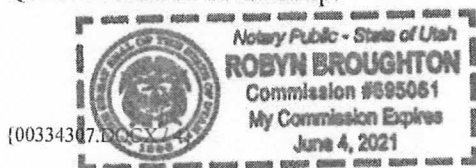
By 
Michael Martin, Investment Trustee of MM
Trust, General Partner of Quinn's Junction
Partnership, Sole Member of Quinn's Junction
Properties, LC, a Utah limited liability company

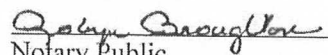
QUINN'S JUNCTION PARTNERSHIP

By 
Michael Martin, Investment Trustee of MM Trust,
General Partner of Quinn's Junction Partnership

STATE OF UTAH)
 :SS.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 8th day of September, 2017 by Michael Martin, who duly acknowledged and provided evidences satisfactory to me of his/her identity and of his/her authority to execute this instrument on behalf of Quinn's Junction Properties, LC and Quinn's Junction Partnership.




Notary Public

**DEVELOPMENT AGREEMENT
FOR THE
QUINN'S JUNCTION PARTNERSHIP ANNEXATION
MASTER PLANNED DEVELOPMENT
PARK CITY, SUMMIT COUNTY, UTAH**

This Development Agreement is entered into as of this 24th day of May, 2012, by and between QUINNS JUNCTION PARTNERSHIP ("Developer"), as the owner and developer of certain real property located in Park City, Summit County, Utah, on which Developer proposes the development of a project known as the Quinn's Junction Partnership Annexation Master Planned Development, and PARK CITY MUNICIPAL CORPORATION, a municipality and political subdivision of the State of Utah ("Park City"), by and through its City Council.

RECITALS

A. Developer is the owner of approximately 29 acres of real property located in Park City, Summit County, Utah, which real property is more particularly described on Exhibit A attached hereto and incorporated herein by reference, and which real property is depicted on the site plan attached hereto as Exhibit D and incorporated herein by reference (the "Property").

B. As a compromise of claims and in settlement of litigation, Summit County recognized that the property in question has a vested development right to commercial uses.

C. Developer obtained these vested rights for a commercial project now known as "Quinn's Junction Partnership Annexation Planned Development" wherein, the parties agreed to settle long standing differences in return for recognition for a commercial use of the property in question. The Settlement Agreement is attached hereto as Exhibit B.

D. Developer and Park City also entered into an Annexation Agreement wherein Park City recognized the property has vested development rights to the commercial uses, densities, and configuration as part of a motion picture studio and media campus as stated in the Settlement Agreement described in Recital B. A copy of the Annexation Agreement is attached hereto as Exhibit C.

E. Based on a further agreement between developer and Park City with the consent of the County, Developer applied to build a mixed use development on the Property consisting of a Motion Picture Studio and Media Campus, ancillary and support commercial and lodging (the "Film Studio").

F. Developer obtained Park City approval for the development on the Property of a mixed use hotel and commercial project known as the Quinn's Junction Partnership Annexation Master Planned Development (the "Master Planned Development Approval"), as more fully described in the incorporated Approval Documents (hereinafter defined) and as set forth below (the "Project").

G. Park City requires development agreements under its Park City Land Management Code ("LMC") for all Master Planned Developments.

H. Park City determined that, subject to the terms and conditions of this Development Agreement,



pending application, a building permit for the first phase of the Project must be approved within two years of the execution of this Development Agreement.

3.2 Binding Effect; Agreement to Run With the Land. This Development Agreement shall be recorded against the Property as described on Exhibit A hereto, and shall be deemed to run with the land provided it remains effective and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property.

3.3 Provision of Municipal Services. Except as otherwise provided in the Annexation Agreement, Park City shall provide all City services to the Project that it provides from time-to-time to other residents and properties within the City including but not limited to police and other emergency services. The services shall be provided to the Project at the same level of services, on the same terms, and at the same rates as provided to other residents and properties in the City or applicable service district.

3.4 Assignment. Neither this Development Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Development Agreement and without the prior written consent of the City directed to the City Recorder, which consent shall not unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. If no response is given by the City within 14 calendar days following Developer's delivery of a request for consent, the City consent will be deemed to have been granted. This restriction on assignment shall not prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Development Agreement.

3.5 No Joint Venture, Partnership or Third Party Rights. This Development Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

3.6 Integration. Except vested rights granted by Summit County to developer in consideration of the dismissal of litigation against the County and recognized by the City in the Annexation Agreement, this Development Agreement and the Approval Documents collectively contain the entire agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

3.7 Severability. If any part or provision of this Development Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Development Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Development Agreement 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.

3.8 Attorney's Fees. If either party commences litigation regarding this Development Agreement, any of the Exhibits hereto or the Approval Documents, the prevailing party, as determined by a court of competent jurisdiction, shall be entitled to reasonable attorney's fees and all costs paid by the other party.

5. **Affordable Housing.** Pursuant to the Annexation Agreement, no affordable housing is required for this MPD. QJP shall post City affordable housing information in a work place accessible to all its employees.

6. **Open Space.** Pursuant to the Annexation Agreement, no definable open space is required for this MPD within the granted and approved development of 374,000 gross sq ft as defined in the agreement between the parties incorporated as exhibits hereto.

7. **Physical Mine Hazards.** If any, a list and map of all known Physical Mine Hazards on the property as determined through the exercise of reasonable due diligence by the Owner as well as a description and GPS coordinates of those Physical Mine Hazards are hereby attached and incorporated as Exhibit H.

8. **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be given (i) by Federal Express, UPS, or other established express delivery service which maintains delivery records, (ii) by hand delivery, or (iii) by certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses, or at such other address as the parties may designate by written notice in the above manner:

To Developer:

c/o Greg Ericksen Esq.
1065 South 500 West
Bountiful, Utah 84010

With a copy to:

Scott M. Lilja
Van Cott, Bagley, Cornwall & McCarthy
36 south State Street, Suite 1900
Salt Lake City, UT 84111-1478

To Park City:

445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060
Attn: City Attorney

Such communications may also be given by facsimile and/or email transmission, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

8. **List of Exhibits.**

Exhibit A – Legal Description

Exhibit B – Settlement Agreement for film and media campus

**DEVELOPMENT AGREEMENT
FOR THE
QUINN'S JUNCTION PARTNERSHIP ANNEXATION
MASTER PLANNED DEVELOPMENT
PARK CITY, SUMMIT COUNTY, UTAH**

This Development Agreement is entered into as of this 24th day of May, 2012, by and between QUINNS JUNCTION PARTNERSHIP ("Developer"), as the owner and developer of certain real property located in Park City, Summit County, Utah, on which Developer proposes the development of a project known as the Quinn's Junction Partnership Annexation Master Planned Development, and PARK CITY MUNICIPAL CORPORATION, a municipality and political subdivision of the State of Utah ("Park City"), by and through its City Council.

RECITALS

A. Developer is the owner of approximately 29 acres of real property located in Park City, Summit County, Utah, which real property is more particularly described on Exhibit A attached hereto and incorporated herein by reference, and which real property is depicted on the site plan attached hereto as Exhibit D and incorporated herein by reference (the "Property").

B. As a compromise of claims and in settlement of litigation, Summit County recognized that the property in question has a vested development right to commercial uses.

C. Developer obtained these vested rights for a commercial project now known as "Quinn's Junction Partnership Annexation Planned Development" wherein, the parties agreed to settle long standing differences in return for recognition for a commercial use of the property in question. The Settlement Agreement is attached hereto as Exhibit B.

D. Developer and Park City also entered into an Annexation Agreement wherein Park City recognized the property has vested development rights to the commercial uses, densities, and configuration as part of a motion picture studio and media campus as stated in the Settlement Agreement described in Recital B. A copy of the Annexation Agreement is attached hereto as Exhibit C.

E. Based on a further agreement between developer and Park City with the consent of the County, Developer applied to build a mixed use development on the Property consisting of a Motion Picture Studio and Media Campus, ancillary and support commercial and lodging (the "Film Studio").

F. Developer obtained Park City approval for the development on the Property of a mixed use hotel and commercial project known as the Quinn's Junction Partnership Annexation Master Planned Development (the "Master Planned Development Approval"), as more fully described in the incorporated Approval Documents (hereinafter defined) and as set forth below (the "Project").

G. Park City requires development agreements under its Park City Land Management Code ("LMC") for all Master Planned Developments.

H. Park City determined that, subject to the terms and conditions of this Development Agreement,

Developer complied with the applicable provisions the Land Management Code (“LMC”) as provided in the Settlement Agreement and Annexation Agreement, and has found that the Project is consistent with the purpose and intent of the relevant provisions of the LMC, as limited by the Annexation Agreement.

I. Following a lawfully advertized public hearing, Park City, acting pursuant to its authority under Utah Code Ann., Section 10-9-101, *et seq.*, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, elected to approve this Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and considerations as more fully set forth below, Developer and Park City hereby agree as follows:

1. Project Conditions:

1.1. The (i) Findings of Fact, Conclusions of Law and Conditions of Approval dated May 24, 2012, attached hereto as Exhibit E, and (ii) Film Studio Master Planned Development, prepared by IBI, dated May 24, 2012, attached hereto as Exhibit F, together with related documents attached thereto, are hereby incorporated herein by reference (the “Approval Documents”) and shall govern the development of Project, subject to the provisions of the January 17th, 2012 Annexation agreement including the vested rights of 374,000 gross sq. ft of development of Motion Picture and Media Campus and any modifications specifically set forth in this Development Agreement. The Project is located in the Community Transition (CT) Zoning District, with a Regional Commercial Overlay (RCO). Development Application for an Administrative Conditional Use Permit and a Park City Building Department building permit are required prior to the commencement of any construction in connection with the Project and shall be processed and granted as set forth in this Development Agreement.

1.2. Developer agrees to pay the then-current impact fees lawfully imposed and as uniformly established by the Park City Municipal Code at the time of permit application, whether or not state statutes regarding such fees are amended in the future, unless otherwise made unlawful.

1.3. Developer and its successors agree that the following are required to be entered into and approved by Park City prior to the issuance of a Building Permit: (a) a construction mitigation plan; (b) a utility plan; (c) a storm water plan; (d) a grading plan; and (e) a landscape plan in compliance with condition of approval #5 of the MPD approval and the Annexation agreement. Approvals by Park City shall not be unreasonably withheld.

1.4 Development Applications.

1.4.1 Development applications shall be approved by the City within a reasonable time if they comply with the January 17, 2012 Annexation Agreement, City’s vested rights laws and conform to this Development Agreement.

1.4.2 City’s Denial of a Development Application. Assuming Annexation is approved, if the City denies any Development Application, the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons

the City believes that the Development application is not consistent with this MPD and/or the City's vested rights laws.

1.4.3 Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within fifteen (15) business days of a denial to resolve the issues specified in the denial of a Development Application.

1.4.4 City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a non-city agency, Developer shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

1.4.5 Mediation of Development Application Denials.

1.4.5.1 Issues Subject to Mediation. Issues resulting from the City's denial of a Development Application shall be mediated.

1.4.5.2 Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the issue in dispute. If the parties are unable to agree on a single acceptable mediator, they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding of the parties.

1.4.6 Parcel Sales. The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular parcel may not be known at the time of the sale of a parcel. Developer may obtain approval of a subdivision that does not create any individually developable lots in the parcel without being subject to any requirement in the City's vested laws to complete or provide security for any public infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any public infrastructure in the parcel shall be that of the developer or subdeveloper upon a subsequent re-subdivision of the parcel that creates individually development lots, or any building permit application, whichever occurs first.

1.5 Developer is responsible for compliance with all local, state and federal regulations regarding the soils and environmental conditions on the Property. Furthermore, Developer is responsible for receiving any required Army Corp of Engineer Permits related to the riparian zone of Silver Creek if it is required.

2. Master Plan Approval and Reserved Legislative Powers

2.1 MPD. Subject to the provisions of this Development Agreement, Developer is hereby granted the right by **Park City**, to develop and construct the Project in accordance with the general uses, densities, massing, intensities, and general configuration of development approved in the January 17, 2012 Annexation Agreement, this Development Agreement, in accordance with, and subject to the terms and conditions of the Approval Documents, and subject to compliance with the other applicable ordinances and regulations of Park City. Both parties acknowledge the Site Plan attached as Exhibit D and the Approval Documents supersede and replace the Site Plan attached as Attachment A to the Annexation Agreement.

2.2 If the Developer acquires any additional property contiguous to the Property and located within the bounds of Park City or the City Annexation Declaration area, then Developer may petition to annex or apply to add such future property within this Development Agreement. Park City will reasonably process and consider such petition or application in accordance with applicable state law and the Land Management Code in effect at that time.

2.3 Reserved Legislative Powers. Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the power of the City to enact legislation under the police powers vested in a city such exercise of power through legislation shall only be applied to modify land use and zoning regulations which are applicable to the Project in conflict with the terms of this Development Agreement based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed legislative changes affecting the Project and terms and conditions of this Development Agreement under the above specific limitations and applicable to the Project shall be of general application to all development activity in the City of Park City; and, unless Park City declares an emergency, Developer shall be entitled to the required notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine. Nothing in this section shall limit the future legislative amendment of more specific ordinances or codes for which the Developer does not yet have a vested right, and except as otherwise provided in this agreement, will not vest until such time as a complete application is filed in conformance with the applicable code(s), including but not limited to: building and energy, lighting, sign and subdivision codes.

2.4 Application Under City's Future Laws. Without waiving any rights granted by the January 17, 2012 Annexation Agreement, or this Development Agreement, Developer may at any time choose to submit a Development Application for some or all of the Project under the City's Future Laws in effect at the time of the Development Application. Any Development Application filed for consideration under the City's Future Laws shall be governed by all portions of the City's Future Laws related to the Development Application so applied for. The election by the Developer at any time to submit a Development Application under the City's Future Laws shall not be construed to prevent Developer from relying on prior Development Applications or the City's Vested right Law as they pertain thereto.

3. General Terms and Conditions

3.1 Term of Agreement. The Master Planned Development is subject to Section 15-6-4 (H) of the Land Management Code. Unless a delay is a result of delay of process by the City for a complete,

pending application, a building permit for the first phase of the Project must be approved within two years of the execution of this Development Agreement.

3.2 Binding Effect; Agreement to Run With the Land. This Development Agreement shall be recorded against the Property as described on Exhibit A hereto, and shall be deemed to run with the land provided it remains effective and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property.

3.3 Provision of Municipal Services. Except as otherwise provided in the Annexation Agreement, Park City shall provide all City services to the Project that it provides from time-to-time to other residents and properties within the City including but not limited to police and other emergency services. The services shall be provided to the Project at the same level of services, on the same terms, and at the same rates as provided to other residents and properties in the City or applicable service district.

3.4 Assignment. Neither this Development Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Development Agreement and without the prior written consent of the City directed to the City Recorder, which consent shall not unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. If no response is given by the City within 14 calendar days following Developer's delivery of a request for consent, the City consent will be deemed to have been granted. This restriction on assignment shall not prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Development Agreement.

3.5 No Joint Venture, Partnership or Third Party Rights. This Development Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

3.6 Integration. Except vested rights granted by Summit County to developer in consideration of the dismissal of litigation against the County and recognized by the City in the Annexation Agreement, this Development Agreement and the Approval Documents collectively contain the entire agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

3.7 Severability. If any part or provision of this Development Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Development Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Development Agreement shall be deemed invalid due its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

3.8 Attorney's Fees. If either party commences litigation regarding this Development Agreement, any of the Exhibits hereto or the Approval Documents, the prevailing party, as determined by a court of competent jurisdiction, shall be entitled to reasonable attorney's fees and all costs paid by the other party.

3.9 Minor Administrative Modification. Minor, immaterial administrative modification may occur to the approvals contemplated and referenced herein without revision of this Development Agreement. These include but are not limited to changes in building configuration to accommodate tenants so long as the square footage, general location and uses are consistent with what is vested herein.

3.10 No Waiver. Failure to enforce any rights under this Development Agreement or applicable laws shall not be deemed to constitute a waiver of such right.

3.11 Default.

3.11.1 **Notice.** If Developer or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a subdeveloper, then the City shall also provide a courtesy copy of the Notice to Developer.

3.11.2 **Contents of the Notice of Default.** The Notice of Default shall:

3.11.2.1 Specific Claim. Specify the claimed event of Default;

3.11.2.2 Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation, or provision of this Development Agreement (including exhibits) that is claimed to be in Default;

3.11.2.3 Materiality. Identify why the Default is claimed to be materials; and

3.11.2.4 Optional Cure. If the City chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

3.11.3 **Meet and Confer; Mediation.** Upon the issuance of a Notice of Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 1.4.3- 1.4.5.

3.11.4 **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by Mediation, then the parties may have the following remedies:

3.11.4.1 Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages.

3.11.4.2 Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

3.11.4.3 Future Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by the Developer, or in the case of a default by a subdeveloper, development of those Parcels owned by the subdeveloper until the Default has been cured.

3.11.5 Public Meeting. Before any remedy in Section 3.11.4 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the Claimed Default.

3.11.6 Emergency Defaults. Anything in this Development Agreement notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City, then the City may impose the remedies of Section 3.11.4 without the requirements of Section 3.11.5. The City shall give Notice to the Developer and/or any applicable subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

3.11.7 Extended Cure Period. If any Default cannot be reasonably cured within sixty (60) days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

3.11.8 Cumulative Rights. The rights and remedies set forth herein shall be cumulative.

3.11.9 Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Developer.

4. Phasing; Access.

4.1 Project Phasing. The Project shall be constructed in phases in accordance with the phasing plan approved together with this Development Agreement (the "Phasing Plan") (attached hereto as Exhibit G), and in accordance with the LMC. Developer may proceed by constructing the Project all at one time or by phase within this approved project Phasing Plan. In the event of such phasing, the issuance of a building permit on the first such phase shall be deemed to satisfy the requirement of issuance of a building permit in Section 3.1 above. Any major modifications or elaborations to the approved Phasing Plan must be approved by the City Council prior to the commencement of construction of the applicable phase. If such proposed major modifications or elaborations are substantial as determined by the Chief Building Official and the Planning Director, such modifications or elaborations will come before the City Council for approval.

4.2 Construction of Access. Developer may commence grading access to the Project as approved by the City Engineer according to generally accepted engineering practices and standards, and pursuant to permit requirements of the LMC, the International Building Code (or if such Code is no longer then in effect, according to the code that is, in fact, then in effect), the Uniform Fire Code, and the Army Corps of Engineers. Developer shall be responsible for maintenance of any such accesses until they are completed according to City standards and accepted by the City.

4.3 Form of Ownership Anticipated for Project. The Project will consist of a commercial building and related improvements, and a hotel building including 100 units and related improvements. Developer anticipates that the commercial portions and, if applicable, the hotel of the Project will be owned by Developer, or its assigns. Any condominiumization of the Project for private ownership, fractional ownership and common ownership of land and common facilities requires additional approvals and shall be in compliance with applicable ordinances and state code.

5. **Affordable Housing.** Pursuant to the Annexation Agreement, no affordable housing is required for this MPD. QJP shall post City affordable housing information in a work place accessible to all its employees.

6. **Open Space.** Pursuant to the Annexation Agreement, no definable open space is required for this MPD within the granted and approved development of 374,000 gross sq ft as defined in the agreement between the parties incorporated as exhibits hereto.

7. **Physical Mine Hazards.** If any, a list and map of all known Physical Mine Hazards on the property as determined through the exercise of reasonable due diligence by the Owner as well as a description and GPS coordinates of those Physical Mine Hazards are hereby attached and incorporated as Exhibit H.

8. **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be given (i) by Federal Express, UPS, or other established express delivery service which maintains delivery records, (ii) by hand delivery, or (iii) by certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses, or at such other address as the parties may designate by written notice in the above manner:

To Developer:

c/o Greg Ericksen Esq.
1065 South 500 West
Bountiful, Utah 84010

With a copy to:

Scott M. Lilja
Van Cott, Bagley, Cornwall & McCarthy
36 south State Street, Suite 1900
Salt Lake City, UT 84111-1478

To Park City:

445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060
Attn: City Attorney

Such communications may also be given by facsimile and/or email transmission, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

8. **List of Exhibits.**

Exhibit A – Legal Description

Exhibit B – Settlement Agreement for film and media campus

Exhibit H - List of all known Physical Mine Hazards on the property (None)

QUINNS JUNCTION PARTNERSHIP “Developer”

By: , managing member.
MICHAEL MARTIN

STATE OF UTAH)
COUNTY OF SUMMIT) ss.

On this 19 day of June, 2012, before me, the undersigned notary, personally appeared, personally known to me/proved to me through identification document allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he/she signed it voluntarily for its stated purpose as MANAGING MEMBER (title) for QUINN'S JUNCTION PARTNERSHIP, a Utah partnership.



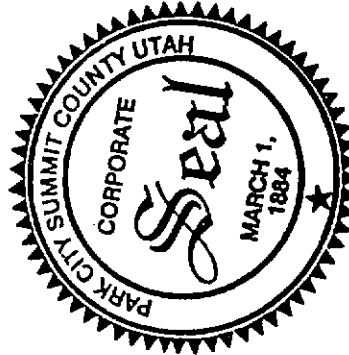
Sharon C Bauman
Notary Public

PARK CITY MUNICIPAL CORPORATION "Park City"

By: *Dana Williams*
Dana Williams, Mayor

ATTEST:

By: *Janet M. Scott*
Janet M. Scott, City Recorder



APPROVED AS TO FORM:

Mark D. Harrington
Mark D. Harrington, City Attorney

EXHIBIT A

That certain real property located in Summit County, State of Utah described as follows:

QUINN'S JUNCTION PARCEL

Beginning on the easterly line of State Highway 248 at a point which is S89°53'00"E 1557.19 feet along the Section Line (Basis of Bearing) and S0°00'00"E 1834.09 feet from an aluminum pipe monument at the Northwest Corner of Section 2, Township 2 South, Range 4 East, Salt Lake Base and Meridian from which Section Corner the GLO Stone Monument at the Northeast Corner of said Section 2 bears S89°53'00"E 5320.73 feet);

thence N22°00'40"E 1005.18 feet along the easterly Right-Of-Way Line of said Highway to a UDOT brass cap monument;

thence N34°07'00"E 544.70 feet along said Right-Of-Way Line to a UDOT brass cap monument and the beginning of a 638.50 foot radius curve the center of which bears S55°51'43"E;

thence Northeasterly 338.83 feet along said Right-Of-Way Line and said curve to the right through a central angle of 30°24'19" (chord bearing = N49°20'26"E 334.87 feet) to a UDOT brass cap monument;

thence N64°25'25"E 14.39 feet along said Right-Of-Way Line to a UDOT brass cap monument, said point also being on the westerly Right-Of-Way Line of US Highway 40;

thence S25°33'14"E 223.71 feet along said westerly Right-Of-Way Line to a UDOT brass cap monument and the beginning of a 2664.79 foot radius curve the center of which bears S64°29'22"W;

thence Southeasterly 535.20 feet along said Right-Of-Way Line and said curve to the right through a central angle of 11°30'26" (chord bearing = S19°45'25"E 534.30 feet) to a UDOT brass cap monument;

thence S23°49'09"E 243.42 feet along said Right-Of-Way Line to a UDOT brass cap monument;

thence S7°02'43"E 58.38 feet along said Right-Of-Way to a rebar with aluminum cap at a point that is S89°53'00"E 800.00 feet and S25°20'00"W 1336.80 feet from the PK nail marking the North Quarter Corner of said Section 2;

thence S25°20'00"W 568.97 feet to a rebar with aluminum cap on the North-South Center of Section Line of said Section 2;

thence S0°30'48"W 109.94 feet along said North-South Center of Section Line to a rebar with aluminum cap, said point being S0°30'48"W 1834.13 feet from said North Quarter Corner of Section 2;

thence N89°53'00"W 1087.40 feet to a rebar with aluminum cap and the point of beginning. Contains 29.5530 acres.

WHEN RECORDED RETURN TO

David L. Thomas
Chief Civil Deputy
Summit County Attorney
P.O. Box 128
60 N. Main Street
Coalville, Utah 84017

**SETTLEMENT AGREEMENT
FOR FILM AND MEDIA CAMPUS**

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into as of this 23th day of January, 2012, by and among QUINNS JUNCTION PARTNERSHIP (Michael Martin, General Partner), the sole owner of certain undeveloped real property in the Snyderville Basin, including all legal claims belonging to Ralph Merrill (the "QJP"), and SUMMIT COUNTY, a political subdivision of the State of Utah, by and through its County Manager (the "County").

RECITALS:

A. QJP is the owner of approximately 29 acres of land and appurtenant real property rights, located on the southwest corner of Quinn's Junction, which is at the intersection of U.S. 40 and S/R 248 in the Snyderville Basin, Summit County, Utah (the "Property"). QJP desires to build a mixed use development on the Property consisting of a Motion Picture Studio and Media Campus, ancillary and support commercial and lodging (the "Film Studio").

B. The Property is claimed to be within the Annexation Policy Plan of Park City Municipal Corporation (the "City") and its Expansion Area (the "Park City Annexation Declaration Area") in accordance with Utah Code Annotated ("UCA"), §10-2-201.5. The provisions of UCA, §10-2-402 have been satisfied. QJP has filed an Annexation Petition with Park City (the "QJP Annexation Petition" or "Petition") in accordance with UCA, §10-2-403.

C. QJP has asserted claims and commenced litigation against the County in two separate lawsuits and other administrative actions that are currently pending in State and Federal Courts.

D. As a result of this litigation several disputes have arisen between Summit County and QJP.

E. The parties desire to settle all claims, actions, and litigation between them (the "Litigation").

F. This Agreement implements the agreed upon conditions for settlement of the Litigation.

F. This Agreement provides that QJP shall attempt in good faith to annex into the City. In the event of a rejection of the annexation petition by the City, QJP will be vested with certain development rights within unincorporated Summit County.

G. Summit County, acting pursuant to its authority under Utah Code Annotated, Section 17-27a-101, et seq. and the Code, has made certain determinations with respect to the proposed Film Studio, and, in the exercise of the discretion afforded the County Manager in Summit County Code §1-14-10(F)(17) to settle lawsuits, has elected to approve of this Agreement.

SUMMIT COUNTY AND QJP HEREBY AGREE AS FOLLOWS:

ARTICLE I

Vested Rights within Unincorporated Summit County

1.1 Legal Description of Property. The legal description of the Property included with the Film Studio is attached hereto as Exhibit A, which is incorporated into this Agreement by this reference. No other property may be added to the legal description of the Film Studio for purposes of this Agreement, except by written amendment. Except as expressly set forth in this Agreement, this Agreement shall not affect any land other than the Property.

1.2 General Description of Film Studio. The Film Studio covered by this Agreement consists of approximately 29 acres of land located generally nearby and on the southwest corner of U.S. 40 and S.R. 248 in Summit County, Utah.

1.3 Vested Development Right. As a compromise of claims and in settlement of the Litigation, the County hereby recognizes that the Property has a vested development right to the following commercial uses, densities, and configuration as part of a Motion Picture Studio and Media Campus:

1.3.1 Total Density not to exceed a maximum of 355,000 gross square feet.

1.3.2 One Hotel/Lodging facility which shall not exceed 100 keyed rooms within the gross square footage granted herein without further approval by the County.

1.3.3 Heights not to exceed 32 feet except in the cases of sound stages/studios and entry way fire suppression water tank, which shall not exceed 60 feet.

1.3.4 Setback of buildings from the centerline of SR 248 and US 40 shall not be less than 150 feet from any building over 28 feet in height. Setback of all other buildings or structures shall not be less than 100 feet from the centerline of SR 248 and US 40.

1.3.5 All exterior street and other lighting shall be kept to a minimum, directed downward, and ensure that light sources are fully shielded. Only high pressure

sodium, incandescent, LED or other sources appearing to be amber in color consistent with the Code provisions for the protection of the night sky shall be allowed.

1.3.6 Permitted Uses shall be Recreation, International Film School, Commercial Support Retail, Entertainment Center, Hotel/Lodging, Motion Picture Media Campus, Sound Stages/Studios, and Event Center. All other uses are prohibited.

1.3.7 All other provisions of Summit County Code, §§ 10-1 thru 10-11, and all other County ordinances, which are not in conflict with §§1.3.1 – 1.3.6 herein, shall be applicable to the Property.

- 1.4 Process. §1.3 shall be subject to the approval of an appropriate form of Development Agreement.

ARTICLE II

Annexation to Park City

2.1 Annexation Declaration Area. Utah law favors that development take place within the boundaries of cities and towns where land is located in a city's annexation declaration area. The Property is claimed to be within the Park City Annexation Declaration Area.

2.2 Annexation Agreement. As a condition subsequent to the vesting of uses, densities, and configuration of the Film Studio contained in §1.3, QJP and the City have executed an Annexation Agreement, a copy of which is fully set forth at "Exhibit B" herein.

2.3 Petition. As a further condition subsequent to the vesting of uses, densities, and configuration of the Film Studio contained in §1.3, QJP has filed the QJP Annexation Petition with the City and QJP agrees it will not withdraw the petition prior to the City Council rendering a final decision/vote or the expiration of the time periods set forth in paragraph 2.3 of the Annexation Agreement, whichever occurs first.

2.4 Decision on Petition. The City shall either approve or reject the QJP Annexation Petition within ninety (90) days of the acceptance of the Petition by the City consistent with UCA, §10-2-405(1).

2.5 Effect of Petition Approval. Upon approval of the QJP Annexation Petition, the provisions of §§1.3 and 1.4 as they pertain to the Film Studio shall be vacated. The remainder of this Agreement shall remain in full force and effect.

2.6 Effect of Petition Rejection. Upon rejection of the QJP annexation petition, the provisions of §§1.3 and 1.4 as they pertain to the Film Studio shall be effective and in full force and effect.

ARTICLE III

Releases and Hold Harmless

3.1 Mutual Releases. At the time of, and subject to, the execution of this Agreement, and the acceptance of the QJP Annexation Petition by the City pursuant to UCA, §10-2-405(1), and excepting the parties' respective rights and obligations under this Agreement, QJP, on behalf of itself and QJP's partners, officers, directors, employees, agents, attorneys and consultants, hereby releases the County and the County's board members, council members, officials, employees, agents, attorneys and consultants, and the County, on behalf of itself and the County's board members, officials, employees, agents, attorneys and consultants, hereby releases QJP and QJP's partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Property or the application, processing or approval of applications relating to the Property or the Film Studio, to include any past claims for vested development rights that are not provided for in this Agreement and those lawsuits styled Merrill v. Summit County, Case No. 2:08-cv-723 pending in the U.S. District Court in and for the State of Utah, Central Division, and Merrill v. Summit County, Case No. 050500052 pending in the Third District Court, Summit County, Utah. Said lawsuits shall be dismissed with prejudice within five (5) calendar days of the acceptance by the City of the QJP Annexation Petition in accordance with UCA, §10-2-405(1).

ARTICLE IV

General Terms and Conditions.

4.1 Agreements to Run with the Land. This Agreement and its accompanying Exhibits shall be recorded against the Property described in Exhibit A. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors in ownership of the Property. As used herein, QJP shall include the parties signing this Agreement and all successor owners of any part of the Property.

4.2 State and Federal Law. The parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

4.3 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

4.4 Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the County:

Summit County Manager
Summit County Courthouse
60 N. Main
P.O. Box 128
Coalville, UT 84017

With copies to:

David L. Thomas
Chief Civil Deputy Summit County Attorney
60 N. Main
P.O. Box 128
Coalville, UT 84017

To Developer:

Quinns Junction Partnership
Attn: Greg S. Ericksen
Law Offices of Greg S. Ericksen
1065 South 500 West
Bountiful, UT 84010

With copies to:

Scott M. Lilja
VanCott Bagley Cornwall & McCarthy
36 South State Street, Suite 1900
Salt Lake City, UT 84111

4.5 Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

4.6 Rights of Third Parties. This Agreement is not intended to affect or create any additional rights or obligations on the part of third parties.

4.7 Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

4.8 Duration. The term of this Agreement shall commence on, and the effective date of this Agreement shall be, the date upon which the last signature appears hereon. The Term of this Agreement shall extend for a period of ten (10) years following the effective date unless the Agreement is earlier terminated, or its term modified by written amendment to this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by Summit County, acting by and through the County Manager, and by a duly authorized representative of QJP as of the above-stated date.

COUNTY:

COUNTY MANAGER OF SUMMIT COUNTY,
STATE OF UTAH

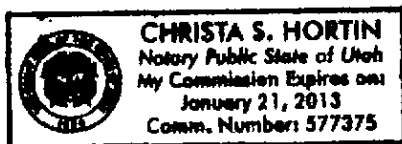
By: 
Robert Jasper, County Manager

APPROVED AS TO FORM:


David L. Thomas
Chief Civil Deputy

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 10th day of January, 2012, by Robert Jasper, the County Manager of Summit County, State of Utah.




NOTARY PUBLIC
Residing at: Wanship, Utah

My Commission Expires: 1-21-13

Quinns Junction Partnership:

Quinns Junction Partnership, by its General Manager:

By *Michael Martin*, general manager
Michael Martin, Its General Manager

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12th day of January, 2012, by Michael Martin, General Manager of Quinns Junction Partnership.



Jonie Simmons
NOTARY PUBLIC
Residing at: West Jordan, Utah

My Commission Expires:

10/16/13



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

With concurrence from the Utah Department of Transportation (UDOT), Park City Transit is seeking to install a Traffic Signal Priority (TSP) system at up to 20 intersections along the SR 224 and SR 248 corridors to increase route efficiency and reduce travel times. TSP systems coordinate traffic light functions to either hold a green light longer or shorten a red cycle in order to allow transit and emergency response vehicles equipped with TSP hardware and software to pass through intersections and traffic safer and faster.

This increases the desirability and viability of transit services and can have a positive impact on transit ridership by improving travel times and on time performance of the transit system, reducing ride times and time spent waiting in traffic, and ensuring that scheduled timed transfers can be met. Fuel efficiencies and air quality benefits can also be realized by reducing idling and stop and go travel.

The TSP system includes a preemption function which can also be utilized by emergency services such as Police, Fire, and Emergency Medical Services (EMS), improving response times during emergencies and reducing the potential for traffic conflicts with emergency operations.

It should be noted that prior to installation of any and all equipment in the UDOT signal cabinets, a Cooperative Agreement will be required between Park City and UDOT to ensure compliance with the TSP section of UDOT Policy 06C-18. A draft Cooperative Agreement is currently in with Legal for legal review. Authorization to execute the Cooperative Agreement will be brought to Council by Transportation Planning in the nearest possible future.

Respectfully:

Darren Davis, Transit Admin Supervisor

City Council Staff Report



Subject: Professional Services Contract for Traffic Signal Preemption & Priority Control System
Author: Darren Davis
Department: Transit
Date: October 5th, 2017
Type of Item: Administrative

Summary Recommendation

Council should consider authorizing the City Manager to sign the Service Provider/Professional Services Agreement with Global Traffic Technologies, LLC for professional services related to the installation of a Traffic Signal Preemption & Priority Control System in the amount of Three Hundred Eighty Nine Thousand Four Hundred Nine Dollars and Ninety Two Cents (\$389,409.92) in a form to be approved by the City Attorney.

Executive Summary

With concurrence from the Utah Department of Transportation (UDOT), Park City Transit is seeking to install a Traffic Signal Priority (TSP) system at up to 20 intersections along the SR 224 and SR 248 corridors to increase route efficiency and reduce travel times. TSP systems coordinate traffic light functions to either hold a green light longer or shorten a red cycle in order to allow transit and emergency response vehicles equipped with TSP hardware and software to pass through intersections and traffic safer and faster.

This increases the desirability and viability of transit services and can have a positive impact on transit ridership by improving travel times and on time performance of the transit system, reducing ride times and time spent waiting in traffic, and ensuring that scheduled timed transfers can be met. Fuel efficiencies and air quality benefits can also be realized by reducing idling and stop and go travel.

The TSP system includes a preemption function which can also be utilized by emergency services such as Police, Fire, and Emergency Medical Services (EMS), improving response times during emergencies and reducing the potential for traffic conflicts with emergency operations.

It should be noted that prior to installation of any and all equipment in the UDOT signal cabinets, a Cooperative Agreement will be required between Park City and UDOT to ensure compliance with the TSP section of UDOT Policy 06C-18. This cooperative agreement is also on the October 5, 2017 City Council agenda for review and possible adoption by City Council.

Acronyms

BRT Bus Rapid Transit

EMS	Emergency Medical Services
GTT	Global Traffic Technologies
RFP	Request for Proposals
TSP	Traffic Signal Preemption
UDOT	Utah Department of Transportation

The Problem

Transit experiences significant delays due to congestion. These delays have a negative impact on the quality of service users of transit experience, on-time system performance, seamless transfers between routes, and travel times. This discourages riders from using the transit system and is counter-productive to transit initiatives to increase ridership and reduce traffic congestion within Park City. Providing priority to transit through key corridors, including intersections, is a primary strategy aimed at achieving the City's transportation and related environmental/energy goals.

Background

- The 2016 Short Range Transit Development Plan identified implementation of a signal preemption & priority system as a tool for improving the efficiency of transit service, reducing travel times, and improving schedule adherence. This type of technology is commonly used in transit applications, especially in express or Bus Rapid Transit (BRT) type service.
- In June 2017, the Transit Department launched the Route 10 White Electric Xpress route, the first all battery-electric express route in the nation. The program has had exceptional ridership during that time; however, Transit has noted difficulty in maintaining the published schedule due to traffic congestion along the SR 224 corridor and a signal priority system is needed to help mitigate the impact of traffic on the route and maintain its viability. The use of this technology will be critical to the success of Route 10 and other future express services, particularly with the anticipated heavy traffic prevalent during the winter season.
- The Transit Department released a Request for Proposals (RFP) in July 2017, which was advertised in the Salt Lake Tribune and on the City's website.
- The proposed TSP system includes signal priority control hardware and management software to cover up to 20 intersections within the greater Park City area and up to 40 vehicles within the Transit fleet.
- The Transit and Transportation Planning departments met with UDOT Region 2 representatives to discuss our intent to partner with Global Traffic Technologies (GTT) to provide a TSP system. The streets and intersections are owned by UDOT. UDOT expressed a favorable view and support of the project.

Alternatives for City Council to Consider

1. **Recommended Alternative:** Authorize the City Manager to sign the Service Provider/Professional Services Agreement with Global Traffic Technologies, LLC
Pros

- a. Allows a TSP system to be installed prior to the 2017-2018 winter season
- b. Helps mitigate the impact of traffic congestion on transit system efficiency
- c. Encourages using transit as an alternative to driving
- d. Improves overall transit system performance
- e. Promotes Park City Transit as a cutting edge transit agency
- f. Implements a system that can benefit and be utilized by other departments, such as Fire, Police, and EMS
- g. Up to 80% of the cost of the project will be reimbursed by a Utah Department of Transportation (UDOT) grant

Cons

- 1. Requires an initial capital investment

Consequences of Selecting This Alternative

Selecting this alternative will allow the Transit Department to move forward with implementing a TSP system that will help improve the efficiency of transit operations and have a positive impact on the user experience, encouraging greater transit ridership.

- 2. Null Alternative:** The transit system will continue to experience significant delays due to traffic congestion, which negatively impacts the user experience and hurts ridership.

Pros

- a. Does not require an initial capital investment

Cons

- 1. Negatively impacts Transit's ability to provide efficient service
- 2. Negatively impacts initiatives to promote Transit ridership
- 3. Reduces the desirability of transit service to riders
- 4. Does not mitigate the effects of traffic congestion on transit service
- 5. Could result in the loss of grant funds from UDOT for this project

- 3. Delay:** Council could elect to delay the project. Staff does not recommend this alternative, as it would have the same impact as a null alternative.

Pros

- a. Does not require an initial capital investment

Cons

- 1. Delays implementation of system
- 2. Negatively impacts Transit's ability to provide efficient service
- 3. Negatively impacts initiatives to promote Transit ridership
- 4. Reduces the desirability of transit service to riders
- 5. Does not mitigate the effects of traffic congestion on transit service
- 6. Could result in loss of UDOT grant funds

Analysis

In accordance with federal, state and city policies and regulations, Park City Transit issued a request for proposals for the procurement of a Radio Activated, GPS Based Traffic Signal Preemption and Priority Control System.

Initially, four companies indicated an interest in the procurement and requested a copy of the RFP. Of those, one submitted a responsive and competitive proposal. In accordance with the Single Proposal Response guidelines within the RFP, staff conducted market research and performed a cost estimate to determine if the proposed system cost was indicative of current market conditions. The cost estimate involved determining the current market price of systems similar to those being considered under the RFP.

The Evaluation Committee consisted of the following individuals:

Blake Fannesbeck	Public Works Director
Darren Davis	Transit Department
John Pearce	Fleet Department
Larry Simpson	Fleet Department
Alfred Knotts	Transportation Planning Manager
Derrick Radke	Summit County
Tim Boschert	UDOT – Transit Team

After analyzing the cost estimate and evaluating the proposal that was received in response to the RFP, the Evaluation Committee determined that the proposed price is fair and equitable to the City, and recommends award of contract to Global Traffic Technologies, LLC (GTT). The system proposed by Global Traffic Technologies meets our specifications and the Evaluation Committee considers the Opticom system advantageous in a number of technical areas.

Concluded research on current costs found the cost for a Traffic Signal Priority system was approximately \$20,000 - \$22,000 per intersection and approximately \$5,000 - \$6,000 per bus. Global Traffic Technologies' proposed cost per bus is 3.7% lower and the proposed cost per intersection is 50.8% lower than the current cost according to research. It is the opinion of the Evaluation Committee that the City is getting an excellent value for the dollars invested.

Park City Transit has obtained Federal Transit Administration grants, administered by the Utah Department of Transportation (UDOT) that includes a Capital Budget for the installation of a TSP system.

Global Traffic Technologies' proposed cost is approximately \$9,842.90 per intersection and approximately \$4,813.80 per vehicle, with a total project cost of \$389,409.92. The expected reimbursement under the FTA grant discussed above is \$311,527.94 (80%) and the expected Local Match cost is \$77,881.98 (20%). There are sufficient funds in the Transit Fund for this purchase.

Department Review

This report has been reviewed by Transit, Public Works, Transportation Planning, Legal, and the City Manager

Funding Source

Up to 80% of the project cost will be funded by a grant from UDOT, with a 20% local funds match.

Attachments

- A RFP 613119 - <http://www.parkcity.org/Home/ShowDocument?id=42119>
- B List of Proposed Intersections for TSP Installation
- C UDOT Policy 06C-18
<https://www.udot.utah.gov/main/uconowner.gf?n=10467300518426454>



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

Over the past several years, there have been many revisions and changes made to the licensing code. This has rendered the document difficult to navigate. Staff felt it important to rearrange the format to make it more intuitive and clear to anyone trying to find information.

The overhaul of the entire code is a tedious and challenging process. For this reason, staff is recommending taking a 2-part approach:

- Part 1: (Fall 2017) Formatting changes, re-numbering, regrouping for improved layout and accessibility;
- Part 2: (Spring 2018) Policy changes, omissions, additions, updated regulations based on direction from Council.

Part 1 is almost entirely formatting changes, but will have a couple of new definitions added and small changes that are described in the report below.

Respectfully:

Rebecca Gillis, Accounting Manager



City Council Staff Report

Subject: Title 4
Author: Beth Bynan, Business License Specialist
Department: Finance
Date: October 5, 2017
Type of Item: Legislative

Summary Recommendation

Staff is recommending that Council repeal and replace Title 4 of the Municipal Code (Code) and adopt Titles 4A, 4B and 4C.

The majority of these changes are formatting, unless specifically mentioned. The updated format/organization will make information contained in the Code more easily understandable to the public and staff alike, more consistent throughout, and updated to reflect changes over the years to the Utah State Code where applicable.

Executive Summary

Over the past several years, there have been many revisions and changes made to the licensing code. This has rendered the document difficult to navigate. Staff felt it important to rearrange the format to make it more intuitive and clear to anyone trying to find information.

The overhaul of the entire code is a tedious and challenging process. For this reason, staff is recommending taking a 2-part approach:

- Part 1: (Fall 2017) Formatting changes, re-numbering, regrouping for improved layout and accessibility;
- Part 2: (Spring 2018) Policy changes, omissions, additions, updated regulations based on direction from Council.

Part 1 is almost entirely formatting changes, but will have a couple of new definitions added and small changes that are described in the report below.

Acronyms

PCMC Park City Municipal Corporation
Code Title 4 of the Municipal Code

The Problem

Park City's Municipal licensing code is a living document that has changed and evolved over time. Chapters of the code have been added in piecemeal fashion over many years leaving the document poorly organized. The current layout of the Municipal Code is not arranged in a way that is intuitive for someone searching for specific information.

For example, some information pertaining to the same topic can be found in many different areas of the code such as Appeals which is now included in one place for the

entire Title. For this reason, staff is recommending reorganizing the chapters, and creating new Titles for specific portions of code. For example, staff proposes moving Special Events, Tax and Telecommunications, and Discrimination to their own Titles for better organization and clarity.

Staff also felt it important to clarify some of the definitions and names of some of the licenses. For example, the “*Special Event Temporary Liquor Permit*” is more accurate when renamed “*Single Event Temporary Liquor License*” because these licenses are issued for both “Special Events” as well as temporary events which do not necessarily have a connection to a Level I, II, or III *Special Event*.

In addition, staff recommends adding a new definition to more accurately fit a license issued to an *instructor*. Currently, the closest fit for a license issued to a sports instructor, personal trainer, ice hockey or figure skating coach was a “*commercial vehicle*” license. This is misleading because a commercial vehicle license is used for regulating dump trucks, and large-semi loaders and anyone conducting business within City limits but does not have a physical location inside City limits. Staff is recommending adding the “instructor license” to be assessed the same fees as a commercial vehicle license, but with a more accurate name to reflect the type activity.

Similarly, staff is recommending the addition of a “Consultant License” to more appropriately title a license that is issued to a business that does not have a physical location in City limits, but enters into City limits to conduct business. The fees will be based on the vehicle as in the Commercial Vehicle license, but the title of the license will be more appropriate.

Another challenge was the process for refunds was inconsistent and contradictory in several parts of the Title. For example, some parts would state a processing charge of \$25 administration fee for issuing eligible refunds, while other parts of the Title would state that the City would retain a 25% administrative fee for processing eligible refunds. This led to uncertainty when citing specific portions in the code while processing refunds. Staff is recommending a flat fee of \$25 to cover administration costs for each denied or refunded license.

Staff also clarified that Housing Discrimination does not apply to Land Use applications and that the State Code now has prohibitions against Housing and Employment Discrimination.

Lastly, the State of Utah has made another change to the taxi and for-hire requirements. Prior to May 2017 the State of Utah required a Z endorsement on a person’s driver license to drive a taxicab in the State. [HB391S01](#) removed that requirement. Therefore, Park City Municipal is also removing that requirement.

Background

For the past few years staff from Finance, Legal and Special Events have reviewed the entire code and have discussed ways to improve the document so that it is updated, efficient and easily accessible.

Alternatives for City Council to Consider

1. Recommended Alternative: Approve the attached ordinance to repeal and replace Title 4 of the Municipal Licensing Code.

- a. Staff has attached a copy of the updated formatting changes; items have been grouped with other “like” items
- b. The Special Event Section has been moved and is under its own Title (4A).
- c. The Tax and Telecommunications section has moved and is under its own Title (4B), Franchised Utilities and Taxes.
- d. Discrimination has been moved and is under its own Title (4C), Freedom From Discrimination.
- e. Definitions are more organized.
- f. Appeal process is under one section
- g. The refund process has been clarified to be a flat fee of \$25 to cover administration costs.
- h. Park City’s for-hire licensing requirements will come into alignment with the state and the City will no longer require a Z endorsement as part of the for-hire licensing requirements.
- i. Licenses are renamed to match definitions and make them more accurately reflect the type of activity.

Pros:

- This will “clean-up” the code and make the formatting more intuitive to the reader.
- Information that is better organized will be more accessible to everyone.

Cons:

- Rearranging portions of the code and renumbering may create confusion with older versions of the code or documents which reference specific chapters of the code.

2. Null Alternative: Remaining with the status quo.

- a. The code will remain unorganized and difficult to access.

Analysis

Staff recommends Council repeal and replace Title 4 of the Municipal Licensing Code and adopt Titles 4A, 4B and 4C. Staff recommends changing the for-hire requirements for Park City to come into alignment with the state and to no longer require the Z endorsement on the driver’s license as part of the requirements for taxi/for-hire licensees.

Staff is recommending that Council amend the code to clarify the refund process.

Staff recommends the addition of definitions and more accurate names of licenses used to regulate specific activities. Staff recommends moving portions of the code to other chapters or titles and to refine and clarify the document.

Department Review

Finance, Special Events, Legal, Budget and Executive.

Attachments

- Exhibit A: Proposed Ordinance
- Attachment 1: Title 4 –Replace and Adopt
- Attachment 2: Title 4A - Adopt
- Attachment 3: Title 4B – Adopt
- Attachment 4: Title 4C - Adopt

Code Redlines - to view the changes from the old Municipal Code, please [click here](#)

- Attachment 5: Title 4 Redline
- Attachment 6: Title 4A Redline
- Attachment 7: Title 4B Redline
- Attachment 8: Title 4C Redline

Ordinance No. 2017-51

AN ORDINANCE TO REPEAL AND REPLACE MUNICIPAL CODE TITLE 4, LICENSING; and to ADOPT MUNICIPAL CODE TITLE 4A, SPECIAL EVENTS and to ADOPT MUNICIPAL CODE TITLE 4B, FRANCHISED UTILITIES AND TAXES and to ADOPT MUNICIPAL CODE TITLE 4C, FREEDOM FROM DISCRIMINATION

WHEREAS, Park City has an interest in promoting public health, safety, and welfare, and

WHEREAS, the City Council finds that it is in the public interest to clarify and refine the written laws, regulations, and ordinances contained in Title 4 (Licensing) of the Municipal Code and to adopt Title 4A, Title 4B, and Title 4C so that citizens can more easily access information;

WHEREAS, the City Council finds the proposed amendments in the best interest of the residents of Park City,

WHEREAS, a public hearing was duly noticed and held on October 5, 2017;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

Section I. Repeal & Replace. Title 4, Licensing. Title 4 is hereby repealed and replaced to read as attached in Attachment 1.

Section II. Adopt. Title 4A, Special Events. Title 4A is hereby adopted to read as attached in Attachment 2.

Section III: Adopt. Title 4B, Franchised Utilities and Taxes. Title 4B is hereby adopted to read as attached in Attachment 3.

Section IV: Adopt. Title 4C, Freedom From Discrimination. Title 4C is hereby adopted to read as attached in Attachment 4.

Section V: Effective Date. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this 5th DAY OF OCTOBER, 2017.

PARK CITY MUNICIPAL CORPORATION

Mayor Jack Thomas

Attest:

Michelle Kellogg, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

Attachments

Attachment 1 – Title 4

Attachment 2 – Title 4A

Attachment 3 – Title 4B

Attachment 4 – Title 4C

4 Licensing

4-1 Definitions

4-2 General Licensing

4-3 General Application Process

4-4 Licensing Fees

4-5 Regulation Of Specific Businesses

4-6 Alcoholic Beverage Licenses

4-7 Convention Sales And Commercial Hospitality

4-8 For-Hire Vehicles

4-9 Street Vendors

4-10 Solicitors

4-11 Sexually Oriented Businesses

4-1-1 Definitions

All words and phrases used in this Title shall have the following meanings unless a different meaning clearly appears from the context:

4-1-1.1 ART. Original works of fine Art, graphic Art, and aesthetic objects produced by the Artist. It shall not include any artwork produced by any Person other than the Artist displaying the artwork, or any artwork purchased or taken on consignment and held for resale.

4-1-1.2 ARTIST. The creator of the Art who exhibits his/her own Art for sale. Artist does not include street musician.

4-1-1.3 AVAILABLE CITY PROPERTY. The green space at the northeast intersection of Park Avenue and 9th Street, Park City, Utah, owned and operated by the City, and alternatively pursuant to 4-10-3(E)(1), City Park.

4-1-1.4 BACKGROUND CHECK CERTIFICATE. Certificate issued by the Bureau of Criminal Investigation that includes the applicant's name, certificate date of issuance, and date of expiration, and a statement that the certificate holder has met the requirements of the background check.

4-1-1.5 BEDROOM. Each room in a hotel, motel, lodge, timeshare project, condominium project, single family residence, or other Nightly Lodging Facility that is intended primarily for the temporary use of transient guests for sleeping purposes.

4-1-1.6 BUSINESS. A distinct and separate Person or entity Engaging in Business, as those terms are defined herein. A Business is distinguished from another Business by separate state sales tax numbers or separate ownership.

4-1-1.7 CITY. Park City, Utah.

4-1-1.8 COMMERCIAL VEHICLES AND TRAILERS. Motor vehicles used for a Business' normal activities, but not used to transport people to, from, and within Park City for a fee. Such vehicles include but are not limited to vehicles used for deliveries, commercial hauling, and snow removal services, as well as cargo rental vehicles, concrete trucks, and dump trucks.

4-1-1.9 CONDUCTING BUSINESS. For purposes of this Title the term "Conducting Business" shall include the sale or offering for sale of any goods or merchandise, marketing or promoting, or the offering or performing of any service for valuable consideration of any kind.

4-1-1.10 CONSULTANT LICENSE. Any individual, company, or agent Engaging in Business by performing consultant style services such as interior design, landscaping, and similar service jobs within Park City limits without having their Place of Business within the City limits must obtain a Consultant License.

4-1-1.11 CORPORATE SPONSOR. Any Business enterprise or combination of Business enterprises which provide funding for any special event in the amount of fifty percent (50%) or more of the funds necessary to promote the event or account for fifty percent (50%) or more of the event operating expenditure budget.

4-1-1.12 DABC. The Utah Department of Alcoholic Beverage Control.

4-1-1.13 DIVISION. The Park City Business Licensing Division.

4-1-1.14 EMPLOYEE BASED. Businesses which lease or otherwise provide employees to other businesses or any Person in return for consideration. Such businesses include but are not limited to employment agencies and security firms.

4-1-1.15 ENGAGING IN BUSINESS. Includes all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term Business unless otherwise specifically prescribed. "Engaging in Business" includes but is not limited to the sale, rental, Gifting, or promotion of tangible personal or real property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for consideration by Persons engaged in any profession, trade, craft, Business, occupation, or other calling, except the rendering of personal services by an employee to his/her employer under any contract of personal employment. Each manufacturing or originating company, whether individually occupying a premise, including home occupations and home offices, or co-locating, shall be required to obtain an individual Business license for that Business activity.

4-1-1.16 EXHIBIT. To display for sale with the intent or expectation of receiving valuable consideration for the item displayed.

4-1-1.17 FARE. The consideration or charge of a For-Hire Vehicle to provide service for a passenger within Park City. Consideration may include non-cash value such as participating in a commercial promotional activity such as viewing real estate or timeshare information, merchandise or Art display, or display of movies, videos, or DVDs within or on a vehicle in exchange for the passenger delivery.

4-1-1.18 FOR-HIRE VEHICLE. A vehicle used to transport passengers for a fee. For-Hire Vehicles include Shuttles, Taxicabs, limousines, or similar vehicles used for the purposes outlined in this Title.

4-1-1.19 FOR-HIRE VEHICLE BUSINESS LICENSE. A Park City Business license issued by Park City authorizing the licensee thereof to conduct a For-Hire Vehicle Business.

4-1-1.20 FOR-HIRE VEHICLE STICKER. A sticker issued by the City indicating that the owner of the vehicle has met all requirements to obtain a Business license from the City to conduct a For-Hire Vehicle Business.

4-1-1.21 GIFTING. Includes various hospitality, Gifting, filming, display, exhibiting, or promotional use of goods not for sale and other related activity that are marketing or promoting tools in which goods are given or traded to the public in general or desirable people so that the product will be associated with

those people and appear in publications, media, internet, etc., and give the product exposure. Gifting is not just the display of goods with the hopes of future orders; it involves actually giving the product away, where the consideration for the gift is the exposure of the product, and includes direct or indirect interaction with customers, potential customers in order to increase awareness of a product, or service of company. Corporate groups that receive gifts purchased by the corporation that are not provided by another entity and are exclusively for the group will not be considered Gifting.

4-1-1.22 HOURLY USER CAPACITY. The maximum number of Persons that can be safely and reasonably accommodated per hour by an amusement park, golf course, athletic club, theater, bowling alley, tennis club, racquetball club, swimming pool, ski lift, gondola, or tram, and any other recreational, sports, or entertainment facility.

4-1-1.23 INSTRUCTOR LICENSE. Any individual engaged in instructing individuals or groups, or teaching, giving, or offering lessons, classes, training, or other programs to individuals or groups such as ice skating lessons, etc., must obtain an Instructor License.

4-1-1.24 LICENSE FEE(S). Fees as defined by the Business License Fee Schedule found at <http://www.parkcity.org/government/municipal-codes-policies-and-fees>.

4-1-1.25 MAIN STREET BUSINESS IMPROVEMENT DISTRICT. Main Street Business Improvement District (BID) is defined as all businesses located in the following area:

The BID boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of the 9th Street, then west on 9th Street to the intersection of the 9th Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

4-1-1.26 MOBILE FOOD VENDOR. Any motorized means of conveyance that is required to be licensed by the State Division of Motor Vehicles from which consumable on-site food service is offered. Mobile Food Vendors are restricted to serving construction sites.

4-1-1.27 NIGHTLY LODGING FACILITY. Any place where any portion is rented or otherwise made available to Persons for transient lodging purposes for a period less than thirty (30) days including, without limitation, a hotel, motel, lodge, condominium project, single family residence, or timeshare project.

4-1-1.28 NON-PROFIT CORPORATION. A corporation organized for some purpose other than making a profit and, as such, may enjoy a tax exempt status.

4-1-1.29 NUISANCE. For the purposes of the Alcoholic Beverage Licenses Chapter of this Title, any licensed premises where:

- A. Alcoholic beverages are manufactured, sold, kept, bartered, stored, consumed, given away, or used contrary to the Alcohol Beverage Control Act or this Code;
- B. Intoxicated Persons are permitted to loiter about; or profanity, indecent, immoral, loud, or boisterous language or immoral, unruly, disorderly, lewd, obscene conduct is permitted or carried on;

- C. Persons under the age of twenty-one (21) are permitted to purchase or drink beer or liquor;
- D. City, county, state, or federal laws or ordinances are violated by the licensee or his/her agents or patrons with the consent or knowledge of licensee which tend to affect the public health, safety, peace, or morals;
- E. Patrons throw litter or other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public safety or health; or
- F. Patrons are permitted to remove opened containers of alcoholic beverages or glasses containing alcoholic beverages from the licensed premises to the public street or way.

4-1-1.30 PERSON(S). Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, Business trust, corporation, association, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.

4-1-1.31 PLACE OF BUSINESS. A place at which one carries on and Engages in Business; each separate location maintained or operated by the licensee within Park City from which Business activity is conducted or transacted.

4-1-1.32 RESTAURANT. A Business location at which a variety of foods are prepared and at which complete meals are served to the general public in indoor or outdoor dining accommodations, and is engaged primarily in serving meals to the general public. This does not include street vendors or mobile food trucks.

4-1-1.33 ROUTE DELIVERY. Any delivery made to customers of a Business, which makes repeated door-to-door deliveries to the same households along designated routes with an established time interval in between delivery visits. The majority of such deliveries must be to fulfill orders previously made by the customer. However, nothing in this Title shall prevent orders from being taken from established customers and filled during such delivery visits. Such businesses will include, but not be limited to, dairies and sellers of bulk meats or produce.

4-1-1.34 SHUTTLE. A vehicle that travels between fixed locations for a set or predetermined Fare.

4-1-1.35 SKI RESORT. A ski area that operates as a distinct and separate enterprise and which is deemed to include, without limitation, the ski runs, ski lifts, and related facilities that are part of the ski area and primarily service the patrons of the ski area. The Ski Resort includes ski instruction, tours, first aid stations, parking garages, management and maintenance facilities, and workshops, but does not include food service, ski rentals, or retail sales of goods or merchandise, which are all deemed separate businesses even if owned by a resort operator.

4-1-1.36 SKIER DAY. A three (3) year average of the total number of lift tickets sold each year between November 1 and June 30, including daily lift tickets, resident coupons, complimentary tickets, and an estimated average of season pass holders' daily use. The three (3) year average shall be calculated by the Ski Resort and shall include the three (3) most recent years of operation from November 1 through June 30. The City may audit the analysis and any Business records relied upon for the analysis. The calculation shall be submitted to the Finance Department by July 15 of each year.

4-1-1.37 SOLICITED DELIVERY. A delivery of previously ordered goods or services or the United States mail. Solicited Delivery includes, but is not limited to, the delivery of newspapers or publications pursuant to a subscription, the United States mail, parcel delivery services, businesses engaging in Route Delivery, or Persons delivering previously ordered goods or services on behalf of an established retailer of those goods or services.

4-1-1.38 SOLICITOR. A Person who contacts individuals or the general public for the purpose of taking orders for goods or services, or encouraging attendance at sales presentations, lectures, seminars, or the like, at which goods or services are promoted or offered for sale, whether the presentation is held within Park City or not, provided that the Solicitor makes contact with the public at a location other than at the regular Place of Business at which the goods or services are actually sold or performed. For purposes of this Title, the term "goods or services" shall include merchandise, produce, personal services, property services, investment opportunities, franchises, time intervals in the use of ownership or real property, and any other kind of tangible or intangible thing that is given in exchange for valuable consideration.

4-1-1.39 SQUARE FOOTAGE. The aggregate number of square feet of area within a Place of Business that is used by a licensee Engaging in Business.

4-1-1.40 TAXICAB. A vehicle used to transport passengers for a Fare.

4-1-1.41 TRANSPORTATION NETWORK COMPANY (TNC). The Transportation Network Company Registration Act defines a TNC as an entity that:

1. Uses a software application to connect a passenger to a transportation network driver providing transportation network services;
2. Is not a For-Hire Vehicle; and
3. Does not own, control, operate, or manage the vehicle used to provide the transportation network services.

4-1-1.42 UNIT. Any separately rented portion of a hotel, motel, condominium, apartment building, single family residence, duplex, triplex, or other residential dwelling without limitation.

4-1-1.43 UNSOLICITED DELIVERY. The delivery of any unsolicited newspaper or publication, sample product, or advertising material. Unsolicited newspapers or publications, sample products, or advertising material shall include, but not be limited to, handbills describing or offering goods or services for sale, any goods or products that were not previously ordered by the homeowner or occupant, any newspaper or publication delivered without a subscription by the owner or occupant, and any coupons or rebate offers for goods and services.

4-2 General Licensing

4-2-1 Unlawful To Operate Without A License

4-2-2 Business Confined To Enclosed Building

4-2-3 Business Confined To Private Property

4-2-4 Use Of Public Property

4-2-5 Branch Establishments

4-2-6 Separate Businesses, Licensed Premises

4-2-7 Multiple Licensing

4-2-8 Duty To Display License

4-2-9 Exceptions to Business License

4-2-10 No Temporary Licenses

4-2-11 Certain Acts Prohibited

4-2-12 Licenses Non-Transferable

4-2-13 Outdoor Sales

4-2-14 Outdoor Speakers On Main Street

4-2-15 Vibrant Commercial Storefront In HCB And HRC Districts

4-2-1 Unlawful To Operate Without A License

Unless exempted by state or federal law or by this Title, it shall be unlawful for any Person to engage in Business within Park City, whether on a temporary or permanent basis, without first being issued the license required by this Title. All licenses issued under the provisions of this Title are non-transferable and expire on September 30 of each year.

Unless exempted by state or federal law or by this Title, any Person who engages in Business without being issued a license or paying all necessary fees under this Title shall pay double the specified fee for said license. The payment of such double fee shall not relieve any Person from fully complying with all the requirements of this Code, nor from any other prescribed penalties. Payment of such double fee or any unpaid portion thereof may be compelled by civil action in any court of competent jurisdiction. The acceptance of any portion less than the entire amount of such double fee by any officer or employee of the City shall not constitute a waiver or release of the balance thereof.

Except as otherwise provided in this Title, any Person who temporarily or permanently engages in Business within the City without first obtaining a license as herein provided, or after such license has been revoked, shall be punished by a fine not to exceed the maximum Class “B” misdemeanor fine under state law or by a term of imprisonment up to six months, or by both fine and term of imprisonment as provided in Section 1-1-8 of this Code.

4-2-2 Business Confined To Enclosed Building

Except as authorized by this Title, all businesses within Park City are to be conducted within a fully enclosed building, except for outdoor dining or other permanent conditional uses which have been given approval under the Land Management Code.

4-2-3 Business Confined To Private Property

Unless specifically licensed to do so under this or other ordinances, it shall be unlawful for any Person to solicit Business within any public street, sidewalk, alleyway, or within the public parks, golf course, or publicly owned parking areas, unless said Person has received prior approval from the appropriate City department and executed a concession contract with the City.

4-2-4 Use Of Public Property

The City Council may grant specific temporary licenses to applicants to sell food, alcoholic beverages, or merchandise in City parks or at other locations on public property. In granting these temporary licenses, preferences shall be given to non-profit organizations and civic groups before profit-making businesses are licensed to conduct a temporary Business within the parks or on other City property. Such licenses shall be issued only after receiving the approval of the appropriate City department and execution of a concessions or franchise contract with the City.

4-2-5 Branch Establishments

A separate license must be obtained for each branch establishment or separate location in which Business is engaged in, within the City, as if such branch establishment or location were a separate Business, and each license shall authorize the licensee to engage only in the Business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a Business licensed under this Title shall not be deemed to be separate places of Business or branch establishments.

4-2-6 Separate Businesses, Licensed Premises

Where two (2) or more Persons conduct separate businesses at the same location, each such Person shall provide individual Utah tax identification numbers if sales transactions are taking place, federal tax identification numbers if only promotion or Gifting is taking place, be responsible for all required licensing, inspections, and sign permits for each such Business, and pay the required License Fees for

such Business. Where a Person has a license pursuant to provisions in the Alcoholic Beverage Licenses Chapter of this Title, that Person shall obtain a separate Business license for each licensed premises.

4-2-7 Multiple Licensing

Any one Person may be issued any of the licenses described and created in this Title and may simultaneously hold more than one (1) license, and/or a regular Park City Business license. The granting of multiple licenses shall not grant privileges not specifically granted by the licenses issued, nor shall the issuance of multiple licenses extend the time limitations imposed on any of these special licenses that are of a temporary nature. Suspension or revocation of one of the multiple licenses shall not act as an automatic suspension of any other license then in effect.

4-2-8 Duty To Display License

Every licensee licensed pursuant to the provisions of this Title shall display the license in some prominent part of the Place of Business. Type 2 convention sales licenses, and associated temporary occupant load signs and fire permits, shall be displayed on the front door of the Place of Business. Every licensee not having a fixed Place of Business shall carry such license on their Person at all times in a visible position while carrying on the Business for which the license is issued and shall produce the license for inspection when requested to do so by any Person.

4-2-9 Exceptions To Business License

No Business license shall be required under this Title upon the following Persons or businesses:

- A. Any individual, company, or agent that is exempted under Utah Code Title 58, unless the individual, company, or agent has office space within the limits of Park City;
- B. Traditional hotel/Restaurant offerings including private dinner bookings in Restaurants, existing entertainment such as in Restaurant outlets or lounges etc., or groups utilizing interior signage;
- C. Any Person, firm, or organization, i.e., tournament referees, ski race officials, sport camp instructors, whose contract is for a period of thirty (30) days or less per year, and whose contract relates directly to recreation programs or services in Park City, is not required to obtain a Business license;
- D. No license shall be required for sales of surplus household goods or furnishings at a private residence in the garage or yard. If a garage sale is held more frequently than three (3) days in any one (1) calendar quarter at the same residence, it shall be deemed to be Conducting Business on a regular basis and a regular Business license for the sale of that kind of merchandise is required. If the sale is in a zone that does not permit the sale of merchandise as a permitted or conditional use, further sales are unlawful. Sales tax on all sales is required under state law, and this Title shall not be construed as attempting to waive the requirement that tax be collected.

4-2-10 No Temporary Licenses

Any Person Engaging in Business on a temporary basis within Park City shall be required to obtain the license required by this Title in the same manner and shall be subject to the same fees as a Person Engaging in Business on a permanent basis within Park City.

4-2-11 Certain Acts Prohibited

It shall be unlawful for any Person, Business, corporation, partnership, or other entity to attract or attempt to attract people to that Person or that licensee's Place of Business by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noisemaking device, or by displaying any light or lantern, or by waving, hailing, or otherwise signaling to passersby, or by touching or physically detaining them. It shall be unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts or poles.

4-2-12 Licenses Non-Transferable

No license issued under this Title is transferable from the original licensee to any other Person, partnership, corporation, or other entity. Each year, as a part of the renewal process, the licensee shall indicate the board of directors, or all partners, and if there are any changes from the previous year, the license shall be reviewed as a new application to the extent of the changes in ownership.

4-2-13 Outdoor Sales

The Finance Department may grant a license to regularly licensed retail and service based Park City businesses, per the Land Management Code, to hold outdoor sales five (5) times a year for a duration of no longer than three (3) days for each outdoor sale; and additionally for up to fifteen (15) individual Sundays per calendar year, either within the Business' own property or on public sidewalks or streets adjoining the Business on the following terms:

- A. **PROMOTION BY MERCHANTS ASSOCIATION.** An association representing tenants in a shopping center or other merchants association representing the businesses in a specific area may apply for an outdoor sale license for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.
- B. **SEASONAL PLANTS.** The Finance Department may issue licenses of longer duration to permit the outdoor sale, on a temporary basis, of Christmas trees, landscaping materials, or plants that are of a type and nature that reasonably require the sale to be conducted out of doors. The License Fee for this kind of outdoor sale shall be as set forth in the Business License Fee Schedule and no license shall have duration of more than eight (8) weeks. These licenses may be issued to any Person or Business. Sales shall be confined to commercial zones and to property under the possession and control of the applicant.

4-2-14 Outdoor Speakers On Main Street

No licensed Business shall permit or cause to exist any speaker or sound amplification equipment on the outside of any premise on Main Street with the exception of those businesses which are allowed to have outside speakers as a part of their conditional use permit for outdoor dining or performances or events approved by staff as part of a Level Three Special Event License or community celebration.

4-2-15 Vibrant Commercial Storefront In HCB And HRC Districts

- A. A vibrant commercial storefront is a storefront property which cannot meet four (4) or more of the seven (7) following conditions:
 - 1. Is a storefront property as defined in Section 15-15-1 in the HRC or HCB Districts of the Land Management Code without a current lease in place or that is not actively advertising, utilizing, or occupying the property in a way that constitutes Engaging in Business for at least two hundred and seventy (270) days per year, or that is not open and physically occupied during the hours typically consistent with the licensed use of the property for at least the past thirty (30) days; or
 - 2. Has an approved Business license but is not open during typical Business hours consistent with its licensed use to the public, or is consistently open for less than five (5) days a week, or under two hundred and seventy (270) days per year;
 - 3. There is not an active Business license in place, or any pending Business license application in the past thirty (30) days; or
 - 4. Tenants are not actively advertising, utilizing, or occupying the property in a way that fulfills the definition of Engaging in Business 4-1-1.15; or

5. A commercial storefront without signs, displays, or clear indication that they are open or occupied such as having an employee on site, doors open or clearly marked as open to the public, or lights on within the premises; or
 6. Over a Quarterly period cannot provide sales tax receipts, payroll records, quarterly profit/loss statements, or similar financial records that show consistent month-to-month occupation and commercial activity; or
 7. Cannot provide utility bills or meter readings (water, gas, trash, or electric) that are consistent with the use of similarly active licensed businesses.
- B. If a property is not considered a “vibrant commercial storefront” and the property is located in HCB and HRC zones, the property owner or Business licensee must provide proof that the property meets one (1) of the following exceptions:
1. There is an open building, planning, or construction permit for repair, rehabilitation, or construction of a building on the parcel and the owner receives a certificate of occupancy for the repair, rehabilitation, or construction within one year from the date the initial permit was issued; or
 2. The owner provides satisfactory evidence that the property is actively being offered for sale, lease, or rent. Satisfactory evidence shall include, but is not limited to, evidence that the owner has hired a real estate agent or other rental agent who advertises and promotes the commercial storefront for rent, lease, or sale, or proof the commercial storefront is offered for sale on multiple listing services or any other comparable real estate listing services.
- C. Failure to maintain a vibrant commercial storefront in the HCB or HRC zone shall result in the following:
1. The Business at the storefront property will not receive local consent or be eligible for a liquor license of any kind including Single Event Alcoholic Beverage Licenses; and,
 2. The City reserves the right to utilize the area in front of the storefront property to display Art or other educational materials in the pedestrian area in front of the property as approved by the City Council until such a space is occupied by a vibrant commercial storefront.
- D. Any property designation under this Section may be appealed and shall be conducted as set forth in 4-3-15 of this Title.

4-3 General Application Process

- 4-3-1 License Application
- 4-3-2 Specific Additional License Application Requirements
- 4-3-3 License Application Fee
- 4-3-4 Code Compliance Inspection
- 4-3-5 Investigation
- 4-3-6 License Issuance, Denial, Or Revocation
- 4-3-7 Issuance Of License Certificate
- 4-3-8 License Period
- 4-3-9 License Certificate Renewal
- 4-3-10 License Renewal Fee, Tax Payment, And Penalty
- 4-3-11 License Renewal Billing Procedure
- 4-3-12 Grounds For License Revocation Or Suspension
- 4-3-13 Alleged License Violation
- 4-3-14 License Revocation Or Suspension Hearing
- 4-3-15 License Denial Appeals

4-3-1 License Application

- A. All Business license applications with a physical location within City limits require a passed Business License Inspection from the Building Department to ensure life safety standards, proper measurements for fee calculation, and Code compliance. A Business License Inspection will only be scheduled if:
1. A Certificate of Occupancy has been issued by the Building Department;
 2. A Letter of Completion has been issued by the Building Department; or
 3. There is already an existing licensed Business occupying the space and a building permit is not required to accommodate the new Business.
- B. Applications for Business licenses shall be made in writing to the Finance Manager or his/her designee. Each application shall include the:
1. Name of the applicant;
 2. Location of the Business;
 3. Payment of the applicable fee and tax to be paid, based on the information recorded on the Business License Inspection;
 4. Name and address of the local Business agent who is authorized to receive service of process and any communication regarding applicant's license;
 5. State sales tax reporting number;
 6. Copy of the Business License Inspection report showing passed;
 7. State contractor's license number, if applicable;
 8. State real estate broker's license number, if applicable; and
 9. Other information, as needed, for the purpose of guidance of the Finance Manager in issuing the license.
- C. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Finance Manager or his/her designee. License application forms shall be prepared and kept on file by the Finance Department.

4-3-2 Specific Additional License Application Requirements

- A. **ALCOHOLIC BEVERAGES.** Applications for all alcoholic beverage licenses must include the following additional information:
1. The street address of the Business location;
 2. Applicant's criminal history obtained from the Utah Bureau of Criminal Identification completed within three (3) years of applications;
 3. Proof of whether the applicant has complied with the requirements specified in the Alcoholic Beverage Control Act;
 4. The location of any other alcoholic beverage licenses held by the applicant;
 5. The name and Utah address for the Business' agent for service of process;
 6. A signature by the applicant stating under oath that the facts contained therein are true; and
 7. If the applicant is a partnership, association, corporation, or limited liability company the applicant shall include a certificate of existence, a copy of the articles of incorporation or the written partnership agreement, and the name, street and mailing address, age, citizenship, and criminal history from the Utah Bureau of Criminal Identification for each officer, partner, or director.

- B. **SINGLE EVENT ALCOHOLIC BEVERAGES.** Applications for a Single Event Alcoholic Beverage License must include the following additional information:
1. The street address of the Business location;
 2. A notarized and detailed statement by the applicant certifying their criminal history;
 3. Proof of whether the applicant has complied with the requirements specified in the Alcoholic Beverage Control Act;
 4. The location of any other alcoholic beverage licenses held by the applicant;
 5. The name and Utah address for the Business' agent for service of process;
 6. A signature by the applicant stating under oath that the facts contained therein are true;
 7. A certificate of existence, a copy of the articles of incorporation, the written partnership agreement, or other applicable documentation showing the entity has been in existence for at least one (1) calendar year prior to the date of application;
 8. The name, contact information, and/or any other information needed by the City to verify each officer, partner, or director meets the requirements set forth in the statutes of Utah and this Title; and
 9. An affirmation indicating each officer, partner, or director meets the licensee qualifications set forth in the statutes of Utah and this Title.
- C. **NIGHTLY RENTALS.** All new and renewal applications for nightly rentals must also contain the following information:
1. Property manager's name;
 2. Street address of each Unit;
 3. The cover letter for this application with information common to all Units managed;
 4. The name, address, and telephone number of a local responsible party who is available by telephone twenty four (24) hours per day; and
 5. Supplements to the application and cover letter with any information that changes.
- D. **SEXUALLY ORIENTED BUSINESSES.** The specific requirements for a Sexually Oriented Business License, Sexually Oriented Business Employee License, and any additional requirements are located in the Sexually Oriented Businesses Chapter of this Title.
- E. **SOLICITORS.** The application for a Solicitor license shall require the following additional information:
1. Date of birth and social security number of the applicant;
 2. Signatures by both the person to be licensed as a Solicitor and by an authorized representative of the Business or businesses for which the licensee will be solicited, referred to as the "primary business" in this Title; and
 3. Disclosure of the existence of any investigations by any local, state, or federal regulatory agency into allegations of fraud, deceit, securities violations, real estate sales or brokerage license suspension proceedings, or any pending charges on any felony, provided, however, that if the applicant is a licensed real estate or securities salesman, the foregoing information concerning the applicant's background may be supplied by providing the date of issuance of that state license by the Utah Department of Commerce and such other information as necessary to correctly identify the applicant with that Department.

4-3-3 License Application Fee

Each license application shall be accompanied by the Business License Fee required to be paid for the desired license.

4-3-4 Code Compliance Inspection

- A. **INSPECTIONS FOR CODE COMPLIANCE.** Prior to applying for a license under this Title for a new Business not previously licensed at that location, or an existing Business with a change of Square Footage, use, or location, the applicant shall be required to have the prospective Place of Business inspected prior to application by the Building Department, and if necessary, other government agencies to ensure compliance with building, fire, municipal, and health codes.
- B. **NOTICE OF INFRACTION.** No license can be applied for until the required inspection reveals that the prospective Place of Business is in substantial compliance with the building, fire, and health codes. If during the inspection process any code infractions are found, corrections shall be made and a re-inspection scheduled within a reasonable period as identified by the inspector or Chief Building Official not to exceed thirty (30) calendar days.
- C. **RE-INSPECTIONS.** If a re-inspection is not scheduled within the specified time frame, a new inspection will be required. Once a property is deemed in substantial compliance with all applicable codes, the inspection will be valid for sixty (60) calendar days unless otherwise identified by the inspector or Chief Building Official. In addition to the Business License Fees, all new businesses or Business locations shall pay an inspection fee as set forth in the rate tables in effect at the time of application. A re-inspection fee may be assessed if more than two (2) inspections are required by the City to meet code compliance. Prior to the approval/issuance of any Business license, additional or repeat inspections may be required for locations as identified during the inspection process.
- D. **PERIODIC INSPECTIONS AND LICENSE REVOCATION.** Existing places of Business licensed within the City may be inspected periodically by departments of the City for compliance with building, fire, municipal, and health codes. Floor plans stamped by a design professional will be required if there is a change of occupancy in an existing Business. Written notice shall be given by the Chief Building Official or his/her designee to a licensee upon the finding of any code infractions which notice shall provide for a reasonable period not to exceed sixty (60) days in which to correct such infractions, the failure of which shall result in the revocation of the license by the Chief Building Official or his/her designee and may require the premise be evacuated due to immediate life safety hazards.
- E. **STAMPED FLOOR PLANS REQUIRED FOR CHANGE OF OCCUPANCY.** Floor plans stamped by a design professional will be required if there is a change of occupancy in an existing Business.
- F. **COMPLAINT FILED BY CITY ATTORNEY.** The Finance Manager or his/her designee may request the City Attorney to file a complaint for non-compliance with the required standards against any applicant or any licensee who conducts Business without a license or continues to conduct Business beyond the time limits provided in this Section.

4-3-5 Investigation

Upon a reasonable belief that the applicant or licensee has a fraud or felony conviction or prior criminal background or pending criminal proceeding, the Finance Manager may refer the application or licensee for investigation to the Police Department. The Finance Manager or his/her designee may at any time

inspect the Business premises during normal Business hours or request Business documents maintained pursuant to this Title to verify a new application or existing licensee.

4-3-6 License Issuance, Denial, Or Revocation

- A. The Finance Manager or his/her designee shall notify the applicant of:
 - 1. The denial of a license and the reason for such denial; or
 - 2. The issuance of the license.

- B. The Finance Manager or his/her designee may deny or revoke a license if the applicant:
 - 1. Has been convicted of a fraud or felony by any state or federal court within the past five (5) years, has been released from prison after serving a sentence for a fraud or felony within the last five (5) years, or now has criminal proceedings pending against him/her in any state or federal court for fraud or a felony;
 - 2. Has obtained a license by fraud or deceit;
 - 3. Has failed to pay personal property taxes or other required taxes or fees imposed by the City or other governmental agency;
 - 4. Has violated the laws of the State of Utah, the United States Government, or the ordinances of Park City governing operation of the Business for which the applicant is applying for the license;
 - 5. Is located within the boundaries of the Main Street Business Improvement District (BID) and has failed to pay the Business promotion tax, set by separate ordinance, or any applicable solid waste management charges or fees. Proof of up-to-date payment will be required prior to license approval or renewal;
 - 6. Fails to meet the requirements set by this Title;
 - 7. Conflicts with other applications or issued licenses;
 - 8. If applying for a Solicitor license, has been convicted of, or entered a guilty plea, to any crime involving receiving stolen goods, burglary, theft, fraud, the possession or sale of controlled substances, securities violations, or prostitution within the preceding five (5) years; or
 - 9. It would be inappropriate to issue the license due to concerns regarding the community's general health, welfare, and public safety.

- C. Additionally, the Finance Manager or his/her designee may deny or revoke an alcoholic beverage license if the applicant:
 - 1. Is less than twenty-one (21) years of age;
 - 2. Has been convicted of:
 - a. A felony under federal or state law;
 - b. A violation of federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product;
 - c. A crime involving moral turpitude; or
 - d. Driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs on two (2) or more occasions within the five (5) years before the day on which the license is issued;
 - 3. Has had any type of alcoholic beverage license revoked within the last three (3) years;
 - 4. Fails to comply with federal and state laws pertaining to the payment of taxes and contributions to unemployment and insurance funds; or

5. Fails to meet all other state requirements for the applicable license.

4-3-7 Issuance Of License Certificate

All license certificates shall be signed by the Finance Manager or his/her designee, under the seal of the City; the signature may be placed mechanically and will contain the following information:

- A. The name of the Person to whom such certificate has been issued;
- B. The name of the Business, if applicable;
- C. The type of license; and
- D. The term of the license with commencement and expiration dates.

4-3-8 License Period

Renewed license certificates shall be valid October 1 through September 30 of the year of renewal unless revoked pursuant to this Title. New license certificates issued between October 1 and June 30 shall be valid through September 30 of the year of issuance unless revoked. New license certificates issued between July 1 and September 30 may be valid through September 30 of the year following the year of issuance, unless revoked. An applicant applying for a license between July 1 and September 1 shall pay one hundred and twenty-five percent (125%) of the amount otherwise imposed for new licenses issued and the license shall be valid through September 30 of the year following the year of issuance, unless revoked. However, an applicant may elect to pay the prorated fee pursuant to this Title on new applications between July 1 and September 30 if the applicant does not intend to do Business in Park City the following year.

4-3-9 License Certificate Renewal

Upon receipt of the License Fee, the Division shall issue a license certificate valid through September 30 of the next year.

4-3-10 License Renewal Fee, Tax Payment, And Penalty

The annual Business License Fee provided in this Title shall be due and payable to the City on or before the first day of October of each year for renewals of licenses for businesses, which were licensed the previous year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the calendar year in which issued unless issued between July 1 and September 30, in which case the license shall be valid until September 30 of the year following the issuance of the license, upon payment of one hundred and twenty-five percent (125%) of the annual License Fee, as set forth in the Business License Fee Schedule.

If the renewal License Fee is not paid on or before October 15 of the year in which the renewal license is due, there shall be a Business license enforcement fee imposed of twenty-five percent (25%) of the License Fee imposed by this Title or twenty-five dollars (\$25.00), whichever is greater.

If the renewal License Fee is not paid in full on or before November 15 of the year in which the renewal fee is due, the Business license enforcement fee shall be increased to fifty percent (50%) of the License Fee imposed by this Title or twenty-five dollars (\$25.00), whichever is greater.

If the renewal License Fee is not paid on or before January 1 of the year in which the renewal fee is due, the Business license enforcement fee shall be increased to one hundred percent (100%) of the License Fee imposed by this Title.

Upon a proper showing that the Business is of such a seasonal nature that Business has not been conducted to date, the Finance Manager or his/her designee may waive the Business license enforcement fee of said renewals.

Any previously licensed Business cited for Engaging in Business in violation of this Title shall have five (5) days from the date of citation to come into compliance with this Title. Failure of the licensee to reach compliance within five (5) days of the date of citation will subject the Business to closure and the licensee to all applicable civil and criminal penalties.

If a licensed Business enlarges its Place of Business or increases its capacity for Conducting Business, i.e., adding Square Footage, increasing number of vending machines, increasing the number of employees, or increasing Hourly User Capacity, an additional License Fee shall be due and payable to the City and shall be prorated on the basis of one-twelfth (1/12th) of the total annual fee on the enlargement or increase for each month remaining in the unexpired portion of the calendar year, including the month in which such increase is accomplished. The additional License Fee for adding Square Footage shall be due and payable on the date the City issues the occupancy permit.

4-3-11 License Renewal Billing Procedure

On or before September 1 of each year, the Division shall send a statement to each current licensee within the City, which statement shall be upon forms calling for the computation by the licensee of a License Fee for the ensuing year based upon the nature of the Business, Square Footage, employees, and other pertinent factors.

4-3-12 Grounds For License Revocation Or Suspension

Licenses issued under this Title may be suspended or revoked by the City Council for the following reasons:

- A. **BUSINESS LICENSE**. The following are grounds for revocation or suspension of Business licenses:
 - 1. Licensee has filed false or fraudulent license tax returns;
 - 2. Licensee has been convicted of or plead guilty to or paid fines or settlements in criminal or civil actions brought by the State Tax Commission for the collection of, or arising from the non-payment of, taxes imposed by or collected by the State of Utah;
 - 3. Licensee has permitted its employees, agents, or patrons to engage in illegal activities on the Business premises;
 - 4. The Business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within Park City.
- B. **SOLICITOR LICENSE**. The following are grounds for revocation or suspension of a Solicitor license:
 - 1. Violation of any specific provisions or limitations on the license imposed by this Title or by the City Council in issuing the license;
 - 2. Complaints from the public concerning misrepresentation of the goods or merchandise sold;
 - 3. Unfair or dishonest Business practices;
 - 4. Issuance of three (3) or more citations under this Title within any twelve (12) month period;
 - 5. Any other circumstances which endanger the health or safety of the residents of Park City.
- C. **ALCOHOLIC BEVERAGE LICENSE**. The following are grounds for revocation or suspension of alcoholic beverage related licenses:
 - 1. The licensee has failed to comply with the requirements of the Alcohol Beverage Control Act, as currently in force or amended in the future, or the requirements of this Title;

2. The licensee or employees of the licensee have been convicted or plead guilty to violations occurring under this Title or any city, county, state, or federal law or ordinance and said violations occurred on the licensed premise, not including violations by patrons;
3. The licensee has attempted to transfer the license to another in violation of this Title;
4. The licensee has become ineligible to hold a license by failing to meet the standards for licensees listed in this Title;
5. The licensee or his/her agents or employees, with the knowledge of the license holder, have been engaged in the sale, distribution, or delivery of controlled substances, as defined by Utah statute, on or from the licensed premises; or
6. The licensee has been denied a license by the State of Utah under the Alcoholic Beverage Control Act as required by this Title or has had said State license revoked or suspended.

4-3-13 Alleged License Violation

Upon receiving a written complaint from any Person alleging a violation of any provision of this Title the licensee or an agent of the licensee, and the City or anyone designated by the City Manager with the assistance of such other departments of the City as the City Manager may direct, shall conduct an investigation of the allegations of the complaint. The City shall not investigate consumer or product liability complaints. Upon completion of the investigation, the City Manager may dismiss the matter as being without merit, settle the matter based upon the negotiations the City Manager or his/her designee may have undertaken with the licensee, or issue an order to show cause to the licensee requiring the licensee to come forward and answer the allegations of the order to show cause.

The order to show cause may be based upon an affidavit filed by the City Manager, City Attorney, or anyone else the City Manager has designated to file such action, and said order to show cause shall specifically set forth the ordinance Sections alleged to have been violated and generally describe the acts in violation. In the event an order to show cause is issued to the licensee, the City Council shall determine whether to refer the matter to a Licensed Hearing Examiner, or to hear the matter directly. The order to show cause shall be issued at least fourteen (14) calendar days prior to the date set for the administrative hearing, but the hearing shall be commenced in any event, within one (1) year of the service of the order to show cause upon the licensee unless otherwise agreed by the parties. Within ten (10) days from the date of the service of the order to show cause, the licensee shall file with the City a written response to the allegations contained therein.

If the matter is to be heard by the City Council, the City Council may elect one of its members to act as presiding officer for the hearing. The presiding officer shall rule on all matters of controversy, which arise during the hearing. The City Council may designate one or more of its members to act as a hearing panel, in which event the hearing panel shall follow the same procedural requirements as the Licensed Hearing Examiner is required by this Chapter to follow.

4-3-14 License Revocation Or Suspension Hearing

In all administrative license revocation or suspension proceedings, a hearing shall be conducted as follows:

The presiding officer or Licensed Hearing Examiner shall regulate the course of the hearing to obtain full disclosure of relevant facts and afford all parties the reasonable opportunity to present their positions. The presiding officer or Licensed Hearing Examiner may determine the length of the hearing and may prevent the calling of witnesses or admission of documentary evidence where such witnesses or evidence are irrelevant, immaterial, unduly repetitious, or unnecessary due to the receipt of other evidence.

Technical rules of evidence required in court proceedings shall not apply, and the presiding officer or Licensed Hearing Examiner shall not exclude evidence solely because it is hearsay. The presiding officer

or Licensed Hearing Examiner may afford to all parties the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence within the time frame of the hearing established by said officer.

All testimony presented at the hearing shall be given under oath administered by a person duly authorized to administer oaths. The hearing shall be recorded by electronic means or by means of a certified shorthand reporter. The record thus created shall be preserved by the City Council until such time as it is clear that no court proceedings or further administrative proceedings will be held concerning the matters which are the subject of the hearing, but a minimum of one (1) year. The recording may be transcribed at the request of any party, at the expense of the requesting party.

The licensee shall have the right to appear at the hearing in person or by counsel, or both. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued by the City Council when requested by any party, or may be issued by the presiding officer or hearing examiner on his/her own motion. The mere issuance of subpoenas shall not operate to require the admissibility of evidence or testimony subpoenaed.

Upon request, both the City and the licensee shall be entitled to discovery of the other's list of witnesses to be called at the hearing, including the names and addresses of such witnesses. The parties shall be entitled to have copies of, or have access to any documents to be used by either side during the course of the hearing. No other formal discovery shall be required. The standard of proof required for any action adverse to the licensee shall be that of proof by a preponderance of the evidence.

The presiding officer, if the City Council hears the matter itself, or the Licensed Hearing Examiner, shall prepare written findings of fact. In the case of a Licensed Hearing Examiner, the Examiner shall submit said findings to the City Council. The City Council shall either accept or reject the findings of fact, or enter its own findings, and shall state the basis from the record for which the findings diverge from the Licensed Hearing Examiner's recommended findings. The City Council shall prepare written conclusions of law and an order.

The Order formally entered by the City Council may be to:

- A. Dismiss the action against the licensee;
- B. Suspend the license for a specified period;
- C. Place the licensee on probation upon such conditions as the City Council may order;
- D. Permanently revoke the license in question; or
- E. Any combination of the above.

Any licensee aggrieved by an order of the City Council entered pursuant to this Section may maintain an action for relief therefrom in any court of competent jurisdiction, where said court deems itself the appropriate forum for the appeal from the City Council's action. The licensee shall be required to follow orders and procedures of the appropriate court with regard to time for filing.

Nothing herein shall be construed to require a showing that the licensee shall have been first convicted in a court of law of any violation of any law, rule, or regulation. All notices required by this Section may be made by personal service or by certified mail, mailed to the licensee's address as it appears in the Business regulation records of the City, postage prepaid, certified, return receipt requested.

4-3-15 License Denial Appeals

A license denial by the Finance Manager or his/her designee may be appealed within ten (10) days to the City Council by written notice of appeal. The request is to be filed with the Recorder. The City Council

shall hear the appeal within thirty (30) days of notice of appeal, unless both parties agree to an extension. The City Council shall conduct a de novo review in a public hearing. The City Council shall issue a written decision within ten (10) days of the hearing.

4-4 Licensing Fees

4-4-1 Records To Be Maintained

4-4-2 Regulatory And Service Enhancement Fees

4-4-3 Revenue Measure

4-4-4 Exceptions To Business License Fee

4-4-5 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency

4-4-6 License Fee Adjustment To Avoid Burdening Interstate Commerce

4-4-7 Refund Of Fee

4-4-1 Records To Be Maintained

It shall be the duty of every Person liable for the payment of any License Fee imposed by this Title to keep and preserve for a period of three (3) years such books and records as will accurately reflect the factors used in determining the amount of the License Fee for which he/she may be liable under this Title.

4-4-2 Regulatory And Service Enhancement Fees

There is hereby imposed and levied an annual Business License Fee in the amounts described in the Fee Schedule, found at <http://www.parkcity.org/government/municipal-codes-policies-and-fees>.

4-4-3 Revenue Measure

The revenue License Fee provided for in this Title is imposed to raise revenue for an enhanced level of municipal services. The fees are in addition to and not a substitute for other regulatory ordinances of Park City. The revenues raised through the revenue fee shall be used to defray the costs incurred by the City in operating, maintaining, and replacing the City transit system.

4-4-4 Exceptions To Business License Fee

No Business License Fee shall be required under this Title upon the following Persons or businesses:

- A. Any Person engaged in Business for solely religious, charitable, or other types of strictly non-profit purposes who is tax exempt in such activities under the laws of the United States and the State of Utah; nor shall any revenue License Fee be imposed on any Person engaged in a Business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any revenue License Fee be imposed on any Non-Profit Corporation duly incorporated according to the provisions of the Utah Revised Nonprofit Corporation Act;
- B. Any Person who obtains an exemption from the City Council by petitioning the Council for a waiver of the fees.

4-4-5 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency

Any license or tax due and unpaid under this Title and all penalties thereon shall constitute a debt to Park City and may be collected by court proceedings in the same manner as any other debt, or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

4-4-6 License Fee Adjustment To Avoid Burdening Interstate Commerce

The Business License Fee imposed by this Title shall not be applied so as to place an undue burden on interstate commerce. In any case, where the License Fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, such licensee or applicant may apply to the Finance Manager or his/her designee for an adjustment of the fee so as to relieve such burden. The applicant shall, by supporting other information as the Finance Manager or his/her designee may deem necessary in order to determine the extent, if any, of such undue burden. The Finance Manager or his/her

designee shall then conduct an investigation, comparing the subject Business with other businesses of like nature and shall make findings of fact from which he/she shall determine whether the License Fee is discriminatory, unreasonable, or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce and shall recommend to the City Council an appropriate License Fee under the circumstances; the City Council shall fix the License Fee in such amount. If the regular License Fee has already been paid, the City Council shall order a refund of any amount over and above the amount of the License Fee fixed, if any. In fixing the fee to be charged, the Finance Manager or his/her designee may use any method which will assure that the fee assessed shall be uniform with that assessed on Business of like nature, provided that the amount assessed shall in no event exceed the regular fee prescribed in this Title.

4-4-7 Refund Of Fee

Unless otherwise provided herein, no Business License Fee is refundable for any reason whatsoever, once the license has been issued by the City, except when the license was issued in error. If a license is denied, applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars (\$25.00). The sum of twenty-five dollars (\$25.00) shall be retained to offset application processing costs.

4-5 Regulation Of Specific Businesses

4-5-1 Regulation Of Vending Machines And Mechanical Devices

4-5-2 Regulation Of Contractors And Builders

4-5-3 Regulation Of Nightly Rentals

4-5-4 Regulation Of Restaurants, Food Service, Taverns, Etc.

4-5-5 Regulation Of Building Material, Hardware, And Lumber

4-5-6 Regulation Of Automotive Services

4-5-7 Regulation Of Transportation Service, Passenger, And Snow Removal Operators

4-5-1 Regulation Of Vending Machines And Mechanical Devices

It shall be unlawful to install, or permit to be installed, any kind of mechanical device operated by coin, token, or currency, which sells goods, merchandise, food, beverages, candy, or entertainment services without first having paid the applicable fee on that mechanical device. Further, it shall be unlawful for any Person to permit a machine to be placed on or within his/her premises or Place of Business any such mechanical device on which the fee has not been paid.

4-5-2 Regulation Of Contractors And Builders

All general contractors and subcontractors, including but not limited to, builders, electricians, plumbers, and back flow device technicians, with their principal Place of Business within Park City, shall be assessed a regulatory License Fee each year as set forth in the rate tables. Said fee must be paid and a Business license issued prior to engaging in any construction within the City unless exempted from licensure by state law.

No contractor shall be issued a Business license under this Section unless and until he/she has provided a certified statement that he/she is currently licensed with the Utah Department of Commerce, including the state license number(s) and date of expiration. If said state license expires prior to December 31 of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the City license for the balance of the year.

Contractors are required to obtain a separate office Business license.

4-5-3 Regulation Of Nightly Rentals

All nightly rental Units must be licensed before being offered for rent.

- A. **LICENSEE.** The licensee for rentals under this Section shall be both the local representative and the owner. The local representative shall be deemed the responsible party.
- B. **MANAGEMENT STANDARDS.** The authorized lodging must be properly managed. As a condition to holding a valid license, the licensee agrees to provide or arrange for adequate property management services. In the event an owner's association exists, it shall be responsible for property maintenance. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services and management regulations required include:
1. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the Unit;
 2. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for occupant use;
 3. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties;
 4. Structural maintenance to preserve substantial code compliance as described herein is required;
 5. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties;
 6. Trash collection which ensures that trash cans are not left at the curb for any period in excess of twenty-four (24) hours; the property must be kept free from accumulated garbage and refuse;
 7. Housekeeping service as a part of hotel or property management company included in property management license;
 8. Parking. On-street parking for nightly rental uses shall not result in an obstruction to traffic and pedestrian circulation or public safety;
 9. Outdoor Displays of Goods and Merchandise. No outdoor display of goods and merchandise shall be permitted as part of any nightly rental use;
 10. Signs. Unless expressly permitted under the Municipal Sign Code, no signs will be permitted for nightly rental uses;
 11. Commercial Uses Prohibited. Nightly rentals may not be used for commercial uses not otherwise permitted in the zone. Nightly rentals may not be converted to Corporate Sponsor or Business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for.
- C. **NOISE AND OCCUPANCY CONTROL.** The licensee and the owner of rentals under this Section are responsible for regulating the occupancy of the Unit and noise created by the occupants of the Unit. Violation of the Noise Ordinance, violation of occupancy loads, failure to use designated off-street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises, is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.
- D. **REVIEW CRITERIA.** In determining whether or not a Business license for rental authorized under this Section shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all Business licenses, the following conditions and standards are met:

1. The Unit is located within a zone and subzone designated as allowing rentals for the period which the license is applied for;
2. The access to the rental Unit and the layout of the Unit is such that noise and physical trespass from the proposed rental Unit is not likely to be a substantial intrusion to the adjoining properties. If the proposed rental Unit is a single family home or duplex and shares an access, hallway, common wall, or driveway with another dwelling, written consent of the owner of the other dwelling is required;
3. The applicant must designate a responsible party. The responsible party must be a property management company, realtor, lawyer, owner, or other individual who resides within Summit County, or, in the case of a company, has offices in Summit County. The responsible party is personally liable for the failure to properly manage the rental. The responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within twenty (20) minutes of receipt of such inquiries by that party's answering machine, paging device, or answering service. The responsible party is also designated as the agent for receiving all official communications under this Title from Park City. If the licensee is a property management company or individual other than the owner, such company or individual must comply with applicable state law, including the Securities Division Real Estate Division in the Utah Code, as amended, which requires those who receive valuable consideration to lease property to have a state license;
4. The application must bear a sales tax collection and accounting number for the rental operation. This number may be the sales tax accounting number used by the property management company responsible for that Unit, or may be specific to the Unit, but no license will be effective until the sales tax number is provided.

4-5-4 Regulation Of Restaurants, Food Service, Taverns, Etc.

Outdoor dining areas connected with any food service establishment shall be assessed at a rate lower than the rest of the establishment as listed in the Business License Fee Schedule.

Catering services shall be licensed at the rate established in the rate tables per employee unless the operation is a Solicited Delivery, part of a full service Restaurant, or part of a Restaurant operation, in which case catering is included in that license.

4-5-5 Regulation Of Building Material, Hardware, And Lumber

Lumber stores shall be assessed at the retail rate by square foot of space under roof, including retail areas, lumber storage, and shop space, but shall not be assessed for uncovered yard space.

4-5-6 Regulation Of Automotive Services

Car rental businesses shall be assessed at a rate per car for rental purposes as of October 1 of each license year, as established in the rate tables.

4-5-7 Regulation Of Transportation Service, Passenger, And Snow Removal Operators

License certificates shall take the form of a sticker to be placed on each licensed vehicle. The City shall design stickers that are suitable for this use and are non-removable without the sticker being destroyed. Various kinds of stickers may be used to show the term of a license if issued for less than one (1) year. The sticker shall be displayed on snow removal vehicles, passenger service vehicles, Shuttles, and taxis at all times. If no sticker is displayed, it is prima facie evidence that no license was issued. Delivery and service vehicles with a Business location in Park City on which a License Fee is issued based on Square Footage shall be exempt.

1. Ready-mix concrete trucks, ore hauling trucks, dump trucks, drilling apparatus trucks, cranes, concrete pumping trucks, and other truck-based construction or excavation equipment shall be assessed as set forth in the rate tables per Business engaged in such Business.
2. Businesses which utilize trucks in construction activity are subject to both the fee provisions of this Title and also those for contractors except that an unlimited number of trucks, not exceeding nine thousand pounds gross vehicle weight (9,000 lbs. GVW), may be used in the construction activity without any charge applied to the vehicle.

4-6 Alcoholic Beverage Licenses

4-6-1 Policy

4-6-2 Local Consent

4-6-3 Beer License

4-6-4 Liquor License

4-6-5 Single Event Alcoholic Beverage License

4-6-6 Insurance Requirements

4-6-7 Referral Of License Application To Chief Of Police

4-6-8 Referral Of Application To Building Department And Planning Department

4-6-9 Referral Of Application To Health Department

4-6-10 Periodic Inspection Of Premises By Chief Of Police And Code Enforcement Officials

4-6-11 Emergency Suspensions By Police

4-6-12 Offenses Of Licensee

4-6-13 Offenses By Patrons

4-6-14 Citations/Violations

4-6-1 Policy

It is the policy of Park City Municipal Corporation to permit the operation of establishments serving alcoholic beverages in a manner consistent with the provisions of the Alcoholic Beverage Control Act and related provisions of State Law. It is also the policy of Park City Municipal Corporation to place the primary responsibility for maintaining order and preventing breaches of the peace within establishments selling and serving alcoholic beverages on the owners and managers of those establishments.

4-6-2 Local Consent

- A. The issuance of a Park City alcoholic beverage license pursuant to this Chapter shall constitute local consent for the purpose of any license issued by the State of Utah under the Alcoholic Beverage Control Act.
- B. Retained Council Authority:
 1. All Single Event Alcoholic Beverage Licenses effective during the applicable Sundance Film Festival annual Level Three Special Event License period shall require City Council approval no later than the last regularly scheduled meeting in the month of December.
 2. An emergency meeting may be held by Council to hear no more than twelve (12) late applications. All applications must be complete and submitted no later than the first Friday in January to be heard no later than the second Thursday in January. No more than the first twelve (12) complete applications to be submitted will be heard. A higher fee, pursuant to the Fee Schedule, will be required due to the expedited nature of the emergency meeting.

4-6-3 Beer License

It shall be unlawful for any Person to engage in the Business of the sale of beer at retail or wholesale within the City without first procuring the necessary relevant City beer license as required. In addition to the City license, a State beer license shall be required for all sales of beer for on-premise consumption or

for purchase or sale of beer in a container exceeding two liters. A separate license shall be required for each place of retail sale, for each separate premise, except that separate licenses are not required for each retail beer dispensing outlet located in the same building or on the same resort premise owned or operated by the same applicant. No beer license may be transferred, assigned, or subleased in any manner. Licenses are invalidated by transfer or attempted transfer. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.

4-6-4 Liquor License

No Person shall operate a Place of Business which allows customers, members, guests, visitors, or other Persons to possess, consume, or store liquor on the premises of the Place of Business without a liquor license issued by the City. A separate license shall be required for each Place of Business. No liquor license may be transferred, assigned, or subleased in any manner. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.

4-6-5 Single Event Alcoholic Beverage License

- A. **Single Event Alcoholic Beverage License Required.** It shall be unlawful for any Person to sell beer or liquor at any event within the City without first procuring a Single Event Alcoholic Beverage License as required by this Title.
1. No alcoholic beverages may be served at any event(s) at which natural Person(s) or entities (including, but not limited to corporations, partnerships, unincorporated associations, or joint ventures) will be Engaging in Business unless a Single Event Alcoholic Beverage License is secured prior to the event. A City issued Single Event Alcoholic Beverage License is required if Engaging In Business at an event, even if a State Department of Alcoholic Beverage Control license is not required.
 2. In addition to the City license, a State Temporary Beer Event Permit, or Single Event Permit shall be required for all sales of beer or liquor at any event. No license may be transferred, assigned, or subleased in any manner. Licenses are invalidated by transfer or attempted transfer. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.
 3. A Single Event Alcoholic Beverage License shall grant a bona fide association, corporation, church, or political organization, or a recognized lodge, chapter, or other local unit that is conducting a convention, civic, or community enterprise the privilege to store, sell, service, and consume alcoholic beverages in accordance with (i) an applicant's State liquor license or (ii) in case of Business activity where a State liquor license is not required.
 4. The privileges granted by this license shall be limited by the type of temporary license or permit the applicant obtains from the State as follows:
 - a. Where an applicant obtains a State Temporary Beer Event Permit, this license shall carry the privileges and responsibilities granted State Temporary Beer Event Permit holders and shall authorize the storage, sale, service, and consumption of beer for a period not to exceed thirty (30) days. A State Temporary Beer Event Permit may authorize multiple sales outlets on different properties under one State Temporary Beer Event Permit. No Person, entity, or association shall in any one (1) calendar year operate under a Single Event Alcoholic Beverage License for more than a total of ninety (90) days; or
 - b. Where an applicant obtains a State Single Event Permit, this license shall carry the privileges and responsibilities granted State Single Event Permit holders and shall authorize for a period not to exceed one-hundred and twenty (120) consecutive hours or five (5) consecutive days the storage, sale, service, and

consumption of liquor. In any one (1) calendar year an applicant may obtain up to twelve (12) licenses provided that all such licenses in the calendar year are for seventy-two (72) hours or fewer. If any license issued to an applicant within one (1) calendar year exceeds seventy-two (72) hours, applicant may obtain no more than four (4) Single Event liquor licenses for that one (1) calendar year.

5. Unless otherwise provided for in this Title, Single Event Alcoholic Beverage Licenses shall be valid only if a licensee has received a State liquor license from the Utah Alcoholic Beverage Control Commission for the same event. All licensees must notify the Finance Manager or his/her designee immediately if their State license is denied, revoked, or suspended for any reason. In the event an applicant is not required to obtain a State Temporary Beer Event Permit or State Single Event Permit, the privileges granted by a Single Event Alcoholic Beverage License shall be contingent upon the type of alcoholic beverages to be served at the event as established by the Single Event Alcoholic Beverage License application. Applicants serving only beer at an event shall receive the privileges and shall be subject to the limitations described in (4)(a) above. Applicants serving any liquor at an event shall receive the privileges and shall be subject to the limitations described in (4)(b) above.
 6. Subject to the limitations set forth in (4)(a) and (4)(b), a Single Event Alcoholic Beverage License shall authorize the storage, sale, service, and consumption of alcoholic beverages in conjunction with a Special Event, convention, civic or community event and pursuant to the Utah Alcoholic Beverage Control Act and the ordinances of Park City.
 7. No Person under the age of twenty-one (21) shall sell or serve alcohol under a Single Event Alcoholic Beverage License.
- B. **Single Event Alcoholic Beverage License Application.** Applications for a Single Event Alcoholic Beverage License shall be made on behalf of a bona fide association, corporation, church, or political organization, or a recognized lodge, chapter, or other local unit, in writing, to the Finance Manager or his/her designee and include the information as required in this Title. Applications may take up to ten (10) business days to process. As provided by this Title, applicants may not store, sell, serve, or otherwise facilitate the consumption of alcoholic beverages by others until applicant has procured a license as required by this Chapter and, if required, a State issued license.
- C. **Regulatory Single Event Alcoholic Beverage License Fee.** The regulatory liquor License Fee shall be set by resolution as listed in the Business License Fee Schedule for all Single Event Alcoholic Beverage Licenses. The regulatory License Fees shall be used by the City to defray, in part, the costs of alcohol related enforcement and responding to alcohol related offenses within Park City. This fee may be waived by the Finance Manager or his/her designee for Single Event Licenses issued to Persons participating in community sponsored events, or in events sponsored by or for the benefit of non-profit, civic, religious, or charitable organizations.

4-6-6 Insurance Requirements

No alcoholic beverage license may be issued, including a Single Event Alcoholic Beverage License, until the applicant presents the Finance Manager or his/her designee proof of liquor liability insurance coverage in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate or more as may be required by the Finance Manager or his/her designee based on factors such as the nature, size, and location of an event.

4-6-7 Referral Of License Application To Chief Of Police

All applications filed in accordance with this Chapter shall be referred to the Chief of Police or his/her designee for inspection and report. Within ten (10) business days of the date the City receives a complete

application the Police shall conduct an investigation. In conducting an investigation and making a recommendation, the Chief of Police or his/her designee may base a decision upon factors such as:

- A. Whether the applicant meets the licensee qualifications under this Title or State Code;
- B. Any criminal violations or charges against the applicant where the criminal violation at issue would make an applicant ineligible for a license under state statute or this Title;
- C. Compliance with state alcoholic beverage laws and this Title;
- D. The nature and kind of Business to be conducted by the applicant;
- E. The nature and kind of entertainment that will occur on the premises if licensed;
- F. Policies and safety protections the applicant has in place to restrict minors from accessing the portion or portions of a premises where alcoholic beverages are sold;
- G. Policies and safety protections the applicant has in place to prevent minors from gaining access to and/or consuming alcoholic beverages;
- H. The proximity of the premises to any community location, school, or church.

The Chief of Police or his/her designee shall, upon completion of such investigation, submit a recommendation as to whether the license should be granted. If recommending denial of a Single Event Alcoholic Beverage or an alcoholic beverage license application, the Chief of Police or his/her designee shall submit a detailed report of the investigation, record the recommendation on the application, and sign the application. If recommending approval of an alcoholic beverage license application, the Chief of Police or his/her designee shall record such recommendation on the application, sign the application, and may, at his/her sole discretion, submit a detailed report of the investigation.

4-6-8 Referral Of Application To Building Department And Planning Department

The Finance Manager or his/her designee shall refer the application to the Building and Planning Departments for review by the Building Official to ensure compliance with the applicable building codes, to determine the maximum number of occupants the premises may safely accommodate at one time, given the location and number of emergency exits, and to ensure compliance with the Land Management Code. The Building and Planning Departments shall, within ten (10) business days after receiving such application, submit to the Finance Manager or his/her designee a recommendation to approve or deny the application.

4-6-9 Referral Of Application To Health Department

The Building Department may refer any application filed in accordance with this Chapter to the County Health Department which may inspect all premises to be licensed to assure compliance with all laws and regulations of the State of Utah, and the ordinances, rules, and regulations of Park City governing the sanitary preparation, storage, distribution, or sale of beer and food.

4-6-10 Periodic Inspection Of Premises By Chief Of Police And Code Enforcement Officials

The Chief of Police or designee and Code Enforcement Officials shall be permitted to have access to all premises licensed or applying for license under this Chapter, and may make periodic inspections of said premises and may report his/her findings to the Finance Manager or his/her designee.

4-6-11 Emergency Suspensions By Police

Licenses under this Chapter may be suspended by the Chief of Police or designee without prior hearing provided there is probable cause to believe violations of this Title or state law are occurring, and the conditions are such that the public health and safety are endangered. Such temporary suspension shall occur only if the management or the licensee fails to remedy the situation within fifteen (15) minutes of notification by the Chief of Police or his/her designee that a suspension will occur if the conditions complained of are not remedied in a manner that eliminates the immediate danger to public health and safety. No emergency suspension by the Chief of Police or his/her designee shall extend beyond the ordinary close of business on the day on which the suspension was given.

4-6-12 Offenses Of Licensee

It shall be unlawful for the holder of any license issued under this Chapter or any employee or agent of the holder to cause or permit to be caused on his/her premises any of the following acts:

- A. **SALE DURING REVOCATIONS.** To sell any beer or liquor during any period of a license revocation or suspension.
- B. **FAILURE TO CONTROL NUISANCES OR NOISE.** To permit or provide either live or recorded amplified music without first having closed all exterior doors and windows of the licensed premises to control noise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.
- C. **OUTDOOR SPEAKERS.** To permit or cause to exist any loud speaker or sound amplification equipment on any outdoor balcony, deck, patio, or garden associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining.

4-6-13 Offenses By Patrons

It shall be unlawful for any Person within a licensed premise under this Chapter, whether as a guest, patron, invitee, supplier, or in any other capacity other than as an employee of the license holder or as the licensee to commit or perform any of the following within the licensed premises:

- A. To enter or remain in any licensed premises after being ordered to leave the premises by the licensee or the agent or employees of the licensee.
- B. To enter or remain in any licensed premises while intoxicated.

4-6-14 Citations/Violations

The commission of any act or offense listed in this Chapter shall be a Class "B" misdemeanor. Both the license holder and/or an employee or agent and the patron of the licensed premises may be charged from the same incident, as the offenses of the licensee and the offenses of the patron are separate offenses. The licensee shall be civilly responsible for all violations permitted or caused by the agent or employee of the licensee and the criminal acts of the employees or agents committed on the premises in the course of employment shall be deemed the acts of the licensee for purposes of revocation, suspension, or non-renewal by the City.

4-7 Convention Sales And Commercial Hospitality

4-7-1 General

4-7-2 Types Of Convention Sales And Hospitality Licenses

4-7-3 Applications

4-7-4 Review Of Applications

4-7-5 Umbrella Organizers

4-7-6 State Tax Number

4-7-7 Responsibility Of Host Business To Ensure Licensing And Compliance With The Uniform Building And Fire Codes

4-7-1 General

The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention, meeting, event, and other assembly rooms within any licensed convention, meeting, or assembly facility for the purpose of temporary exhibiting, marketing, displaying, Gifting, or promoting of goods or services.

4-7-2 Types Of Convention Sales And Hospitality Licenses

- A. **TYPE 1** – Convention Sales License. This type of license will be available year round except for during the dates of the Sundance Film Festival and in a space other than convention space. Each point of sale requires a separate license. Vendors selling tangible goods are required to provide a temporary state sales tax number on their application.
- B. **TYPE 2** – Sundance Film Festival Convention Sales and Hospitality License. This type of license will only be available during the dates of the Sundance Film Festival. Each vendor, identified by Federal ID number, is required to obtain a separate license. Vendors selling tangible goods are required to provide a temporary state sales tax number on their application.
- C. **TYPE 3** – Convention Sales License. This type of license will be available year round except for during the dates of the Sundance Film Festival and in a licensed convention space. A single license is required for the organizer along with a list of all participants and their temporary state sales tax numbers.

4-7-3 Applications

- A. For Type 1 and Type 3 convention sales licenses, the City may take up to ten (10) business days to complete the licensure process to permit adequate time for the Police, Building, Finance, and Planning Departments for review and investigation. The Departments may request reasonable evidence of title to goods proposed to be offered for sale as part of the review.
- B. Retained Council Authority for Type 2 licenses:
 - 1. The Finance Manager or his/her designee shall refer the Type 2 convention sales license application to the Building, Planning, Parking, and Public Safety Departments for approval.
 - 2. After obtaining department approval, all Type 2 licenses shall require City Council approval at a publically noticed meeting. All Type 2 license applications must be completed and received at least seven (7) calendar days prior to a regular scheduled meeting and three (3) business days prior to a special meeting.
 - 3. All Type 2 license applications require the applicant to have a pre-inspection prior to application at the Place of Business conducted by the Building Department for compliance with the building and fire codes. A copy of said pre-inspection report must accompany the license application submittal. The pre-inspection prior to application shall remain valid for one hundred and twenty (120) days.
 - 4. All Type 2 license applications shall require an accurate floor plan and a design occupancy load stamped by a design professional to be submitted at the time of application.
 - 5. All Type 2 license applicants require a final inspection by the Building Department post application after the space has been set up for the event. Business shall not be conducted until the final inspection has been passed and the applicant has been issued a Type 2 convention sales license.
 - 6. All Type 2 convention sales license applications for locations within the Main Street Business Improvement District (BID) boundaries shall require a deposit receipt with Republic Services in the amount of one hundred dollars (\$100), to be submitted at time of application, and be required to pay the Main Street BID tax set forth by ordinance.

7. All Type 2 convention sales licenses will be assessed the Enhanced Enforcement Fees of forty-five dollars and fifty-eight cents (\$45.58) to be paid at time of application.
8. The loading operations of each Type 2 convention sales license shall be permitted by the Parking Division with three (3) different permits: Red, Green, and Blue, depending on the type of loading: Red, large-scale operations; Green, food and beverage; and Blue, musical equipment. Any violation of the regulations specified on each permit may result in the revocation of the Type 2 convention sales license or the inability to obtain a Type 2 convention sales license in the future.
9. Large scale load-out operations for Type 2 convention sales licenses will not be permitted until Day 6 (Tuesday) of the Sundance Film Festival.

4-7-4 Review Of Applications

Upon a reasonable belief that the applicant or licensee has a fraud or felony conviction or prior criminal background or pending criminal proceeding, the Finance Manager may refer the application or licensee for investigation to the Police Department.

The Finance Manager or his/her designee shall refer the application to the Building and Planning Departments for review. The Chief Building Official or his/her designee will ensure compliance with the applicable building codes and fire codes including, but not limited to, determination of the maximum number of occupants the premises may safely accommodate at one time given the location and number of emergency exits. The Planning Director or his/her designee will ensure compliance with the Land Management Code.

4-7-5 Umbrella Organizers

For Type 1 and 2 convention sales licenses, if multiple vendors are sharing a space, an umbrella organizer may obtain a convention sales license for the entire space as long as each individual vendor provides an individual tax identification number. The umbrella organizer will be charged a License Fee for the umbrella license as well as a fee for each vendor listed on the application. All vendors included in the umbrella license must be located under one physical address. The umbrella organizer is also responsible for having an appropriate Business license.

4-7-6 State Tax Number

The applicant must provide an individual Utah tax identification number if sales transactions are taking place, federal tax identification numbers if only promotion or Gifting is taking place, as part of the license application to assist in verifying the collection and reporting of sales tax.

4-7-7 Responsibility Of Host Business To Ensure Licensing And Compliance With The Uniform Building And Fire Codes

Businesses which make all of or a portion or portions of their licensed Business locations available to other Persons for the purpose of Engaging in Business shall be responsible to ensure that such Persons obtain Business licenses and/or convention sales licenses, and possess federal tax numbers and Utah state sales tax numbers listed in Park City if sales transactions are taking place. In the event a licensed hotel, motel, inn, or bed-and-breakfast Business fails to require such a showing, that Business shall be liable for payment of all License Fees and penalties payable by the person Engaging in Business at their licensed location. If such Business is not currently licensed for assembly use, the Business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest Business from their individual responsibility to obtain the necessary licenses.

4-8 For-Hire Vehicles

4-8-1 For-Hire Vehicle Operation Requirements

4-8-2 Drug Free Workplace Requirement
4-8-3 License Requirements For Operators
4-8-4 Compliance Responsibility
4-8-5 Background Check Requirement
4-8-6 State Motor Vehicle Endorsement Or Commercial Driver License Required And Background Check Certificate Required For Application
4-8-7 Compliance With City, State, And Federal Laws
4-8-8 Identifying Design
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4-8-11 Hiring Vehicle With Intent To Defraud
4-8-12 Refusing To Pay Legal Fare
4-8-13 Direct Route Required
4-8-14 Prohibited Solicitation Procedures
4-8-15 Solicitation Of Hotel Business Prohibited
4-8-16 Engaging In Liquor Or Prostitution Traffic Prohibited

4-8-1 For-Hire Vehicle Operation Requirements

- A. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained a valid For-Hire Vehicle Business License from the City in accordance with the procedures in this Title, except as provided below in Section I.
- B. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained commercial transportation insurance coverage for at least one million dollars (\$1,000,000) per vehicle if the vehicle provides Taxicab service, has a seating capacity of fifteen (15) passengers or fewer, including the driver, and is not operated on a regular route. If the vehicle seats sixteen (16) or more passengers, including the driver, the owner is to provide proof of commercial transportation insurance coverage for at least five million dollars (\$5,000,000) per vehicle. Proof of this commercial insurance shall be required prior to the issuance of the For-Hire Vehicle permit.
- C. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained a Park City For-Hire Vehicle Sticker.
- D. No Person who has been convicted of or plead guilty to three (3) or more moving violations within the preceding three hundred sixty-five (365) days shall be permitted to operate a For-Hire Vehicle upon the streets of Park City.
- E. No Person who has been found to be in violation of the Park City Parking Code three (3) or more times within the preceding three hundred sixty-five (365) days shall be permitted to operate a For-Hire Vehicle on Park City streets.
- F. All vehicles that have been licensed by the City shall be issued a For-Hire Vehicle Sticker that shall be used as an identifying marking. The For-Hire Vehicle Sticker must be placed on the bottom left corner of the rear window of the vehicle on the driver's side. The For-Hire Vehicle Sticker shall be issued by the City and include the date of expiration.

- G. All For-Hire Vehicles shall have in the driver's possession a copy of the current vehicle registration, copy of the Business license, and proof of insurance as required by this Code, and the driver shall have a "P" endorsement on their Utah State driver license if operating a vehicle that seats sixteen (16) or more. Failure to produce any of this information may result in the issuance of a citation.
- H. The following items shall be prominently displayed in the passenger compartment of the For-Hire Vehicle:
 - 1. The Fare schedule; and
 - 2. Contact information, including a telephone number, for the owner or responsible party of the For-Hire Vehicle.
- I. For the purpose of this Chapter, the term 'operate for hire upon the streets of Park City' shall not include:
 - 1. The transporting by a For-Hire Vehicle properly licensed in a jurisdiction outside the corporate limits of the City; or
 - 2. The transporting by a For-Hire Vehicle of a passenger or passengers where the trip shall originate with the passenger or passengers being picked up outside the corporate limits of the City and the destination is either within or beyond the City corporate limits.
- J. The term 'operate for hire upon the streets of Park City' means and shall include the soliciting or picking up of a passenger or passengers within the corporate limits of the City, whether the destination is within or outside of the corporate limits of the City.
- K. All office space must comply with the Land Management Code and this Title.

4-8-2 Drug Free Workplace Requirement

- A. Consistent with the Utah Code, as amended, all For-Hire Vehicle licensees shall adopt and implement a drug free workplace policy prior to obtaining a Business license from the City. All For-Hire Vehicle licensees shall certify that the licensee has adopted such a policy prior to being issued a For-Hire Vehicle Business License from the City.
- B. The licensee shall publish and provide a written policy statement to all employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees who violate the policy.
- C. The licensee shall notify all employees that as a condition to employment, the employee shall abide by the terms of the drug free workplace policy statement and shall notify the employer within five (5) calendar days if he/she is convicted of criminal drug or alcohol related violations.
- D. The drug free workplace policy shall include the establishment of a drug free awareness program to make employees aware of:
 - 1. The dangers of drug and alcohol abuse in the workplace;
 - 2. The licensee's policy of a drug free workplace;
 - 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 4. Any penalties or disciplinary action that may be imposed upon an employee for violation of the drug free workplace policy.

- E. The licensee shall notify the City within ten (10) calendar days after receiving notice that an employee has been convicted of a criminal drug violation in the workplace.
- F. The licensee shall make an ongoing, good faith effort to maintain a drug free workplace.

4-8-3 License Requirements For Operators

It is unlawful for any Person to operate a For-Hire Vehicle upon the streets of the City without having a valid Park City For-Hire Vehicle Business License.

4-8-4 Compliance Responsibility

The licensee shall not be relieved of any responsibility for compliance with the provisions of this Title, whether the licensee leases or rents For-Hire Vehicles to drivers, or whether the licensee pays salary, wages, or any other form of compensation.

4-8-5 Background Check Requirement

- A. All drivers shall obtain an original background check report from the Utah Bureau of Criminal Investigation (BCI). All drivers shall also obtain a driver license record report from the Utah Driver License Division showing "Valid" as license status. The City shall be permitted to further investigate any information that is relevant to such background checks in order to determine the accuracy of the information. This investigation may include, but is not limited to, requiring the applicant driver to provide additional information. Drivers who possess a current Salt Lake City Vehicle Operator's Certificate (VOC) may submit their VOC in lieu of a BCI Identification Record.
- B. The Park City Police Department shall review the Identification Record of each driver and identify if the driver has engaged in a disqualifying criminal offense, as set forth by this Section. A driver is deemed to have engaged in a disqualifying criminal offense if the driver has been convicted, or found not guilty by reason of insanity, of any of the crimes listed in this Section, or of a conspiracy or attempt to commit any such crime, or has been released from prison, in any jurisdiction within the five (5) years preceding the request for the certificate. Disqualifying offenses shall include:
 - 1. Murder;
 - 2. Assault or aggravated assault;
 - 3. Kidnapping or hostage taking;
 - 4. Rape, aggravated sexual abuse, or other sex crime, including, but not limited to, unlawful sexual activity with or sexual abuse of a minor, enticing a minor over the internet, unlawful sexual intercourse or conduct, object rape or sodomy, forcible sexual abuse, aggravated sexual assault, sexual exploitation of a minor, incest, lewdness, or obscene acts, sex acts for hire, or solicitation of sex;
 - 5. Stalking;
 - 6. Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;
 - 7. Extortion;
 - 8. Robbery, burglary, theft, bribery;
 - 9. Distribution of, or intent to distribute, a controlled substance;
 - 10. Felony arson;
 - 11. Felony involving a threat;
 - 12. Felony involving willful destruction of property;
 - 13. Felony involving dishonesty, fraud, or misrepresentation;
 - 14. Possession or distribution of stolen property;
 - 15. Felony involving importation or manufacture of a controlled substance;

16. Illegal possession of a controlled substance punishable by a maximum of imprisonment of more than one year;
 17. Reckless driving, driving while under the influence of alcohol or a controlled substance, or being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving;
 18. Felony involving a driving offense.
- C. If a driver's criminal record discloses arrests for a disqualifying offense without indicating disposition, the Police Department must investigate and make a determination as to whether the arrest resulted in a disqualifying offense as provided under this Section.
 - D. Prior to making a final decision to deny a Background Check Certificate, the Police Department shall advise the driver that the Identification Record discloses a disqualifying offense. If the driver's Identification Record inaccurately contains a disqualifying offense, the driver may seek to complete or correct the Information Record by contacting the local jurisdiction responsible for the information and the BCI within thirty (30) days following notice of the disqualifying information. The driver must also notify the Police Department and indicate their intent to correct any inaccurate information. The Police Department must then receive a copy of the BCI record or certified true copy of the information from the appropriate court before granting a Background Check Certificate. If no such notification is received within the thirty (30) day period, the Police Department shall make a final determination based on available information.
 - E. Any Person who complies with the Background Check Certificate requirements shall have a continuing obligation to disclose to the Police Department within twenty-four (24) hours if he/she is convicted of any disqualifying criminal offense, or otherwise fails to comply with the provisions of this Section, at any time while he/she possesses a Background Check Certificate.
 - F. Failure to comply with the continuing obligation to notify the Finance Manager or his/her designee within twenty-four (24) hours of: a disqualifying conviction pursuant to Subsection (B) above, or the accumulation of three (3) moving violation convictions during the past three hundred sixty-five (365) days is a Class "A" misdemeanor.

4-8-6 State Motor Vehicle Endorsement Or Commercial Driver License Required And Background Check Certificate Required For Application

- A. Before any application is accepted by the Finance Manager, the applicant shall be required to show that such applicant has a current motor vehicle license issued by the state.
- B. A For-Hire Vehicle that seats sixteen (16) or more passengers shall require the driver to have a valid CDL license with a Class C or a P endorsement.
- C. Before any application is accepted by the Finance Manager, the applicant shall be required to show that such applicant has a valid Background Check Certificate.

4-8-7 Compliance With City, State, And Federal Laws

Every driver licensed under this Chapter shall comply with all city, state, and federal laws. Failure to do so may result in the suspension or revocation of a Business license by the City.

4-8-8 Identifying Design

- A. Each For-Hire Vehicle shall bear on the outside of each rear or front door, in painted letters not less than five-sixteenths inch (5/16") stroke and more than two and one quarter inches (2¼") in height, the name of the licensee and the company number, which number shall also be painted or placed on the rear of the For-Hire Vehicle.
- B. The identifying design shall be permanent. The use of magnetic or removable signs is prohibited.

- C. A City representative will inspect each vehicle at the time of licensing or license renewal to ensure compliance with this Section. The City representative will then witness the application of the For-Hire Vehicle Sticker.

4-8-9 Display Of Charges

All rates to be charged for the use of a For-Hire Vehicle shall be posted on the inside of the vehicle in such a manner as to be plainly visible to all passengers.

4-8-10 Receipts For Payment Of Fare

The driver of any For-Hire Vehicle shall, upon demand by the passenger, render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by specially prepared receipt, on which shall be the name of the owner, Business license number, amount of charges, and date of transaction.

4-8-11 Hiring Vehicle With Intent To Defraud

It is unlawful for any Person to hire any vehicle defined in this Chapter with intent to defraud the Person from whom it is hired of the value of such service.

4-8-12 Refusing To Pay Legal Fare

It is unlawful for any Person to refuse to pay immediately the legal Fare of any of the vehicles mentioned in this Chapter.

4-8-13 Direct Route Required

Any For-Hire Vehicle driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his/her destination, unless otherwise directed by the passenger.

4-8-14 Prohibited Solicitation Procedures

- A. No driver shall solicit patronage by:
1. Using a tone of voice that a reasonable Person would consider to be loud or annoying;
 2. Using a sign;
 3. Engaging in any activity or behaving in a manner that would annoy a reasonable Person or obstruct the movement of any Persons;
 4. Following any Person for the purpose of soliciting patronage.
- B. The driver of any For-Hire Vehicle shall remain in the driver's compartment or immediately adjacent to their vehicle at all times when on duty and such vehicle is upon the public streets. The driver of a For-Hire Vehicle is permitted to leave the driver's compartment when actively aiding passengers in loading or unloading the vehicle.

4-8-15 Solicitation Of Hotel Business Prohibited

It is a violation of this Chapter for any driver of a For-Hire Vehicle to solicit Business for any hotel, motel, or other nightly lodging Business, or to attempt to divert patronage from one hotel, motel, or other nightly lodging Business to another.

4-8-16 Engaging In Liquor Or Prostitution Traffic Prohibited

It is unlawful for any For-Hire Vehicle driver to sell intoxicating liquor or to knowingly transport Persons for the purpose of buying liquor unlawfully, or to solicit Business for any house of ill repute or prostitute. It is also unlawful for any For-Hire Vehicle driver to permit any Person to occupy or use his/her vehicle for the purpose of prostitution, lewdness, or assignation, with knowledge or reasonable cause to know that the same is or is to be used for such purposes, or to direct, take, or transport, or to offer or agree to direct, take, or transport, any Person to any building or place, or to any other Person, with knowledge or

reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

4-9 Street Vendors

4-9-1 General

4-9-2 Sales At Construction Sites

4-9-3 Sales Within Public Right-of-Way

4-9-4 Terms And Conditions

4-9-1 General

It shall be unlawful to sell food, flowers, agricultural products, ice cream, candy, popcorn, or other goods or merchandise from push carts, mobile wagons, or motor vehicles on private or public property except as authorized and licensed under this Title.

4-9-2 Sales At Construction Sites

At bona fide construction sites a license, as described in Section 4-5-4 of this Title, may be obtained to sell food from motor vehicles located on private property. Licensees must list the construction sites they intend to serve on the license application, and update the list as needed throughout the year.

Licensees shall not remain at any one site for more than a two (2) hour period per day.

4-9-3 Sales Within Public Right-of-Way

In order to control vending within any public right-of-way in Park City, except at construction sites, only those vendors who have obtained the grant of a franchise from the City may obtain Business licenses to operate such businesses. Absent such a franchise, vending within any public right-of-way is strictly prohibited.

4-9-4 Terms And Conditions

Licensed vendors shall be subject to the following terms and conditions:

- A. **HEALTH DEPARTMENT APPROVAL.** All vendors serving food or garden produce for human consumption from any cart, wagon, or motor vehicle must have the means of preparing, keeping, and serving the foods approved by the Summit County Health Department. This approval, in writing, must be submitted as part of the license application. Withdrawal of Health Department approval for sanitary or health violations is grounds for revocation of the City license.
- B. **LIMITATION ON LOCATIONS.** Vending from motor vehicles, which shall include any motorized means of conveyance that is required to be licensed by the State Division of Motor Vehicles, shall be restricted to the sale of food at construction sites or, if a franchise has been obtained from the City, in the Single Family Zone, the RD-MPD Zones within Park Meadows, all Historic Residential Zones (HR-1, HR-2, HRC, HRM), and Sullivan Lane, as designated on the Official Zoning Map of Park City. Street vending is prohibited in locations included in any special event boundary. Street vending on City rights-of-way during construction or other situations creating a public health or safety concern may be prohibited by the City Engineer or Chief of Police. The City will inform any franchise holder of these limitations and the duration of their effect.
- C. **VENDORS REQUIRED TO MOVE LOCATION.** It shall be unlawful for any street vendor to obstruct pedestrian or vehicular traffic on streets or sidewalks. It shall also be unlawful for any street vendor to remain in a fixed location for more than one hour at a time. Vendors shall move a distance of at least fifty feet (50') from their prior location every hour during which they are

Conducting Business. It shall be unlawful for any street vendor to conduct Business in a location that impairs reasonable pedestrian or vehicular access to any adjoining building, alley, yard, or other property.

- D. **FRANCHISE AGREEMENT.** The City, in its sole discretion, may determine the number of franchises to award based upon public necessity, demand of service, pedestrian and vehicular traffic compatibility, competition, and public safety. Any violation of the franchise agreement is grounds for Business license revocation, in addition to any other remedy at law.

4-10 Solicitors

4-10-1 Solicitor Of Goods Or Merchandise

4-10-2 Terms And Conditions Of Solicitation Licenses

4-10-3 Art Exhibition For Sale On Public Property

4-10-4 Exemptions

4-10-1 Solicitor Of Goods Or Merchandise

Unless authorized and licensed by this Chapter, Solicitors of goods or merchandise are prohibited from Conducting Business within Park City.

4-10-2 Terms And Conditions Of Solicitation Licenses

The Finance Department may issue a license to a Solicitor of goods and services, accommodations, franchises, investments, or any interest in real property or time intervals in the use or ownership of property, subject to the following terms and conditions:

- A. The Solicitor makes contact with the public at a location other than at the regular Place of Business at which the goods and services are actually sold or performed;
- B. The Solicitor shall only contact the public on a door-to-door basis;
- C. No solicitation activities shall be conducted on public streets, sidewalks, or public property;
- D. The Solicitor shall not enter any premises in which a "No Solicitors Allowed" sign, or the equivalent thereof, has been posted;
- E. The Solicitor may only carry goods or merchandise for display, not for sale, but the Solicitor may deliver previously ordered goods or merchandise;
- F. No Solicitor shall give or pass handbills, literature, or other printed matter to passersby or place them on cars, buildings, driveways, doorways, or porches. The licensee, including the primary Business signing the license application, shall be responsible for any littering caused by that licensee's handbills being discarded or not being picked up;
- G. It shall be unlawful for any Person to solicit from any motor vehicle by means of calling or hailing from inside or on the vehicle, or to use any sound amplification equipment to broadcast solicitations from the vehicle. Persons offering others free transportation in exchange for listening to a sales solicitation shall, by clearly printed signs, all lettering to be legible from at least ten feet (10') away by Persons of twenty-twenty (20/20) vision, attached to the outside of both sides of the vehicle, identify the vehicle as a point at which sales solicitations will be made and display the name of the Business for which the solicitation will be made;

- H. The Solicitor shall inform each buyer of the right to cancel a home solicitation sale pursuant to state law; and
- I. The Business or businesses which have signed the application for a Solicitor license shall be jointly liable for the conduct of that Solicitor while engaged in conduct intended to further the Business interests of the primary Business.

4-10-3 Art Exhibition For Sale On Public Property

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the registrations and manner of operations of Artists using Available City Property in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and registration of Artists within the City in a manner which will protect the property values of surrounding businesses and neighborhoods and residents from adverse secondary effects, while providing to those who desire to Exhibit their works of Art for sale the opportunity to do so. This Chapter also aims to prevent and control the adverse effects of Artists who Exhibit their artistry in public places, including without limitation, creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic in the City's narrow, historic Main Street sidewalks; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape. These strong substantial and compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of Artists and the interest of the public. Therefore, the City desires in reasonable time, place, and manner, regulations which are content neutral, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

- A. **EXHIBIT FOR SALE ON SIDEWALKS PROHIBITED.** No Artist may Exhibit for sale his/her Art on public streets, sidewalks, or public property other than specifically designated Available City Property as set forth in this Title. It is unlawful to Exhibit Art for sale on publicly owned sidewalks. Furthermore, it is unlawful to Exhibit Art for sale without a license under this Chapter or the Special Events Title in park strip areas, pocket parks, and City-operated or otherwise public parks.
- B. **TERMS AND CONDITIONS.**
 - 1. **REGISTRATION REQUIRED.** Any Person or groups of Persons intending or expecting to receive valuable consideration for the exhibition of Art shall be registered with the City as an Art vendor before such Exhibit. The registration shall be valid each weekend Friday through Sunday, and all holidays or Special Events as approved by the Special Events Department.
 - 2. **APPLICATION FOR REGISTRATION.** An application for registration to use Available City Property for the Exhibit of Art for sale shall be filed with the Finance Department upon a form provided by the Finance Department, which shall include the following information:
 - a. The name, address, and telephone number of the applicant;
 - b. The name, address, and telephone number of a responsible Person whom the City may notify or contact at any time concerning the applicant's Art; and
 - c. A brief description of the type of Art to be displayed for sale.

3. **REGISTRATION LIST.** The Finance Department shall forward the registration to the Special Events Manager. Use of space by a licensee within Available City Property shall be subject to the designation of the City's Planning and Zoning Administrator in accordance with the standards set forth in this Title.
- C. **USE OF PROPERTY/HOLD HARMLESS.** By way of application to the City, all Artists accept the Available City Property "as is" and the City makes no representations regarding fitness for particular purpose or otherwise regarding the suitability of said property. Anyone using Available City Property for Art Exhibit shall indemnify, defend, and hold the City and its officers and employees harmless for any loss or damage, including attorney's fees, arising out of the use of such property. This obligation shall not extend to any claims for loss, damages, or injury sustained by any Person or Persons, or damage to property, or to expenses, including reasonable attorney's fees, incurred thereby, resulting from actions or omissions not within the Artist's reasonable control or to the acts or omissions to act by the City, its officers, and employees, or other third Persons.
 - D. **NUMBER AND SPACING OF ARTISTS PER AVAILABLE CITY PROPERTY.** The number of Exhibit areas for Artists that may Exhibit at the same time on any Available City Property is twelve (12), unless otherwise determined by the Special Events Manager upon a finding of no harm or interference with the open space nature of the area, and upon giving notice to the City Council.
 - E. **LOCATION RESTRICTIONS.** The Planning and Zoning Administrator, in designating areas within Available City Property, shall take into consideration the interests, (i) of providing Artists reasonable opportunities for self-expression, (ii) of providing reasonable opportunities for the public to experience the Artists' work, (iii) of the public to peaceably enjoy the intended open space of the City's parks, and (iv) of adequately maintaining park vegetation and properties. No Artist may Exhibit Art for sale within Available City Property except within areas designated by the Planning and Zoning Administrator.
 1. **SPECIAL EVENTS.** No Artist shall Exhibit Art for sale within one hundred feet (100') of the boundary of a location in a Special Event License issued by the City under Title 4A. However, during special events, Artists may Exhibit at a location included in a Special Event License if the Special Event Licensee grants written permission. Furthermore, the City expressly reserves the right to relocate Artists in a manner that does not diminish capacity to other Available City Property during the period of a special event.
 2. **EXCEPTION.** The restrictions of this Chapter notwithstanding, nothing herein shall prohibit the City from authorizing Persons to temporarily Exhibit Art for sale, or conduct outdoor sales on public property, or other such areas as the City may deem appropriate, pursuant to Park City Municipal Code, or during Special Events or Level Three Special Events. Special Event vendors shall not be governed by this Chapter, but shall be governed by the Special Events Title of the Park City Municipal Code.
 - F. **SPACE RESTRICTIONS.** No Artist may Exhibit Art for sale directly on the surface of any City facility or structure, including sidewalks, or on top of a trash receptacle. No Artist's Exhibit may exceed ten feet (10') in height from the ground or ten feet by ten feet (10' x 10') in area, including a tent or other structure. Exhibits should be off the ground in a manner so as not to damage the lawn, vegetation, or other public property. No Artist shall use any area other than the area immediately beneath the surface of the display area for the storage of items for Exhibit. Artists may have a container for gratuity. Set up shall not begin prior to 8:00 a.m. each day. All Art, stands, and other equipment, associated debris, and structures shall be removed from

Available City Property no later than 6:00 p.m. each night. Upon finding parking conflicts, the Special Events Manager may temporarily designate and/or prohibit parking at certain locations.

- G. **RIGHTS GRANTED.** The approval of any location for use by Artists shall not be construed as granting the user any property right or interest to or in any property owned by the City. The rights granted by this Chapter are subject to the provisions of this Chapter and other applicable law. Artists exhibiting their Art shall be present at all times when on Exhibit. No agent, employee, or other representative shall sell any Art of an Artist.
- H. **VIOLATION/REMOVAL.** If at any time the City determined that an Artist's use of Available City Property or the Exhibit placed thereon is not in compliance with the requirements of this Chapter or other applicable law, a civil notice of such violation shall be issued to the Artist by an authorized City official. If, after receipt of such citation, an Artist fails or refuses to remove any such Exhibit in violation, the City may, after consultation with the City Attorney or his/her designee, impound such Exhibit. Although prior notice of such impoundment shall not be required, the City shall take reasonable efforts to promptly notify the Artist following impoundment. The owner of any impounded Exhibit shall be responsible for the expense of removal and storage of such Exhibit. If the owner fails to reclaim the impounded Exhibit and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the Exhibit may be deemed unclaimed property and may be disposed of pursuant to law.
- I. **EMERGENCY REMOVAL.** In the event that a City official or the City Police or Fire Department determines that an Artist's use of Available City Property or the Exhibit placed thereon constitutes an immediate physical threat to public life, safety, or health, the Exhibit may be removed from the City property immediately, without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expression of the material Exhibit by the Artist. The City shall use reasonable care not to damage the Art.
1. **NOTICE AND HEARING.** In the event of such emergency removal, the City shall immediately contact the Artist or his/her representative if the Artist has filed with the City's Finance Department the name, address, and telephone number of the Artist's representative whom the City may notify or contact at any time regarding the Artist's Exhibit. The City shall inform the Artist or his/her representative of the removal and the reason(s) therefore. If requested by the Artist or his/her representative, the City shall hold an expedited hearing before the City Manager or his/her designee to determine whether the removed Exhibit constituted an immediate threat to the public's life, safety, or health. In the event that the City Manager or his/her designee determined that the Exhibit did not constitute such an immediate threat, the City shall forthwith, at its own expense, replace the Exhibit at its location.
- J. **PENALTIES.** Any violation of this Chapter shall constitute a civil violation and may subject the Artist to revocation, suspension, or non-renewal of rights granted hereunder by the City. Three (3) or more violations within a one (1) year period shall constitute a Class "B" misdemeanor.
- K. **SALES TAX.** All Artists are responsible for individually filing all necessary reporting forms and sales tax, if any, in accordance with state law.

4-10-4 Exemptions

The licensing provisions of this Chapter shall not apply to the following kinds of activities that would otherwise fall within the purview of this Chapter:

- A. **POLITICAL ACTIONS.** No license shall be required to solicit signatures on petitions of a political nature or to canvass or solicit funds on behalf of candidates for office or ballot issues. Campaign literature may be delivered to homes, subject to the delivery conditions set forth below under Unsolicited Deliveries.
- B. **RELIGIOUS ACTIONS.** No license shall be required of Persons exercising their right to express their religious views, provided however, that no Person shall use this exemption to sell merchandise. Delivery of any publication or material shall be subject to the delivery conditions set forth below under Unsolicited Deliveries.
- C. **CIVIC GROUPS.** No license shall be required of local civic organizations, such as Boy Scouts, Girl Scouts, historic preservation groups, schools, museums, not-for-profit organizations, or other charities. Delivery of any publication or material shall be subject to the delivery conditions set forth below under Unsolicited Deliveries.
- D. **WHOLESALE SOLICITATION.** No license shall be required of Persons who are soliciting Business on a wholesale basis only who are exempt under any provision of the Utah Code. For purposes of this Chapter, the solicitation of orders to place advertising in periodicals or for later broadcasts shall be deemed wholesale solicitation, and exempt from licensing.
- E. **SOLICITED DELIVERIES.** No license shall be required of any Person making a Solicited Delivery.
- F. **UNSOLICITED DELIVERIES.** No license shall be required of any Person making an Unsolicited Delivery. However, any Person making an Unsolicited Delivery of any kind shall not cause unsolicited material to be stacked, piled, or accumulated on any driveway, porch, automobile, building, yard, doorway, stairwell, or doorknob, without the prior express consent of the occupant of the premises. It shall be unlawful for any Person to deliver any unsolicited material to a residence where that Person's previously delivered material remains uncollected. Additionally, any Person making such an Unsolicited Delivery to a residence, who finds prior uncollected material there, shall properly dispose of that Person's uncollected material.
- G. **STATE LICENSEES.** Solicitors who hold valid state issued licenses to act as real estate brokers or salesmen, stock brokers, or insurance agents or salesmen need not obtain a separate Solicitor license from the City, but shall conduct their solicitation activities in accordance with the provisions of this Code.
- H. **DELIVERY PROHIBITION.** It shall be unlawful for any Person to deliver any unsolicited material to any Person, residence, or premises where the occupant thereof has requested that such delivery cease or where such occupant has posted his/her desire not to receive such unsolicited material.

4-11 Sexually Oriented Businesses

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4-11-1 Title For Citation

This Chapter shall be known and may be referred to as the Sexually Oriented Business Licensing Ordinance.

4-11-2 Purpose: Reasonable Licensing Procedures

It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the licensing and manner of operations of Sexually Oriented Businesses and their Employees in Park City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and licensing of Sexually Oriented Businesses within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects of Sexually Oriented Businesses, while providing to those who desire to patronize Sexually Oriented Businesses the opportunity to do so. Sexually Oriented Businesses are frequently used for unlawful sexual activities, including prostitution. Licensing of Sexually Oriented Businesses and Employees is a legitimate and reasonable means of ensuring that operators and Employees of Sexually Oriented Businesses comply with reasonable regulations and operators do not knowingly allow their businesses to be used for illegal sexual activity or solicitation. There is convincing documented evidence that Sexually Oriented Businesses, because of their nature, have a deleterious effect on both the existing neighboring businesses and surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this Chapter is to control the adverse effects of Sexually Oriented Businesses and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight.

4-11-3 Application Of Provisions

This Chapter imposes regulatory standards and license requirements on certain Business activities, which are characterized as "Sexually Oriented Businesses". It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of Sexually Oriented Businesses. Nothing in this Chapter is intended to supersede or

nullify any other related ordinances including, but not limited to, the Municipal Code of Park City, Utah, or the Park City Land Management Code.

4-11-4 Definitions

For the purpose of this Chapter only the following words shall have the following meanings:

- A. **ADULT BUSINESS**. An Adult Theater, Adult Motion Picture Theater, Adult Bookstore, Adult Video Store, or Escort Service.
- B. **ADULT BOOKSTORE or ADULT VIDEO STORE**. A Business which:
 - 1. Holds itself out as such a Business; or
 - 2. For more than thirty percent (30%) of the retail floor or shelf space of the premises, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations the central theme of which depicts or describes Specified Sexual Activities or Specified Anatomical Areas, or instruments, devices, or paraphernalia which are designated for use in connection with Specified Sexual Activities, except for legitimate medically-recognized contraceptives.
- C. **ADULT MOTION PICTURE THEATER**. A Business which:
 - 1. Holds itself out as such a Business; or
 - 2. As its principal Business, regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- D. **ADULT THEATER**. A Business which:
 - 1. Holds itself out as such a Business; or
 - 2. Regularly features Persons who appear in a state of nudity or live performances which are primarily characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.
- E. **BUSINESS PREMISES**. The real property upon which the Sexually Oriented Business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the Sexually Oriented Business, the grounds, private walkways, and parking lots and/or parking areas adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a Business license.
- F. **EMPLOYEE**. A Person who performs any service on the premises or renders any services directly related to the operation of any Sexually Oriented Business on a full time, part time, contract basis, or independent basis, whether or not the Person is denominated an employee, independent contractor, agent, or otherwise, whether or not on a temporary or permanent basis, and whether or not said Person is paid a salary, wage, or other compensation by the operator of said Business. "Employee" shall also include a licensee's designated agent. "Employee" does not include a Person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "Employee" include a Person exclusively on the premises as a patron or customer.

- G. **ESCORT**. Any Person who, for consideration, accompanies other Persons to or about social affairs, entertainments, or places of amusement, or consorts with others about any place of public resort or within any private quarters, or who agrees or offers to privately model lingerie or to privately perform a striptease for another Person.
- H. **ESCORT SERVICES**. A Business, contractor, agency, or Person which:
1. Holds itself out as such a Business; or
 2. For a fee, commission, hire, reward, or profit, furnishes or offers to furnish the names of Persons or who introduces, furnishes, or arranges for Persons, who may accompany other Persons to or about social affairs, entertainments, or places of amusement, or who may consort with others about any place of public resort, or within any private quarters.
- I. **NUDITY or STATE OF NUDITY**. A state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of Semi-Nude.
- J. **OBSCENE**. Any material or performance is Obscene if:
1. The average Person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;
 2. It is patently offensive in the description or depiction of Nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion; and
 3. Taken as a whole, it does not have serious literary, artistic, political, or scientific value.
- K. **OPERATOR**. The manager or other natural Person principally in charge of a Sexually Oriented Business.
- L. **SEMI-NUDE**. A state of dress in which a Person wears opaque clothing covering:
1. Only the male or female genitals, pubic region, anus, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point; and if applicable,
 2. The nipple and areola of the female breast.
- M. **SEMI-NUDE ENTERTAINMENT BUSINESS**. A Business, including an Adult Theater, where Employees perform or appear in the presence of patrons of the Business in a state of Semi-Nudity. A Business shall also be presumed to be a Semi-Nude Entertainment Business if the Business holds itself out as such a Business.
- N. **SEXUALLY ORIENTED BUSINESS**. Semi-Nude Entertainment Businesses and Adult Businesses as defined by this Chapter.
- O. **SPECIFIED ANATOMICAL AREAS**. The human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla, or nipple to the end thereof with less than full opaque covering.
- P. **SPECIFIED SEXUAL ACTIVITIES** means:
1. Acts of:
 - a. Masturbation;
 - b. Human sexual intercourse; or

- c. Sodomy
- 2. Manipulating, caressing, or fondling by any Person of:
 - a. The genitals of a human;
 - b. The pubic area of a human; or
 - c. The breast or breasts of a human female.
- 3. Flagellation or torture by or upon a Person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed.

4-11-5 Obscenity And Lewdness - Statutory Provisions

Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter, which is contrary to applicable federal or state statutes prohibiting obscenity.

Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of the Park City Criminal Code regarding 'Lewdness'.

Provided, however, that for the purpose of this Sexually Oriented Business Chapter, the definition of private parts shall be construed to mean Nudity as defined in this Chapter.

4-11-6 Business License Required, Employee License Required

It shall be unlawful for any Person to engage in a Sexually Oriented Business within the boundaries of Park City, Utah, as specified herein, without first obtaining a Sexually Oriented Business license from Park City Municipal Corporation. Providing Escort Services within Park City shall be considered Engaging in Business. The Business license shall specify the type of Sexually Oriented Business for which it is obtained. It shall be unlawful of any Employee of a Sexually Oriented Business to perform any services in the boundaries of Park City, Utah, without first obtaining a Sexually Oriented Business Employee license from Park City Municipal Corporation. Any Person operating as an independent contractor in Park City, Utah, shall obtain both a Sexually Oriented Business license and an Employee license from Park City Municipal Corporation.

4-11-7 Exemptions From License Requirements

The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

4-11-8 Artistic Modeling

The City does not intend to unreasonably or improperly prohibit legitimate modeling or exhibitions, which may occur in a State of Nudity for purposes protected by the First Amendment or similar State protections.

4-11-9 Business Categories; Single License

It is unlawful for any Business Premises to operate or be licensed for more than one category of Sexually Oriented Business. The categories of Sexually Oriented Businesses are:

- A. Adult Bookstore or Adult Video Store;
- B. Adult Motion Picture Theater;
- C. Adult Theater;

- D. Semi-Nude Entertainment Businesses; and
- E. Escort Service.

4-11-10 Business License Application

Before any Applicant may be licensed to operate a Sexually Oriented Business in Park City, Utah, pursuant to this Chapter, the applicant shall submit to the Business License Clerk, on a form to be supplied by the Park City Business License Clerk, the following:

- A. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing Business under an assumed name.
- B. If the applicant is a corporation, partnership, or limited partnership, or individual or entity doing Business under an assumed name, the information required below for individual Applicants shall be submitted for each partner and each principal of an Applicant and for each officer or director. Any holding company, or any entity holding more than ten percent (10%) of an Applicant, shall be considered an Applicant for purposes of disclosure under this Chapter.
- C. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity.
- D. For all Applicants the application must also state:
 - 1. Any other names or aliases used by the individual;
 - 2. Present physical address and telephone number of the Business Premises;
 - 3. Any internet websites that the Business operates;
 - 4. Present residence and telephone number;
 - 5. Utah driver license or identification number; and
 - 6. Social security number.
- E. Acceptable written proof that any individual is at least twenty-one (21) years of age;
- F. In the event the applicant is not the owner of record of the real property upon which the Business or proposed Business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of Business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;
- G. A description of the services to be provided by the Business, with sufficient detail to allow reviewing authorities to determine what Business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the Sexually Oriented Business intends to operate. This description shall also include:
 - 1. The hours that the Business or service will be open to the public and the methods of promoting the health and safety of Employees and patrons and preventing them from engaging in illegal activity;

2. The methods of supervision preventing the Employees from engaging in acts of prostitution or other related criminal activities;
 3. The methods of supervising Employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;
 4. The methods of screening Employees and customers in order to promote the health and safety of Employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.
- H. Each applicant is required to attach to the application form the additional items listed under Section 4-11-12.
- I. Each applicant is required to meet with the Police Chief or his/her designee.

4-11-11 Employee License Application

- A. Applications for an Employee license to work and/or perform services in a Sexually Oriented Business, whether original or renewal, must be made to the Park City Business License Clerk by the Person to whom the Employee license shall be issued. Each application for an Employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the Park City Business License Clerk. Applications must be submitted to the office of the Park City Business License Clerk during regular working hours. Each applicant shall be required to give the following information on the application form:
1. The correct legal name of the applicant, and any other names or aliases used by the applicant or by which the applicant is known;
 2. Present residence address and telephone number;
 3. Present Business name, address, and telephone number;
 4. Utah driver license or identification number;
 5. Social security number;
 6. Age, date, and place of birth; and
 7. Height, weight, hair color, and eye color.
- B. Each applicant shall provide acceptable written proof that the applicant is at least twenty-one (21) years of age;
- C. Each applicant is required to attach to the application form the additional items listed under Section 4-11-12.
- D. Each applicant is required to meet with the Police Chief or his/her designee and sign a statement of understanding of the applicable laws and regulations.

4-11-12 Additional Application Requirements

Attached to the application form for any license under this Chapter shall be the following:

- A. Two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Park City Police Department. For Persons not

residing in Park City, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the Person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;

- B. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant possessed or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated, or presently owns or operates a Sexually Oriented Business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do Business denied, revoked, or suspended in this or any other county, city, state, or territory. In the event of any such denial, revocation, or suspension, state the date, the name or issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application; and
- C. A statement detailing all criminal convictions, pleas of no contest except those which have been expunged, and pleas that are currently being held in abeyance and have not yet been dismissed, for the applicant, individual, or entity subject to disclosure under this Chapter for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses, any traffic offense designated as a felony shall not be construed as a minor traffic offense; stating the date, place, nature of each conviction, plea of no contest, except those which have been expunged, and plea that is currently being held in abeyance and has not yet been dismissed, and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers.

4-11-13 Consent For Background Check

Submission of an application for a Sexually Oriented Business license or Employee license shall constitute voluntary consent for criminal background checks by the Park City Police Department, the Utah Bureau of Criminal Identification, and the Federal Bureau of Investigation pursuant to any proceeding involving the Sexually Oriented Business license or Employee license.

4-11-14 False Or Misleading Information; Disclosure

It is unlawful to knowingly:

- A. Submit false or materially misleading information on a Sexually Oriented Business license or Employee license application;
- B. Provide false or materially misleading information to a Park City Business License clerk or Police Chief or his/her designee for the purpose of obtaining a Sexually Oriented Business license; or
- C. Fail to disclose or omit information for the purpose of obtaining a Sexually Oriented Business license or Employee license.

4-11-15 Employment Or Persons Without Permits Unlawful

It is unlawful for any Sexually Oriented Business operating in or engaging employees in Park City, Utah, to employ, retain, or contract, or for any individual to be employed or contracted by a Sexually Oriented Business in the capacity of a Sexually Oriented Business Employee in Park City, Utah, unless that Employee first obtains and possesses a Sexually Oriented Business Employee license from Park City Municipal Corporation. It is not sufficient that the owner or employee of Sexually Oriented Business has a Business license in any other location or jurisdiction.

For purposes of this Chapter, all owners, corporations, partnerships, or anyone who has any ownership interest in the Sexually Oriented Business doing business in Park City, Utah, shall be criminally liable as a party to any violation of this Chapter. In addition, any manager or Person with supervisory status over the unlicensed Employee doing Business in Park City, Utah, shall be criminally liable as a party to any violation of this Chapter.

Any Employee who knowingly, intentionally, recklessly, or with criminal negligence introduces, furnishes, arranges, transports, assists, or refers, or offers to introduce, furnish, arrange, transport, assist, or refer any unlicensed Employee to provide, or for the purpose of providing, Escort Services in Park City, Utah, shall be criminally liable.

4-11-16 Single Location And Name

- A. Conducting Business, as defined in this Title, under a license issued pursuant to this Chapter at any location other than the licensed Business Premises is unlawful. Any location to which telephone calls are automatically forwarded by such Business shall require a separate license.
- B. It is unlawful for any Sexually Oriented Business to do Business under any name other than the Business name specified in the application.

4-11-17 License - Issuance Conditions

- A. The Park City Business License clerk or his/her designated representative, shall refer all applications for licenses to the Police Chief for his investigation and recommendations.
- B. The Police Chief shall recommend the approval of a license pursuant to this Chapter unless he/she finds one or more of the following:
 - 1. The applicant is under twenty-one (21) years of age;
 - 2. The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to a Sexually Oriented Business;
 - 3. The applicant has falsely answered a material question or request for information as authorized by this Chapter;
 - 4. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application. A criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
 - 5. The Business Premises to be used has been disapproved by the Summit County Health Department, the Fire Marshal, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain an extension of time of no more than fifteen (15) days for review;
 - 6. All required License Fees have not been paid;
 - 7. All applicable sales and use taxes have not been paid;

8. An applicant for the proposed Business is in violation of or not in compliance with this Chapter or similar provisions found in state statutes or ordinances from any other jurisdiction;
9. An applicant has been convicted or pled nolo contendere to a crime involving:
 - a. Prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; contributing to the delinquency of a minor; possession of child pornography; lewdness; obscenity; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; any felony; any violation under the Utah Controlled Substances Act or substantially similar state or federal statute; any crime of violence; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
 - i. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years if the convictions are of two (2) or more misdemeanors within the five (5) years; or
 - ii. Less than five (5) years have elapsed from the date of conviction if the offense is a felony;
 - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.
10. An applicant has not provided the Park City Business License Clerk with a complete application. An application is not complete until the applicant has provided all applicable requirements of Sections 4-11-10, 4-11-11, and 4-11-12; met with the Police Chief or his/her designee; and paid all fees.
- C. The Police Chief shall make a report of his findings to the Park City Business License Clerk together with his recommendation, if any, within forty-five (45) days of receipt of a completed application including payment of all fees. If the Police Chief or his/her designee cannot complete his/her review within the forty-five (45) day approval or denial period, the Police Chief or his/her designee may obtain an extension of time of no more than fifteen (15) days for his/her review. The total time for the City to approve or deny a license shall not exceed sixty (60) days from the receipt of a completed application and payment of all fees.

4-11-18 Possession And Display Of Employee License

It is unlawful for any individual licensed pursuant to this Chapter to fail to, at all times while engaged in licensed activities within the corporate boundaries of the City, carry their Park City Municipal Corporation Sexually Oriented Business license on their Person. If the individual is Semi-Nude, such license shall be visibly displayed within the same room as the Employee is performing. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

4-11-19 Changes In Information

Any change in the information required to be submitted under this Chapter for a Sexually Oriented Business license shall be given, in writing, to the Park City Business License Clerk, within fourteen (14) days after such change.

4-11-20 Transfer Limitations

Sexually Oriented Business licenses granted under this Chapter are not transferable. It is unlawful for an individual to transfer a Sexually Oriented Business license. It shall be unlawful for a Sexually Oriented Business license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a Sexually Oriented Business licensee occurs, the license is immediately null and void and the Sexually Oriented Business shall not operate in Park City, Utah, until a separate new license has been properly issued by the City as herein provided.

4-11-21 General Regulations

It is unlawful for any Sexually Oriented Business to:

- A. Allow Persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by applicable liquor ordinance, on the Business Premises, except that in Adult Businesses, which exclude minors from less than all of the Business Premises, minors shall not be permitted in excluded areas;
- B. Allow, offer, or agree to conduct any Escort Services with Persons under the age of eighteen (18) years;
- C. Allow, offer, or agree to allow any alcohol being stored, used, or consumed on or in the Business Premises;
- D. Allow the outside door to the premises to be locked while any customer is in the Business Premises;
- E. Allow, offer, or agree to gambling on the Business Premises;
- F. Allow, offer, or agree to any Employee of a Sexually Oriented Business touching any patron or customer;
- G. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the Business Premises;
- H. Allow Sexually Oriented Business Employees to possess, use, sell, or distribute controlled substances, while engaged in the activities of the Business;
- I. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the Business Premises, or in the event of an Escort or Escort Services, the Escort or Employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
- J. Allow, offer, commit, or agree to any specified sexual activity in the presence of any customer or patron;
- K. Allow, offer, or agree to allow a patron or customer to commit Specified Sexual Activities in the presence of an Employee or on the Business Premises;
- L. Allow, offer, or agree to any Employee of a Sexually Oriented Business appearing before any customer or patron in a State of Nudity, unless licensed as an Adult Theater;

- M. Allow, offer, or agree that any Employee of a Sexually Oriented Business should appear before any customer or patron in a State of Partial Nudity without their employee license on their Person or in their immediate control.
- N. Allow, offer, or agree to commit an act of lewdness as defined in Section 8-4-20 of this Code; or
- O. Not permit the Police Department or other proper City official to have access at all times to all premises licensed or applying for a license under this Chapter, or to make periodic inspection of said Business Premises whether the officer or official is in uniform or plain clothes.

4-11-22 Escort Service Operation Requirements

It is unlawful for any Business or Employee providing Escort Services contracted for or provided in Park City, to fail to comply with the following requirements:

- A. All businesses licensed to provide Escort Services pursuant to this Chapter shall provide to each patron a written contract in receipt of consideration for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The Business Operator shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period of not less than one (1) year from the date of provision of services. The contracts shall be numbered and entered into a register listing the contract number, name, names of all Employees involved in the contract and pecuniary compensation paid.
- B. All Escort Services licensed pursuant to this Chapter shall maintain an open office at which at least one (1) responsible Employee conducts the affairs of the Business and acts as manager and licensee's designated agent and may be personally contacted during all hours Escorts are working. The address and phone number of the Business Premises shall appear and be included in all patron contracts and published advertisements.
- C. Escort Services shall not advertise in such a manner that would lead a reasonably prudent Person to conclude that Specified Sexual Activities would be performed by the Escort. The Business Operator shall keep and maintain copies of all published advertisements for a period not less than one (1) year from the date of publishing.

4-11-23 Adult Business, Design Of Premises

- A. In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an Adult Business shall also submit a diagram, drawn to scale, of the Business Premises of the license. The design and construction, prior to granting a license or opening for Business shall conform to the following:
 - 1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
 - 2. Restrooms may not contain any video reproduction equipment or any of the Business merchandise. Signs shall be posted requiring only one (1) Person be allowed in the restroom per stall and only one (1) Person in any stall at a time and requiring that patrons shall not be allowed access to manager's station areas;
 - 3. For businesses which exclude minors from the entire premises all windows, doors, and other apertures to the premises shall be darkened or otherwise constructed to prevent

anyone outside the premises from seeing the inside of the premises. Businesses, which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;

4. The diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
- B. It shall be the duty of licensee and licensee's Employees to insure that the views from the manager's station of all areas specified in Section (A)(1) above remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot candle measured at floor level. It shall be the duty of licensee and licensee's Employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

4-11-24 Semi-Nude Entertainment Business; Interior Design

Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which separation shall be delineated by a physical barrier at least three feet (3') high. It is unlawful for Business Premises licensed for Semi-Nude Entertainment to:

- A. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an Adult Theater such items may be on the stage as part of a performance;
- B. Allow any door on any room used for the Business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside;
- C. Provide any room in which the Employee or Employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet (3') high and six inches (6") wide. The patron or patrons shall remain on one side of the barrier and the Employee or Employees shall remain on the other side of the barrier;

4-11-25 Alcohol Prohibited

It is unlawful for any Business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the Business Premises. It is unlawful for any Person to possess or consume any alcoholic beverage on the Business Premises of any Sexually Oriented Business.

4-11-26 Severability

In the event that any provision of this Chapter is declared invalid for any reason, the remaining provisions shall remain in effect.

4-11-27 Compliance By Present Licensees

Any Person, firm, or corporation which held any Business license from Park City which lawfully permits the activities regulated hereby or was doing Business on the effective date of this amendment, shall have forty-five (45) days from the effective date of this amendment to submit the application required in this Chapter or be deemed as operating as Sexually Oriented Business without a license. Additionally,

Employees of Business designated by this Chapter who are required to obtain an Employee license shall have forty-five (45) days from passage of this amendment to submit application for an employee license or be deemed as operating without a license.

4A Special Events

4A-1 Definitions

4A-2 Special Event Permitting

4A-3 Public Outdoor Music Plazas

4A-1-1 Definitions

For the purpose of this Title the following terms shall have the meanings herein prescribed:

4A-1-1.1 APPLICANT. The person, or group of people, who is or are the organizer(s) and with whom the responsibility for conduct of the event lies. The Applicant signs the Special Event Permit application and all other documents relevant to the event. If the Applicant is a corporation, corporate Sponsor, or business, or any other entity, which is not a natural person, the co-applicant or responsible party must be a natural person or persons. See Sponsor.

4A-1-1.2 AMPLIFIED EVENT OR MUSIC. An event or music utilizing an amplifier or other input of power so as to obtain an output of greater magnitude or volume through speakers or other electronic devices.

4A-1-1.3 CONCESSION. A privilege to sell food, beverages, souvenirs, or copyrighted or logoed event memorabilia at a permitted event.

4A-1-1.4 FEE(S). Charges assessed by Park City for permitting, staffing, equipment use/rental, property use/rental, set-up, clean up, inspections, public employees, or public equipment assessed to a Special Event and established within the event permitting process.

4A-1-1.5 PERMITTEE. The Applicant, as defined above, becomes the "Permittee" when the Special Event Permit is signed by the Economic Development Manager or his/her designee, upon meeting all the criteria in this Title. As the permit holder, the Permittee becomes the sole proprietor of the event and inherits the responsibilities connected with all licenses and permits, Fee assessments, and insurance liabilities connected with the permitted event.

4A-1-1.6 SPECIAL EVENT.

- A.** A sporting, cultural, entertainment, or other type of unique activity, whether held for profit, nonprofit, or charitable purposes, occurring for a limited or fixed duration that impacts the City by involving the use of, or having impact on, City property, or requiring City licensing or services beyond the scope of normal business and/or liquor regulations, as defined by this Code; or creates public impacts through any of the following:
 - 1. Full or partial street or sidewalk closures necessary for the safe and efficient flow of traffic in Park City; and /or
 - 2. Use of public property, facilities, trails, or parks; and/or
 - 3. Use of City parking facilities; and/or
 - 4. Use of amplified sound above that defined in Title 6 of this Code; and/or
 - 5. Outdoor or temporary events that do not normally occur with the permitted use.
- B.** Any organized activity involving the use of, or having an impact on, the above shall require a permit as outlined in Section 4A-2-1 of this Code. Event levels are determined based on degree of City impacts including but not limited to: anticipated attendance, use of amplified sound, transportation and parking, use of public or private property, and admission. Any

event may be defined as either a Level One Event, a Level Two Event, a Level Three Event, or a First Amendment Event if they meet one or more of the listed criteria in the given category:

1. LEVEL ONE EVENT:

- a. The attraction of crowds up to 199 people; or
- b. Necessity for rolling street closure.

2. LEVEL TWO EVENT:

- a. The attraction of crowds between 200 and 499 people; or
- b. Necessity for partial street closure.

3. LEVEL THREE EVENT:

- a. The attraction of crowds between 500 people; or
- b. Necessity for full street closure.

4. FIRST AMENDMENT EVENT: An activity conducted for the purpose of persons expressing their political, social, religious, or other views protected by the First Amendment to the United States Constitution and Article 1, Section 15 of the Utah Constitution, including but not limited to speechmaking, picketing, protesting, marching, demonstrating, or debating public issues on any City street or other property during the event. 'First Amendment Events' shall not include:

- a. Solicitations or events which primarily propose a commercial transaction;
- b. Rallies, races, parades, or events conducted with motor vehicles or bicycles;
- c. Footraces.

4A-1-1.7 SPECIAL EVENTS COORDINATOR. The City employee designated by the Economic Development Manager within the Special Events Department, which administers the provisions in the Special Events Chapter of this Code.

4A-1-1.8 SPECIAL EVENT PERMIT. A permit sought by an Applicant for an event as defined in this Chapter, granted through the Special Events Department.

4A-1-1.9 SPONSOR. A person, group, or business which has contracted to provide financial or logistical support to any Special Event or master festival. Such agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products, or logos.

4A-1-1.10 STAGE(S). The raised and semi-enclosed platforms that are designed to attenuate sound, or as otherwise approved by Special Events staff.

4A-1-1.11 VENUE. The location or locations upon which a Special Event is held, which may include the ingress and egress route as approved in the conditions of the Special Event Permit.

4A-2 Special Event Permitting

4A-2-1 Unlawful To Operate Without A License; Exceptions

4A-2-2 Renewal Of Permit(s)

4A-2-3 Special Event Permit Application Procedure

4A-2-4 Standards For License Approval

4A-2-5 Conflicting Permit Applications

4A-2-6 Licenses Necessary For A Special Event Permit

4A-2-7 Fees To Be Assessed; Exceptions

4A-2-8 Events In Parking Structures

4A-2-9 Fee Reductions

4A-2-10 Insurance Requirements

4A-2-11 Permit Application Supplemental Documents

4A-2-12 Film-Making

4A-2-13 Criminal Penalty

4A-2-14 Revocation For Cause And Notice To Cure

4A-2-1 Unlawful To Operate Without A License; Exceptions

- A. It is unlawful for any person to conduct a Special Event with or without charge for admission, on public or private property, without first applying for and being granted a Special Event Permit for the specific event and its Venue(s). All permits issued pursuant to this Title are non-transferrable and expire at the completion of the given event, or upon revocation, whichever is earlier.
- B. The following are exempt from Special Event licensing:

- 1. Funeral processions by a licensed mortuary;
- 2. Activities lawfully conducted by a governmental agency within the scope of authority;
- 3. Filming activities if a permit for such activities has been issued by the City;
- 4. First Amendment activities: If it is not reasonably possible to obtain a permit in advance of a First Amendment Event, no permit shall be required providing that the prohibitions of Subsections B, C, D and E of Section 4A-2-4 are not violated.

4A-2-2 Renewal Of Permit(s)

Permittees under the provisions of this Title who successfully operate a Special Event under the provisions of this Title and who wish to have the event on an annual or periodic basis must renew each Special Event Permit as outlined in Section 4A-2-3 herein. Event levels will be determined through the renewal process, regardless of recurrence or previously determined event levels. Activities that occur in series, falling under the criteria established in this Title, must have a Special Event Permit, which specifically authorizes each activity in the series, even if the same activity is held on separate occasions.

4A-2-3 Special Event Permit Application Procedure

- A. **APPLICATION SUBMITTAL.** All requests for Special Event Permit(s) shall be made on a Special Event application or First Amendment Event application prescribed by the City and submitted to the Special Events Coordinator. Application materials are available at City Special Events Department and online at the City's website, and must be completed and submitted to the Special Event Coordinator not less than ninety (90) days prior to the scheduled opening of any Level Three Event, not less than sixty (60) days

prior to the scheduled opening of any Level Two Event, and not less than thirty (30) days prior to the scheduled opening of any Level One or First Amendment Event unless otherwise approved by the City Council, or by the Economic Development Manager or his/her designee for Special Events, upon a showing of good cause.

- B. **ADDITIONAL REQUIREMENTS.** In addition to an application for a Special Event Permit, the Economic Development Manager or his/her designee shall require the Applicant to provide as necessary:

1. Insurance coverage, waiver and release of damages and indemnification as described in Section 4A-2-10;
2. Supplemental documents, including a transport and traffic control plan, contingency plan, and site map described in Section 4A-2-11;
3. Proof that the Applicant has obtained any applicable city, county, state, or other governmental agency approvals, permits, or licenses as described in Section 4A-2-6.

- C. **CITY COUNCIL REVIEW.** The City Council of Park City shall review and either approve, approve with conditions, or deny the following applications:

1. Applications for new Level Three Events;
2. Applications for Level Three Event permit renewals where material elements of the event have substantially changed from the previous application; and
3. Appeals of administrative decisions made pursuant to Subsection (D) Administrative Review, herein.
4. As used herein, a 'new Level Three Event' shall mean any Level Three Event being proposed for the first time, an event renewal of a Level One, Level Two or First Amendment Event that now qualifies as a Level Three Event, or a Level Three Event which was not renewed for a period exceeding one (1) year. The City Council shall review applications for compliance with the standards for permit approval described at Section 4A-2-4 herein as follows:

a. Staff Review and Recommendation. Upon receipt of a complete Level Three Event application and accompanying Fee, City staff shall review the application for compliance with Section 4A-2-4 herein. Staff shall subsequently return a copy of the application to the Applicant with comments and a recommendation, i.e., approve as is, approve with changes and/or conditions, or cause for denial. Incomplete applications will be returned to the Applicant and noted accordingly. Following review of the Level Three Event application and notice to the Applicant, the Special Events Coordinator shall schedule the application for a public hearing before the City Council.

b. City Council Hearing. Level Three Event applications requiring City Council review and appeals of administrative Special Event decisions shall be heard at a duly noticed public hearing of the City Council. The City Council shall review the application for compliance with the standards set forth at Section 4A-2-4 herein, and shall record its decision with written findings of fact, conclusions of

law, and condition of approval, if applicable. Written notice of the City Council's decision shall be delivered to the Applicant within ten (10) days of the date of decision.

- D. **ADMINISTRATIVE REVIEW.** The Economic Development Manager or his/her designee shall review and shall have the authority to administratively approve, approve with conditions, or deny the following applications:

1. Level One and Level Two Event applications;
2. First Amendment Event applications;
3. Applications for Level Three Event renewals where material elements of the event have not substantially changed from the previous application. Upon receipt of a complete Level Three Event application and accompanying Fee, the Special Events Coordinator shall review the application for compliance with Section 4A-2-4 herein.

- E. **DECISION.** Upon receipt of a complete Special Event Permit application and accompanying Fee, the Special Events Coordinator shall review the application for compliance with Section 4A-2-4 herein. Following review of the application, the Special Events Coordinator shall record his/her decision with written findings of fact, conclusions of law, and conditions of approval, to the Economic Development Manager or his/her designee for final administrative approval. Once approved by the Economic Development Manager or his/her designee, the Special Event Coordinator will deliver written notice of such decision to the Applicant.

- F. **APPEALS.** Any Applicant whose application has been administratively denied may appeal the decision to the City Council by filing a written request to the Special Events Coordinator within ten (10) days of the date of decision. The City Council shall hear the matter de novo and with public hearing.

4A-2-4 Standards For License Approval

Applications for Special Event Permit(s) shall be reviewed for compliance with the standards provided herein. The Economic Development Manager or his/her designee or City Council may deny or restrict any Special Event whenever any of the conditions enumerated in this Section cannot be eliminated or sufficiently mitigated by Conditions of Approval to ensure public safety and consistency with the Park City General Plan.

- A. The Special Event does not provide positive economic, cultural, or community value, or is not in accordance with the goals outlined in the Park City General Plan. The economic, cultural, and community value shall be determined by the City pursuant to the following criteria:
1. Does not unreasonably restrict existing public access or adversely impact shared space or the public due to the number of events, the nature of the event, proposed location and/or location conditions;
 2. Provides diversity or uniqueness to the existing event calendar;
 3. Is not primarily retail and/or solely to avoid more restrictive general zoning and license regulations;
 4. Provides economic benefit to the City through tax benefits, resort visitation, or marketing or branding value, compared to community impacts and costs of services.
- B. The conduct of the Special Event will substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its Venue.

- C. The conduct of the Special Event will require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
- D. The concentration of persons, vehicles, or animals will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health and safety services.
- E. The Special Event will substantially interfere with any other Special Event for which a permit has already been granted or with the provision of City services in support of other such events or governmental functions.
- F. Where applicable, the Applicant fails to provide the following:
 - 1. The services of a sufficient number of traffic controllers, signs or other City required barriers or traffic devices;
 - 2. Monitors for crowd control and safety;
 - 3. Safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the Special Event will be conducted without creating unreasonable negative impacts to the area and with due regard for safety and the environment;
 - 4. Adequate off-site parking and traffic circulation in the vicinity of the event;
 - 5. Required insurance, cash deposit, or other security; or
 - 6. Any other services or facilities necessary to ensure compliance with City ordinance(s).
- G. The event creates the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
- H. The Applicant demonstrates inability or unwillingness to conduct the event pursuant to the terms and conditions of this Title or has failed to conduct a previously authorized event in accordance with the law or the terms of a permit, or both.
- I. The Applicant has not obtained the approval of any other public agencies, including the Park City Fire District, within whose jurisdiction the event or a portion thereof will occur.
- J. **EXCEPTIONS.** Applications for First Amendment Event permits will be reviewed for compliance with the standards outlined in Subsections B, C, D, E, G, and H above. In reviewing any Application for a permit for a First Amendment Event, the Economic Development Manager or his/her designee may place reasonable time, place, and manner of restrictions on the First Amendment Event. No such restriction shall be based on the content of the beliefs expressed or anticipated to be expressed during the First Amendment Event, or on factors such as the identity or appearance of persons expected to participate in the assembly.

4A-2-5 Conflicting Permit Applications

- A. No more than one (1) Special Event shall be approved for the same date(s) unless the Economic Development Manager or his/her designee finds that the events will not adversely impact one another and that concurrent scheduling of the events will not adversely impact the public health,

safety, and welfare. In making this determination, the Economic Development Manager or his/her designee will apply the following criteria:

1. Geographic separation of the events;
 2. Proposed time and duration of the events;
 3. Anticipated attendance volumes;
 4. Necessity for public personnel, equipment, and/or transportation services at the events; and
 5. Anticipated traffic and parking impacts.
- B. In cases where an event double booking conflict arises, the Economic Development Manager or his/her designee will encourage any secondary, or subsequent, Applicant to review the feasibility of collocating with the original Applicant. If collocating proves impractical, the Economic Development Manager or his/her designee will encourage any secondary, or subsequent, Applicant to offer a viable alternative strategy that meets the needs of all Applicants, while also ensuring adequate public safety measures remain intact.
- C. If no voluntary agreement is reached, then the Economic Development Manager or his/her designee shall resolve the issue based on the following order of priorities:
1. The Special Event that provides the greatest overall value to the City based on economic, cultural, and community impacts, which for recurring events may be based on annual event debrief with recommendations from the Special Event Advisory Committee.
 2. Special Events planned, organized, or presented by state, federal, or City governmental entities or their agents shall have priority over conflicting applications if:
 - a. The application is timely filed and processed by the City;
 - b. Said governmental application is made in good faith and not with the effect or purpose of improperly chilling constitutional rights of conflicting Applicants.
- D. If no voluntary agreement is reached, then the first-in-time application shall be given priority. The conflicting Applicant shall be advised of other open dates on the City's events calendar.

4A-2-6 Licenses Necessary For A Special Event Permit

The Applicant/licensee shall procure any applicable city, county, state, or other governmental agency approvals, permits, or licenses.

4A-2-7 Fees To Be Assessed; Exceptions

- A. **APPLICATION FEE.** Special Event application Fees shall be assessed according to the Fee resolution. All application Fees are due and payable upon submission of a completed application. Applications shall be considered incomplete unless and until the application Fee is paid in full. An Applicant for a recurring event that qualifies as a new event level is responsible for Fee amounts of the given level.
- B. **CITY SERVICE FEES.** Upon receipt of a completed Special Event Permit application, the Special Events Coordinator will provide the Applicant with an estimate of Fees based on

estimated costs for City services arising from the event, including but not limited to the use of City personnel and/or equipment, City transportation services, inspections, and user Fees. A final assessment of City costs will occur upon completion of the Special Event. All City service Fees will be adjudged to reflect actual cost. Unless reduced pursuant to Section 4A-2-9, all City service Fees must be paid in full within thirty (30) days of the final assessment of City costs for the Special Event.

- C. **FINANCIAL SECURITY.** The Special Events Coordinator is authorized to require an Applicant to post a cash deposit or other security accepted by the Legal Department for all estimated contingent costs prior to the issuance of a Special Event Permit, as a guarantee against Fees, damages, clean up, or loss of public property.
- D. **EXCEPTIONS.** Specified Fees do not apply to an application for a First Amendment Event permit if the Applicant demonstrates, by sufficient evidence, that the imposition of Fees would create a financial hardship on the Applicant or would have a detrimental effect on services provided to the public.

4A-2-8 Events In Parking Structures

Applications for Special Events taking place within a parking structure shall be reviewed for compliance with all Codes relating to Special Events along with the standards provided below:

- A. Location – Special Events or hospitality functions taking place within a parking structure shall only take place in Historic Recreation Commercial (HRC) District and Historic Commercial Business (HCB) District zones.
- B. Duration – Permitted Special Events or hospitality events taking place within a parking structure may not exceed ten (10) calendar days in duration.
- C. Frequency – Individual parking structures will be eligible to be converted into an event or hospitality use no more than two times during one calendar year.
- D. Application Requirements – In addition to the Special Event application requirements, Applicants wishing to utilize a parking structure for a temporary assembly use as part of a Special Event or hospitality function must also provide the following:
 - 1. An original set of design plans stamped by a Utah licensed mechanical engineer that meet the intent of required ventilation standards as per the International Mechanical Code Section 403.3.1.1 for both occupancies. This plan must be approved by the Building Official.
 - 2. Design plans that demonstrate plumbing systems and fixtures provided within the event space meet the intent of the plumbing fixture requirements of IBC Chapter 29. This plan must be approved by the Building Official.
 - 3. All plans must be approved by the Deputy Fire Marshal and shall demonstrate compliance with the International Fire Code.

4A-2-9 Fee Reductions

- A. Annually, the City will allocate up to two hundred thousand dollars (\$200,000) to be used to reduce City Service Fees required for Special Events. Allocation of reduced Fees will be determined at the sole discretion of the Economic Development Manager and Budget Manager(s),

City Manager, and City Council. Unmet thresholds at the end of a year will not be carried forward to future years.

- B. The City Manager may reduce the following Special Event permitting and associated City Service Fees up to a total of twenty five thousand dollars (\$25,000) after reviewing a recommendation from the Economic Development Manager and Budget Manager upon a finding of eligibility pursuant to the criteria provided herein:
1. Application;
 2. Building permit;
 3. Facility and/or equipment rentals;
 4. Field and/or park rentals;
 5. Special use of public parking permit;
 6. Bleachers;
 7. Trail; and
 8. Public Safety Personnel.

If the total Fee reduction request exceeds twenty five thousand dollars (\$25,000) or includes other City Service Fees outside the Fees mentioned above, then the request must be approved by City Council in a Public Meeting.

- C. All Fee reduction requests will be reviewed twice a year. All Special Event Fee reduction requests must be submitted to the Special Events Coordinator prior to the application deadlines:
1. October 1st – Events occurring between January 1st and June 30th.
 2. April 1st – Events occurring between July 1st and December 31st.

Applications received outside of the normal application process may be considered for reductions but must demonstrate an immediate need for reduction and provide justification to why the application was not filed within the specified deadline.

- D. Fee reduction applications will be evaluated by a City Staff review committee comprised of City Departments which the Fees directly impact and a recommendation will be submitted to the Special Events Department. Special Events staff will make a recommendation to the Economic Development Manager, Budget Manager(s), and City Manager or City Council. Final determinations will be made by these parties as outlined above in Section 4A-2-9(B). All decisions may be appealed with the final decision given by the City Council. Eligibility for a full or partial Fee reduction shall be determined by the City pursuant to the following criteria, none of which shall be individually controlling:
1. Charges event admission or Fees for participation and policy for attendees or participants unable to pay such Fees;
 2. Event provides free programs to the community, or raises funds for organizations that provide free programs, benefiting local youth, seniors, or under-served constituents;

3. Provides economic opportunities to the community including positive tax benefits, raises funds or provides revenue opportunities to the City to offset City services and costs required by the event;
4. Provides community and/or economic event opportunities during resort off seasons;
5. Demonstrates extraordinary efforts to reduce and mitigate environmental, transportation, and residential impacts associated with the event consistent with adopted City Council priority/policy goals and the General Plan; and
6. Demonstrates that the imposition of Fees would create a financial hardship on the Applicant or would have a detrimental effect on services provided to the public.

Fee reduction requests must be filed bi-annually, unless otherwise approved in a City services agreement by the City Council. Approval of a Fee reduction for any application shall not create a precedent for future requests.

4A-2-10 Insurance Requirements

Upon receipt and review of a Special Event Permit application, the Special Event Coordinator will submit the application with a recommendation for final authority by the City Attorney's Office for amount of liability insurance pursuant to the hazard matrix or more to be determined within ten business days (10) following submittal. The Special Event Coordinator will deliver written notice of such determination to the Applicant. Applicants shall provide proof of liability insurance in the determined amount no later than fourteen days (14) prior to the first set-up day of a Special Event. The City Attorney's Office shall require the Applicant to further name Park City Municipal Corporation as an additional insured. All Applicants shall further indemnify the City from liability occurring at the event, except for any claim arising out of the sole negligence or intentional torts of the City or its employees. Any reduction of these requirements must be approved by the City Attorney's Office prior to permit approval.

4A-2-11 Permit Application Supplemental Documents

A. Transportation and traffic control requirements and considerations:

1. All traffic and transportation control is the responsibility of the Applicant. A traffic and transportation control plan shall be provided to, and approved by, the Economic Development Manager or his/her designee upon recommendation by the Transportation Department by the event date. Plans are determined through collaboration with the Special Events Coordinator, and shall include determinations on transit impacts and traffic control, including pedestrian, bicycle, motorized and other methods of transport required for the event;
2. Road closures will require appropriate traffic control. Appropriate traffic control may include by uniformed state, county, or local police officers, or a private company, identified event staff, or physical devices, as determined by the Economic Development Manager or his/her designee;
3. The Economic Development Manager or his/her designee may require an alternate route, or alternative time, if the proposed Event occurs when traffic volumes are high, active road construction is present, an alternative event is already occupying the road, a safer route to accommodate the event, or the event poses a significant inconvenience to the traveling public;

4. The Applicant shall restore the road or trail segment, or impacted area to its original condition, free from litter and other material charges;
5. The Economic Development Manager or his/her designee may monitor and ensure compliance with the terms and conditions of any Special Event Permit.

B. Contingency Plan Requirements:

1. Considering the nature of the planned Special Event, the Applicant shall develop:
 - a. Contingency or emergency plans, including Emergency Medical Service, fire, and police;
 - b. Operations plan and timeline;
 - c. Weather date and/or weather conditions plan;
 - d. Residential notification and mitigation plan;
 - e. Planned rest areas, water and toilet facilities, and trash and recycling cleanup;
 - f. Plans to ensure that participants obey the conditions of the Special Event Permit and all other generally applicable traffic laws, lights, and signs;
 - g. The Economic Development Manager or his/her designee may require that the Applicant provide notice to participants, bystanders, or the public of all plans enumerated in Subsection (B)(1). The amount of and method of notice shall be dependent on the circumstances of the Special Event Permit.

C. Special Event Site Identification and Private Property Use Requirements.

- D. The Applicant shall provide a detailed map showing the proposed course and direction of the event. Locations of parking areas, signs and banners, water stations, power sources, toilet facilities and other appropriate information shall also be included on this map. The Applicant is responsible for obtaining appropriate permission to locate these facilities on private property.

4A-2-12 Film-Making

Film-making shall be considered Special Events unless such event does not create substantial public impact or require substantial City service. Any filming undertaken by any business or corporation must first be licensed as a business under Title 4 of this Code. Corporations falling under the provisions of this Title or who are specifically in film-making or promotions on public or private property must, as a provision of their permit, provide the following: proof of insurance, shooting schedule or schedule of events, written permission of property owners, and access to any set or site for purposes of Code enforcement.

4A-2-13 Criminal Penalty

Any person who willfully violates any provision of this Title shall be guilty of a Class B misdemeanor. Persons conducting Special Events without having first obtained a Special Event Permit are subject to arrest and the Special Event is subject to closure.

4A-2-14 Revocation For Cause; Notice To Cure

- A. **NOTICE TO CURE.** If the Special Events Coordinator or any sworn law enforcement officer determines that the conditions of any permit issued pursuant to this Title have been or are being violated, then notice shall be given to the Permittee, Sponsor, or designated organizer's representative of the Special Event to cure the violation.
- B. **FAILURE TO CURE.** It is unlawful for the Permittee, Sponsor, or on-site organizer's representative of an authorized Special Event to fail to take reasonable steps to promptly cure any notice of violation of this Title. It is also unlawful for any participant or spectator to fail to

comply with lawful directions issued by any sworn law enforcement officer or by the Permittee, Sponsor, or on-site organizer's representative to cure their violation of this Title.

- C. **CLEAR AND PRESENT DANGER.** If a sworn law enforcement officer determines, after consultation with the Chief of Police or the Chief of Police's designee, that any failure to cure a violation of this Title creates a clear and present danger of immediate significant harm to life, public safety, or property which cannot be reasonably mitigated by increased public safety enforcement and which, on balance, outweighs the constitutionally protected rights of the organizers or participants in the Special Event, the Permittee, Sponsor, or on-site organizer's representative of the Special Event shall be promptly notified that the permit is revoked and that the Special Event must immediately cease and desist.
- D. **VIOLATION OF CEASE AND DESIST ORDER.** If a Special Event Permit is revoked as specified in Subsection (C) above, then it shall be unlawful for any person to fail to obey the order to cease and desist from illegal activities.

4A-3 Public Outdoor Music Plazas

4A-3-1 Title For Citation

4A-3-2 Purpose: Reasonable Licensing Procedures

4A-3-3 Application Of Provisions

4A-3-4 Special Event Permit; Review Procedure

4A-3-5 Public Outdoor Music Plazas

4A-3-6 General Regulations

4A-3-7 Alcohol

4A-3-8 License Holder; Program Board

4A-3-9 On-Going Compliance Evaluation

4A-3-10 Transfer Limitations

4A-3-11 Plaza Licenses In Lieu Of Administrative Permit For Outdoor Music And Outdoor Speakers

4A-3-1 Title For Citation

This Chapter shall be known and may be referred to as the Public Outdoor Music Plaza Ordinance.

4A-3-2 Purpose: Reasonable Licensing Procedures

It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the licensing and manner of operations of public outdoor music plazas in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and licensing of public outdoor music plazas within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects, while providing to those who desire to perform in and patronize public outdoor music plazas the opportunity to do so. The purpose of this Chapter is to prevent and control the adverse effects of public outdoor music plazas and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased noise, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

4A-3-3 Application Of Provisions

This Chapter imposes regulatory standards and license requirements on certain activities, which are characterized as "public outdoor music plazas". It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of public outdoor music plazas. This Chapter is intended to supersede any other related ordinances including, but not limited to, Title 6 Chapter 3, Noise, and Title 15, Land Management Code, of the Municipal Code.

4A-3-4 Special Event Permit; Review Procedure

The public outdoor music plazas identified at Section 4A-3-5 herein may be programmed for public performances and outdoor music, subject to the regulations and conditions of this Chapter and subject to Special Event permitting review pursuant this Title. No Permittee or performer shall accrue any vested rights under this revocable license.

4A-3-5 Public Outdoor Music Plazas

The following locations, dates and times may be programmed for public performances and outdoor music:

A. LOWER SUMMIT WATCH PLAZA.

1. **LOCATION.** On the north end of Summit Watch Plaza. Approved plans are on file with the Special Events Department.
2. **OPERATION DAYS/HOURS/MONTHS.** This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and conclude no later than 8:30 p.m. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.
3. **TYPE OF MUSIC.** Amplified and acoustic with prerecorded music allowed during breaks. For Amplified Events or Music on Summit Watch Plaza, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of ninety (90), as measured twenty-five feet (25') in front of the Stage.

B. MINER'S PLAZA.

1. **LOCATION.** 415 Main Street.
2. **OPERATION DAYS/HOURS/MONTHS.** This Stage may be programmed a maximum of two (2) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and conclude no later than 8:30 p.m. Programming of this Stage shall not conflict with any City-sponsored or duly licensed Special Event as approved by the Special Events Department, including but not limited to dates reserved for the Park City Arts Festival. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.
3. **TYPE OF MUSIC.** Solo and duo acts with microphones for vocal, with prerecorded music during breaks. For Amplified Events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the Stage.

C. TOWN LIFT PLAZA.

1. **LOCATION.** 825 Main Street.
2. **OPERATION DAYS/HOURS/MONTHS.** This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. The maximum duration of programming per day shall not exceed four (4) hours and shall begin no earlier than 12:00 Noon and must conclude no later than 8:30 p.m. Programming of this Stage shall

not conflict with any City-sponsored or duly licensed Special Event as approved by the Special Events Department, including but not limited to dates reserved for the Park City Arts Festival. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.

3. **TYPE OF MUSIC.** Amplified and acoustic acts with microphones for vocal, with prerecorded music during breaks. For Amplified Events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of ninety (90), as measured twenty-five feet (25') in front of the Stage.

D. UPPER SUMMIT WATCH PLAZA.

1. **LOCATION.** On the south end of Summit Watch Plaza. Approved plans are on file with the Special Events Department.
2. **OPERATION DAYS/HOURS/MONTHS.** This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and must conclude no later than 8:30 p.m. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.
3. **TYPE OF MUSIC.** Amplified and acoustic with prerecorded music allowed during breaks. For Amplified Events or Music on the Upper Summit Watch Plaza, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the Stage.

4A-3-6 General Regulations

- A. The program manager, or his/her designee, shall provide on-site management for each event.
- B. A sound technician shall provide on-site noise monitoring for each event with music, amplified or otherwise, and any Amplified Event.
- C. For Amplified Events or Music, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the Stage. The data currently available to the City indicates that a maximum decibel level of 90 satisfies the purpose of this ordinance. The City may amend this ordinance consistent with newly acquired data.
- D. All events shall be open to the public and free of charge.
- E. No event shall exceed 250 people at one time unless a separate Special Event Permit is granted for that event.
- F. The Police Department or other proper City official shall have access at all times to all public outdoor music plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.
- G. All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.

4A-3-7 Alcohol

It is unlawful for the Permittee or any person or business to allow the sale, storage, supply, or consumption of alcoholic beverages at the public outdoor music plazas, unless licensed pursuant to Title 4, Alcoholic Beverage Licenses, as applicable.

4A-3-8 License Holder; Program Board

- A. The Permittee(s) will hire a program manager who must be approved by the City; the City will not unreasonably withhold approval of the program manager. The program manager will be responsible for general management of each public outdoor music plaza and on-site oversight for each event. Agreements with the individual property owners will be provided to the City Special Events Department by the program manager.
- B. The Permittee(s) shall schedule events in accordance with the regulations set forth in this Chapter. Nothing herein shall allow the City to regulate the content or otherwise censor plaza productions or speech. The Permittee(s) shall at all times hold the City harmless and indemnify the City from all claims, actions, and liability arising from the Permittee(s)' use of the public outdoor music plazas. The Permittee(s) shall maintain their own liability insurance, with the City listed as an additional insured in a form approved by the City Attorney.
- C. Nothing in this Chapter shall be interpreted to create a contract or implied-contract between the City and any performer, or public outdoor music plaza owner.

4A-3-9 On-Going Compliance Evaluation

- A. Permittee(s) shall post a phone number at each Venue so that individuals may phone in comments. Based upon such comments, the Special Events staff may issue additional conditions consistent with the intent of this Chapter to the program manager, including decreasing DB levels in three (3) DB increments with at least three (3) days between each reduction. A summary of, and recommended response to comments will be forwarded to the City Council within seven (7) days of the end of each month of operation, or sooner if requested by the program manager to resolve any issue.
- B. The Police Chief, or his/her designee, may suspend the permits granted herein and schedule a revocation hearing before the City Council at the next regularly scheduled City Council meeting for any of the following causes:
 - 1. Any violation of this Chapter as evidenced by a citation issued by the Police Department.
 - 2. Any violation of law or City ordinance.
 - 3. Upon any other evidence that the program manager or entertainer constitutes a hazard or nuisance to the health, safety, or welfare of the community.

4A-3-10 Transfer Limitations

The Special Event Permit(s) granted under this Chapter are not transferable without the written consent of the Mayor. It is unlawful for an individual to transfer a public outdoor music plaza Special Event Permit without City approval as provided herein. If any transfer of the controlling interest in a public outdoor music plaza permit occurs without City approval, the permit is immediately null and void and the public outdoor music plaza shall not operate until a separate new permit has been properly issued by the City as herein provided. The City will not unreasonably withhold consent of transfer provided the proposed licensee is a non-profit organization within Park City, meets all the criteria of this Chapter, and demonstrates experience managing Special Events.

4A-3-11 Plaza Licenses In Lieu Of Administrative Permit For Outdoor Music And Outdoor Speakers

The Special Event Permits granted under this Chapter are in lieu of any administrative conditional permit (CUP) for outdoor music, including outdoor speakers, pursuant to Title 15 of the Municipal Code, Land Management Code. The Planning Department shall not issue any outdoor music permits in the Historic Commercial Business (HCB) zoning district north of Heber Avenue. The City may still issue outdoor music permits in conjunction with an approved Special Event Permit.

4B Franchised Utilities and Taxes

4B-1 Franchised Utilities And Cable Television Operator

4B-2 Telecommunications And Rights-Of-Way

4B-3 Sales And Use Tax

4B-4 Telecommunications Tax

4B-5 Municipal Energy Sales And Use Tax

4B-6 Resort Communities Sales Tax

4B-1 Franchised Utilities And Cable Television Operator

4B-1-1 Business License Required

4B-1-2 Franchise License

4B-1-3 Exclusions

4B-1-4 Payment Of Fee

4B-1-5 Penalty

4B-1-1 Business License Required

All franchised utilities and cable television operators must obtain from the City a license to do business within the City. It shall be unlawful for a franchised utility or cable television operator to conduct business in Park City without a license. The City shall not charge a business license fee, but the fees for the franchise license amount below and any franchise fee imposed by virtue of a franchise agreement must be timely paid to receive a business license.

4B-1-2 Franchise License

There is hereby imposed on all franchised utilities, except 'energy suppliers' taxed pursuant to Chapter 4B-5 of this Title, telecommunications providers taxed pursuant to Chapter 4B-4 of this Title, and cable television operators who conduct business within the City with a franchise license. The franchise license shall be three and one-half percent (3.5%) of the gross revenue of the franchised utility or cable television operator derived from the sale of its service or product within Park City's corporate limits. For purposes of this Chapter, gross revenue, shall include all revenue generated from the sale of the franchisee's product or service. The franchise fee imposed by other ordinances as a consideration for granting the franchises shall be excluded from the gross revenue.

4B-1-3 Exclusions

This franchise license fee shall not apply to 'energy suppliers' taxed pursuant to Chapter 4B-5 of this Title, telecommunications providers taxed pursuant to Chapter 4B-4 of this Title, or revenue derived from the sale of household appliances by a franchisee, service of appliances, or to the sale or rental of telephone switching equipment not included in "exchange access service".

4B-1-4 Payment Of Fee

The fee is payable in monthly installments which shall be due on or before the 15th day of the month following the billing cycle of the utility or cable television operator. The fee shall be paid on the basis of the preceding month's actual collections. A service charge of one and a half percent (1.5%) per month of the total amount due may be imposed on late payments.

4B-1-5 Penalty

The operation of a franchised utility or cable television business within Park City without paying the required fees shall be a Class "B" misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) for each day of each violation and imprisonment of the corporate officials responsible for the violation for not more than six months in the County jail for each day of each violation. These

criminal penalties are in addition to, and not in lieu of a civil action to recover the license fee due, or a civil action to terminate the franchise. Each connection to the utility or cable television system through which service is provided by the franchisee is hereby deemed a separate transaction or sale, and each such sale, while unlicensed, shall constitute a separate violation.

4B-2 Telecommunications And Rights-Of-Way

4B-2-1 Scope Of Ordinance

4B-2-2 Defined Terms

4B-2-3 Franchise Required

4B-2-4 Compensation And Other Payments

4B-2-5 Franchise Applications

4B-2-6 Construction And Technical Requirements

4B-2-7 Franchise And License Non-Transferable

4B-2-8 Oversight And Regulation

4B-2-9 Rights Of City

4B-2-10 Obligation To Notify

4B-2-11 General Provisions

4B-2-12 Federal, State, And City Jurisdiction

4B-2-1 Scope Of Ordinance

This ordinance shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights-of way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This ordinance shall apply to all future providers and to all providers in the City prior to the effective date of this ordinance, whether operating with or without a franchise as set forth in Section 4B-2-12(B). This ordinance shall not apply to cable television operators otherwise regulated by a franchise granted by the City, nor personal wireless service facilities. Providers excused by other law that prohibits the City from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this ordinance through the exercise of the City's police power and not preempted by other law shall be applicable.

4B-2-2 Defined Terms

- A. **APPLICATION**. The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights-of-way of all, or a part, of the City. An application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by a provider to the City concerning: the construction of a telecommunications system over, under, on, or through the rights-of-way; the telecommunications services proposed to be provided in the City by a provider; and any other matter pertaining to a proposed system or service.
- B. **CITY**. Park City, Utah.
- C. **COMPLETION DATE**. The date that a provider begins providing services to customers in the City.
- D. **CONSTRUCTION COSTS**. All costs of constructing a system, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.
- E. **CONTROL OR CONTROLLING INTEREST**. Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable

presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty-five percent (25%) of any provider, which person or group of persons is hereinafter referred to as "controlling person". "Control" or "controlling interest" as used herein may be held simultaneously by more than one person or group of persons.

- F. **FCC**. The Federal Communications Commission, or any successor thereto.
- G. **FRANCHISE**. The rights and obligation extended by the City to a provider to own, lease, construct, maintain, use, or operate a system in the rights-of-way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include:
 - 1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;
 - 2. Any other permit, agreement, or authorization required in connection with operations on rights-of-way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the rights-of-way.
- H. **FRANCHISE AGREEMENT**. A contract entered into in accordance with the provisions of this ordinance between the City and a franchisee that sets forth, subject to this ordinance, the terms and conditions under which a Franchise will be exercised.
- I. **INFRASTRUCTURE PROVIDER**. A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system, which uses the rights-of-way.
- J. **OPEN VIDEO SERVICE**. Any video programming services provided to any Person through the use of rights-of-way, by a provider that is certified by the FCC to operate an open video system pursuant to 47 U.S.C. 521 et seq., regardless of the system used.
- K. **OPEN VIDEO SYSTEM**. The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying, or distributing open video services to or from subscribers or locations within the City.
- L. **OPERATOR**. Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.
- M. **ORDINANCE OR TELECOMMUNICATIONS ORDINANCE**. This telecommunications ordinance concerning the granting of franchises in and by the City for the construction, ownership, operation, use, or maintenance of a telecommunications system.
- N. **PERSON**. Includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.
- O. **PERSONAL WIRELESS SERVICES FACILITIES**. Has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as

cellular and PCS Services that do not install any system or portion of a system in the rights-of-way.

- P. **PROVIDER**. An operator, infrastructure provider, reseller, or system lessee.
- Q. **PSC**. The Public Service Commission, or any successor thereto.
- R. **RESELLER**. Any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.
- S. **RIGHTS-OF-WAY**. The surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing, and owned by or otherwise dedicated to the City.
- T. **SIGNAL**. Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.
- U. **SYSTEM OR TELECOMMUNICATIONS SYSTEM**. All conduits, manholes, poles, antennas, transceivers, amplifiers, and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider, located in the rights-of-way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.
- V. **SYSTEM LESSEE**. Any person that leases a system or a specific portion of a system to provide services.
- W. **TELECOMMUNICATIONS**. The transmission, between or among points specified by the user, of information of the user's choosing, e.g., data, video, and voice, without change in the form or content of the information sent and received.
- X. **TELECOMMUNICATIONS SERVICES OR SERVICES**. Any telecommunications services provided by a provider within the City that the provider is authorized to provide under federal, state, and local law, and any equipment and/or facilities required for and integrated with the services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 521, et seq., and the Telecommunications Act of 1996. Telecommunications system or systems also includes an open video system.
- Y. **WIRE**. Fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

4B-2-3 Franchise Required

- A. **NON-EXCLUSIVE FRANCHISE**. The City is empowered and authorized to issue non-exclusive franchises governing the installation, construction, and maintenance of systems in the City's rights-of-way, in accordance with the provisions of this ordinance. The franchise is granted through a franchise agreement entered into between the City and provider.

- B. **EVERY PROVIDER MUST OBTAIN.** Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights-of-way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the City is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.
- C. **NATURE OF GRANT.** A franchise shall not convey title, equitable or legal, in the rights-of-way. A franchise is only the right to occupy rights-of-way on a non-exclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned, or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the City's property. The franchise agreement may impose additional limitations upon the provider, such as location of utilities. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise from the City.
- D. **CURRENT PROVIDERS.** Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date of this ordinance shall request issuance of a franchise from the City within ninety (90) days of the effective date of this ordinance. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of Section 4B-2-9 of this Code.
- E. **NATURE OF FRANCHISE.** The franchise granted by the City under the provisions of this ordinance shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove, and replace its system on, over, and under the rights-of-way in order to provide services, unless otherwise specified by the franchise agreement.
- F. **REGULATORY APPROVAL NEEDED.** Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations, or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations, or licenses.
- G. **TERM.** No franchise issued pursuant to this ordinance shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

4B-2-4 Compensation And Other Payments

- A. **TELECOMMUNICATIONS TAX.** As provided for in Chapter 4B-4 of this Title.

- B. **APPLICATION FEE.** In order to offset the cost to the City to review an application for a franchise and in addition to all other fees, permits, or charges, a provider shall pay to the City at the time of application, five hundred dollars (\$500) as a non-refundable application fee.
- C. **EXCAVATION PERMITS.** The provider shall also pay fees required for an excavation permit as provided in the City's Fee Resolution or applicable Code.
- D. **FUTURE COSTS.** A provider shall pay to the City or to third parties, at the direction of the City, an amount equal to the reasonable costs and reasonable expenses that the City incurs for the services of third parties, including but not limited to attorneys and other consultants, in connection with any renewal or provider-initiated renegotiation, or amendment of this ordinance or a franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the offset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.
- E. **CONTINUING OBLIGATION AND HOLDOVER.** In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this ordinance and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.
- F. **COSTS OF PUBLICATION.** A provider shall assume any publication costs associated with its franchise that may be required by law.

4B-2-5 Franchise Applications

- A. **FRANCHISE APPLICATION.** To obtain a franchise to construct, own, maintain, or provide services through any system within the City, to obtain a renewal of a franchise granted pursuant to this ordinance, or to obtain the City approval of a transfer of a franchise, as provided in Section 4B-2-7 of this Code, granted pursuant to this ordinance, an application must be filed with the City. The application form may be changed by the City Manager so long as such changes request information that is consistent with this ordinance.
- B. **APPLICATION CRITERIA.** In making a determination as to an application filed pursuant to this ordinance, the City may, but shall not be limited to, request the following from the provider:
 - 1. A copy of the order from the PSC granting a Certificate of Convenience and Necessity.
 - 2. Certification of the provider's financial ability to compensate the City for provider's intrusion, maintenance, and use of the rights-of-way during the franchise term proposed by the provider;
 - 3. Provider's agreement to comply with the requirements of Section 4B-2-6 of this ordinance.
- C. **FRANCHISE DETERMINATION.** The City, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights-of-way, without competitive bidding.

4B-2-6 Construction And Technical Requirements

- A. **GENERAL REQUIREMENT.** No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the City or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with City utilities. A provider shall obtain an excavation permit before commencing any work in the rights-of-way.
- B. **QUALITY.** All work involved in the construction, maintenance, repair, upgrade, and removal of the system shall be performed in a safe, thorough, and reliable manner using materials of good and durable quality, and in accordance with the City's design standards, construction specifications, and latest edition standard drawings. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety, or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
- C. **LICENSES AND PERMITS.** A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or authorization necessary to construct, maintain, upgrade, or repair the system, including but not limited to any necessary approvals from persons and/or the City to use private property, easements, poles, and conduits. A provider shall obtain any required permit, license, approval, or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval, or authorization is required.
- D. **RELOCATION OF THE SYSTEM.**
1. **NEW GRADES OR LINES.** If the grades or lines of any rights-of-way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance or other applicable City regulation.
 2. **THE CITY AUTHORITY TO MOVE SYSTEM IN CASE OF AN EMERGENCY.** The City may, at any time, in case of fire, disaster, or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the system and appurtenances on, over, or under the rights-of-way of the City, in which event the City shall not be liable therefore to a provider.

The City shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in Section 4B-2-11 of this Code.
 3. **A PROVIDER REQUIRED TO TEMPORARILY MOVE SYSTEM FOR THIRD PARTY.** A provider shall, upon prior reasonable written notice by the City or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the City for any such movement of its systems.
 4. **RIGHTS-OF-WAY CHANGE - OBLIGATION TO MOVE SYSTEM.** When the City is changing a rights-of-way and makes a written request, a provider is required to move or remove its system from the rights-of-way, without cost to the City, to the extent

provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights-of-way, if that private easement grants a superior vested right.

This obligation exists whether or not the provider has obtained an excavation permit.

5. **PROTECT STRUCTURES.** In connection with the construction, maintenance, repair, upgrade, or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the City and any historically significant structure or building, as designated by the Historic District Commission. A provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over, or under the rights-of-way of the City required because of the presence of the system. Any such alteration shall be made by the City or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other rights-of-way of the City involved in the construction, maintenance, repair, upgrade, or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
6. **NO OBSTRUCTION.** In connection with the construction, maintenance, upgrade, repair, or removal of the system, a provider shall not unreasonably obstruct the rights-of-way of fixed guide way systems, railways, passenger travel, or other traffic to, from, or within the City without the prior consent of the appropriate authorities.
7. **SAFETY PRECAUTIONS.** A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel, and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.
8. **REPAIR.** After written reasonable notice to the provider, unless, in the sole determination of the City, an imminent danger exists, any rights-of-way within the City which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the City at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the City shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights-of-ways intruded upon.

The provider shall, within thirty (30) days after receipt of the statement, pay to the City the entire amount thereof.

9. **SYSTEM MAINTENANCE.** A provider shall:
 - a. Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise;

- b. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state, and local laws or regulations;
- c. At all reasonable times, permit examination by any duly authorized representative of the City of the system and its effect on the rights-of-way.

10. TRIMMING OF TREES. A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights-of-way so as to prevent the branches of such trees from coming in contact with its system. See Title 14, Trees/Landscaping.

4B-2-7 Franchise And License Non-Transferable

A. NOTIFICATION OF SALE.

1. **NOTIFICATION AND ELECTION.** When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the City of the nature of the transaction. The notification shall include either:
 - a. The successor entity certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or
 - b. The successor entity application in compliance with Section 4B-2-5 of this ordinance.
2. **TRANSFER OF FRANCHISE.** Upon receipt of a notification and certification in accordance with Section 4B-2-7(A)(1) of this ordinance, the City designee, as provided in Section 4B-2-9(A)(1) of this ordinance, shall send notice affirming the transfer of the franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this ordinance or the franchise agreement, it may require an application for the transfer. The application shall comply with Section 4B-2-5 of this ordinance.
3. **IF PSC APPROVAL NO LONGER REQUIRED.** If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in Section 4B-2-7(A) of this Code, and the City has good cause to believe that the successor entity may not comply with this ordinance or the franchise agreement, it may require an application. The application shall comply with Section 4B-2-5 of this ordinance.

B. EVENTS OF SALE. The following events shall be deemed to be a sale, assignment, or other transfer of the franchise requiring compliance with Section 4B-2-7(A)(1):

1. The sale, assignment, or other transfer of all or a majority of a provider's assets to another person;
2. The sale, assignment, or other transfer of capital stock or partnership, membership, or other equity interests in a provider by one (1) or more of its existing shareholders,

partners, members, or other equity owners so as to create a new controlling interest in a provider;

3. The issuance of additional capital stock or partnership, membership, or other equity interest by a provider so as to create a new controlling interest in such a provider; or
4. The entry by a provider into an agreement with respect to the management or operation of such provider or its system.

4B-2-8 Oversight And Regulation

- A. **INSURANCE, INDEMNITY, AND SECURITY.** Prior to the execution of a franchise, a provider will deposit with the City an irrevocable, unconditional letter of credit as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise. A provider shall also indemnify the City as set forth in the franchise.
- B. **OVERSIGHT.** The City shall have the right to oversee, regulate, and inspect periodically the construction, maintenance, and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures, and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.
- C. **MAINTAIN RECORDS.** A provider shall at all times maintain:

1. On file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights-of-way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights-of-ways where work will be undertaken.

As used herein, "as-built" maps include file construction prints. Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs.

As- built maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.

2. Throughout the term of the franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the City at all times to determine whether a provider is in compliance with the franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this Section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this Section.

- D. **CONFIDENTIALITY.** If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state, or local law, upon proper request by a provider, such information shall be classified as a Protected record within the meaning of the Utah Government Records Access and Management Act ('GRAMA'), making it available only to those who must have access to perform their duties on behalf of the City, provided that a provider notifies the City of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.
- E. **PROVIDER'S EXPENSE.** All reports and records required under this ordinance shall be furnished at the sole expense of a provider, except as otherwise provided in this ordinance or a franchise.
- F. **RIGHT OF INSPECTION.** For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the City shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the provider has paid ninety five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

4B-2-9 Rights Of City

A. **ENFORCEMENT AND REMEDIES.**

1. **ENFORCEMENT - CITY DESIGNEE.** The City is responsible for enforcing and administering this ordinance, and the City or its designee, as appointed by the City Manager, is authorized to give any notice required by law or under any franchise agreement.
2. **ENFORCEMENT PROVISION.** Any franchise granted pursuant to this ordinance shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this ordinance, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.

- B. **FORCE MAJEURE.** In the event a provider's performance of any of the terms, conditions or obligations required by this ordinance or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

C. **EXTENDED OPERATION AND CONTINUITY OF SERVICES.**

1. **CONTINUATION AFTER EXPIRATION.** Upon either expiration or revocation of a franchise granted pursuant to this ordinance, the City shall have discretion to permit a provider to continue to operate its system or provide services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A

provider shall continue to operate its system under the terms and conditions of this ordinance and the franchise granted pursuant to this ordinance.

2. **CONTINUATION BY INCUMBENT LOCAL EXCHANGE CARRIER.** If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

D. REMOVAL OR ABANDONMENT OF FRANCHISE PROPERTY.

1. **ABANDONED SYSTEM.** In the event that:
 - a. The use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of provider;
 - b. Any system has been installed in the rights-of-way without complying with the requirements of this ordinance or franchise; or
 - c. No franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.
2. **REMOVAL OF ABANDONED SYSTEM.** The City, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated, or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this ordinance, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights-of-way to their former state at the time such system was installed, so as not to impair their usefulness.

The City shall have the right to inspect and approve the condition of the rights-of-way cables, wires, attachments, and poles prior to and after removal. The liability, indemnity, and insurance provisions of this ordinance and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.

3. **TRANSFER OF ABANDONED SYSTEM TO CITY.** Upon abandonment of any system in place, a provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned system.
4. **REMOVAL OF ABOVE-GROUND SYSTEM.** At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this ordinance, in any such case without renewal, extension, or transfer, the City shall have the right to require a provider to remove, at its expense, all above-ground portions of a system from the rights-of-way within a reasonable period of time, which shall not be less than one hundred eighty (180) days.

If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith, unless otherwise provided for in the franchise agreement.

5. **LEAVING UNDERGROUND SYSTEM.** Notwithstanding anything to the contrary set forth in this ordinance, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights-of-way or with the use thereof

by any public utility, cable operator, or other person, unless otherwise provided for in the franchise agreement.

4B-2-10 Obligation To Notify

- A. **PUBLICIZING WORK.** Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed. Nothing herein authorizes the provider to trespass.

4B-2-11 General Provisions

- A. **CONFLICTS.** In the event of a conflict between any provision of this ordinance and a franchise entered pursuant to it, the provisions of this ordinance in effect at the time the franchise is entered into shall control.
- B. **SEVERABILITY.** If any provision of this ordinance is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the City and the provider, provided that the City shall give the provider thirty (30) days, or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.
- C. **NEW DEVELOPMENTS.** It shall be the policy of the City to liberally amend this ordinance, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently, or economically serve itself or the public.
- D. **NOTICES.** All notices from a provider to the City required under this ordinance or pursuant to a franchise granted pursuant to this ordinance shall be directed to the officer as designated by the City Manager. A provider shall provide in any application for a franchise the identity, address, and phone number to receive notices from the City. A provider shall immediately notify the City of any change in its name, address, or telephone number.
- E. **EXERCISE OF POLICE POWER.** To the full extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

4B-2-12 Federal, State, And City Jurisdiction

- A. **CONSTRUCTION.** This ordinance shall be construed in a manner consistent with all applicable federal and state statutes.
- B. **ORDINANCE APPLICABILITY.** This ordinance shall apply to all franchises granted or renewed after the effective date of this ordinance. This ordinance shall further apply, to the extent permitted by applicable federal or state law to all existing franchises granted prior to the effective date of this ordinance and to a provider providing services, without a franchise, prior to the effective date of this ordinance.

- C. **OTHER APPLICABLE ORDINANCES.** A provider's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the City pursuant to its police powers. In particular, all providers shall comply with the City zoning and other land use requirements.
- D. **CITY FAILURE TO ENFORCE.** A provider shall not be relieved of its obligation to comply with any of the provisions of this ordinance or any franchise granted pursuant to this ordinance by reason of any failure of the City to enforce prompt compliance.
- E. **CONSTRUED ACCORDING TO UTAH LAW.** This ordinance and any franchise granted pursuant to this ordinance shall be construed and enforced in accordance with the substantive laws of the State of Utah.

4B-3 Sales And Use Tax

4B-3-1 Purpose

4B-3-2 Sales And Use Tax

4B-3-1 Purpose

It is the purpose of this ordinance to conform the sales and use tax of Park City to the requirements of the Sales and Use Tax Act, Utah Code 59-12-101 et seq., as currently amended.

4B-3-2 Sales And Use Tax

- A. There is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services, and meals made within Park City at the rate of one percent (1%). An excise tax is hereby imposed on the storage, use, or other consumption in Park City of tangible personal property from any retailer on or after the operative date of this ordinance at the rate of one percent (1%) of the sales price of the property. For the purpose of this ordinance all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed by and adopted by the State Tax Commission. Public utilities as defined by Utah Code 54-2-1, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to Park City shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
- B. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Utah Code 59-12-101 et seq., as amended, and in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, are hereby adopted and made a part of this ordinance as though fully set forth herein. Wherever, and to the extent that in Utah Code 59-12-101 et seq., the State of Utah is named or referred to as the taxing agency, the name of Park City shall be substituted therefore. Nothing in this subparagraph shall be deemed to require substitution of the name of Park City for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of Park City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against Park City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the ordinance.

C. If an annual license has been issued to a retailer under Utah Code 59-12-101 et seq., an additional license shall not be required by reason of this Section. There shall be excluded from the purchase price paid or changed by which the tax is measured:

1. The amount of any sales or use tax imposed by the State of Utah upon a retailer of consumer; and
2. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality or any county in the State of Utah, under the sales or use tax ordinances enacted by that county or municipality in accordance with the Sales and Use Tax Act, Utah Code 59-12-101 et seq.

4B-4 Telecommunications Tax

4B-4-1 Definitions

4B-4-2 Levy Of Tax

4B-4-3 Rate

4B-4-4 Rate Limitation And Exemption Therefrom

4B-4-5 Effective Date Of Tax Levy

4B-4-6 Changes In Rate Or Repeal Of Tax

4B-4-7 Interlocal Agreement For Collection Of Tax

4B-4-8 Procedures For Taxes Erroneously Recovered From Customers

4B-4-9 Repeal Of Inconsistent Taxes And Fees

4B-4-1 Definitions

As used in this Chapter:

A. "Commission" means the State Tax Commission.

B.

1. Subject to Subsections (B)(2) and (3), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
2. For purposes of this ordinance, "customer" means:
 - a. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - b. If the end user is not the person described in Subsection (B)(2)(a), the end user of telecommunications service.
3. "Customer" does not include a reseller:
 - a. Of telecommunications service; or
 - b. For mobile telecommunications service, or a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

C.

1. "End user" means the person who uses a telecommunications service.
2. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

- D. “Gross Receipts attributed to the municipality” means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under the Sales and Use Tax Act, Utah Code 59-12-101 et seq.
- E. “Gross Receipts from telecommunications service” means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
1. A tax, fee, or charge:
 - a. Imposed by a governmental entity;
 - b. Separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - c. Imposed only on a telecommunications provider.
 2. Sales and use taxes collected by the telecommunications provider from a customer under the Sales and Use Tax Act, Utah Code 59-12-101 et seq; or
 3. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
- F. “Mobile telecommunications service” is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. 124.
- G. “Municipality” means Park City Municipal Corporation.
- H. “Place of primary use”:
1. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which shall be:
 - a. The residential street address of the customer; or
 - b. The primary business street address of the customer; or
 2. For mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. 124.
- I. Notwithstanding where a call is billed or paid, “service address” means:
1. If the location described in this Subsection (I)(1) is known, the location of the telecommunications equipment:
 - a. To which a call is charged; and
 - b. From which the call originates or terminate;
 2. If the location described in Subsection (I)(1) is not known but the location described in this Subsection (I)(2) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - a. The telecommunications system of the telecommunications provider; or

- b. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
3. If the locations described in Subsection (I)(1) or (2) are not known, the location of a customer's place of primary use.

J.

1. Subject to Subsections (J)(2) and (J)(3), "telecommunications provider" means a person that:
 - a. Owns, controls, operates, or manages a telecommunications service; or
 - b. Engages in an activity described in Subsection (J)(1)(a) for the shared use with or resale to any person of the telecommunications service.
2. A person described in Subsection (J)(1) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - a. That person; or
 - b. The telecommunications service that the person owns, controls, operates, or manages.
3. "Telecommunications provider" does not include an aggregator as defined in Utah Code 54-8b-2.

K. "Telecommunications service" means:

1. Telephone service, as defined in Utah Code 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
2. Mobile telecommunications service, as defined in Utah Code 59-12-102:
 - a. That originates and terminates within the boundaries of one state; and
 - b. Only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. 116 et seq.

4B-4-2 Levy Of Tax

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to Park City.

4B-4-3 Rate

The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code 10-1-407.

4B-4-4 Rate Limitation And Exemption Therefrom

The rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to Park City unless a higher rate is approved by a majority vote of the voters in Park City that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

4B-4-5 Effective Date Of Tax Levy

This tax shall be levied beginning July 1, 2004.

4B-4-6 Changes In Rate Or Repeal Of Tax

This ordinance is subject to the requirements of Utah Code 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code 10-1-403.

4B-4-7 Interlocal Agreement For Collection Of Tax

On or before the effective date of the ordinance, Park City shall enter into the uniform interlocal agreement with the Commission as described in Utah Code 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

4B-4-8 Procedures For Taxes Erroneously Recovered From Customers

Pursuant to the provisions of Utah Code 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax except as provided in Utah Code 10-1-408.

4B-4-9 Repeal Of Inconsistent Taxes And Fees

Any tax or fee previously enacted by Park City under authority of Utah Code 10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed.

Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code 72-7-102 and is not related to the municipality's loss of the use of a highway as a result of the activities of the telecommunications provider in a right-of-way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way nor does this ordinance limit park City's right to charge fees or taxes on persons that are not subject to the municipal telecommunication license tax under this ordinance and locate telecommunications facilities, as defined in Utah Code 72-7-108, in this municipality.

4B-5 Municipal Energy Sales And Use Tax

4B-5-1 Definitions

4B-5-2 Tax Imposed

4B-5-3 Exemptions From The Tax

4B-5-4 No Effect On Existing Franchise Agreements; Tax Credits

4B-5-5 Tax Collection

4B-5-1 Definitions

Those definitions contained under Utah Code 10-1-303 through 310, as amended, are hereby incorporated by reference.

4B-5-2 Tax Imposed

There is imposed on every sale or use of taxable energy made within Park City Municipal Corporation a tax of six percent (6%) of the delivered value of taxable energy to the consumer.

4B-5-3 Exemptions From The Tax

No tax under this ordinance is imposed on the sale or use of taxable energy, which is exempt from taxation pursuant to Utah Code 10-1-305 or its successor sections, which are incorporated by reference herein.

4B-5-4 No Effect On Existing Franchise Agreements; Tax Credits

There is allowed a credit against the tax due under this ordinance for any contractual franchise fee paid where:

- A. The taxpayer's energy supplier pays a contractual franchise fee to Park City Municipal Corporation pursuant to a franchise agreement in effect on July 1, 1997;
- B. The contractual franchise is passed through by the energy supplier to the taxpayer as a separately itemized charge; and
- C. The energy supplier has accepted the franchise.

4B-5-5 Tax Collection

This ordinance incorporates by reference the tax collection provisions of the Utah Code 59- 12-101 through 129, Tax Collection, and any amendments thereto, for the purpose of levying and collecting the tax imposed by this ordinance. The Manager is hereby authorized to contract, in a form approved by the City Attorney, with the State Tax Commission effective July 1, 1997 and thereafter to have the Commission perform all functions relative to administration or operation of this ordinance, except an energy supplier which estimates that the municipal energy sales and use tax collected annually by it from its Utah customers equals \$1 million or more shall pay the tax imposed by this ordinance directly to Park City Municipal Corporation. In such case, the energy supplier may retain that percentage of the tax authorized under Utah Code 59-12-108 for the energy supplier's costs of collecting and remitting the tax. The energy supplier shall remit the tax no later than forty-five (45) days after the end of the month in which the tax was collected.

4B-6 Impacted Communities Sales Tax

4B-6-1 Definitions

4B-6-2 Resort Communities And Additional Resort Communities Sales Tax Imposed

4B-6-3 Place Of Sale

4B-6-4 Collection And Payment Of Tax

4B-6-5 State Statutes Applicable

4B-6-6 Exclusions

4B-6-1 Definitions

For purposes of this Chapter, all terms used shall have the same meaning and definition as applied to those terms by the provisions of Utah Code 59-12-405, and the State Tax Commission regulations adopted under Utah Code 59-12 -401 et seq..

4B-6-2 Resort Communities And Additional Resort Communities Sales Tax Imposed

Except as otherwise provided herein, there is levied and there shall be collected and paid a tax upon every retail sale within Park City of tangible personal property, services, meals, lodging, admission to places of recreation, entertainment or amusements, utility service and all other personal property taxed under Utah Code 59-12-401 et seq., within Park City at the rate of one and one-tenth percent (1.1%) of the retail

selling price and under Utah Code 59-12-402 et seq., within Park City at the rate of one half of one percent (0.5%) of the retail selling price.

4B-6-3 Place Of Sale

For the purpose of this Chapter, the location of a sales transaction shall be determined in accordance with Utah Code 59-12-211 through 59-12-215.

4B-6-4 Collection And Payment Of Tax

The tax imposed by this ordinance is in addition to and not in lieu of the general sales tax imposed under the provisions of the local sales and use tax ordinance adopted by Park City, and the state sales tax under Utah Code 59-12-101 et seq.. The procedure for collection and payment of this tax shall be identical to the procedure prescribed by Utah Code 59-12-101 et seq. and the State Tax Commission Regulations adopted under that Chapter.

4B-6-5 State Statutes Applicable

- A. Except as hereinafter provided, and except as they are inconsistent with the provisions of the Local Sales Tax Law of Utah, all other provisions of Utah Code 59-12-101 et seq. pertaining to sales tax as in force at the effective date of this ordinance, and as thereafter amended, are hereby adopted in full and made a part of this ordinance as though fully set forth herein, except for the provisions stating the rate of the tax applied.
- B. Wherever, and to the extent that in Utah Code 59-12-101 et seq., the State of Utah is named or referred to as the taxing agency, the name of Park City shall be substituted therefore. Nothing in this paragraph shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this ordinance.
- C. If an annual license has been issued to a retailer under Utah Code 59-12-101 et seq., an additional license shall not be required by reason of this section.

4B-6-6 Exclusions

As provided in Utah Code 59-12-401 et seq., the resort communities and additional resort communities tax imposed under this Section shall not apply to the sale of:

- A. A motor vehicle;
- B. An aircraft;
- C. A water craft;
- D. A modular home;
- E. A manufactured home;
- F. A mobile home;
- G. The sales and uses described in Utah Code 59-12-104 to the extent the sales and uses are exempt from taxation under that section;

- H. Food and food ingredients, except the amounts paid or charged for food and food ingredients shall not be exempt from taxation under Utah Code 59-12-401et seq. if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients

4C Freedom From Discrimination

4C-1 Employment Discrimination

4C-2 Housing Discrimination

4C-1 Employment Discrimination

4C-1-1 Purpose

4C-1-2 Administration

4C-1-3 No Private Rights Of Action; No Special Rights

4C-1-4 Severability

4C-1-5 Definitions

4C-1-6 Exemptions

4C-1-7 Unlawful Employment Practices

4C-1-8 Unlawful Intimidation, Retaliation, And Coercion

4C-1-9 Procedures For Filing Complaints

4C-1-10 Investigation

4C-1-11 Conciliation

4C-1-12 Disposition Of A Complaint

4C-1-13 Offenses And Penalties

4C-1-1 Purpose

Every individual in the City has the right to work and earn wages through gainful employment. Discriminatory employment practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social, and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses. The denial or deprivation of employment rights because of an individual's Sexual Orientation or Gender Identity is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well-being. The purpose of this Chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in employment in the City against individuals based upon Sexual Orientation or Gender Identity and this Chapter shall be liberally construed to achieve that purpose.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-2 Administration

The City Manager is responsible for administering and implementing this Chapter.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-3 No Private Rights Of Action; No Special Rights

This Chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This Chapter does not create any special rights or privileges which would not be available to all of the City's citizens because every Person has a Sexual Orientation and a Gender Identity.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-4 Severability

If any Section, sentence, paragraph, term, definition or provision of this Chapter is for any reason determined to be illegal, invalid, superseded by other authority, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such

determination shall have no effect on the validity of any other Section, sentence, paragraph, term, definition or provision of this Chapter, all of which will remain in full force and effect.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-5 Definitions

In this Chapter:

- A. **ADMINISTRATOR** means the Person designated by the City Manager to receive, investigate, and conciliate complaints under this Chapter and includes the Administrator's designated representatives.
- B. **CITY** means the city of Park City, Utah.
- C. **CITY ATTORNEY** means the City's duly appointed City Attorney.
- D. **COMPLAINANT** means a Person, including the Administrator, who files a complaint under this Chapter.
- E. **CONCILIATION** means the attempted resolution of issues raised in a complaint filed under this Chapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.
- F. **CONCILIATION AGREEMENT** means a written agreement setting forth the resolution of issues by Conciliation under this Chapter.
- G. **DISCRIMINATION** means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a Person because of a person's actual or perceived Sexual Orientation or Gender Identity or because of a person's association with any such Person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any Person because of that person's Sexual Orientation or Gender Identity.
- H. **EMPLOYEE** means any individual applying with or employed by an Employer. The term does not include an elected official.
- I. **EMPLOYER** means any Person employing fifteen (15) or more employees in the City for each working day in each of the twenty (20) or more calendar weeks in the current or preceding calendar year, and includes any agent of such a Person.
- J. **EMPLOYMENT AGENCY** means any Person, and any agent of a Person, undertaking to procure employees or opportunities to work for any other Person in the City or holding itself out to be equipped to procure employees or opportunities to work for any other Person in the City.
- K. **GENDER IDENTITY** means a person's actual or perceived Gender Identity, appearance, mannerisms, or other characteristics of an individual with or without regard to the person's sex at birth.
- L. **LABOR ORGANIZATION** means any organization that exists for the purpose in whole or in part of collective dealing with Employers concerning grievances, terms or

conditions of employment; or other mutual aid or protection in connection with employment.

- M. **CITY MANAGER** means the duly appointed and qualified City Manager of Park City.
- N. **OTHERWISE QUALIFIED** means a Person who possesses the following required by an Employer for any particular job, job classification, or position:
1. Education;
 2. Training;
 3. Ability;
 4. Moral character;
 5. Integrity;
 6. Disposition to work;
 7. Adherence to reasonable rules and regulations; and
 8. Other job related qualifications required by an Employer.
- O. **PERSON** means one or more individuals, partnerships, associations, corporations, legal representatives, trust or trustees, receivers and the City.
- P. **RELIGIOUS ORGANIZATION** means a religious corporation, association, educational institution, society, trust or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association, society, trust or corporation sole.
- Q. **RESPONDENT** means a Person identified in a complaint as having committed an Unlawful Practice under this Chapter.
- R. **SEXUAL ORIENTATION** means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.
- S. **UNLAWFUL PRACTICE** means a discriminatory act or practice relating to employment that is prohibited under this Chapter.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-6 Exemptions

This Chapter does not apply to:

- A. A Religious Organization;
- B. An expressive association whose employment of a Person protected by this Chapter would significantly burden the association's rights of expressive association under *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000);

- C. The United States government, any of its departments or agencies, or any corporation wholly owned by it; or the State of Utah or any of its departments, agencies, or political subdivisions except for the City.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-7 Unlawful Employment Practices

- A. **EMPLOYERS.** An Employer may not refuse to hire, promote, discharge, demote, or terminate any persons, and may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any Person Otherwise Qualified because of a person's Sexual Orientation or Gender Identity.
- B. **EMPLOYMENT AGENCIES.** An Employment Agency may not refuse to list and properly classify for employment, or refuse to refer a Person for employment, in a known available job for which the Person is Otherwise Qualified because of a person's Sexual Orientation or Gender Identity.
- C. **LABOR ORGANIZATIONS.** A Labor Organization may not exclude any Person Otherwise Qualified from full membership rights in the Labor Organization, expel the Person from membership in the Labor Organization, or otherwise discriminate against or harass any of the Labor Organization's members in full employment of work opportunity, or representation, because of a person's Sexual Orientation or Gender Identity.
- D. **TRAINING PROGRAMS.** An Employer, Labor Organization, joint apprenticeship committee, or vocational school, providing, coordinating, or controlling apprenticeship programs, or providing, coordinating, or controlling on-the-job-training programs, instruction, training, or retraining programs may not deny to, or withhold from, any qualified Person, the right to be admitted to, or participate in any apprenticeship training program, on-the-job-training program, or other occupational instruction, training or retraining program because of a person's Sexual Orientation or Gender Identity.
- E. **NOTICES AND ADVERTISEMENTS.** Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for security reasons, an Employer, Employment Agency, or Labor Organization may not print, or circulate, or cause to be printed or circulated, any statement, advertisement, or publication, use any form of application for employment or membership, or make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly any limitation, specification, or Discrimination because of a person's Sexual Orientation or Gender Identity.

It is unlawful for a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or Discrimination based on Sexual Orientation or Gender Identity.

Nothing in this Chapter prohibits a notice or advertisement from indicating a preference, limitation, specification, or Discrimination based on Sexual Orientation or Gender

Identity when Sexual Orientation or Gender Identity is a bona fide occupational qualification for employment.

- F. **NO PREFERENTIAL TREATMENT.** Nothing in this Chapter shall be interpreted to require any Employer, Employment Agency, Labor Organization, vocational school, joint labor-management committee, or apprenticeship program subject to this Chapter to grant preferential treatment to any Person because of the person's Sexual Orientation or Gender Identity on account of an imbalance which may exist with respect to the total number or percentage of persons of any Sexual Orientation or Gender Identity employed by any Employer, referred or classified for employment by an Employment Agency or Labor Organization, admitted to membership or classified by any Labor Organization, or admitted to or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that Sexual Orientation or Gender Identity available in the City's available work force.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-8 Unlawful Intimidation, Retaliation, And Coercion

It is unlawful for any Person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another Person for opposing an Unlawful Practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Chapter.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-9 Procedures For Filing Complaints

- A. Any Person who claims to have been injured by an unlawful employment practice subject to the City's jurisdiction under this Chapter may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a Person has committed an unlawful employment practice. A complaint must be filed within 180 calendar days after an alleged unlawful employment practice has occurred.
- B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:
1. The Complainant's name, address, and signature;
 2. The date the alleged unlawful employment practice occurred;
 3. A statement of the facts upon which the allegation of an unlawful employment practice are based; and
 4. The respondent's name and address.
- C. Promptly after the filing of a complaint, the Administrator shall:
1. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful employment practice has been filed against the Respondent;
 2. Furnish a copy of the complaint to the Respondent; and

3. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice of the complaint.
- D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:
1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney if any; and
 2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-10 Investigation

- A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe the Respondent committed an unlawful employment practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this Chapter. Upon determining that a particular complaint does not come within the scope of this Chapter, the Administrator shall dismiss the complaint, notify the Complainant and Respondent and take no further action.
- B. In connection with any investigation of a complaint filed under this Chapter, the Administrator shall seek the voluntary cooperation of any Person to:
1. Obtain access to premises, records, documents, individuals, and any other possible source of information;
 2. Examine, record, and copy necessary materials; and
 3. Take and record testimony or statements of any Person reasonably necessary for the furtherance of the investigation.
- C. The Administrator may request the City Attorney to issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.
- D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:
1. The complaint was not filed within the required time period;
 2. The location of the alleged unlawful employment practice is not within the City's jurisdiction;

3. The Employer does not employ a sufficient number of employees in the City to meet this Chapter's jurisdictional requirements;
4. The alleged unlawful employment practice is not a violation of this Chapter;
5. The Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed Conciliation Agreement;
6. The Complainant cannot be located after the Administrator has performed a reasonable search; or
7. A Conciliation Agreement has been executed by the Complainant and Respondent.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-11 Conciliation

- A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if the Respondent appears to have committed an unlawful employment practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful employment practices. A Conciliation Agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in employment practices; and the Respondent's agreement to not engage in discriminatory practices in the future.
- B. A Conciliation Agreement executed under this Section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant, subject to approval of the Administrator who shall indicate approval by signing the agreement.
- C. If a Respondent enters into a Conciliation Agreement, the Administrator shall immediately dismiss the complaint.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-12 Disposition Of A Complaint

- A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful employment practice has occurred and is unable to secure an acceptable Conciliation Agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.
- B. If the City Attorney determines that cause exists to find that an unlawful employment practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce this Chapter may be initiated in justice

court. If the City Attorney determines that there is no cause that an unlawful employment practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City Attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

Adopted by Ord. [10-13](#) on 4/15/2010

4C-1-13 Offenses And Penalties

A Person violates this Chapter if the Person engages in any action made unlawful by this Chapter. An offense committed under this Chapter by an Employer employing fifty (50) or fewer employees is punishable by a civil fine of not more than five hundred dollars (\$500.00). An offense committed under this Chapter by an individual employing fifty-one (51) or more employees or by an Employment Agency or Labor Organization is punishable by a civil fine of not more than one thousand dollars (\$1,000.00).

Adopted by Ord. [10-13](#) on 4/15/2010

4C-2 Housing Discrimination

4C-2-1 Purpose

4C-2-2 Administration

4C-2-3 No Private Rights Of Action; No Special Rights

4C-2-4 Severability

4C-2-5 Definitions

4C-2-6 Exemptions

4C-2-7 Unlawful Housing Practices

4C-2-8 Unlawful Intimidation, Retaliation, And Coercion

4C-2-9 Procedures For Filing Complaints

4C-2-10 Investigation

4C-2-11 Conciliation

4C-2-12 Disposition Of A Complaint

4C-2-13 Offenses And Penalties

4C-2-1 Purpose

Every individual in the City has the right to seek housing. Discriminatory housing practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses. The denial or deprivation of access to housing because of an individual's Sexual Orientation or Gender Identity is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well-being. The purpose of this Chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in housing in the City against individuals based upon Sexual Orientation or Gender Identity and this Chapter shall be liberally construed to achieve that purpose.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-2 Administration

The City Manager is responsible for administering and implementing this Chapter.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-3 No Private Rights Of Action; No Special Rights

This Chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This Chapter does not create any special rights of privileges which would not be available to all of the City's citizens because every Person has a Sexual Orientation and a Gender Identity.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-4 Severability

If any Section, sentence, paragraph, term, definition or provision of this Chapter is for any reason determined to be illegal, invalid, superseded by other authority, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, definition or provision of this Chapter, all of which will remain in full force and effect.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-5 Definitions

In this Chapter:

- A. **ADMINISTRATOR** means the Person designated by the City Manager to receive, investigate, and conciliate complaints under this Chapter and includes the Administrator's designated representatives.
- B. **CITY** means the city of Park City, Utah
- C. **CITY ATTORNEY** means the City's duly appointed City Attorney
- D. **COMPLAINANT** means a Person, including the Administrator, who files a complaint under this Chapter.
- E. **CONCILIATION** means the attempted resolution of issues raised in a complaint filed under this Chapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.
- F. **CONCILIATION AGREEMENT** means a written agreement setting forth the resolution of issues by Conciliation under this Chapter.
- G. **DISCRIMINATION** means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a Person or persons because of a person's actual or perceived Sexual Orientation or Gender Identity or because of a person's association with any such Person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any Person because of that person's Sexual Orientation or Gender Identity.
- H. **DWELLING** means any building or structure, or a portion of a building or structure, occupied as, or designated or intended for occupancy as, a residence of one or more families inside the City and vacant land that is offered for sale or lease for the construction or location of a dwelling inside the City.

- I. **GENDER IDENTITY** means a person's actual or perceived Gender Identity, appearance, mannerisms, or other characteristics of a Person with or without regard to the person's sex at birth.
- J. **CITY MANAGER** means the duly appointed and qualified City Manager of Park City.
- K. **PERSON** includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under the United State Bankruptcy Code, receivers, and fiduciaries.
- L. **REAL ESTATE BROKER or SALESPERSON** means a principal real estate broker, an associate real estate broker, or a real estate sales agent as those terms are defined in Utah Code Section 61-2f-102 or any successor provision.
- M. **RELIGIOUS ORGANIZATION** means a religious corporation, association, educational institution, society, trust, or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association society, trust or corporation sole.
- N. **RENT** means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.
- O. **RESIDENTIAL REAL ESTATE RELATED TRANSACTION** means the making or purchasing loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate; or selling, brokering, or appraising residential real property inside the City.
- P. **RESPONDENT** means a Person identified in a complaint as having committed an unlawful housing practice under this Chapter.
- Q. **SEXUAL ORIENTATION** means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.
- R. **UNLAWFUL PRACTICE** means a discriminatory act or practice relating to housing that is prohibited under this Chapter.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-6 Exemptions

This Chapter does not apply to a temporary or permanent residence facility operated by a nonprofit organization; a charitable organization; or a Person in conjunction with a Religious Organization, association, or society, including any dormitory operated by a public or private educational institution, if the Discrimination is based on Sexual Orientation or Gender Identity for reasons of personal modesty or privacy or in the furtherance of a Religious Organizations' sincerely held religious beliefs.

This Chapter does not prohibit or restrict a Religious Organization or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a Religious Organization from limiting the sale, rental, or occupancy of dwellings it owns or operates for primarily noncommercial purposes to persons of the same religion, or from giving preference to

such

persons.

This Chapter does not prohibit distinctions based on a person's inability or failure to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

This Chapter does not apply to: 1) the United States government, any of its departments or agencies, or any corporation wholly owned by it; 2) the government of the State of Utah or any of its departments, agencies, or political subdivisions, except for the City; and 3) Land Use Applications under the Land Management Code.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-7 Unlawful Housing Practices

A. It is discriminatory housing practice to do any of the following:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any Person because of the person's Sexual Orientation or Gender Identity;
2. Discriminate against any Person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling because of the person's Sexual Orientation or Gender Identity;
3. Represent to any Person that any dwelling is not available for inspection, sale, or rental when in fact the dwelling is available;
4. To make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or Discrimination based on Sexual Orientation or Gender Identity, or expresses any intent to make any such preference, limitation, or Discrimination;
5. To induce or attempt to induce, for profit, any Person to buy, sell, or rent any dwelling by making representations about the entry or prospective entry into the neighborhood of persons of a particular Sexual Orientation or Gender Identity;
6. Engage in any discriminatory housing practices because of Sexual Orientation or Gender Identity based upon a person's association with another Person;

B. It is a discriminatory housing practice for a real estate broker or salesperson to do any of the following because of a person's Sexual Orientation or Gender Identity:

1. To discriminate against any Person in making available a residential real estate transaction, or in the terms or conditions of the transaction, inside the City, because of a person's Sexual Orientation or Gender Identity;
2. To deny any Person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings inside the City or

to discriminate against any Person in the terms or conditions of access, membership, or participation in the organization, service, or facility inside the City because of a person's Sexual Orientation or Gender Identity; or

3. Engage in any discriminatory housing practices inside the City because of Sexual Orientation or Gender Identity based upon a person's association with another Person.

C. **Exceptions.** This Chapter does not apply to the following:

1. The sale or rental of any single-family dwelling, if the owner:
 - a. Does not own an interest in or title to four or more single-family dwellings held for lease or sale at one time located inside the city;
 - b. Has not sold two or more single-family dwellings inside the City in which the owner did not reside in the dwelling within the 24-month period preceding the sale or rental of the dwelling; and
 - c. Does not use the services or facilities of any real estate broker, agent, or salesperson, or of any other Person in the business of selling or renting dwellings, in connection with the sale or rental of the dwelling inside the City.
2. The rental of a dwelling that is occupied or intended to be occupied by no more than four families living independently of each other, when the owner actually maintains and occupies part of the dwelling as a residence.
3. Nothing in this Section prohibits conduct against a Person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance under state or federal law.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-8 Unlawful Intimidation, Retaliation, And Coercion

It is unlawful for any Person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another Person for opposing an Unlawful Practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Chapter.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-9 Procedures For Filing Complaints

- A. Any Person who claims to have been injured by an unlawful housing practice may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a Person has committed an unlawful housing practice. A complaint must be filed within 180 calendar days after an alleged unlawful housing practice has occurred.
- B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:

1. The Complainant's name, address, and signature;
 2. The date the alleged unlawful housing practice occurred;
 3. A statement of the facts upon which the allegation of an Unlawful Practice are based; and
 4. The Respondent's name and address.
- C. Promptly after the filing of a complaint, the Administrator shall:
1. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful housing practice has been filed against the Respondent;
 2. Furnish a copy of the complaint to the Respondent; and
 3. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice on the complaint.
- D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:
1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney, if any; and
 2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-10 Investigation

- A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe that Respondent committed an unlawful housing practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this Chapter. Upon determining that a particular complaint does not come within the scope of this Chapter, the Administrator shall dismiss the complaint, notify the Complainant and the Respondent and take no further action.
- B. In connection with any investigation of a complaint filed under this Chapter, the Administrator shall seek the voluntary cooperation of any Person to:
1. Obtain access to premises, records, documents, individuals, and any other possible source of information;
 2. Examine, record, and copy necessary materials; and

3. Take and record testimony or statements of any Person reasonably necessary for the furtherance of the investigation.
- C. The Administrator may request that the City Attorney issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.
- D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:
 1. The complaint was not filed within the required time period;
 2. The location of the alleged unlawful housing practice is not within the City's jurisdiction;
 3. The alleged unlawful housing practice is not a violation of this Chapter;
 4. The Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed Conciliation Agreement;
 5. The Complainant cannot be located after the Administrator has performed a reasonable search; or
 6. A Conciliation Agreement has been executed by the Complainant and Respondent.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-11 Conciliation

- A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if it appears that the Respondent has committed an unlawful housing practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful housing practices. A Conciliation Agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in its practices; and the Respondent's agreement to not engage in discriminatory practices in the future.
- B. A Conciliation Agreement executed under this Section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant subject to approval of the Administrator who shall indicate approval by signing the agreement.
- C. If a Respondent enters into a Conciliation Agreement, the Administrator shall immediately dismiss the complaint.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-12 Disposition Of A Complaint

- A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful housing practice has occurred and is unable to secure an acceptable Conciliation Agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.
- B. If the City Attorney determines that cause exists that an unlawful housing practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce this Chapter may be initiated in justice court. If the City Attorney determines that there is no cause that an unlawful housing practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City Attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

Adopted by Ord. [10-12](#) on 4/15/2010

4C-2-13 Offenses And Penalties

A Person violates this Chapter if the Person intentionally or knowingly violates a provision of this Chapter or if the Person intentionally or knowingly obstructs or prevents compliance with this Chapter. An offense committed under this Chapter by a Respondent owning or operating twenty (20) or fewer dwellings is punishable by a fine of not more than five hundred dollars (\$500.00). An offense committed under this Chapter by a Respondent owning or operating twenty-one (21) or more dwellings or by a Real Estate Broker or Salesperson is punishable by a fine of not more than one thousand dollars (\$1,000.00).

Adopted by Ord. [10-12](#) on 4/15/2010



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The Lilac Hill Subdivision was approved by the Park City Council on October 20, 2016, as [Ordinance 16-32](#). The property has since been sold to Lilac Hill LLC, and the new owner is requesting to subdivide the parcel in order to create two (2) legal lots of record. The historic house at 632 Deer Valley Loop will be located on Lot 1A of the proposed subdivision. Two new duplex dwellings will be constructed-one duplex on each of the proposed lots. The Planning Commission forwarded a positive recommendation to City Council on July 12th for the Lilac Hill Subdivision; however, during City Council's review on August 3rd, Council requested that the applicant return with additional information to discuss the issue of access off of Rossie Hill Drive.

Respectfully:

Anya Grahn, Planner II



City Council Staff Report

Subject: Lilac Hill Subdivision—First Amended at 632 Deer Valley Loop
Author: Anya Grahn, Historic Preservation Planner
Department: Planning Department
Date: October 5, 2017
Type of Item: Legislative—Subdivision

Summary Recommendation

Staff recommends City Council hold a public hearing and consider approving the Lilac Hill Subdivision- First Amended located at 632 Deer Valley Loop, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached ordinance.

Description

Applicant: Lilac Hill LLC, a Delaware limited liability company
Location: 632 Deer Valley Loop
Zoning: Residential-Medium Density (RM)
Adjacent Land Uses: Residential—Single family, duplex, and multi-family dwellings
Reason for Review: Plat Amendments require Planning Commission review and City Council review and action

Executive Summary

The Lilac Hill Subdivision was approved by the Park City Council on October 20, 2016, as [Ordinance 16-32](#). The property has since been sold to Lilac Hill LLC, and the new owner is requesting to subdivide the parcel in order to create two (2) legal lots of record. The historic house at 632 Deer Valley Loop will be located on Lot 1A of the proposed subdivision. Two new duplex dwellings will be constructed—one duplex on each of the proposed lots. The Planning Commission forwarded a positive recommendation to City Council on July 12th for the Lilac Hill Subdivision; however, during City Council's review on August 3rd, Council requested that the applicant return with additional information to discuss the issue of access off of Rossie Hill Drive.

Acronyms

Board of Adjustment	BOA
Bureau of Land Management	BLM
Conditional Use Permit	CUP
Determination of Significance	DOS
Historic District Design Review	HDDR
Historic Preservation Board	HPB
Historic Sites Inventory	HSI
Residential Medium District	RM
Snyderville Basin Water Reclamation District	SBWRD

Background

On March 13, 2017, the City received a Subdivision application for the Lilac Hill Subdivision—First Amended located at 632 Deer Valley Loop; the application was deemed complete on March 15, 2017. The property is in the Residential Medium (RM) District.

The site is listed on Park City's Historic Sites Inventory (HSI) and is designated as a Significant Site. The house was constructed c.1900 during the Mature Mining Era (1894-1930) by George and Elizabeth Thompson. The early twentieth century Sanborn Fire Insurance Maps show that this site was part of a much denser neighborhood comprised of approximately fourteen (14) structures. Of these, only four (4) structures currently exist.

This property has had a long history. The house was initially constructed on mining claims, which came to be held by the Bureau of Land Management (BLM). At the time of its construction, it consisted of a two-room cottage; however, between 1912 and 1918, it was expanded to a four-room cottage. Then in c.1969, the house was remodeled to what exists today. The property was purchased by William and Juli Bertagnole in 1981 from Harold and Mary Dudley. On May 17, 1999, a fire severely damaged the rear addition of the structure. The Bertagnoles did not make repairs following the fire. The BLM granted the Bertagnoles a land patent for ownership of the parcel on May 2, 2013.

On August 21, 2013, the Park City Building Department issued a Notice and Order to Vacate and Demolish the structure due to fire damage and the dilapidated state of the structure.

The Planning Department moved forward with a Determination of Significance (DOS) to review the site's historic designation. On November 13, 2013, the Historic Preservation Board (HPB) found that the site should remain designated as "Significant" on the HSI in accordance with LMC 15-11-10(A)(2). The Bertagnoles appealed the HPB's decision to the Board of Adjustment (BOA) on April 15, 2014; however, the BOA remanded it back to the HPB as the applicant had submitted new evidence. The HPB once again found that the site met the criteria for "Significant" on May 21, 2014. The Bertagnoles withdrew their appeal on July 9, 2014.

The Bertagnoles finalized their sale of the property to 632 DVL, LLC in February 2016. On April 26, 2016, the City received a subdivision application for the Lilac Hill Subdivision. It was reviewed during the following meetings:

- June 22, 2016 – Planning Commission [[Staff Report](#) (starting page 29) and [Minutes](#) (starting page 4).
- July 14, 2016—City Council [[Staff Report](#) (starting page 80) and [Minutes](#) (starting page 5).
- September 22, 2016—City Council work session [[Staff Report](#) (starting page 58) and [Minutes](#) (starting page 15)]

- October 20, 2016—City Council [[Staff Report](#) (starting page 108) and [Minutes](#) (start page 9)].

During these meetings, the Planning Commission and City Council heard concerns from neighbors regarding historic preservation, conservation of open space, and traffic concerns on Rossie Hill Drive. City Council discussed these concerns and, ultimately, chose to add the following Conditions of Approval:

#5. Any Development on this lot or future subdivided lots within this lot shall provide a transition in scale between the historic structures in the neighborhood, the Historic District, and Deer Valley Resort. Any new development on this lot or future subdivided lots within this lot shall comply with Park City's Design Guidelines for Historic Districts and Historic Sites to ensure that the new development is compatible with the historic structure on this lot and the historic structures in the surrounding area.

#6. Any new development on this lot or future subdivided lots within this lot shall not block the view of the historic house from the 632 Deer Valley Loop and Deer Valley Drive rights-of-way.

#7. So long as the zone remains RM, new construction on this lot or future subdivided lots within this lot shall provide a minimum of 40% of the site to be Open Space, Landscaped and/or Open Space, Natural as defined by the Park City Land Management Code. If it is rezoned, open space requirements may be re-established at that time.

#8. Driveway access to any development to this one-lot subdivision shall be limited from Deer Valley Loop Road. Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way.

#9. Any future access off of Rossie Hill shall have a slope of no more than 5% for the first 20 feet of the driveway off of the right-of-way to maintain sight lines.

At the time of City Council's approval, a definitive design had not yet been proposed for the redevelopment of the lot. At the time, staff found that it was difficult for the City Engineer to regulate where a driveway off of Rossie Hill would be located when they did not know what that future development would look like. There is also a gap between the City's right-of-way and the applicant's property on the western side of the lot that is owned by the BLM; for this reason, the City Engineer limited access off of Rossie Hill to the east side of the property. He also provided limitations on driveway slope to ensure visibility from the driveway and road.

At the recommendation of staff, City Council approved the ordinance with Conditions of Approval #8 and #9 to allow for some flexibility in the location of a driveway off of Rossie Hill. The one lot subdivision was approved by the Park City Council on October 20, 2016, as [Ordinance 16-32](#).

The property was then sold to the current owners, Lilac Hill LLC in March 2017. The current owner is proposing to subdivide the property into two (2) lots that will be developed separately.

The Park City Planning Commission reviewed this subdivision request on July 12, 2017. There was significant public comment regarding the placement of a driveway accessing Lot 1-B off of Rossie Hill Drive, including safety concerns from the neighbors regarding existing traffic patterns, congestion, and parking along Rossie Hill Drive that created unsafe situations for pedestrians and drivers. The Planning Commission debated ways that the neighbor's concerns for safety could be mitigated. In the end, the Planning Commission unanimously forwarded a positive recommendation to City Council to approve this plat amendment with a vote of 4-0 (the Chair does not vote), and recommended that City Council direct the City Engineer put up additional "No Parking" signs along Rossie Hill Drive. The Planning Commission felt that this would best address the neighbor's concerns and mitigate any impacts of the proposed driveway. [See [Planning Commission Report](#) (starting page 332) and [Minutes](#) (starting page 22).]

On August 2, 2017, the Historic Preservation Board (HPB) approved the Disassembly/ Reassembly (Panelization) and Material Deconstruction of the historic house at 632 Deer Valley Loop. [See [Staff Report](#) (starting page 25).]

On August 3, 2017, the Park City Council reviewed the subdivision request [See [City Council Report](#) (starting page 153), [Minutes](#) (starting page 10), and [Audio](#)]. City Council once again heard concerns from neighbors that permitting a driveway off of Rossie Hill Drive would create hazards of the roadway. Council expressed interest in further discussions about pedestrian paths, "No Parking" signs, narrowing Rossie Hill, and traffic mitigation; however, these issues will be explored and addressed further as part of the City Engineer's Rossie Hill Drive OTIS Project [see [City Council Report](#) (starting page 126) for more information]. Council thought the design could be altered in order to limit access a single driveway off of Deer Valley Loop, possibly with an access agreement with the other lot. City Council requested that the applicant explore alternatives to the current proposal and return to Council at a date uncertain.

The applicant submitted additional materials outlining why the current proposal is the best solution on September 22, 2017; these materials are outlined further in the analysis section of this report.

The Building Department had issued a Notice and Order on this property in 2013 due to the hazardous conditions of the existing fire-damaged house; these hazards have not been remedied. The Planning and Building Departments determined that it was advantageous to allow for the panelization of the historic house, prior to any approval of the Historic District Design Review (HDDR) applications, as the house may not survive another winter and, should the house collapse, there would be a greater loss of historic materials. On September 14, 2017, the Park City Building Department issued a building permit allowing the applicant to conduct further exploratory demolition and to panelize the historic house. (The panelization had been approved by the HPB on August 2,

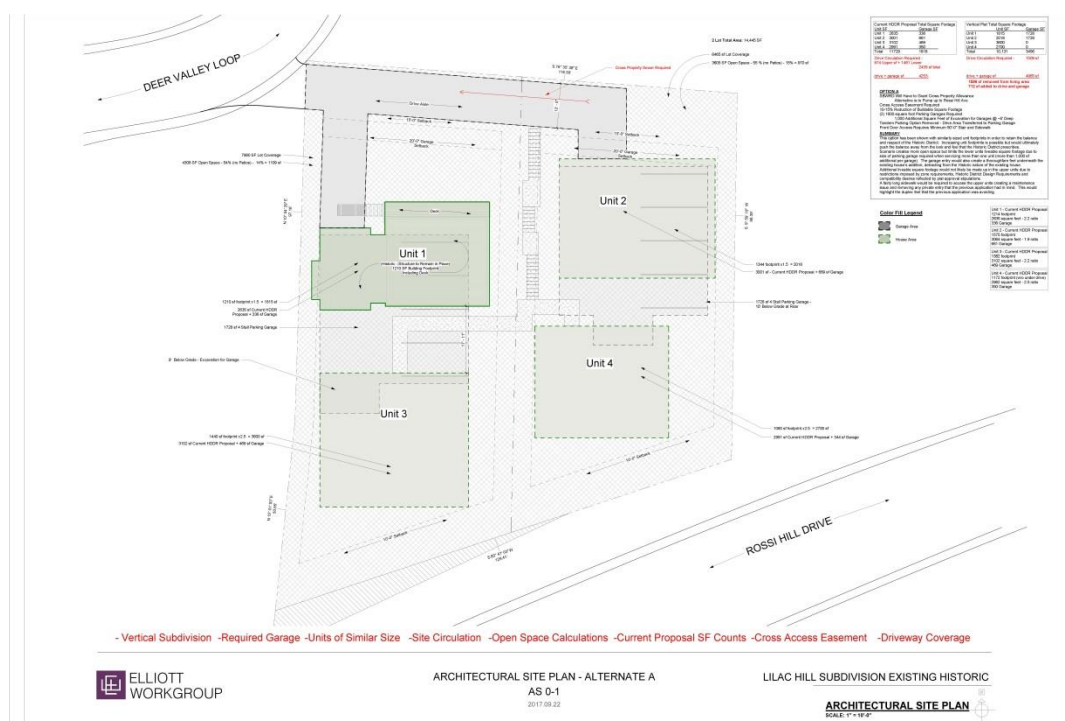
2017, and a financial guarantee in the form of lien has been recorded on the property.) The HDDR applications to construct two (2) duplexes on this lot have not yet been approved as it is dependent on the approval of this subdivision.

Analysis

Based on the direction of City Council provided during the August 3rd meeting, the applicant has brought forward alternative plans for this subdivision; however, the applicant does not intend to modify their proposal to subdivide the lot from north-to-south as presented to Council during the August 3rd meeting.

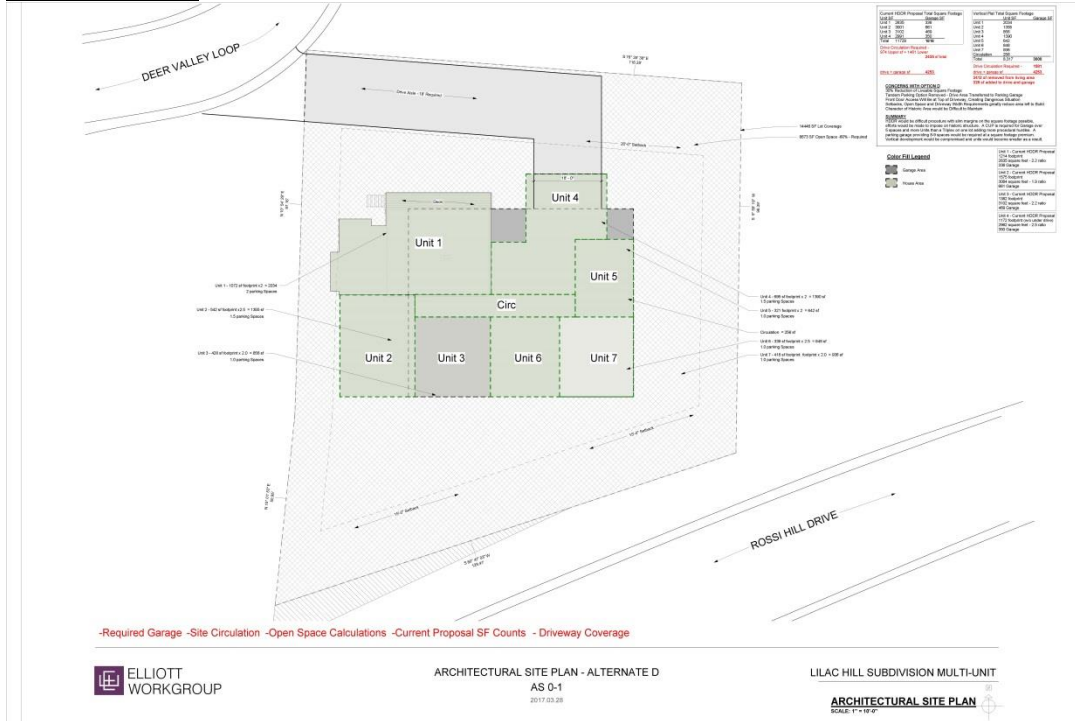
The applicant's alternatives have been attached as Exhibit F and are outlined briefly below:

Alternative A



In this scenario, the applicant has subdivided the lot west-to-east. Units 1 and 3 are part of one duplex; units 2 and 4 the other. The option shown has similarly sized unit footprints to the current proposal in order to be similar in size and scale to the Historic District. The applicant argues that this scenario will reduce the overall livable square footage of the development by 1,598 square feet as more space will be consumed by underground garages. The applicant also found that a longer sidewalk would be needed to access the upper units, which they felt could become a maintenance issue and reduce privacy on the property. The applicant also argues that SBWRD will have to grant a cross property easement or allow them to pump up to Rossie Hill.

Alternative D:



This alternative does not comply with the Design Guidelines as the historic house (Unit 1) is lost in this development. The applicant argues that the underground parking containing more than five (5) spaces and a multi-unit dwelling will require a Conditional Use Permit (CUP) to be approved by the Planning Commission. They also argue that it will reduce the overall livable square footage by 3,412 square feet due to the underground parking structure, and open space will also be reduced. They argue that the vertical development would be compromised and units will become smaller as a result.

[illegible]

The applicant argues that the current proposal is the best alternative for this site. A driveway will be provided along the north portion of the lot, accessible from Deer Valley Loop, for the lower two units. A second driveway (not shown above) will be accessible from Rossie Hill Drive for the upper two units. The applicants have carefully sited this driveway to meet the Conditions of Approval of the Lilac Hill Subdivision, as crafted by the City Engineer. The current proposal also maintains the mass and scale of the historic site as the duplex dwellings will only feature a shared wall below grade and they will appear as single-family homes above grade. By having two driveways on the site, less space has been consumed for the use of driveways and more open space is preserved.

The applicant also hired Fehr & Peers to conduct an evaluation of the proposed driveways (Exhibit G). They found that both the proposed driveway locations on Deer Valley Loop and Rossie Hill Drive “are acceptable from a transportation engineering perspective, given the context of the proposed development, roadways, and surrounding neighborhood. Providing two driveways will disperse project traffic and minimize impacts on Deer Valley Loop.” The City Engineer agrees with the findings presented in the Fehr & Peers’ report.

Staff finds that the current proposal meets the LMC, Design Guidelines, and existing plat notes; however, there are obstacles in each of the alternatives provided (Alternatives A, B, C, D). As currently proposed, these alternatives in varying ways do not comply with the LMC, Design Guidelines, or existing plat notes.

The applicant proposes to move forward with the current proposal for two duplexes (four units total) accessible from Deer Valley Loop and Rossie Hill Drive. The purpose of this application is to subdivide Lot 1 of the Lilac Hill Subdivision into two legal lots of record. Following the subdivision, the following conditions will exist:

	LMC Requirements for RM Zoning District:	Lot 1A:	Lot 1B:
Lot Size:	Single Family: 2,812 SF Duplex: 3,750 SF	7,616 SF	6,703 SF
Lot Width:	Minimum 37.50 ft. measured 15 ft. back from Front Lot Line.	128 ft.	116 ft.
Setbacks:			
Front Yard:	15 ft.	35 ft.	15 ft.
Rear Yard:	10 ft.	10 ft.	10 ft.
Side Yard:	5 ft.	17 ft. (west), 66 ft. (east)	5 ft.
Height:	28 ft. from existing grade	19.5 ft. (Historic House)	28 ft.

The conditions outlined in the Lilac Hill Subdivision, recorded on January 31, 2017, and approved as Ordinance 16-32, will remain in effect for the Lilac Hill Subdivision- First Amended and shall be noted on the plat. These conditions have not yet been met because the applicant has not started construction on the redevelopment of the site. The applicant has submitted two (2) separate HDDR applications for the construction of separate duplex dwellings on both proposed lots—staff has required that the new development comply with the plat notes of the first Lilac Hill Subdivision.

The only existing encroachments on site are the gravel driveway and parking area that extends beyond the property lines along Deer Valley Loop.

Good Cause

Staff finds good cause for this Plat Amendment as the proposed subdivision complies with the Land Management Code, a public snow storage easement will be provided along Rossie Hill, and a utility easement will be dedicated for the waterline in Deer Valley Loop Road. Staff has also worked with the applicant to require any future development of these lots to comply with the Historic Site Design Guidelines and provide a minimum of 40% open space on this lot.

As proposed, the two duplexes (total of four units) are an allowed use in the RM zone on lots 3,750 square feet or larger. Should the subdivision not be approved, the lot will remain as is—a single lot of record. The applicant would then need to redesign the project in order to limit access from Deer Valley Loop Road to meet Condition of Approval #8 of the Lilac Hill Subdivision for the single lot which states that driveway access to any development of the one-lot subdivision be limited from Deer Valley Loop Road. A Conditional Use Permit may be required for parking and/or a multi-unit dwelling, depending on the applicant's design.

Condo plat(s) will be required prior to the individual sale of the proposed units.

Process

The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC §15-1-18.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

On June 28 and September 21, 2017, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record and the Utah Public Notice Website on June 24, 2017, according to requirements of the Land Management Code.

Public Input

Public input from the neighborhood has been submitted in opposition of the proposed subdivision. It is included as Exhibit E.

Alternatives

- The City Council may approve the Lilac Hill Subdivision- First Amended at 632 Deer Valley Drive as conditioned or amended; or
- The City Council may deny the Lilac Hill Subdivision- First Amended at 632 Deer Valley Drive and direct staff to make findings for this decision; or
- The City Council may continue the discussion to a date certain and provide staff with direction to provide additional information necessary in order to make a final decision on the record of survey plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of Not Taking Recommended Action

Consequences of not taking the Planning Department's recommendation are that the Site would remain as is—a single lot of record. The applicant would not be able to pursue his plans to redevelop the site with four (4) units as currently proposed.

Summary Recommendation

Staff recommends City Council hold a public hearing and consider approving the Lilac Hill Subdivision- First Amended located at 632 Deer Valley Loop, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat (Attachment 1)

Exhibit B – Survey

Exhibit C – Aerial Photographs with 500' Radius

Exhibit D – Site Photographs

Exhibit E – Public Comment

Exhibit F – Applicant's Analysis and Alternative Proposals for Subdivision

Exhibit G – Fehr & Peers Driveway Evaluation

Exhibit A – Draft Ordinance

Ordinance No. 2017-41

AN ORDINANCE APPROVING THE LILAC HILL SUBDIVISION- FIRST AMENDED AT 632 DEER VALLEY DRIVE

WHEREAS, the owner of the property (tax id LILACH-1) located at 632 Deer Valley Drive have petitioned the City Council for approval of the Plat Amendment; and

WHEREAS, on June 28 and September 21, 2017, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on June 24, 2017, proper legal notice was published according to requirements of the Land Management Code and courtesy letters were sent to surrounding property owners; and

WHEREAS, the Planning Commission held a public hearing on July 12, 2017, to receive input on plat amendment; and

WHEREAS, the Planning Commission, on July 12, 2017, forwarded a positive recommendation to the City Council; and,

WHEREAS, on August 3 and October 5, 2017, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Lilac Hill Subdivision- First Amended at 632 Deer Valley Drive.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The Lilac Hill Subdivision- First Amended, as shown in Attachment 1, is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 632 Deer Valley Loop.
2. The property consists of all of the Lilac Hill Subdivision. The applicant is proposing to subdivide the property into two (2) lots.
3. The property is located in the Residential-Medium Density (RM) District.
4. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as Significant.

5. The proposed subdivision will create two (2) lots of record: Lot 1A will contain 7,616 SF and Lot 1B will contain 6,703 SF.
6. Single-family, duplex, and triplex dwellings are allowed uses in this zone.
7. Lot 1A, along with the three historic cottages 555, 560, and 577 Deer Valley contribute to Park City's history and provide a density of historic structures that largely retain their relationship with one another and the hillside.
8. The purpose statements of the RD zoning district include (B) encouraging new Development along an important corridor, that is Compatible with Historic Structures in the surrounding Area, and (C) encouraging the rehabilitation of existing Historic Structures.
9. The proposed lot width of Lot 1A is 109.46 feet along the north property line (facing Deer Valley Drive) and the proposed lot width of Lot 1B is 130.43 along the south property line (facing Rossie Hill Drive). The minimum lot width required is 37.50 feet, and both proposed lots meet the minimum lot width requirement.
10. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures. The applicant is not proposing to relocate the historic house.
11. The minimum front yard setbacks are 15 feet and rear yards are 10 feet.
12. The minimum side yard setbacks are 5 feet.
13. An addition to the historic house encroaches over the proposed lot line between Lots 1A and 1B.
14. Existing access to the Lot 1A is limited to a driveway from Deer Valley Loop.
15. The City Engineer finds that only the eastern half of the lot directly abuts the City's right-of-way along Rossie Hill Drive and there are poor sight lines along Rossie Hill Drive.
16. The utilities were disconnected from this property on May 26, 1999.
17. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance).
18. On August 2, 2017, the Historic Preservation Board (HPB) approved the Disassembly/ Reassembly (Panelization) and Material Deconstruction of the historic house at 632 Deer Valley Loop. The rear addition of the historic house was approved to be removed at this time.
19. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. There is good cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Any development on this lot or future subdivided lots within this lot shall provide a transition in scale between the historic structures in this neighborhood, the Historic District, and Deer Valley Resort. Any new development on this lot or future subdivided lots within this lot shall comply with Park City's Design Guidelines to ensure that the new development is compatible with the Historic Structure on this lot and the Historic Structures in the surrounding area.
4. Any new development on this lot or future subdivided lots within this lot shall not block the view of the historic house from the 632 Deer Valley Loop and Deer Valley Drive rights-of-way.
5. New construction on this lot or future subdivided lots within this lot shall provide a minimum of 40% of the site to be Open Space, Landscaped and/or Open Space, Natural as defined by the Park City Land Management Code.
6. A ten foot (10') wide public snow storage easement is required along the Rossie Hill frontage of the property.
7. Driveway access to any development of these lots shall be limited from Deer Valley Loop Road and Rossie Hill Drive. The new lot facing Rossie Hill Drive shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way. The slope of the access off of Rossie Hill Drive shall be no more than 5% for the first 20 feet of driveway off of the right-of-way to maintain sight lines.
8. The plat amendment shall not be recorded unless the south (rear) addition has been removed, as approved by the HPB on August 2, 2017.
9. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.
10. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation.
11. All conditions of the Lilac Hill Subdivision, approved as Ordinance 16-32, continue to apply and shall be noted on this plat.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 5th day of October 2017.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment 1 – Proposed Plat

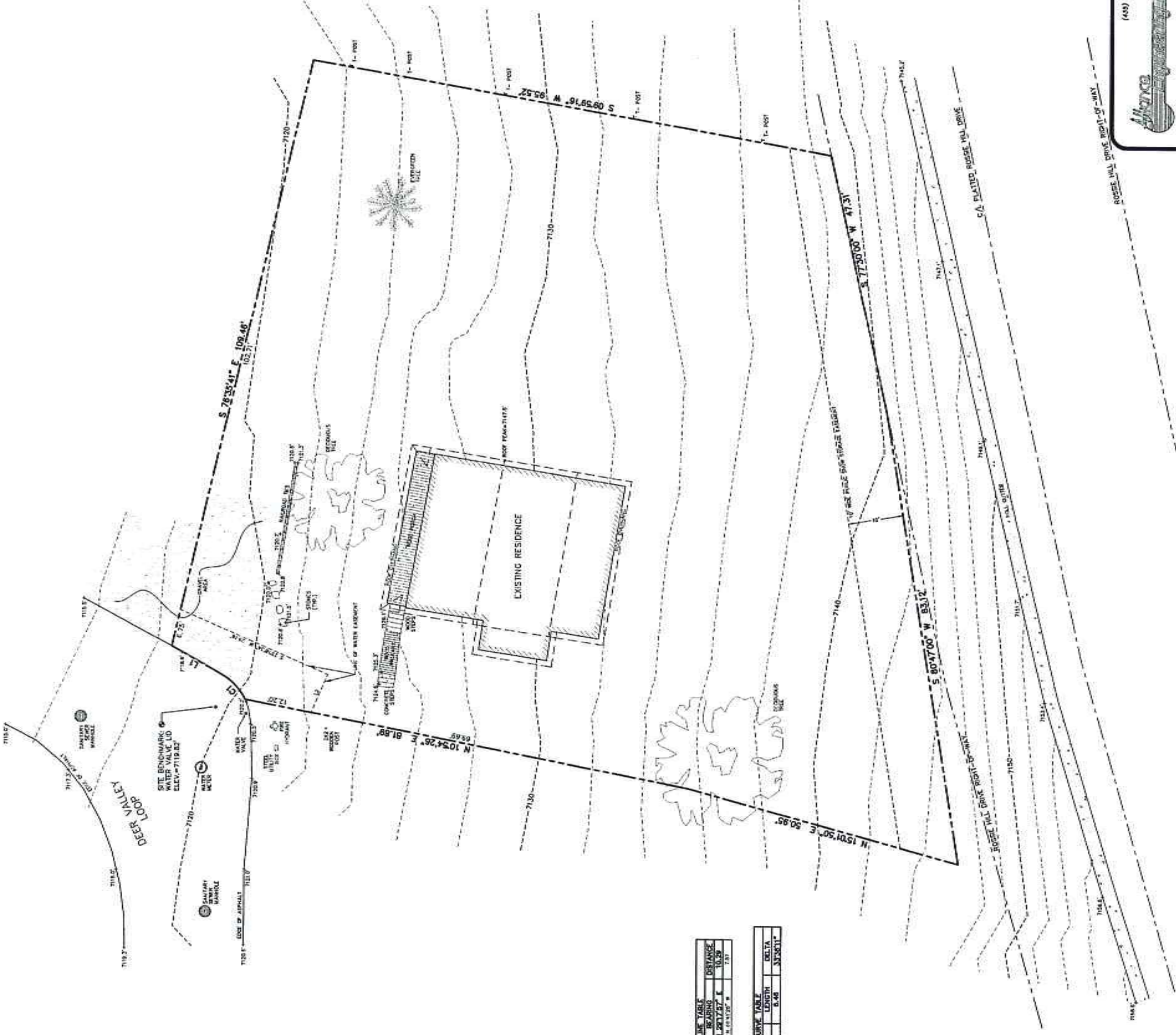
SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, do hereby certify that, on a registered land survey and that I hold certificate no. 468239 as prescribed under the laws of the State of California, I have personally supervised the survey and that the survey was made under my direction and that the correct representation of the land surveyed at the time the field work was completed is shown on this map and that the same conforms to the standards for accuracy.



NOTES

1. Site Benchmark: Water view hill Elevation=7118.82
2. The plat is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey performed on October 6, 2015.
4. Property corners were found or set.
5. Due to a plotted boundary revision, this survey supersedes the previous survey completed by Alliance Engineering dated 11-2-11.



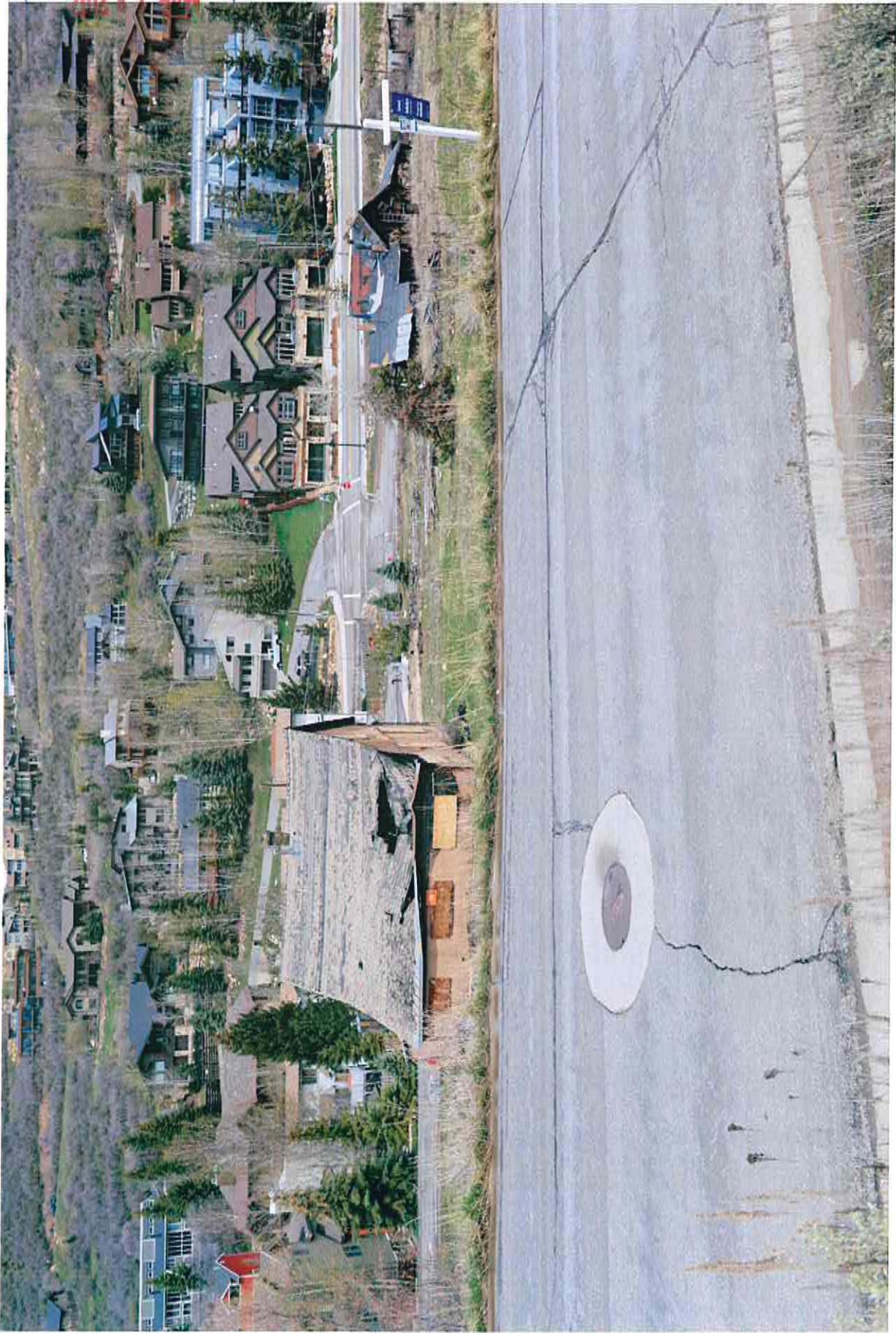
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RECEIVED
MAR 13 2017
PARK CITY PLANNING DEPT.

EXISTING CONDITIONS & TOPOGRAPHIC MAP LILAC HILL SUBDIVISION 632 DEER VALLEY LOOP		SHEET 1 OF 1
FOR: LILAC HILL LLC JOB NO.: 2-3-17 FILE: A:\Land\Topo\Topo\lilac_hill\lilac_hill_topo.dwg		DATES: 3/13/17
STAFF: MARSHALL KING JESSIE GORDON RYAN BETZ		



	STAFF: MARSHALL KING RYAN BEITZ	SHEET 1 OF 1
	DATE: 3/5/17	FOR: LILAC HILL LLC
	LILAC HILL SUBDIVISION 632 DEER VALLEY LOOP	
	JOB NO.: 2-3-17 FILE: H:\Consulting\Draws\LandPlan\Line Hill Subdivision-ortho.dwg	



Lilac Hill Subdivision – looking north

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MAR 13 2017
PARK CITY
PLANNING



Lilac Hill Subdivision – looking south



Lilac Hill Subdivision – looking east

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MAR 13 2017
PARK CITY
PLANNING DEPT.



Lilac Hill Subdivision – looking west

Anya Grahn

From: Robert Gurss <robert.gurss@gmail.com>
Sent: Tuesday, April 25, 2017 2:53 PM
To: Anya Grahn
Cc: Jennifer Gurss
Subject: 632 Deer Valley Loop

Thank you for the opportunity to review the HDDR applications for 632 Deer Valley Loop. Unfortunately, we will not be able to attend the public hearings [on April 26](#) or [May 8](#). However, we do have the following concerns regarding the applications. We understand that some of our neighbors will also be submitting written comments and/or attending the hearing.

First and foremost, the applications need to be considered together. Otherwise, decisions regarding the initial buildings could limit options for the subsequent structures.

Second, the City previously raised concerns regarding the safety and feasibility of a driveway from the north side of the property to Rossie Hill Drive. The angle of the proposed driveway appears to pose exactly the safety concerns raised by the City. We are also concerned about the additional traffic and parking on Rossie Hill Drive, a substandard roadway with significant drainage problems that have cause major icing and recent road buckling, and a dangerous hairpin turn at its eastern edge.

Third, the proposed height of the home to be located directly behind the current historic home raises concerns as it would overwhelm the much smaller historic structure. It is also much larger and taller than the historic homes on the adjacent BLM land.

Fourth, the previously approved Plat Amendment for 632 Deer Valley Loop included an important condition that at least 40% of the property would be open space. This needs to be examined carefully, as the condition does not appear to us to have been satisfied.

Fifth, the HDDR application proposes an addition on the west side of the reconstructed historic home. The addition was obviously not part of the original design, and diminishes the historic value of the property. We also note that, absent the addition, the space could possibly be used for driveway access from Deer Valley Loop to the two planned uphill structures, thus eliminating the need for access to Rossie Hill Drive.

Sixth, the modern windows on the new building to the east of the historic home appear to be quite different than the windows that were presumably on the historic home.

Seventh, the new building to the east of the historic home features a two-car garage, something we understand is not usually allowed under the HDDR.

Eighth, the proposed outdoor stairway for the reconstructed historic home appears to be a significant departure from the original design.

Ninth, while this may not be part of the HDDR process, we are concerned about potential light pollution from the new development, and would appreciate further information on this from the applicant.

Thank you again for the opportunity to address these issues, which we hope will be part of your consideration of the HDDR application.

Bob Gurss and Jennifer Gurss

[654 Rossie Hill Drive](#)

[PO Box 3764](#)

[Park City, UT 84060](#)

robert.gurss@gmail.com

[202-236-1743](#)

Straussgurss@gmail.com

[301-467-5778](#)

Anya Grahm

From: matthew shier <mshier@shierkatz.com>
Sent: Thursday, March 09, 2017 11:41 AM
To: planning; Matt Cassel; Bruce Erickson; Anya Grahm
Cc: Diane Bernhardt; Sydney Reed; Mary Wintzer; Jeff Camp; Sloane Reed; John Mason; Morgan Hole; Matey Erdos; Howard Klein; Christina Shiebler; Jennifer Camp; Patti Kitching; Allison Kitching; Jennifer Strauss; Robert Gurss; Jason Parker; Leonardo Trautwein; Linda Mason; Lance Anderson; Rania Anderson; Rosilyn Petersen; David Trimble; Kelly Stankiewicz; Katie Noble; Amy Heitman; Beth; Bob Martin
Subject: RE: Subdivision of 632 Deer Valley Loop

Hello, all –

I live at 630 Coalition View Ct just above the 632 DVL parcel.

I am extremely appreciative of the hard work and strong effort of the City Council and Staff in helping to preserve the historical integrity of BLM Parcel 18 when, as and if it becomes a part of Park City.

In the meantime, I would like to concur with Diane's sentiments below concerning 632 DVL and hope that any subdivision approved addresses the concerns and conforms with the findings, analysis and conditions indicated below.



Matthew J. Shier
930 Montgomery Street 6th Floor
San Francisco, CA 94133
Direct: 415.691.7027
Fax: 415.520.5879
mshier@shierkatz.com
www.shierkatz.com

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From: Diane Bernhardt <diane.a.bernhardt@gmail.com>
Date: March 8, 2017 at 5:43:19 PM MST
To: planning@parkcity.org, matt.cassel@parkcity.org, Bruce Erikson <bruce.erickson@parkcity.org>, Anya Grahm <anya.grahn@parkcity.org>
Subject: Subdivision of 632 Deer Valley Loop

Matt, Bruce and Anya,

As 632 Deer Valley Loop recently sold, my assumption is that the current owners are in front of the City executing planning for its development. As the City considers future requests to subdivide 632 Deer Valley Loop, I'd like to reiterate that there is continued and strong resistance from neighbors in the greater Rossie Hill area to any new driveway cut on Rossie Hill Drive for 632 DVL. If the property is subdivided creating a northern and southern lot, it forces a driveway on Rossie Hill Drive. In the October 20, 2016 City Council Packet, the city engineer requested that the driveway for DVL site be limited to Deer Valley Loop. Expressed concern was regarding slope and sight lines on Rossie Hill Drive and that BLM property is blocking a majority of the access to 632 via Rossie Hill Drive.

It is widely acknowledged that Rossie Hill Drive is substandard. The residents of the greater Rossie Hill area have already expressed concern that because of its substandard condition no development promoting additional traffic above the hairpin turn should be permitted. Rossie Hill Drive hosts a variety of perils:

- A blind, hairpin turn
- A non-standard, asymmetrical, steep 4-way intersection which posts an array of controls: 2 stop signs, 1 yield sign, and 1 through traffic
- A wide variety of traffic: pedestrian traffic, bike traffic, construction traffic, haphazard parking and children walking to/from the bus stop often in the hours of darkness
- Added peril in winter conditions due to its pitch, snow, ice, relatively low plowing priority, and additional temporary blind turns due to snow berms

Residents maintain and agree with Matt's recommendation that access to 632 Deer Valley Loop should remain on Deer Valley Loop.

Respectfully,

Diane Bernhardt
630 Coalition View Ct
530.575.0899

Please find below a link to and excerpts from the October 20, 2016 City Council Packet containing the agenda item ***Consideration to Approve Ordinance 2016-32*** beginning on page 108.

[City Council Meeting Packet 10/20/2016](#)

Finding of Fact

"17.Existing access to the site is limited to a driveway from Deer Valley Loop."

"18.The City Engineer finds that only the eastern half of the lot directly abuts the City's right-of-way along Rossie Hill Drive and there are poor sight lines along Rossie Hill Drive."

Analysis

“Due to the poor sight lines along Rossie Hill Drive, the City Engineer has also requested that the current driveway on the site be limited to Deer Valley Loop. Should any future development result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible along the eastern half of the Rossie Hill frontage and shall have a slope of no more than 5% for the first twenty feet (20’) to maintain sight lines. This is reflected in Conditions of Approval #8 and #9.”

Conditions of Approval

“8. Driveway access to any development to this one-lot subdivision shall be limited from Deer Valley Loop Road. Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of- way.”

“9. Any future access off of Rossie Hill shall have a slope of no more than 5% for the first 20 feet of the driveway off of the right-of-way to maintain sight lines.”

Anya Grahn

From: matthew shier <mshier@shierkatz.com>
Sent: Tuesday, April 25, 2017 5:30 PM
To: Council_Mail; Anya Grahn; Bruce Erickson
Cc: Jeff Camp; Diane Bernhardt; Mary Wintzer; Katie Noble; Allison Kitching; Mark Kaire; Howard Klein; Jennifer Strauss; Dennis Wong; Jennifer Camp; Matey Erdos; Sydney Reed; Jordan Pynes; John and Linda Mason; Morgan Hole; Robert Gurss
Subject: RE: PL-17-03450 632 Deer Valley Loop - HDDR II

Members of the Park City - City Council –

I own and reside at 630 Coalition View Ct, just above the subject property.

I have expended a considerable amount of time following the recent history of this parcel including efforts to develop the same. I concur in all respects with the views of Bob Gurss and Jennifer Strauss, sent to you previously and set forth below. Thank you for the opportunity to provide input on this application.

Sincerely,

Matthew Shier

Matthew J. Shier
630 Coalition View Ct.
Park City, UT 84060
Direct: 415.691.7027
Fax: 415.520.5879
mshier@shierkatz.com

This message, including any and every attachment, is intended only for the use of the individual or entity to which it is addressed and contains information that is privileged, confidential and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. This message is confidential and is attorney-work product or privileged as an attorney-client communication. Please be sure to retain this message in a secure place and do not make copies or share this information with anyone without first consulting the sender. If you have any questions, please contact the sender. If you received this communication in error, please notify the sender immediately and then delete this message from your system.

From: Robert Gurss [mailto:robert.gurss@gmail.com]
Sent: Tuesday, April 25, 2017 1:57 PM
To: Jordan Pynes <jordan@tsahousing.com>
Cc: Jeff Camp <jeff@jeffcamp.com>; Diane Bernhardt <diane.a.bernhardt@gmail.com>; Mary Wintzer <wintzermc@aol.com>; Katie Noble <katie.noble@gmail.com>; Allison Kitching <allison_kitching@mac.com>; Mark Kaire <Mark@kairelaw.com>; Howard Klein <howard.klein@outlook.com>; Jennifer Strauss <straussgurss@gmail.com>; Dennis Wong <parkcitybliss@gmail.com>; Jennifer Camp <jennifer@jeffcamp.com>; Matey Erdos <matey_erdos@hotmail.com>; matthew shier <mshier@shierkatz.com>; Sydney Reed <sydreed@msn.com>; John and Linda Mason <johnbmas@gmail.com>; Morgan Hole <morgansh@msn.com>
Subject: Re: PL-17-03450 632 Deer Valley Loop - HDDR II

Thank you for the opportunity to review the HDDR applications for 632 Deer Valley Loop. Unfortunately, we will not be able to attend the public hearings [on April 26](#) or [May 8](#). However, we do have the following concerns regarding the applications. We understand that some of our neighbors will also be submitting written comments and/or attending the hearing.

First and foremost, the applications need to be considered together. Otherwise, decisions regarding the initial buildings could limit options for the subsequent structures.

Second, the City previously raised concerns regarding the safety and feasibility of a driveway from the north side of the property to Rossie Hill Drive. The angle of the proposed driveway appears to pose exactly the safety concerns raised by the City. We are also concerned about the additional traffic and parking on Rossie Hill Drive, a substandard roadway with significant drainage problems that have caused major icing and recent road buckling, and a dangerous hairpin turn at its eastern edge.

Third, the proposed height of the home to be located directly behind the current historic home raises concerns as it would overwhelm the much smaller historic structure. It is also much larger and taller than the historic homes on the adjacent BLM land.

Fourth, the previously approved Plat Amendment for 632 Deer Valley Loop included an important condition that at least 40% of the property would be open space. This needs to be examined carefully, as the condition does not appear to us to have been satisfied.

Fifth, the HDDR application proposes an addition on the west side of the reconstructed historic home. The addition was obviously not part of the original design, and diminishes the historic value of the property. We also note that, absent the addition, the space could possibly be used for driveway access from Deer Valley Loop to the two planned uphill structures, thus eliminating the need for access to Rossie Hill Drive.

Sixth, the modern windows on the new building to the east of the historic home appear to be quite different than the windows that were presumably on the historic home.

Seventh, the new building to the east of the historic home features a two-car garage, something we understand is not usually allowed under the HDDR.

Eighth, the proposed outdoor stairway for the reconstructed historic home appears to be a significant departure from the original design.

Ninth, while this may not be part of the HDDR process, we are concerned about potential light pollution from the new development, and would appreciate further information on this from the applicant.

Thank you again for the opportunity to address these issues, which we hope will be part of your consideration of the HDDR application.

Bob Gurss and Jennifer Gurss
[654 Rossie Hill Drive](#)
[PO Box 3764](#)
[Park City, UT 84060](#)
robert.gurss@gmail.com
[202-236-1743](tel:202-236-1743)

Straussgurss@gmail.com
[301-467-5778](tel:301-467-5778)

Anya Grahm

From: Linda Mason <lindamas@msn.com>
Sent: Friday, March 10, 2017 10:40 AM
To: planning; Matt Cassel; Bruce Erickson; Anya Grahm
Cc: Linda Mason
Subject: 632 Deer Valley Loop Property

My husband and I live at 650 Rossie Hill Drive directly above the old miners' cabins. We were not in town for City Council and Planning meetings regarding the 632 Deer Valley Loop Property. However, we were kept informed by neighbors since development of this parcel will directly impact us. I understand the property has been sold and may be coming to the City with plans for development.

My greatest concern is further subdivision into a northern and southern lot requiring a driveway on Rossie Hill Drive. My concerns include:

1. Increased traffic on Rossie Hill Drive will be a safety issue for pedestrians. We frequently walk to Old Town using one of two routes: up and over to Shorty's Steps or down the hill to Deer Valley Drive. We also walk down Rossie Hill Drive to catch the buses that stop near the intersection of Deer Valley Drive and Deer Valley Loop. We also have a dog and walk early in the morning, at night and other times of the day. I also see many others walking along Rossie Hill Drive, often families carrying skis, or mothers walking with strollers.
Since there are no sidewalks on Rossie Hill Drive, this can be a hazardous walk, especially when rounding the hairpin turn. This turn is particularly dangerous for pedestrians (and drivers) because it is steep, narrow, and has limited visibility. I encourage you to walk this turn from below. You will see that it is blind: neither drivers nor pedestrians can see each other until they are in the sharpest part of the turn.
Rossie Hill Drive has more traffic than one might expect from the number of residences above. At busy times of the day (e.g., when traffic is leaving Deer Valley Resort), it is often used as a short cut between Marsac Avenue and Deer Valley Drive.
Walking in winter is particularly hazardous. In January, February and March, Rossie Hill Drive is often snow covered, icy and narrow. As a pedestrian, I find myself climbing on snow banks or hurrying to find a driveway when cars are going up or down.
2. Backing onto Rossie Hill Drive. Our driveway is oriented in a way that we need to back our car out onto Rossie Hill Drive. There is a blind maneuver because of a high retaining wall on the uphill side of our driveway. Increased traffic, so close to our drive, increases the risk of an accident.

We attended Planning Committee and City Council meetings in February and March and appreciate everyone's dedication to preserving Park City's history and environmental conservation. I was particularly impressed by the diversity of questions raised and questions asked about unintended consequences. So now, I am asking you to consider the impact on Rossie Hill Drive if the 632 Deer Valley Loop Property is subdivided and the impact of a driveway on Rossie Hill Drive.

Thank you for your consideration.

Linda Mason

650 Rossie Hill Drive

lindamas@msn.com

Anya Grah

From: Leonardo Trautwein <trautwein@gmail.com>
Sent: Tuesday, July 11, 2017 7:51 AM
To: Anya Grah
Cc: planning; Kelly Stankiewicz
Subject: Re: Comments: PL-17-03512 632 Deer Valley Loop

Hello again Anya,

My neighbors informed me there will be a meeting tomorrow to review the proposed design for 632 Deer Valley Loop. I am trying to move some meetings around so I can attend the meeting in person, but I am not sure if I will be able to do it. In this case, I would like to voice my concerns again through email.

As previously mentioned, I am worried that the property to be located at 632 Deer Valley Loop would transform a reserved low-density neighborhood into a cramped high-density neighborhood. The addition of a driveway to Rosie Hill is even more troublesome. We have a 2.5 year old boy and we always expected for him to have a lovely childhood in the neighborhood, but the probable increase on vehicle and people traffic in our surroundings may not give him the same level of freedom that we assumed he would have. Overall, we love how secluded, reserved and safe the neighborhood feels and that is why we intend to make it our long-term house.

Feel free to reach us if you have any question. I am already working in Farmington. Kelly (my wife), Caio (my son) and I will move officially from Chicago to Park City on August 2nd.

Hope all is well and thanks for your support.

Leo

On Sun, Apr 30, 2017 at 3:33 PM, Anya Grah <anya.grahn@parkcity.org> wrote:

Thanks so much, Leo, for sharing your concerns.

Anya

From: Leonardo Trautwein [mailto:trautwein@gmail.com]
Sent: Sunday, April 30, 2017 2:10 PM
To: planning; Anya Grah
Cc: Kelly Stankiewicz
Subject: Comments: PL-17-03512 632 Deer Valley Loop

Hello Anya,

My name is Leo Trautwein and we own a property at 668 Coalition View Court. We recently purchased it from Sydney Reed so we can move to Park City. Park City will be our primary residence and our move is scheduled for the 1st week of August. My wife, Kelly Stankiewicz, is opening a dermatology practice in Kimball Junction and I will be working for Vista Outdoor, a sporting goods company headquartered in Farmington-UT.

One of the key reasons why we purchased the property from Sydney is its location. We felt that it was located in a residential area surrounded by single family homes, but not far from Main St. This would allow our son (two years old) to safely enjoy the neighborhood. Overall, we love how secluded and reserved it feels and that is why we intend to make it our long-term house.

Having said that, I am worried that the property to be located at 632 Deer Valley Loop (PL-17-03512 632) goes against this assumption. It would transform a reserved low-density neighborhood into a cramped high-density neighborhood. For instance, if I am not wrong, this lot size is 0.33 acres, which seems to be significantly smaller than the other lots in the area, and leaves 0.08 acres per home. This seems cramped quarters, even for Old Town standards. What I am trying to say is.... it feels weird to add four units in such a small lot, which will ultimately change the living dynamics of those already in the neighborhood. In addition, it sets a dangerous precedent for the remaining lots in the area. Therefore, we are not in favor of the proposed construction and changes.

Feel free to reach us if you have any question. I start my job in Farmington this week (May 1) and I will be commuting from Chicago to Utah until our family moves permanently (1st week of August) so I will be around for any questions/meetings.

Thanks, Leo

Leonardo Trautwein

| Mobile: [+1 646 306 1597](tel:+16463061597)

| Skype: leonardo.trautwein

| e-mail: trautwein@gmail.com

| 852 N Rockwell, Chicago, IL, 60622, USA

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Leonardo Trautwein

| Mobile: +1 646 306 1597

| Skype: leonardo.trautwein

| e-mail: trautwein@gmail.com

| 852 N Rockwell, Chicago, IL, 60622, USA

Anya Grahn

From: Jordan Pynes <jordan@tsahousing.com>
Sent: Tuesday, April 25, 2017 6:09 PM
To: Council_Mail; Anya Grahn; Bruce Erickson
Subject: RE: PL-17-03450 632 Deer Valley Loop - HDDR II

Dear Members of the Park City Council:

I first want to thank you for the recent zone changes you made to the area. You have made a significant difference for the long-term planning of our community and we appreciate it.

My family owns and resides at 645 Coalition View Court, right next to the subject property. I won't be able to attend the public hearings on 4/26 or 5/8 but I share the same concerns as Bob Gurss and Jennifer Strauss and ask the Council to work through these important issues before approving the subject site. We know something will be built there but we hope you will consider the logistics and impact to the street and neighborhood.

Many thanks for all your effort.
--Jordan Pynes

From: Robert Gurss [<mailto:robert.gurss@gmail.com>]
Sent: Tuesday, April 25, 2017 1:57 PM
Subject: Re: PL-17-03450 632 Deer Valley Loop - HDDR II

Thank you for the opportunity to review the HDDR applications for 632 Deer Valley Loop. Unfortunately, we will not be able to attend the public hearings [on April 26](#) or [May 8](#). However, we do have the following concerns regarding the applications. We understand that some of our neighbors will also be submitting written comments and/or attending the hearing.

First and foremost, the applications need to be considered together. Otherwise, decisions regarding the initial buildings could limit options for the subsequent structures.

Second, the City previously raised concerns regarding the safety and feasibility of a driveway from the north side of the property to Rossie Hill Drive. The angle of the proposed driveway appears to pose exactly the safety concerns raised by the City. We are also concerned about the additional traffic and parking on Rossie Hill Drive, a substandard roadway with significant drainage problems that have caused major icing and recent road buckling, and a dangerous hairpin turn at its eastern edge.

Third, the proposed height of the home to be located directly behind the current historic home raises concerns as it would overwhelm the much smaller historic structure. It is also much larger and taller than the historic homes on the adjacent BLM land.

Fourth, the previously approved Plat Amendment for 632 Deer Valley Loop included an important condition that at least 40% of the property would be open space. This needs to be examined carefully, as the condition does not appear to us to have been satisfied.

Fifth, the HDDR application proposes an addition on the west side of the reconstructed historic home. The addition was obviously not part of the original design, and diminishes the historic value of the property. We also note that, absent the addition, the space could possibly be used for driveway access from Deer Valley Loop to the two planned uphill structures, thus eliminating the need for access to Rossie Hill Drive.

Sixth, the modern windows on the new building to the east of the historic home appear to be quite different than the windows that were presumably on the historic home.

Seventh, the new building to the east of the historic home features a two-car garage, something we understand is not usually allowed under the HDDR.

Eighth, the proposed outdoor stairway for the reconstructed historic home appears to be a significant departure from the original design.

Ninth, while this may not be part of the HDDR process, we are concerned about potential light pollution from the new development, and would appreciate further information on this from the applicant.

Thank you again for the opportunity to address these issues, which we hope will be part of your consideration of the HDDR application.

Bob Gurss and Jennifer Gurss

[654 Rossie Hill Drive](#)

[PO Box 3764](#)

[Park City, UT 84060](#)

robert.gurss@gmail.com

[202-236-1743](tel:202-236-1743)

Straussgurss@gmail.com

[301-467-5778](tel:301-467-5778)

Anya Grahn

From: Jeff Camp <jeff@jeffcamp.com>
Sent: Thursday, April 27, 2017 12:46 PM
To: Anya Grahn
Cc: Christina Shiebler (christina@shiebler.com); Diane Bernhardt; Jennifer Strauss; Jeff Camp
Subject: PL-17-03450 632 Deer Valley Loop

Thank you for your time yesterday. I wanted to send you a note to put all the most important issues we discussed in writing.

First and foremost is the 40% open space requirement, as you stated yesterday "the owners need to comply with a 40% open space requirement, and that does not include private driveways, sidewalks and patios." The other area of concern is the driveway access on the Rossie hill side of the lot. The neighborhood is vary concerned with another driveway cut on that road. Most people don't realize they are pulling out (likely backing out) on a road with a 35mph speed limit, a hairpin turn, and a steep Icey (6 months out of the year) hill just above the proposed driveway cut. Even the mayor and several council members made note that there should not be a driveway accessing Rossie hill rd. So, in closing please make sure they adhere to the 40% open space without hardscape being included, and don't let them put a driveway on an already hazardous road. Thanks again for your time.

Jeff and Jennifer Camp
590 coalition view ct.



High Country Properties

Jeff Camp OWNER/BROKER
Jeff@HCPTeam.com
HCPRealEstate.com or JeffCamp.com

PO Box 1090 Park City, Utah 84060
Direct 435.776.7760
Follow us on Facebook 

Anya Grahn

From: Diane Bernhardt <diane.a.bernhardt@gmail.com>
Sent: Wednesday, March 08, 2017 5:43 PM
To: planning; Matt Cassel; Bruce Erickson; Anya Grahn
Subject: Subdivision of 632 Deer Valley Loop

Matt, Bruce and Anya,

As 632 Deer Valley Loop recently sold, my assumption is that the current owners are in front of the City executing planning for its development. As the City considers future requests to subdivide 632 Deer Valley Loop, I'd like to reiterate that there is continued and strong resistance from neighbors in the greater Rossie Hill area to any new driveway cut on Rossie Hill Drive for 632 DVL. If the property is subdivided creating a northern and southern lot, it forces a driveway on Rossie Hill Drive. In the October 20, 2016 City Council Packet, the city engineer requested that the driveway for DVL site be limited to Deer Valley Loop. Expressed concern was regarding slope and sight lines on Rossie Hill Drive and that BLM property is blocking a majority of the access to 632 via Rossie Hill Drive.

It is widely acknowledged that Rossie Hill Drive is substandard. The residents of the greater Rossie Hill area have already expressed concern that because of its substandard condition no development promoting additional traffic above the hairpin turn should be permitted. Rossie Hill Drive hosts a variety of perils:

- A blind, hairpin turn
- A non-standard, asymmetrical, steep 4-way intersection which posts an array of controls: 2 stop signs, 1 yield sign, and 1 through traffic
- A wide variety of traffic: pedestrian traffic, bike traffic, construction traffic, haphazard parking and children walking to/from the bus stop often in the hours of darkness
- Added peril in winter conditions due to its pitch, snow, ice, relatively low plowing priority, and additional temporary blind turns due to snow berms

Residents maintain and agree with Matt's recommendation that access to 632 Deer Valley Loop should remain on Deer Valley Loop.

Respectfully,

Diane Bernhardt
630 Coalition View Ct
530.575.0899

Please find below a link to and excerpts from the October 20, 2016 City Council Packet containing the agenda item ***Consideration to Approve Ordinance 2016-32*** beginning on page 108.

[City Council Meeting Packet 10/20/2016](#)

Finding of Fact

"17.Existing access to the site is limited to a driveway from Deer Valley Loop."

“18. The City Engineer finds that only the eastern half of the lot directly abuts the City’s right-of-way along Rossie Hill Drive and there are poor sight lines along Rossie Hill Drive.”

Analysis

“Due to the poor sight lines along Rossie Hill Drive, the City Engineer has also requested that the current driveway on the site be limited to Deer Valley Loop. Should any future development result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible along the eastern half of the Rossie Hill frontage and shall have a slope of no more than 5% for the first twenty feet (20’) to maintain sight lines. This is reflected in Conditions of Approval #8 and #9.”

Conditions of Approval

“8. Driveway access to any development to this one-lot subdivision shall be limited from Deer Valley Loop Road. Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of- way.”

“9. Any future access off of Rossie Hill shall have a slope of no more than 5% for the first 20 feet of the driveway off of the right-of-way to maintain sight lines.”

Anya Grahm

From: Christina Marie Shiebler <christina@shiebler.com>
Sent: Wednesday, July 12, 2017 4:49 PM
To: Anya Grahm; planning; Bruce Erickson; Matt Cassel
Cc: Allison Kitching; Jennifer Strauss Gurss; Bob Gurss (robert.gurss@gmail.com); Jeff Camp; Jennifer Camp; Mark Kaire (mark@kairelaw.com); Jennifer Kaire; Diane Bernhardt; matthew shier; Kelly Stankiewicz; Leonardo Trautwein; Jason Parker; Jordan Pynes; Mary Wintzer
Subject: PL-17-03494 632 Deer Valley Loop- Plat Amendment
Attachments: RossieHillRoads.tiff

Hello Anya and the Park City Planning Commission:

I am writing on behalf of the Save Rossie Hill Historic Open Space Group and Rossie Hill neighbors to formally go on record regarding the PL-17-03494 632 Deer Valley Loop- Plat Amendment.

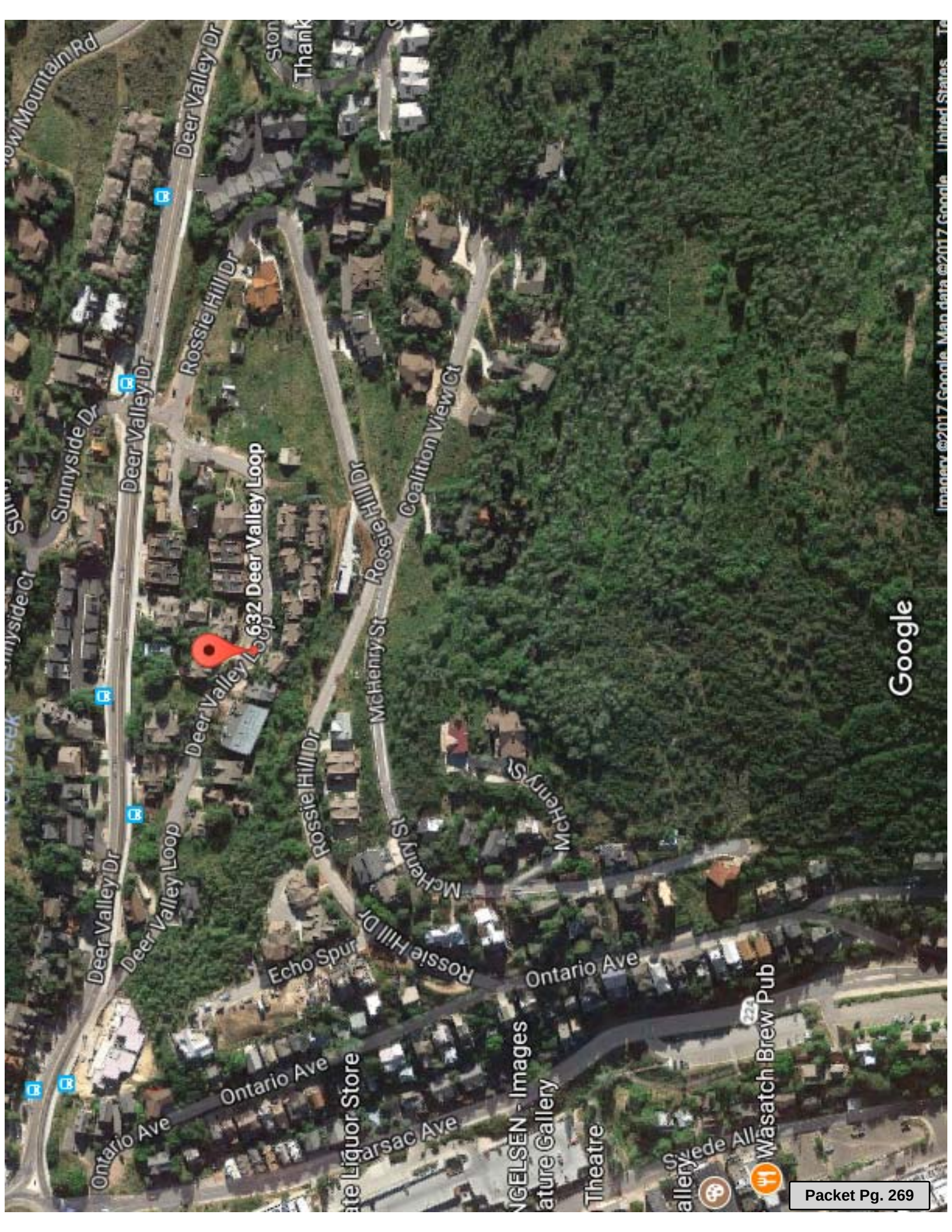
We are collectively opposed to Rossie Hill driveway access for several reasons. Our reasons for opposing a driveway on Rossie include but are not limited to: high traffic flow and congestion from the neighborhood residents and people using our recreations trails; lack of guest / secondary / maintenance and other vehicle parking; sub-par roadways; a poorly engineered road design which includes 3 / 4 blind corners at the top and one blind hairpin in the middle; an intersection where four roads intersect with one right of way as well as two stop signs and a yield; year round and heavy pedestrian and bicycle usage; wildlife migration and passage to water sources and unforgiving seasonal conditions which reduce Rossie Hill from a sub-par two way road to a treacherous one way road.

I have attached a map to show you the aerial view of the neighborhood. During the majority of the winter season as well as the bulk of the traditional off season, now known as building season, the primary neighborhood access is in and out of Rossie Hill. The upper Rossie, McHenry and Coalition View Court use Rossie for trips in and out of the neighborhood. Our Ontario neighbors are often in a position where they too must use Rossie for trips in and out due to weather or construction / parking blocks.

We will not oppose the subdivision of the lot provided driveway access be limited solely to Deer Valley Loop.

Thank you for your time.

Christina



Google

Anya Grahn

From: Christina Marie Shiebler <christina@shiebler.com>
Sent: Tuesday, July 11, 2017 11:04 AM
To: Anya Grahn
Cc: planning; Bruce Erickson; Matt Cassel
Subject: PL-17-03494 632 Deer Valley Loop- Plat Amendment

Hello Anya -

I hope my note finds your well and enjoying your summer.

I wanted to send a quick note in advance of the planning meeting scheduled for Wednesday, July 12. I would like to make additional and formal record of my opposition to the subdivision. My concern is directly related to a potential driveway cut on Rossie Hill.

As a 13 year Rossie Hill neighborhood property owner I am well versed in the year round road and safety conditions we face when traveling Rossie Hill. When I say "we" I refer to: residents; guests; people on a touring drive about; people driving to the neighborhood to utilize our trail system; delivery drivers; service providers; maintenance crews; construction crews; the many whom have come to consider Rossie Hill as an extension of China Bridge and utilize our roads as a free unrestricted 24/7 (x many) parking zone; the residents of Fox Glove and the Line (and other) who consider our neighborhood as their auxiliary parking; our neighbors on Ontario whom utilize Rossie as their primary path in and out of the neighborhood; hikers; bikers; walkers; companion and wildlife animals and the most concerning... children traveling the road to catch the school bus during the school year or the city bus during the summer to enjoy the community recreation activities. The "we" of Rossie Hill encompasses a large cross section of vehicle, pedestrian, bicycle travelers and animals - year round.

The winter season is the most obvious and publicly noted season for traffic impact and safety issues. The snow removal, snow storage, slippery conditions and ice damming pose exceptional challenges for vehicle and pedestrian navigation. Our road quickly becomes a season long near Olympic level sliding track. The nature of the road, from the steepness to the curves, make for a year round navigation challenge. The added winter elements, including but not limited to the inevitable narrowing of the road, take Rossie Hill road travel and navigation from a deliberate and challenging process to down right dangerous - season long.

There is an exceptional gravitational pull to the neighborhood. I get it - it brought me from a curious passerby to resident. I could not resist the idyllic charm. The gravitational pull I refer to as it relates to the community and tourist base is the remarkable urge to utilize Rossie Hill as a formal, long term, careless parking solution. We are the old town sweet spot. The Rossie Hill sweet spot encompasses: narrow roadways; curves; seasonal ice damming; less-than-ideal engineering; deteriorated road conditions; vehicle; pedestrian; bicycle; companion animal and wildlife traffic - as noted above.

A group of neighbors as well as the land owner and future developer of the Lilac Hill parcel stood on the street on Monday, July 10 from noon until 1:15pm to discuss the proposed plans. During this 75 minute stretch I counted 13 cars driving by our group as we stood on the top of the parcel. Two of the vehicles were neighbors, I did not recognize the other 11 vehicles - and after 13 years I am well versed in what vehicles people drive. This leads me to believe that the additional 11 cars fall into the large bucket of non-residents utilizing our already congested and poorly engineered roadway. During this time I also counted two separate groups of bikers making their way up Rossie Hill. The noon - 1:15pm stretch is not a typical commuter peak hour furthering my point that the neighborhood is ill equipped to handle any additional vehicle congestion.

While we know the Lilac Hill development is inevitable, we have an exceptional opportunity to make a positive impact on the neighborhood, the residents and visitors by eliminating an additional road cut on our already congested thoroughway. I have exceptional faith that architectural team hired by the developer will be able to design and engineer a functional and undoubtedly profitable mechanism by which they can utilize Deer Valley Loop as the only vehicle access to the top section of the parcel.

Thank you for taking the time to read my email and for considering the entirety of the neighborhood when making decisions that will impact us in perpetuity.

Regards,
Christina Shiebler
638 Coalition View Court

Anya Grahm

From: Christina Marie Shiebler <christina@shiebler.com>
Sent: Friday, March 10, 2017 11:27 AM
To: planning; Matt Cassel; Bruce Erickson; Anya Grahm
Subject: Subdivision of 632 Deer Valley Loop

Good morning and thank you for your time.

I have received notification that 632 Deer Valley Loop recently sold and that current owners are speaking with the City regarding their plans for a future development. It is assumed that the proposal will include driveway access from Rossie Hill. I would like to remind the City that the neighborhood (collective Rossie Hill including: Rossie; Coalition View Court; McHenry; Ontario and Deer Valley Loop) as well as other neighbors in the area are vehemently opposed to any driveway access / driveway cuts on Rossie. In the October 20, 2016 City Council Packet, the city engineer requested that the driveway for the 632 DVL site be limited to Deer Valley Loop. He articulated his concern regarding slope and sight lines on Rossie Hill Drive and that BLM property is blocking a majority of the access to 632 via Rossie Hill Drive.

Rossie Hill Drive is substandard at best. Each year we see greater deterioration in the condition of the road. It is alarming, at best. Local / full time residents have learned to navigate cracks, potholes, narrowing drive space and other obstacles on any given day. We are accustomed to navigating our routes to and from our homes and have respect for one another - whether in a car, on foot or on a bike. However, second homeowners and renters whom occupy neighborhood properties, either short or long term, are unfamiliar with the roads and they add an increased liability to the neighborhood. Rossie in particular is not only substandard based on current condition but also by design. And certainly by use as a parking lot, old town cut through or autobon.

Our wonderful proximity to town comes with its pitfalls. We have been discovered and over the years have become a very popular tourist destination - not only to rent, but also simply to park. We are an extension of Swede Alley and China Bridge and it is creating a tremendous impact on the roads and mostly on our safety. I first became a part of the neighborhood in 2004. At that time we had four seasons: winter, shoulder season, summer and shoulder season. Now it appears as though we have one season: tourist season. And while I see the value on the local economy, we must grow in a way that we do not cause irrevocable damage to our community.

This winter has been pretty epic. As residents of Rossie Hill it has also been taxing. We have spend a great deal of time pulling new-to-snow or poorly equipped drivers out ditches and driveways. We narrowly pass one another on seasonal one lane roads. We motion to drivers to SLOW DOWN when approaching the hair pin at excessive speeds, especially knowing any one of our neighbors may be walking their dog or dogs or our local children may be climbing the hill after a long day of school. We have watched our neighborhood turn from a sanctuary to a year round parking lot.

I would like to encourage each of you to drive, or ideally walk through the neighborhood at various times during any given day to experience our road. You will encounter:

- A blind, hairpin turn
- A non-standard, asymmetrical, steep 4-way intersection which posts an array of controls: 2 stop signs, 1 yield sign, and 1 through traffic
- A wide variety of traffic: pedestrian traffic, bike traffic, construction traffic, haphazard parking and children walking to/from the bus stop often in the hours of darkness, people walking animals and of course wildlife

- Added danger in winter conditions due to its pitch, snow, ice, relatively low plowing priority, and additional temporary blind turns due to snow berms

Thank you for taking the time to read my note. I would like to reiterate that **residents maintain and agree with Matt Cassel, City Engineer's, recommendation that access to 632 Deer Valley Loop should remain on Deer Valley Loop.**

Fondly,
Christina Shiebler
638 Coalition View Court
Park City, UT 84060

435/640/2862

Please find below a link to and excerpts from the October 20, 2016 City Council Packet containing the agenda item ***Consideration to Approve Ordinance 2016-32*** beginning on page 108.

[City Council Meeting Packet 10/20/2016](#)

Finding of Fact

"17.Existing access to the site is limited to a driveway from Deer Valley Loop."

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"Due to the poor sight lines along Rossie Hill Drive, the City Engineer has also requested that the current driveway on the site be limited to Deer Valley Loop. Should any future development result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible along the eastern half of the Rossie Hill frontage and shall have a slope of no more than 5% for the first twenty feet (20') to maintain sight lines. This is reflected in Conditions of Approval #8 and #9."

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"9. Any future access off of Rossie Hill shall have a slope of no more than 5% for the first 20 feet of the driveway off of the right-of-way to maintain sight lines."

Anya Grah

From: Christina Marie Shiebler <christina@shiebler.com>
Sent: Wednesday, April 26, 2017 9:20 AM
To: Anya Grah
Cc: Bruce Erickson
Subject: 632 Deer Valley Loop

Hi Anya -

To the best of my knowledge the 632 Deer Valley Loop has not been formally subdivided. If the lot has been formally subdivided, there is concern that property owners within the notification boundary have not been notified.

My feedback assumes it has not been subdivided.

It is my hope that it is determined it should remain in tact as one lot. Chopping an already tiny parcel up in to two lots continues to dilute the neighborhood even more. The notion that we are looking at the front two home sites in advance of the back two seems to indicate that the developer assumes a foregone conclusion with Rossie Hill (top) access. Our neighborhood (Rossie, Deer Valley Loop, McHenry and Ontario - I assume minus Mullin, the original developer) is collectively opposed to Rossie Hill access. It is on record that the city engineer agrees that there should be no access. The 2016/17 winter proved to be hazardous at best for homeowners and renters having to navigate upper Rossie after the hair pin and before the rally car intersection. Our road is currently in a state of near disrepair. I encourage members of the city staff to drive Rossie this week to see the current road conditions. And they are only getting worse.

I would like to encourage the city to keep the lot in tact and to look at the top / back two home sites first or at all four together. It is imperative that access come off of Deer Valley Loop and not Rossie. It is imperative that the developer be held to the standard in which our community fought so hard to protect. There were many issues with the front two houses as shown on the drawing. The widows, deck, garage and transition from historic home to new do not fit. In my opinion they have a lot more work to do.

Thank you for all you do on behalf of our community.

Christina Shiebler

Anya Grahn

From: Allison Kitching <allison_kitching@me.com>
Sent: Monday, May 08, 2017 11:52 PM
To: Anya Grahn; Council_Mail
Cc: Mary Wintzer; Jennifer Strauss Gurss; Jeff Camp; robert.gurss@gmail.com; Diane Bernhardt; Christina Shiebler
Subject: PL-17-03450 632 Deer Valley Loop - HDDR II

Hi Anya and Park City Council Members,

I appreciated the opportunity to view the plans for renovation of 632 Deer Valley Loop historic home and other future structures on this property. I own and live full time at 670 Deer Valley Loop Unit #19. The 632 Deer Valley Loop property is located just across the trail from my patio.

I request the access to the historic home and the new structures be limited to Deer Valley Loop. Before any development plans are approved for this lot, the access must be defined. Rossi Hill Drive is known to be a dangerous road. The city engineer has also noted the difficulties associated with a driveway coming down from the steep slope of Rossi Hill Drive. Access can be limited to Deer Valley Loop and therefore limiting the overall impact of this development. There will already be a natural driveway access point from Deer Valley Loop. Let's request this small concession from the developer to create goodwill for the overall project. If the developer does not support this idea, please note my request to have only one access point off Deer Valley Loop.

I'm also hopeful there will be some focus on minimizing the evening light pollution from this new development. Light pollution interferes with wildlife migratory and breeding patterns. This lot is located adjacent to land that has been set aside to provide animals a migratory path to the creek. Please request the developer use reflectors instead of using a row of lights on the driveway. Motion sensing lights will reduce energy consumption as well as only turn on when needed. Full cutoff light fixtures can also be used to shine light down vs. traveling across property lines.

Our town carefully approves renovations and additions to historic homes. Even with substantial additions to historic homes, the front facade usually remains intact. A 600 square foot home can turn into a 2,500 square foot home and still retain its historic character if done the right way. Additions to the homes seem to be generally built behind the original facade.

After viewing some drawings of the proposed renovation and development on this lot, I am concerned the original facade of the historic home will be amended with an addition on the west side. The additional structures to be built will contribute to the overall feel of this special area of our town. I am hopeful the structures will somewhat match the size and scale of the historic home. The drawings I viewed showed tall structures behind the historic home which would change the character of the property and dwarf the historic home.

I appreciate the opportunity to comment on the future plans for 632 Deer Valley Loop.

Sincerely,

Allison Kitching
670 Deer Valley Loop #19

Anya Grahn

From: Allison Kitching <allison_kitching@me.com>
Sent: Thursday, August 03, 2017 8:31 AM
To: Council_Mail
Cc: Anya Grahn; Diane Bernhardt; Christina Shiebler
Subject: 632 Deer Valley Loop Subdivision

Dear City Council,

I am a property owner and full-time resident at 670 Deer Valley Loop, Unit #19. My patio is across the trail and adjacent to the 632 Deer Valley Loop historic home. My request is for to City Council to approve the subdivision request of this lot while granting a single driveway access only from Deer Valley Loop.

Our group met with the developer, Frank Watanabe. Frank was friendly and receptive to having a discussion with our Save Rossie Hill Historic Open Space Alliance. I respect Frank's property rights for future development on this lot. Frank shared he will renovate the historic cabin as well as build 3 single family homes.

The Land Management Code states the RM zone is to "minimize the number of new driveways accessing existing thoroughfares." If access to Frank's development is restricted to one driveway off of Deer Valley Loop, the Land Management Code supports this approach.

The existing multi-unit developments in the area average 5.2 units per one driveway. One driveway supporting Frank's 4 units follows development precedent in this neighborhood. The information at the bottom of this email lists all multi-unit developments on Deer Valley Loop, Rossie Hill Drive and Deer Valley drive from the Torchlight Inn to Stonebridge.

I appreciate City Council's approach to this special part of Park City. Your decisions have been thoughtful and balanced. I look forward to attending the discussion this evening regarding the subdivision request of 632 Deer Valley Loop.

Thank you,

Allison Kitching
670 Deer Valley Loop
Unit 19
Park City, UT . 84060

Rossie Neighborhood	Sum of # units	Sum of # driveways	# of driveways per unit
Grand Total	275	53	5.2

Street Name	Address	# units	# driveways	Plat Name	Comments
Deer Valley Loop	599-603	4	1	Pearl West	

Deer Valley Loop	587 A & B	2	0	587 Deer Valley Loop Condos	
Deer Valley Loop	569 5,6,7,8	4	2	The Loft	
Deer Valley Loop	670	15	1	Portico Condos	
Deer Valley Loop	660	2	1	Portico Condos	
Deer Valley Loop	650	2	1	Portico Condos	
Deer Valley Loop	553 A & B	2	1	Miner's Cart Condos	
Deer Valley Loop	556	2	1	556 Deer Valley Loop Condos	
Deer Valley Loop	550	8	1	Aspen Grove Condos	
Deer Valley Loop	563 A & B	2	1	Deer Valley Loop Condo	
Deer Valley Loop	544	3	1	Elliott Grove Condo	
Deer Valley Loop	440	2	1	Olive Branch	
Deer Valley Loop	472 & 474	2	1	472 & 474 Olive Branch	
Deer Valley Loop	430	2	1	PC-543	
Deer Valley Drive	255	6	1	255 Deer Valley Drive Replat	Torchlight
Deer Valley Drive	267	2	1	Mountain View Condo	
Deer Valley Drive	281 & 283	2	1	Bee Plat Amendment	
Deer Valley Drive	295 & 297	2	1	Heber Ave Condos	
Deer Valley Drive	300	4	1	Roundabout	
Deer Valley Drive	345	2	1	DVD Condo	
Deer Valley Drive	355	2	1	DVD Condo	
Deer Valley Drive	365	2	1	DVD Condo	
Deer Valley Drive	500	2	1	Broph's Place Condo	
Deer Valley Drive	519, 523, 521, 525	4	2	Columbine Condos	
Deer Valley Drive	509 & 511	2	1	PC-518-A5 & A6	
Deer Valley Drive	531 & 533	2	1	Snow Haven Condo	
Deer Valley Drive	518 & 522	5	1	Caribou Lodge	
Deer Valley Drive	535 & 537	4	1	Snow Haven Condo	
Deer Valley Drive	544	3	1	Elliott Grove Condo	
Deer Valley Drive	545	8	1	Gambler, The Condo	Gambler
Deer Valley Drive	553	2	1	Mine Cart Condo	
Deer Valley Drive	555	22	2	Line, The Condo	
Deer Valley Drive	564-568	10	1	Settler's Ridge	
Deer Valley Drive	570	4	2	Lofts, The on Deer Valley Drive Condo	
Deer Valley Drive	601 & 603	2	0.5	Deer Valley Place Condo	
Deer Valley Drive	603 & 605	2	0.5	Retreat on Deer Valley Drive, The Condo	
Deer Valley Drive	625	8	1	Sunspot	
Deer Valley Drive	640 - 705	26	1	Greyhawk	
Deer Valley Drive	690-720	15	1	Foxglove	
Stonebridge	1130-1054	28	0.518518519	Boulder Creek	
Stonebridge	1140-1220	26	0.481481481	Stonebridge	
Rossie Hill	585 A & B	2	2	Powder Hound Condo Snow Park	
Rossie Hill	680	3	1	Winter Park Condo	
Rossie Hill	660, 662, 664, 668	4	1	Quicksilver Condo	
Rossie Hill	658	4	1	Quakies Condo	

Rossie Hill	650, 652, 654	3	2	Tahoma	
Rossie Hill	550 & 560	2	1	Silver Point Condo	
Rossie Hill	540 & 544	2	1	Silver Point Condo	
Rossie Hill	536	1	1	Silver Point Condo	
Rossie Hill	505, 509, 515, 519, 525	5	1	Silver Point Condo	

275

53

Anya Grahn

From: Jason Parker <parker.jason@gmail.com>
Sent: Thursday, August 03, 2017 8:21 AM
To: Anya Grahn
Subject: 632 Deer Valley Loop

Hello, my name is Jason Parker and I've resided at 658 Rossie Hill Dr. for over 10 years. I have enjoyed the open spaces and the miners cabins on that street and it feels as the fabric of the old town has lasted and transcends time. In the city council hall, there is a statement that I hope all council members adhere to; KEEP PARK CITY "PARK CITY". That one statement says everything as development pushes on all residents and threatens local culture, the environment and a daily way of life for what we hold sacred.

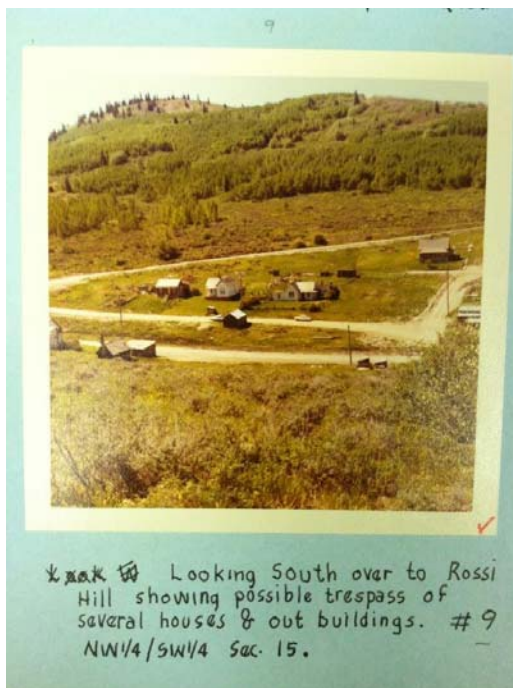
With that, I am very concerned about the land that is threatened by developers pushing to get maximum density out of every square foot of land. In hopes of keeping green space and preserving the history of Old Town, I am greatly troubled by the premise of cutting driveways in the rear of the lots on top of the historic structures on Rossie Hill Drive. This will create a precedence of overwhelming structures and envelope the green spaces and historic homes that make this part of Old Town what it is currently. Keeping historic structures in place is fundamental in preserving our history, but building around them with high density with profit being the only concern is no way to move forward.

The cut into the top of Rossie Hill will only create larger structures dominating the open land. If we allow this driveway cut at 632 Deer Valley Loop, the density will continue down the street and create a mass of buildings and structures on the street, which would ruin the open land we are set to preserve. If I'm not mistaken, their land does not even touch Rossie Hill Drive in the rear. Access should not be granted in that direction. With the development at 632 DVL, there is a natural road and entrance at the front of the land. Structures should be massed and arranged with a shared driveway (which are used predominantly in our area) that do not overwhelm the historic structured and ensure as much open land as possible.

Once again, density, height and greed should not the overwhelming condition that drives development. Please preserve our open lands, please preserve our buildings and please keep Park City "Park City. Attached is an image of what Rossie Hill looked like 50+ years ago. Let us please keep an homage to our past and culture.

All the best - Jason

Jason Parker
658 Rossie Hill Dr. #4



Anya Grahn

From: Diane Bernhardt <diane.a.bernhardt@gmail.com>
Sent: Tuesday, August 08, 2017 3:58 PM
To: Council_Mail
Cc: Bruce Erickson; Anya Grahn
Subject: 632 DVL Conditions 8 & 9
Attachments: PastedGraphic-1.pdf

Mayor and Council,

At the conclusion of the discussion on Thursday night, questions arose about the meaning of conditions 8 & 9 regarding the location of driveway access for 632 DVL. Because Mr. Harrington's interpretation of those conditions seemed inconsistent with our group's recollections of the subject, I've carefully reviewed the agenda and audio for the October 20, 2016 meeting in an effort to assist you in clarifying the issue.

Link to Oct 20 documents and audio:

http://parkcityut.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2396

The following includes the material and determinations germane to the topic:

Agenda Packet: Analysis (page 113)

*Due to the poor sight lines along Rossie Hill Drive, the City Engineer has also requested that the current driveway on the site be **limited to** Deer Valley Loop. Should any future development result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible along the eastern half of the Rossie Hill frontage and shall have a slope of no more than 5% for the first twenty feet (20') to maintain sight lines. This is reflected in Conditions of Approval #8 and #9.*

Agenda Packet: Findings of Fact (page 118)

17. Existing access to the site is **limited to** a driveway from Deer Valley Loop. [Emphasis added.]

18. The City Engineer finds that only the eastern half of the lot directly abuts the City's right-of-way along Rossie Hill Drive and there are poor sight lines along Rossie Hill Drive.

Agenda Packet: Conditions (page 119)

8. Driveway access to any development to this one-lot subdivision shall be **limited from** Deer Valley Loop Road. Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots **shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way.** [Emphasis added.]

9. Any future access off of Rossie Hill shall have a slope of no more than 5% for the first 20 feet of the driveway off of the right-of-way to maintain sight lines.

Meeting Audio

2:47:47

Planner Grahn's reply to Council's question re driveway restrictions:

"What we said is if it is one lot as it is now, the access would be limited off of DVL because that is where there is a gravel driveway accessing the property now. If it were to be subdivided in the future and they would need access off of Rossie Hill for some reason (I don't know what the future subdivision holds or if there is on), then we would put restrictions in place as to where that would occur . . ." [Emphasis added.]

3:09:22

Planner Grahn's question and summary regarding conditions 8 & 9:

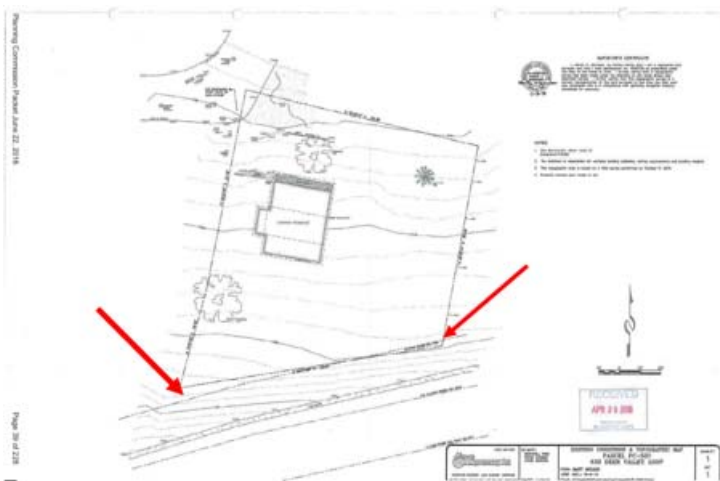
"I think we just said that we restricted the access on Rossie Hill Drive, if there were a second lot to be created from this one, to the eastern half and we also

talked about the slope not being more that 5% for the first 20 feet." [Emphasis added.]

ANALYSIS

Finding of Fact 17 is straight forward and states the fact that the property's existing access is from Deer Valley Loop.

Finding of Fact 18 requires some annotation to understand its significance. The schematic below illustrates that the southern boundary running along Rossie Hill Drive abuts BLM property on its western half and abuts Park City right-of-way **only** on its eastern half. An access to 632 DVL from the western part of the boundary running along Rossie Hill Drive would trespass on BLM property. This motivated the City Engineer to specify that if any new lots are created from a future subdivision *"the new lots shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way"*.



Condition 8 is based on Finding of Facts 17 and 18. Unfortunately, Condition 8 contains some ambiguous word choices.

Sentence 1

*“Driveway access to any development to this one-lot subdivision shall be **limited from** Deer Valley Loop Road.” [Emphasis added.]*

As written, the word “from” is incorrect. The City Engineer’s specification in Analysis and Finding of Fact was that the current driveway on the site be **limited to** Deer Valley Loop. Sentence 1 would have accurately reflected the City Engineer’s intention if it had been written: *[Emphasis added.]*

*“Driveway access to any development to this one-lot subdivision shall be **limited to** Deer Valley Loop Road.” [Emphasis added.]*

Sentence 2

“Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots shall only be accessible from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way.”

As written, this sentence can be misconstrued that any newly generated lot fronting Rossie Hill Drive **shall be required** to be accessible from the eastern half of Rossie Hill frontage. The actual intention was that if Rossie Hill Drive frontage was created and if it were approved, it could not be accessible from the western frontage because of the BLM abutment precluded the possibility of access. This intention is more clearly expressed:

“Should the future subdivision of this lot result in new lots fronting Rossie Hill Drive, the new lots shall not be accessible from the western half of the Rossie Hill frontage where the property line directly abuts BLM property.”

CONCLUSIONS

1. You did not determine that a subdivision of 632 DVL could include a Rossie Hill Drive driveway access.

2. You did acknowledge that if there was “some reason and need” for a Rossie Hill driveway access, it would have to be “from the eastern half of the Rossie Hill frontage where the property line directly abuts the City right-of-way.” Otherwise, it would trespass on BLM land.
3. You did not contest Planner Grahn’s suggestion that you would have to determine “some reason or need” for a Rossie Hill driveway access in the future.
4. Mr. Harrington’s suggestion that you must repeal the October 20, 2016 plat amendment ordinance in order to limit driveway access to DVL is not correct because you never determined that a Rossie Hill driveway access would be allowed – you only determined that if allowed (based on some reason and need), it would be restricted to the eastern portion of the property abutting the City right of way.
5. The Applicant should be required to demonstrate “some reason and need” for a Rossie Hill driveway access which you deem justified in the face of the significant health and safety concerns presented by the neighborhood.
6. The Mayor’s suggestions about a one DVL driveway alternative should be seriously pursued as suggested by the Planning Director.

Thanks again for your continued consideration and for your service to our community.

Diane Bernhardt

[Save Rossie Hill Historic Open Space](#)
[Petition to Save Rossie Hill](#)

Anya Grahn

From: Amy Heitman <amyheitman@bellsouth.net>
Sent: Thursday, August 03, 2017 8:33 AM
To: Anya Grahn; council-mail@parkcity.org
Subject: BLM Parcel 18 Park City Council Meeting Tonight

My name is Amy Heitman. I represent the *Save Rossie Hill Historic Open Space Alliance* and the *Snow Park Homeowner Association*. We advocate for the protection of BLM Parcel 18: its open space, its historic miners' cabins and the public safety of its adjacent roadway, Rossie Hill Drive.

I and many of our neighbors are against the proposed additional driveway cut on Rossie Hill. Any development on this lot or future subdivided lots within this lot shall be accessible **only** from *Deer Valley Loop*.

Below I have outlined our reasons why this makes undeniable, and indisputable sense!

632 Deer Valley Loop is home to the Thompson Cottage whose access has been at its existing location on Deer Valley Loop for 117 years...117 years. This subdivision request proposes to take this historic property, split it down the middle, and turn its access upside down.

We were last before you discussing 632 DVL in October when this historic property was brought into the jurisdiction of Park City. That night, we argued to limit the property's access to Deer Valley Loop. You opted to delay adding this condition until the property came before you with a request to subdivide. Tonight, in the face of the Applicant's application to subdivide the parcel, we return to repeat our request: to limit this unique property's access to Deer Valley Loop.

Reason 1

In all of the discussions of access and driveway cuts over the past year, the parties have largely ignored the Land Management Code (the "LMC"). 632 DVL is in the Residential Medium (RM) zone. The LMC describes that a purpose of the RM zone is to "minimize the number of new driveways accessing existing thoroughfares". 632 DVL can obviously be developed with its existing access from Deer Valley Loop. Adding a Rossie Hill Drive access is counter to the prescribed purpose of the RM zone. In view of the additional pragmatic reasons that I'm going to discuss, there is no call to ignore the LMC and create an exception to its clear instruction.

Reason 2

Rossie Hill Drive is a high-traffic, substandard, dangerous roadway shared by pedestrians, bicycles and vehicles. It is an arterial roadway used as the primary emergency access by the Fire and Police departments for servicing not only Rossie Hill Drive, but all residents of Ontario Ave, Ontario Ct, Echo Spur, McHenry St, Coalition View Ct, and Deer Valley Loop. With the prospect of new development of the area, the pressure on Rossie Hill continues to mount with no published plan for abatement:

- The recent build of 20 new homes, the proposed build of 4 homes at 632 DVL, with potential for 6 more
- An upcoming roadway reconstruction project which Matt Cassell reports will narrow, rather than widen, the roadway.
- Traffic that peaks during winter months when our neighbors on the often-impassable Ontario Ave use Rossie as winter access just as the road is narrowed and blind spots created by snow storage berms.
- Impossible parking at the top of Rossie, haphazard parking at its foot, and life-threatening parking that blocks passage of emergency vehicles at the hairpin turn.

Permitting a driveway cut pushes traffic past the blind, hairpin turn. No additional sources of traffic should be permitted until a traffic study is completed, the results are reviewed by the Engineering, Planning, Police and Fire departments, the Roads Master Plan for all roads on Rossie Hill is updated with its results, and a mitigation and abatement plan is put into effect.

Reason 3

Permitting a driveway cut sets a precedent for additional cuts in the event of the threatened development of the Richard Dennis' parcel. A string of driveway cuts on the north side of Rossie Hill Drive, after the blind, hairpin turn, and just as you enter its steepest pitch is inviting a fatal collision.

Reason 4

Permitting two driveway cuts for the proposed four units is inconsistent with the neighborhood precedent for the number of driveway cuts for multi-unit dwellings. We performed a study of driveway cuts for the multi-unit dwellings on Rossie Hill Drive, Deer Valley Loop, and Deer Valley Drive between the roundabout and Stonebridge. The existing ratio of driveway cuts to number of units is 1 driveway cut for each 5 units. This subdivision proposes a ratio of 1 driveway cut for each 2 units even though the parcel's existing, established single access can easily support the proposed 4 units.

I'd like to bring you all back to the October meeting with a few comments from the discussion:

Mayor Thomas:

"I don't know how you can successfully navigate or design a driveway that can come off Rossie Hill. I don't think it is practical and it is dangerous. You would be coming at an angle at any rate and then you are not perpendicular to the road. If you brought a driveway off that at 5%, you would end up with a ramp sticking way up... So, I would favor restricting access from Rossie Hill, period. I think it is more appropriate to come off Deer Valley Loop. If you look at the elevations there, you can easily bring an ingress past the historic house to any another portion of that property and access it. I think that's a No Brainer. I think we should restrict that."

Councilperson Henney:

"I would support the no access off of Rossie Hill. That does seem reasonable."

Councilperson Beerman: *"As far as the driveway, I trust the planning commission and the engineer to make that decision at the time although I could be convinced on [restricting the driveway]... I would say I certainly do share in the concerns that this is a dangerous road as there are no sidewalks or such"*

Director Erikson:

On the question from Councilperson Worel on the practice of restricting access on plats:

"It is normal on plats to add notes restricting access, but not normal to show where the access would go"

On the question from Councilperson Gerber on the RM zone:

"Purpose of RM zone... "Minimizing the number of new driveways accessing existing thoroughfares. The planning commission would use [this] to manage where a future driveway would go."

There is no doubt that the action that you take tonight on the handling of the 632 DVL subdivision will have a permanent effect on the livability of the neighborhood and set precedent for the future of Parcel 18 and Rossie Hill Drive. Before you begin discussion, here is a quick summary:

- An additional access on Rossie Hill is counter to the LMC's prescribed purpose of the RM zone.
- A new cut on Rossie Hill Drive sets a precedent for future driveway cuts.
- A second access to 632 is inconsistent with the neighborhood's other multi-unit dwellings.
- It's just a bad idea to add driveways and push traffic up a road that is already beleaguered.

For these reasons and because there is already clearly established access to 632 Deer Valley Loop, we request you to approve the subdivision **only** with an additional condition stating:

Any development on this lot or future subdivided lots within this lot shall be accessible only from Deer Valley Loop.

We've all been on a long journey with 632 DVL and Parcel 18. I'd like to thank the Council, Staff, property owners and the community for working together to find compromise that honors property rights while honoring Park City's Sense of Community, Natural Setting, and Small Town Historic Character. Thanks for considering this critical condition: an important last opportunity to make lasting impact on this historic property. We look forward to the developer's restoration of the miner's cabin, and our communities next steps in the ongoing effort to **Save Rossie Hill**.

Warm Regards,

Amy Heitman

"Life is not the way it's supposed to be...
it's the way it is...."

"The way we cope with it, is what makes the difference."

Anya Grahn

From: Rania Anderson <rania@thewaywomenwork.com>
Sent: Thursday, August 03, 2017 11:26 AM
To: admins; counci-mail@parkcity.org; Anya Grahn
Subject: Meeting regarding 632 Deer Valley Loop on 8/3/17

Resending as original email did not go through

Begin forwarded message:

From: Rania Anderson <rania@thewaywomenwork.com>
Subject: **PL-17-03494 632 Deer Valley Loop- Plat Amendment proceedings on 8/3/17**
Date: August 3, 2017 at 12:23:40 PM CDT
To: counci-mail@parkcity.org, anya.grahn@parkcity.org
Cc: Lance Anderson <lanceanderson112@gmail.com>

My name is Rania Anderson and my husband, Walter Lance Anderson and I are the owners of 656 Coalition View Court. We are writing to share our perspective on a matter that is to come before the council this evening.

Thank you for your attention to our neighborhood and to the concerns of residents.

We urge that you vote this evening to limit access to BLM Parcel 18: 632 Deer Valley Loop lot or future subdivided lots to be accessible ONLY from Deer Valley Loop and NOT from Rossie Hill Drive.

Access to this lot has been from Deer Valley Loop for 117 years and needs to remain that way because:

1. Rossie Hill Drive is a high-traffic, substandard, dangerous roadway shared by pedestrians, bicycles and vehicles. It is an arterial roadway used as the primary emergency access by the Fire and Police departments for servicing not only Rossie Hill Drive, but all residents of Ontario Ave, Ontario Ct, Echo Spur, McHenry St, Coalition View Ct, and Deer Valley Loop. With the prospect of new development of the area, the pressure on Rossie Hill will be dangerous and unsustainable.
2. Under the Land Management Code (the "LMC"). 632 DVL is in the Residential Medium (RM) zone. The LMC describes that a purpose of the RM zone is to "minimize the number of new driveways accessing existing thoroughfares."
3. The standard existing ratio of driveway cuts to number of units in our neighborhood is 1 driveway cut for each 5 units. This subdivision proposes a ratio of 1 driveway cut for each 2 units even though the parcel's existing, established single access can easily support the proposed 4 units.

Our perspective is shared by many of our neighbors and judging by their comments during this past October meeting is also shared by Mayor Thomas, Councilpersons Henry and Berman. Please see below.

Thanks again for your attention to this matter and hope you will take these perspectives into account and vote this evening to limit access to LM Parcel 18: 632 Deer Valley Loop and any future subdivided lots to Deer Valley Loop.

Lance and Rania Anderson
656 Coalition View Court

Mayor Thomas:

“I don't know how you can successfully navigate or design a driveway that can come off Rossie Hill. I don't think it is practical and it is dangerous. You would be coming at an angle at any rate and then you are not perpendicular to the road. If you brought a driveway off that at 5%, you would end up with a ramp sticking way up... So, I would favor restricting access from Rossie Hill, period. I think it is more appropriate to come off Deer Valley Loop. If you look at the elevations there, you can easily bring an ingress past the historic house to any another portion of that property and access it. I think that's a No Brainer. I think we should restrict that.”

Councilperson Henney:

“I would support the no access off of Rossie Hill. That does seem reasonable.”

Councilperson Beerman:

“As far as the driveway, I trust the planning commission and the engineer to make that decision at the time although I could be convinced on [restricting the driveway]... I would say I certainly do share in the concerns that this is a dangerous road as there are no sidewalks or such”

Anya Grahn

From: Christina Marie Shiebler <christina@shiebler.com>
Sent: Thursday, August 03, 2017 10:50 AM
To: Council_Mail; Jack Thomas; Anya Grahn; Bruce Erickson
Cc: dave.thacker@pc.org; Kurt Simister; Matt Cassel
Subject: PL-17-03494 632 Deer Valley Loop- Plat Amendment

Good morning -

Thank you in advance for reading our letters. We appreciate having a city government whom is not only willing to hear our input but encourages it.

I am in support the subdivision of 632 Deer Valley Loop providing primary and vehicular access is limited to Deer Valley Loop and no road / drive cuts are made to Rossie Hill Drive.

Below please find my notes explaining why I am opposed to access from Rossie Hill Drive.

Land Management Code (the “LMC”): 632 DVL is in the Residential Medium (RM) zone. As noted the LMC states that the purpose of the RM zone is to “minimize the number of new driveways accessing existing thoroughfares”.^[1] Single access from 632 Deer Valley Loop will ensure that the development conforms to and is in compliance with the prescribed purpose of the RM zone.

Current and increased usage / impacts on an arterial road: Rossie Hill Drive serves as a year round primary arterial access for: Rossie Hill Drive; Coalition View Court; McHenry the Echo Spur neighborhood and the crest of Ontario. Rossie Hill Drive also serves as a primary access for the majority of Ontario residents during inclement weather including but not limited to snow, ice and excess rain. Increased and long-term construction projects in the neighborhood require any / all work vehicles, such as large haulers, to use Rossie Hill Drive as their only entry and exit point. The traffic burden has become year round and consistently dangerous. High season brings concerns of increased traffic incidents, or worse. As a long-time old town resident high season is now defined as January 1 - December 31. Shoulder season is non existent as is evidenced by the constant and increased flow of traffic.

Emergency response: First responders such as police, fire and EMT rely on Rossie Hill Drive as their access point in to and out of the neighborhood. As neighbors our first concern is for the safety of our families, our friends and neighbors and ourselves. Adding or increasing the time and navigation burden to get to the houses within the neighborhood is personal health and wellness as well as property liability. Increasing the traffic and impact on this road through an additional road cut would only compound this issue.

The 30 / 70 burden: Old town has now become 30% (+/-) primary residents and 70%(+/-). The 70% in the Rossie Hill is made up of time shares and nightly/weekly renters. We see a constant stream of properties rented and being turned over on a 3 - 7 day cycle. The rentals and turnovers massively increase the pressure on our already dangerous and fatigued roads. With each occupied rental unit comes 1-3 occupant vehicles, a large increase of delivery drivers from ski and luggage delivery to food and concierge services. With each check-out comes teams of maintenance crews navigating the dangers of Rossie hill in order to clean, disinfect hottubs and make repair properties. These vehicles are streaming in and out of the neighborhood in 3-7 day cycles on a nearly year round basis. And the burden is wearing on our dangerous roads.

The current and future state of neighborhood roads: Rossie Hill Drive is a dangerous and sub-par road. Lower Rossie is encumbered with a hairpin corner which is a blind point for both uphill and downhill traffic. Adding in the difficulties of season driving only pushes both lanes of traffic in to the middle of the road causing

constant near misses, slide offs and fender benders. It is a matter of time before damage exceeds property and a person or people become the victims. Upper Rossie has an intersection (Rossie / Rossie / McHenry / Coalition) where we have one right of way, two stops signs and yield - with three blind corners. Increasing traffic and the requirements to navigate around driveway access would cause additional irrevocable harm to a road system and its users whom are already experiencing a state of over capacity.

We have been given verbal notification that Rossie Hill Drive is slated for a much needed repair session in the summer of 2018. While we have received no plans as of today, we have been told that the road will be narrowed. While we welcome improvements to our infrastructure, we are concerned about traffic flow and safety with even less space to navigate the constant stream of vehicle, bicycle and pedestrian traffic. In addition we worry about the impact during the winter season when we experience constant and excessive snow bank creep into the road way. This snowbank creep can exceed 2+ feet on both sides of the road. Plowed and pushed snow accumulates above and beyond the stop and yield signs leaving unfamiliar drivers with the no sense of right of way or urgency or requirement to yield or stop. In a nut shell, it becomes a free for all.

Precedent: Neighboring / existing multi-unit developments in the area average 5.2 units per one driveway. This average, along with the LMC stating that the purpose of the RM zone is to “minimize the number of new driveways accessing existing thoroughfares”. [1] set precedent for non-resident owner and developer of 632 Deer Valley Loop to build his units with access limited to Deer Valley Loop. Maintaining the precedent on 632 Deer Valley Loop will help ensure that if the Dick Dennis mine homes and adjacent land are sold and developed that no access from the top of Rossie Hill will be granted.

Thank you again for taking the time to read and hear public input.

Christina Shiebler
638 Coalition View Court
435.640.2862



ELLIOTT WORKGROUP

September 21, 2017 - Options Synopsis for Lilac Hill Vertical Sub-division

OPTION A

Comments:

SBWRD Will Have to Grant Cross Property Allowance

Alternative is to Pump up to Rossi Hill Ave

Cross Access Easement Required

10-15% Reduction of Buildable Square Footage

(2) 1600 square foot Parking Garages Required

1,000 Additional Square Feet of Excavation for Garages @ ~8' Deep

Tandem Parking Option Removed - Drive Area Transferred to Parking Garage

Front Door Access Requires Minimum 50'-0" Stair and Sidewalk

Summary:

This option has been shown with similarly sized unit footprints in order to retain the balance and respect of the Historic District. Increasing unit footprints is possible but would ultimately push the balance away from the look and feel that the Historic District prescribes.

Scenario creates more open space but limits the lower units liveable square footage due to size of parking garage required when servicing more than one unit (more than 1,000 sf additional per garage).

The garage entry would also create a thoroughfare feel underneath the existing house's addition, detracting from the Historic nature of the existing house.

Additional liveable square footage would not likely be made up in the upper units due to restrictions imposed by zone requirements, Historic District Design Requirements and compatibility desires reflected by plat approval stipulations.

A fairly long sidewalk would be required to access the upper units creating a maintenance issue and removing any private entry that the previous application had in mind. This would highlight the duplex feel that the previous application was avoiding.

Rough Calculation Show:

1598 sf will be removed from liveable square footage in development in comparison to existing application

712 sf will be added for the garage and drive requirements in comparison to existing application

OPTION B

Comments:

SBWRD Would Have to Grant Cross Property Allowance

Alternative is to Pump up to Rossi Hill Ave

Cross Access Easement Required

3-5% Reduction of Buildable Square Footage

Front Door Access Will Be at Top of Driveway, Creating Dangerous Situation

Slope of Driveway is 17% (24% effective with Vertical Curbs)

10% could be achieved with houses being buried 6' from Natural @

6' Excavation at N. of Unit 4 & 11' Excavation at S. of Unit 4

Square Footage available to build is reduced without consideration of patios and open space that would infringe upon requirements (3.8% & 1% of lot coverage remaining, W lot & E Lot respectively)

Summary:

Scenario reduces basic buildable square footage at the expense of driveway and parking requirements.

These same requirements ultimately reduce the open space and outdoor living opportunities for the units.

Awkward connections create duplexes but the need to drive them underground in order to avoid open space penalties will limit the usefulness of these physical connections.

Rough Calculation Show:

329 sf will be removed from liveable square footage in development in comparison to existing application

648 sf will be added for the garage and drive requirements in comparison to existing application

OPTION C - Similar to Option B with less desirable outcomes

Summary:

Option explored running drive up the Western portion of the West vertically divided lot. Increased drive and parking requirements were clear enough to not explore in depth.

OPTION D

Comments:

30% Reduction of Liveable Square Footage

Tandem Parking Option Removed - Drive Area Transferred to Parking Garage

Front Door Access Will Be at Top of Driveway, Creating Dangerous Situation

Setbacks, Open Space and Driveway Width Requirements greatly reduce area left to Build.

Character of Historic Area would be Difficult to Maintain

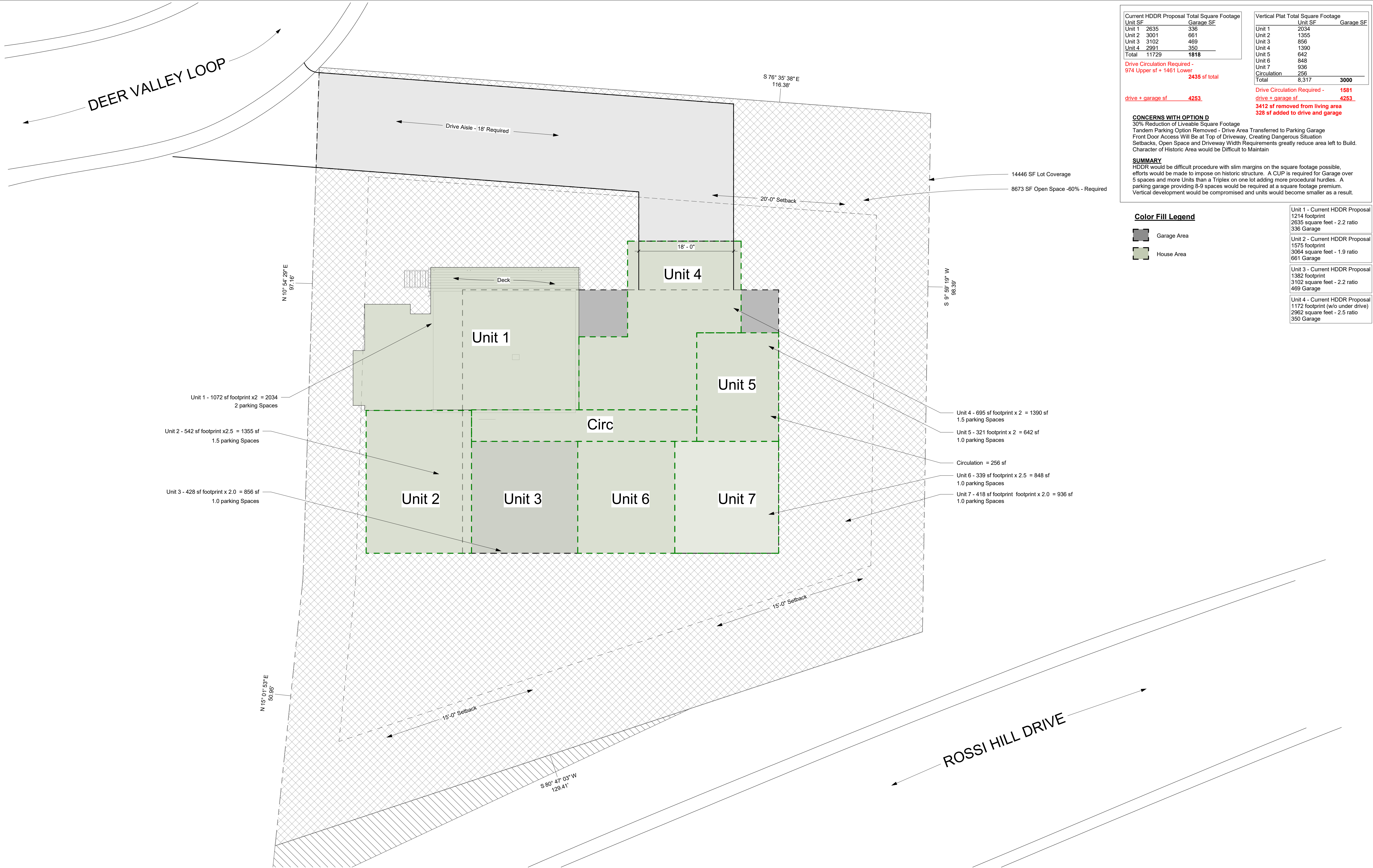
Summary:

HDDR would be difficult procedure with slim margins on the square footage possible, efforts would be made to impose on historic structure. A CUP is required for Garage over 5 spaces and more Units than a Triplex on one lot adding more procedural hurdles. A parking garage providing 8-9 spaces would be required at a square footage premium. Vertical development would be compromised and units would become smaller as a result.

Rough Calculation Show:

3412 sf will be removed from liveable square footage in development in comparison to existing application

328 sf will be added for the garage and drive requirements in comparison to existing application



Current HDDR Proposal			Total Square Footage	
Unit SF			Garage SF	
Unit 1	2635		336	
Unit 2	3001		661	
Unit 3	3102		469	
Unit 4	2991		350	
Total	11729		1818	

Drive Circulation Required -
974 Upper sf + 1461 Lower
2435 sf total

drive + garage sf **4253.**

Vertical Plat	Total Square Footage
Unit SF	Garage SF
Unit 1	2034
Unit 2	1355
Unit 3	856
Unit 4	1390
Unit 5	642
Unit 6	848
Unit 7	936
Circulation	256
Total	8,317
	3000

Drive Circulation Required - **1581**
drive + garage sf **4253.**

3412 sf removed from living area
328 sf added to drive and garage

CONCERNS WITH OPTION D

30% Reduction of Liveable Square Footage

Tandem Parking Option Removed - Drive Area Transferred to Parking Garage

Front Door Access Will Be at Top of Driveway, Creating Dangerous Situation

Setbacks, Open Space and Driveway Width Requirements greatly reduce area left to Build.

Character of Historic Area would be Difficult to Maintain

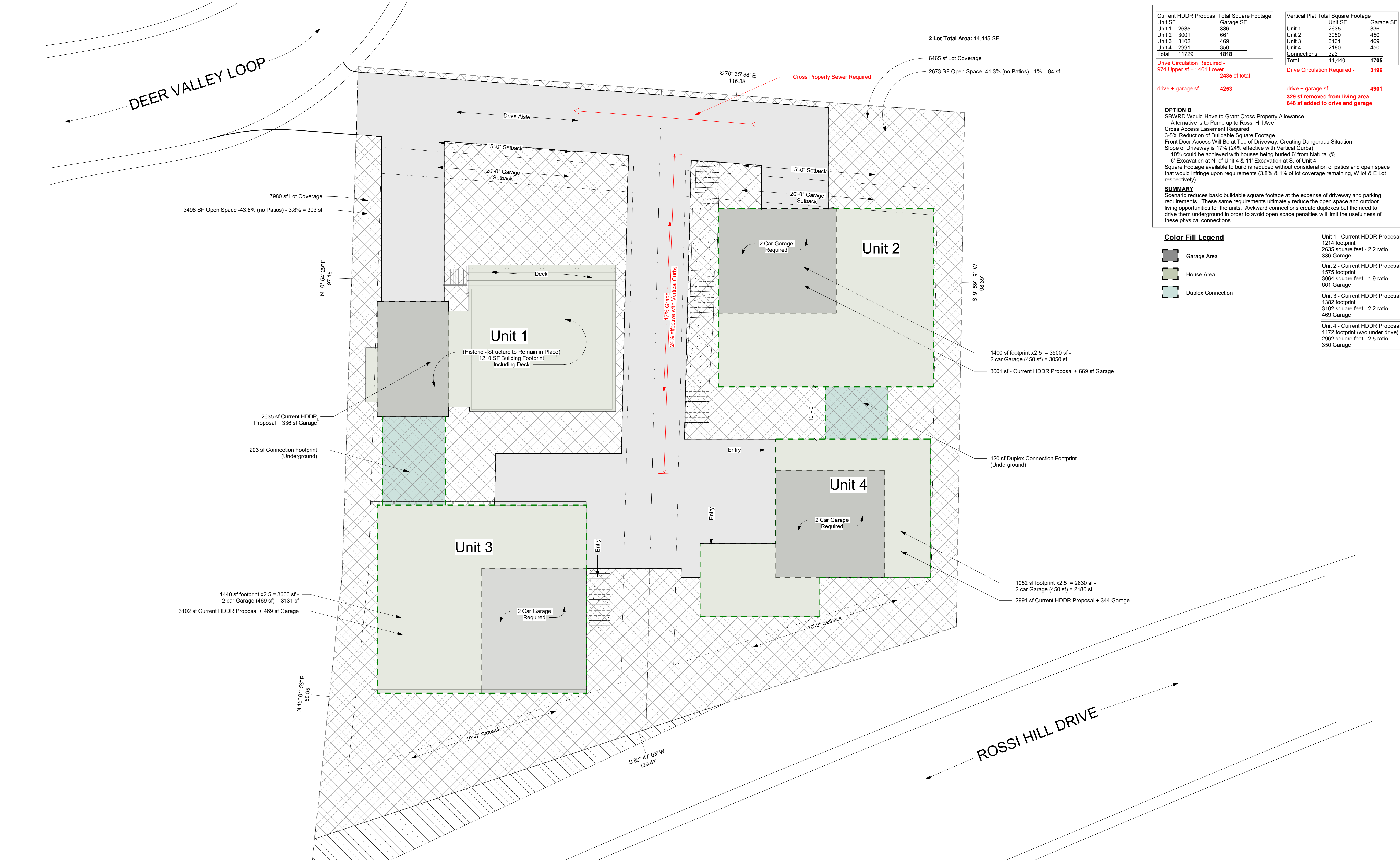
SUMMARY

HDDR would be difficult procedure with slim margins on the square footage possible, efforts would be made to impose on historic structure. A CUP is required for Garage over 5 spaces and more Units than a Triplex on one lot adding more procedural hurdles. A parking garage providing 8-9 spaces would be required at a square footage premium.

Vertical development would be compromised and units would become smaller as a result.

Color Fill Legend	
	Garage Area
	House Area
Unit 1 - Current HDDR Proposal	
1214 footprint	
2635 square feet - 2.2 ratio	
336 Garage	
Unit 2 - Current HDDR Proposal	
1575 footprint	
3064 square feet - 1.9 ratio	
661 Garage	
Unit 3 - Current HDDR Proposal	
1382 footprint	
3102 square feet - 2.2 ratio	
469 Garage	
Unit 4 - Current HDDR Proposal	
1172 footprint (w/o under drive)	
2962 square feet - 2.5 ratio	
350 Garage	

-Required Garage -Site Circulation -Open Space Calculations -Current Proposal SF Counts - Driveway Coverage



- Vertical Subdivision -Required Garage -Units of Similar Size - Required Connections - Grades -Site Circulation -Open Space Calculations -Current Proposal SF Counts -Cross Access Easement - Driveway Coverage



TECHNICAL MEMORANDUM

To: Bo Pitkin & Frank Watanabe
Date: September 22, 2017
From: Kyle Cook, PE & Christopher Bender, EIT, Fehr & Peers
Subject: **Driveway Evaluation for 632 Deer Valley Loop**

UT17-2073

This memorandum summarizes the results of an evaluation performed by Fehr & Peers, assessing the feasibility of driveways for the proposed residential development located at 632 Deer Valley Loop. There is an existing driveway access on Deer Valley Loop; as part of the proposed development, an additional driveway is proposed on Rossie Hill Drive. Fehr and Peers visited the project site on August 22, 2017 and measured the driveway sight distances, as well as grade, width and aspect of Deer Valley Loop and Rossi Drive near the project accesses. **Based on observations, measurements, and our understanding of the proposed driveway configuration on Rossie Hill Drive, both driveway locations are acceptable from a transportation engineering perspective, given the context of the proposed development, roadways, and surrounding neighborhood.**

Summary of Existing Conditions

Deer Valley Loop and Rossie Hill Drive are local residential streets. These streets are approximately 25-feet wide, and exhibit vertical grades (e.g. elevation change); there are no sidewalks or posted speed limits. The grade, width, and aspect of the roadways are shown in Exhibit 1. Deer Valley Loop is relatively steep on the segment approaching the project driveway from Deer Valley Drive, with a slope of approximately 9%. At the existing parcel driveway, Deer Valley Loop is essentially flat. Rossie Hill Drive has a more moderate slope that varies between 2% and 6% near the proposed driveway.

Slope and street width are important considerations in the context of the snowy Park City winters, since slick roads can inhibit traction and vehicles are more likely to slide and lose control on steeper slopes. Furthermore, snow banks encroach in the roadway and narrow the effective street width, making two-way traffic difficult. From this perspective, Rossie Hill Drive will be easier to navigate than Deer Valley Loop, which has steep slopes (approx. 9%) and narrow pavement width (approx. 18-20 feet) on the eastern and western segments approaching Deer Valley Drive.

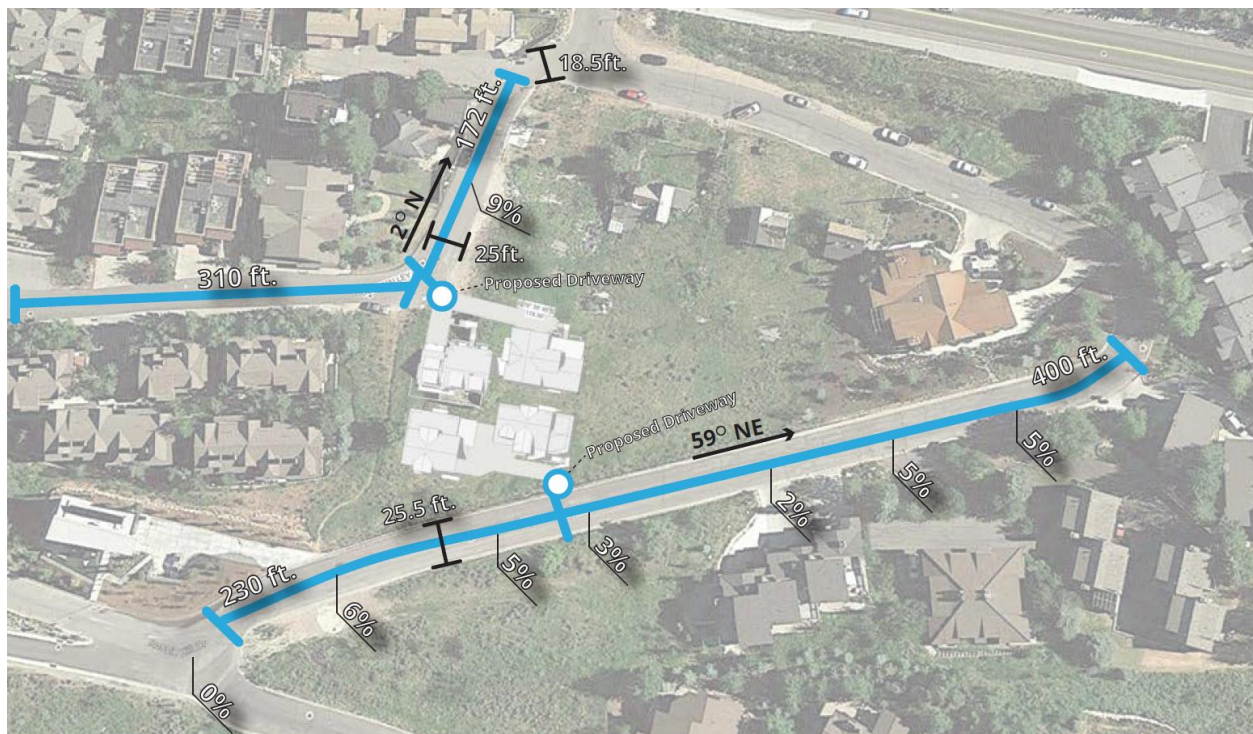


Exhibit 1: Grade, width, aspect and sight distances near project accesses.

Intersection sight distance at the existing and proposed driveway was evaluated to assess safety concerns. Intersection sight distance is necessary for drivers to safely approach, cross, and/or turn at an intersection, and varies based on speed limit and street grade. The recommended distance assumes a passenger car can turn right or left without being overtaken by an approaching vehicle.

- From the driveway on Deer Valley Loop¹, the measured sight distance was 310 feet looking west (Exhibit 2) and 172 feet looking north (Exhibit 3). However, on-street parking may obstruct the sight distance to the west, as shown in Exhibit 2.
- From the proposed driveway location on Rossie Hill Drive², the measured sight distance was 230 feet looking west (Exhibit 4) and 400 feet looking east (Exhibit 5).

A *Policy on Geometric Design of Highways and Streets*, 6th Edition, AASHTO, 2011, was referenced to determine recommended sight distance for intersections with stop control on the minor road. Lacking a posted speed limit through in area, the assumed speed of traffic along Deer Valley Loop and Rossi Hill Drive was assumed to be 15 mph and 20 mph respectively due to the steep grade of the roads and residential context. According to the methodology described Section 9.5 of the AASHTO manual, all movements from the project accesses have sufficient intersection sight distance (Table 1).

¹ It is assumed that the proposed driveway on Deer Valley Loop will be constructed with little or no slope.

² It is assumed that the proposed driveway on Rossie Hill Drive will be designed to meet the existing roadway at-grade and have a slope of 5% or less.



Exhibit 2: Sight distance to west of proposed project access on Deer Valley Loop.



Exhibit 3: Sight distance to north of proposed project access on Deer Valley Loop.



Exhibit 4: Sight distance to the west of proposed project access on Rossi Hill Drive.



Exhibit 5: Sight distance to east of proposed project access on Rossi Hill Drive.

TABLE 1 INTERSECTION SIGHT DISTANCE AT PROJECT ACCESSES

Location	Control	Direction	Observed Sight Distance	Required Sight Distance	Adequate?
Deer Valley Loop / Project Access	Stop	North	180	170	Yes
		West	310	145	Yes
Rossi Hill Drive / Project Access	Stop	East	230	225	Yes
		West	400	195	Yes

Source: A Policy on Geometric Design of Highways and Streets, 6th Edition, AASHTO, 2011

Estimate of New Vehicle Trips

Table 2 provides daily, a.m. peak, and p.m. peak trip generation for the proposed project, computed using trip generation rates published in the *Institute of Transportation Engineers (ITE) Trip Generation, 9th Edition, 2012*. Although no existing traffic counts collected and analyzed, the scale of the proposed development is small and very likely inconsequential to the traffic circulation on Deer Valley Loop and Rossie Hill Drive. It is noted that the proposed site plan, with driveways on both streets, essentially disperses project traffic into the local street network at two points rather than a single point. This helps to minimize activity and traffic on any single driveway/street.

TABLE 2 TRIP GENERATION ESTIMATE

Land Use	Number of Units	ITE Code	Weekday Daily	AM Weekday	PM Weekday
Residential Condominium/ Townhouse	4	230	40	4	4

Source: Institute of Transportation Engineers (ITE) Trip Generation, 9th Edition, 2012

Summary of Conclusions

Based on observations, measurements, and our understanding of the proposed driveway configuration on Rossie Hill Drive, both driveway locations are acceptable from a transportation engineering perspective, given the context of the proposed development, roadways, and surrounding neighborhood. Providing two driveways will disperse project traffic and minimize impacts on Deer Valley Loop.



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The property owner proposes to vacate a Condominium Record of Survey and restore the property back to a single lot of record. The house has been used as a single family residence since c. 1996.

Respectfully:

Anya Grahn, Planner II



PLANNING DEPARTMENT

City Council Staff Report

Subject: Abandoning a Condominium Plat at 339 Park Avenue
Author: Anya Grahn, Historic Preservation Planner
Project Number: PL-17-03612
Date: October 5, 2017
Type of Item: Legislative – Vacating a Condominium Record of Survey

Summary Recommendations

Staff recommends City Council hold a public hearing and consider approving the vacation of the John Doyle House Condominium plat, located at 339 Park Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached ordinance.

Description

Applicant: Chris Casey
Location: 339 Park Avenue
Zoning: Historic Residential-1 District (HR-1)
Adjacent Land Uses: Residential on the west side of Park Avenue and commercial/ back-of-house on the east side of the street.
Reason for Review: Condominium Record of Surveys require Planning Commission review and City Council review and action

Acronyms

Board of Adjustment	BOA
Conditional Use Permit	CUP
Historic District Commission	HDC
Historic Residential-1	HR-1
International Building Code	IBC
Land Management Code	LMC

Executive Summary/Proposal

The property owner proposes to vacate a Condominium Record of Survey and restore the property back to a single lot of record. The house has been used as a single family residence since c. 1996.

District Purpose

The purpose of the Historic Residential-1 Density (HR-1) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,

- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On July 10, 2017, the Planning Department received an application for a plat amendment request to vacate the John Doyle House Condominium plat, recorded on June 2, 1988. The application was deemed complete on August 8, 2017.

John Doyle initially constructed this house in 1900. The house was nominated to the National Register of Historic Places as part of the Mining Boom Era Thematic National Register District in 1984; however, it was not listed at the owner's request. It has since had several major alterations that have greatly diminished the historical significance and integrity of the house. These alterations have subsequently resulted in the building no longer being eligible for the National register. It was designated as "Significant" on the City's Historic Sites Inventory (HSI) in 2009.



c.1941 Tax Photograph of 339 Park Avenue



1984 National Register survey photograph by Roger Roper

By the 1980s, the house had fallen into severe disrepair. During the Board of Adjustment (BOA) meeting on June 17, 1986, Planner Nora Seltenrich noted that she "had received several inquiries on the property, almost all of which were relating to the demolition of the structure. It definitely was in danger of being demolished." On November 8, 1985, the Building Department conducted a pre-inspection and identified some 18 existing problems with the house that posed health and safety issues. These issues included collapsing porches, foundations, and retaining walls; exposed electrical wires; roof over the back rooms had collapsed; not structurally sound; water problems in exterior walls; and utilities no longer met code requirements.

The first renovation to restore the house occurred in 1986-1987. Then-owners David C. and Edward L. Cook, Jr. requested a variance to the front yard setback, façade width, and use variance in order to renovate the house. The house was then a single family

dwelling and the owners argued that the only way for the renovation to be economically feasible was to create a duplex and construct a garage beneath the house. They proposed constructing an addition to the rear elevation of the structure as well.

Per the 1985 Land Management Code (LMC), Section 4.17, the owner could request variances, including variances in uses to be made of the structure, in order to provide an economic means of restoring and preserving the structure. In order for the variance to be granted, the application had to be presented to the Historic District Commission (HDC) for review and a recommendation to the Board of Adjustment based on the specific criteria related to its historical significance; potential demolition due to its deteriorated state or lack of economic worth; and if the proposed use was consistent with a restoration that would preserve the historic integrity of the structure.

On May 29, 1986, the HDC reviewed the request for three (3) variances related to the renovation of the house. The staff memorandum notes that “An addition is proposed to be placed on the back of the structure. That addition should coordinate with the original structure, while being distinct.”

On June 4, 1986, the Historic District Commission (HDC) unanimously forwarded a positive recommendation to the Board of Adjustment (BOA) for the requested variances. The variances included an exception to the required lot size for a duplex use and a front yard and façade width variance in order to accommodate the basement-level garage. The HDC made three (3) significant findings in support of the variance:

- The structure was of substantial historic significance and importance to the community in that it has been determined as eligible for listing on the National Register of Historic Places as part of the Thematic Nomination “Residences of Mining Boom Era Park City.”
- Structure is in need of major repair and is in substantial danger of being demolished due to its deteriorated state. Because of the poor repair of the building, it is not economically feasible to renovate the structure to its current use as a single family residence.
- The proposed use as a duplex is consistent with the restoration that preserves the historical character and integrity of the structure.

The BOA then reviewed the variance request on June 17, 1986. The staff report notes that this variance was different from other types of variance requests because it was regulated by local ordinance. The variance was granted to allow the applicant to convert a single family dwelling into a duplex with an “additional sleeping unit”. Two (2) variances were unanimously granted to the 1985 LMC:

- Exception to LMC 7.1.3(a) Lot Size. The required minimum lot area for a duplex was 3,750 square feet and the existing lot size was 1,990 square feet.¹
- Exception to LMC 7.1.3(d) Front Yard. The minimum depth of the front yard for all main buildings and accessory buildings, including garages, was 10 feet. The

¹ Staff is unclear where the lot size of 1,990 square feet came from as the John Doyle House Condominium plat, recorded in 1988, clearly shows the dimensions of the lot as 25.03 ft. x 75 ft. This equates to about 1,877 square feet.

garage had a setback of 0 feet.

In 1986, a building permit was issued for the renovation of the house. It included the construction of an in-line addition on the west (rear) elevation of the historic house as well as a basement level garage. The renovation also included the construction of an exterior staircase on the west elevation that led from the below-grade garage to the lock-out unit in the attic. The following photo depicts the house following this renovation.



Post-1986 Photograph of the house following construction of the four-car (two tandem) garage.

On July 22, 1987, the BOA heard a second variance request from owners David C. and Edward L. Cook, Jr. for a modification of the original 1986 variance in order to reclassify the existing duplex as a triplex. The BOA found the actual number of people staying at the house or parking in the garage would not be increased by the change in use. The Comprehensive Plan allowed for triplexes and the BOA found that there were no further impacts on public health, safety, or welfare than already existed on the property. Additionally, the BOA had analyzed the appraised value of the structure as both a triplex and a duplex, and it was determined that the triplex had a higher appraised value than the duplex. Two (2) variance requests were granted:

- Exception to LMC 7.1.3(a) Lot Size. The required minimum lot area for a triplex was 5,625 square feet and the lot size was 1,990 square feet.
- Exception to LMC 13.3(a) Required off-street parking. A triplex use required two (2) spaces per unit and the staff report found that a total of five (5) parking spaces would be required for this project, based on the size of the units; however, the applicant had only proposed four (4) parking spaces in the existing garage.

Triplexes were a permitted use in the HR-1 Zoning District. Per the 1985 LMC, the use was permitted only with special underground parking requirements. All parking had to be completely enclosed and so located on the site so that at least 50% of the parking structure mass was below natural grade.

On September 10, 1987, the Park City Council approved the John Doyle House

Condominiums, memorializing the triplex use. The three (3) unit record of survey was recorded at the Summit County Recorder's Office on June 2, 1988 (Exhibit B).

By 1989, the house was sold to Thomas and Paula Hurd. The Hurds once again renovated the house in 1996, likely into a single family, and added the dormers that are visible on the front and side elevations of the building. This renovation created the current appearance of the house, as seen in the following photograph:



2013 Photograph of the house from CRSA Intensive Level Survey (ILS).

The property was purchased by the current owner, Chris Casey, in 2004. Chris Casey applied for a Historic District Grant in 2007 for the amount of \$3,624 in order to repair the porch soffit, deck, railings, and post repairs; the grant expired and was never paid out.

In 2012, Casey began looking into ways to modify the exterior staircase on the west (rear) elevation of the house that had been constructed in 1986. He requested a determination for a non-conforming use on October 26, 2012. In a letter by former Planner Mat Evans on April 2, 2012, Casey was informed that the proposal did not comply with LMC 15-9-6 Noncomplying Structures because enclosing the exterior staircase of the existing home would exceed the allowable footprint.

On January 31, 2013, the applicant submitted a Historic District Design Review (HDDR) Pre-application contemplating enclosing the rear stairwell by constructing an addition to match the footprint of the foundation wall for the purpose of incorporating the entire area as living space—from the basement level to the top level of the structure. On February 4, 2013, the Planning Director found that based on the applicable code requirements and existing conditions, the current structure was noncompliant in regards to footprint, setbacks, and allowed stories based on the requirements of the HR-1 zoning district. Therefore, the stairwell foundation could not be used to achieve a rear addition to the home.

The applicant then appealed the Planning Director's determination on the non-conforming use on February 13, 2013. The BOA voted unanimously to deny the appeal of the Planning Director's Determination on May 7, 2013 [See [Report](#)]. The BOA found that enclosing the existing exterior stairwell would increase the degree of nonconformity of a noncompliant structure. On December 13, 2013, an appeal of the BOA's determination was reviewed by the Third Judicial District Court; the Court found that the BOA had correctly interpreted the definition of building footprint and that the BOA's decision that the enclosure of the rear stairs increases the overall building footprint of the proposed structure and thereby increased the degree of existing non-conformity was reasonable.

The applicant is once again contemplating modifying the exterior stairway. The applicant would like to address the ice and water that accumulates on the concrete stairway, built in 1986. He is proposing to remove the stairs above the second level of the structure and introduce a full-width deck across the west (rear) elevation of the house in order to provide a cover over the existing concrete foundation. The proposed work will comply with International Building Code (IBC) 1011.7.2 Outdoor Conditions, which requires that outdoor stairways and outdoor approaches to stairways shall be designed so that water will not accumulate on walking surfaces.

The applicant's proposal for the stairway is not acceptable under the current IBC as it removes emergency access from the third unit on the top level of a triplex dwelling. The applicant is now proposing to officially vacate the condominium plat to allow the building to revert back to a single family home. This would resolve the access issue for the top level according to the IBC as the existing building meets the requirements for emergency egress of a single-family home.

On September 13, 2017, the Park City Planning Commission reviewed the proposed plat amendment and forwarded a positive recommendation to City Council.

Analysis

A condominium is not a type of use but a form of ownership. The existing Condominium Record of Survey plat identifies private, common, and limited common ownership areas within the existing and proposed building and site. When it is vacated, the property will revert back to a single lot of record within the Park City Survey— Lot 10, Block 3 of the Park City Survey and only one dwelling unit will be permitted within the structure.

The proposed lot of record is consistent with the purpose statements of the HR-1 District and meets all Land Management Code (LMC) requirements due to the variances granted during the mid-1980s. The applicant is in the process of rehabilitating the existing historic house to create a single-family home that meets the requirements of the IBC. The chart below outlines the conditions that exist today:

	Permitted in HR-1	Proposed in HDDR and Following renovation
Lot and Site Requirements	1,875 SF	1,877 SF; complies
Lot Width	25 ft., measured fifteen feet (15') from the Front Lot Line	25.03 ft.; complies
Setbacks Front Yard Rear Yard Side Yard	10 ft. 10 ft. 3 ft.	0 ft. ² ; complies due to 1986 variance 17 ft.; complies .95 feet, north; 1.17 feet south; complies Historic building therefore valid Complying Structure
Height	27 ft.	31 ft. 1-1/4 inches; complies Historic building therefore valid Complying Structure
Parking	Two spaces are required for each residential unit. The historic house is not required to provide parking.	As existing, there is an underground garage that provides parking for 4 vehicles (2-rows of 2-cars parked in a tandem configuration); complies

Staff has met with the Building Department to identify and determine any non-complying items that would prevent the existing triplex from being reverted back to a single-family dwelling. As the house was remodeled in the 1990s back to a single-family home, staff finds that the house has a single kitchen. The applicant is proposing a lock-out unit with a kitchenette. Staff has added Conditions of Approval to this plat amendment to ensure that the lockout unit does not become an accessory apartment and that any nightly rental of the lockout unit is reviewed through the CUP process. A lockout unit is an allowed use in this zone; however, an Accessory Apartment is a Conditional Use.

Condominium Vacation

The process is the same to vacate a condominium plat as it is to amend an existing plat amendment. Staff's review included ensuring that no non-conformities would be created by the removal of the condo plat and the existing underlying lot of record complies with the requirements of the LMC. The applicant has recorded a Declaration of Termination, which has been attached as Exhibit C. Council's approval of an ordinance and the recording of the ordinance at Summit County officially vacates the condominium plat.

² 1986 variance granted a 0' front yard setback for the garage.

Soils Boundary

The site is not located within the Sensitive Lands Overlay District. There are no known physical mine hazards. The site is not within the Soils Ordinance Boundary.

Good Cause

Staff finds Good Cause to vacate the Condominium Record of Survey as the requested form of ownership as a single family dwelling is not detrimental to the overall character of the neighborhood. In addition, the plat and County records should be updated to reflect that this is a single-family home and no longer a triplex.

Department Review

This project has gone through an interdepartmental review. The Development Review Committee (DRC) requested that staff identify any items within the building that may make it non-complying as a single-family home. Planning staff has met with the Building Department to identify these issues and have addressed them in the body of this report along with the history of this property.

Notice

The property was posted and notice was mailed to property owners within 300 feet on August 30, 2017. Legal notice was also published in the Park Record according to requirements of the Land Management Code on September 2, 2017.

Public Input

No public input has been received by the time of this report.

Process

The approval of this Condominium Record of Survey application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC § 1-18.

Alternatives

- The City Council may approve the vacation of the John Doyle Condominiums located at 339 Park Avenue; or
- The City Council may deny the vacation of the John Doyle Condominiums located at 339 Park Avenue and direct staff to make Findings for this decision; or
- The City Council may continue the discussion to a date certain and provide staff with direction to provide additional information necessary in order to make a final decision on the record of survey plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The proposed building would remain as is and the property owner would continue to have the option to sell the units individually, but would not be able to remove the current required emergency access to the third floor unit

Recommendation

Staff recommends City Council hold a public hearing and consider approving the vacation of the John Doyle House Condominium plat, located at 339 Park Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the attached ordinance.

Exhibits

Exhibit A – Draft Ordinance to Abandon the Condominium Plat

Exhibit B – Recorded John Doyle House Condominium Plat

Exhibit C – Recorded Declaration of Termination of John Doyle House Condominiums, 4.28.2017

Exhibit D – Property Evaluation Certification Letter by Epic Engineering, including photographs

Ordinance No. 2017-52

**AN ORDINANCE APPROVING THE VACATION OF THE JOHN DOYLE HOUSE
CONDOMINIUM PLAT AT 339 PARK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owner of the property located at 339 Park Avenue has petitioned the City Council to vacate the Condominium Record of Survey; and

WHEREAS, On August 30th, 2017, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on August 30, 2017, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on September 13, 2017, to receive input on condominium plat vacation; and

WHEREAS, the Planning Commission, September 13, 2017, forwarded a positive recommendation to the City Council; and,

WHEREAS, on October 5, 2017, the City Council held a public hearing to receive input on the condominium plat vacation; and

WHEREAS, it is in the best interest of Park City, Utah to approve the vacation of the John Doyle House Condominiums Record of Survey Plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. Vacation of the John Doyle House Condominium plat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 339 Park Avenue in the Historic Residential-1 Density (HR-1) District.
2. The subject property consists of the John Doyle House Condominiums approved by the City Council on September 10, 1987; it was recorded at Summit County on June 2, 1988.
3. On July 10, 2017, the Planning Department received a plat amendment application to vacate the John Doyle House Condominium plat; the application

- was deemed complete on August 8, 2017.
4. The John Doyle House at 339 Park Avenue was nominated to the National Register of Historic Places (NRHP) as part of the Mining Boom Era Thematic National Register District in 1984; however, it was not listed at the owner's request. It has since had several major alterations that have diminished its historical significance and integrity. It is no longer eligible for the NRHP.
 5. The property was designated as Significant on the City's Historic Sites Inventory in 2009.
 6. The first renovation to restore the house occurred in 1986-1977 by then-owners David C. and Edward L. Cook, Jr. These owners converted the house from a single family home to a triplex.
 7. On June 17, 1986, the Board of Adjustment (BOA) granted two variances to allow the Cooks to convert the single family dwelling into a duplex with an additional sleeping unit. The variances included an exception to LMC 7.1.3(a) Lot Size to reduce the minimum lot area for a duplex from 3,750 square feet to 1,990 square feet and to reduce the minimum depth of the front yard from 10 feet to 0 feet for the construction of a garage.
 8. In 1986, a building permit was issued for the renovation of the house as well as an inline rear addition and the basement level garage addition.
 9. On June 22, 1987, the BOA granted two additional variances as part of the rehabilitation of the property. They granted an exception to LMC 15 7.1.3(a) Lot Size to reduce the required lot size of a triplex from 5,625 square feet to 1,990 square feet as well as an exception to LMC 13.3(a) Required Off-Street Parking to reduce off-street parking demand from five (5) spaces to four (4).
 10. The property was renovated again in 1996 by new owners, and it appears the illegal conversion to create a single-family dwelling was done as part of this renovation. The recorded John Doyle House Condominium plat had been recorded at the county in 1988 and was still in place at the time of the 1996 renovation.
 11. On April 2, 2012, the Planning Department issued a letter informing current owner Chris Casey that there were issues related to his proposal to enclose a back staircase as the existing home exceeded allowable footprint and the proposal did not comply with LMC 15-9-6 Noncomplying Structures.
 12. On January 31, 2013, Chris Casey submitted a Historic District Design Review (HDDR) Pre-application to enclose the rear stairwell constructed in 1986. On February 4, 2013, the Planning Director found that based on the applicable code requirements and existing conditions, the current structure was noncompliant in regards to footprint, setbacks, and allowed stories based on the requirements of the HR-1 zoning district and, therefore, the stairwell foundation could not be used to achieve an enclosed rear addition to the home.
 13. On February 13, 2017, the applicant appealed the Planning Director's determination. The BOA voted unanimously to deny the appeal and upheld the Planning Director's determination on May 7, 2013. The BOA found that enclosing the existing exterior stairwell would increase the degree of nonconformity of a noncompliant structure.
 14. On December 13, 2013, an appeal of the BOA's determination was reviewed by

Third Judicial District Court. The Court found that the BOA had correctly interpreted the definition of building footprint and that the BOA's decision that the enclosure of the rear stairs increased the overall building footprint of the structure and thereby increased the degree of existing non-conformity that was reasonable.

15. The property owner proposes to vacate the John Doyle House Condominium Record of Survey that created a total of three (3) units.
16. A condominium is not a type of use but a form of ownership.
17. The proposal for a single family dwelling complies with the allowed uses in the HR-1 District.
18. Lot 10, Block 3 of the Park City Survey contains 1,877 square feet. This is greater than the minimum lot size required for a single family dwelling which is 1,875 square feet.
19. The minimum lot width in the HR-1 District is 25 feet; Lot 10 is 25.03 feet in width.
20. The required front yard setback is 10 feet in the HR-1 District; the existing garage has a 0 foot front yard setback as permitted by the variance of 1986.
21. The required rear yard setback is 10 feet in the HR-1 District; the applicant has a 17 foot setback.
22. The required side yard setback is 3 feet in the HR-1 District; the Existing building has a .95 foot setback on the north side and 1.17 foot setback on the south side due to the construction of the original historic house and addition.
23. The proposed vacation of the Condominium Record of Survey Plat is appropriate as the requested form of ownership is not detrimental to the overall character of the neighborhood. Further, it will memorialize existing conditions as the house was already converted to a single-family dwelling during the 1996 remodel.
24. Staff has met with the Building Department to identify and determine any non-complying items that would prevent the existing triplex from being reverted back to a single-family dwelling. As the house was remodeled in the 1990s back to a single-family home, staff finds that the house has a single Kitchen, as defined by LMC 15-15-1.
25. A Kitchen is defined by the LMC as an enclosed Area for the preparation of food and containing a sink, refrigerator, and stove.
26. The applicant has proposed a Lock-Out Unit in his building permit plans for the house remodel. A Lock-Out Unit is defined by the LMC as an Area of a dwelling with separate exterior Access and toilet facilities, but no Kitchen. Nightly rental of a Lockout Unit requires a Conditional Use Permit in the HR-1 zoning district.
27. An Accessory Apartment is defined as a self-contained Apartment, with cooking, sleeping, and sanitary facilities, created either by converting part of and/or by adding on to a Single-Family Dwelling or detached garage. Accessory Apartments are a Conditional Use in the HR-1 zoning district. No Accessory Apartment has been approved for this site.
28. The site is not located within the Sensitive Lands Overlay District. There are no known physical mine hazards.
29. The site is not located within the Soils Ordinance Boundary.
30. The process to vacate a condominium plat is the same as amending an existing

plat amendment. Staff's finds that there are no non-conformities that would be created by the removal of the condo plat and the existing underlying lot of record complies with the requirements of the LMC.

31. The applicant recorded a Declaration of Termination to abandon the condo plat on April 28, 2017. It is Entry No. 01068385.
32. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. The Condominium plat vacation is consistent with the Park City Land Management Code and applicable State law regarding vacating a condominium record of survey plats.
2. Neither the public nor any person will be materially injured by the proposed plat vacation.
3. Vacation of the Condominium Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the recordation documents for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the documents at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat vacation will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A Lockout Unit is an allowed use in the HR-1 zone; however, any Nightly Rental of a Lockout Unit requires a Conditional Use Permit.
4. The applicant shall not construct a Kitchen in the Lockout Unit, else it will become an Accessory Apartment. A Kitchen contains a sink, refrigerator, and stove; whereas a Kitchenette contains a sink, refrigerator, and an electric outlet which may be used for a microwave oven. No 220V outlet for a range or oven shall be provided in the Lockout Unit.
5. When the condo plat is vacated, the property will revert back to a single lot of record within the Park City survey. Only one (1) dwelling unit will be permitted within the structure.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 5th day of October, 2017.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

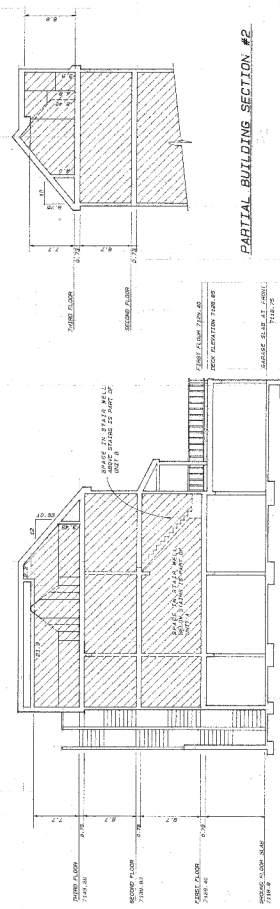
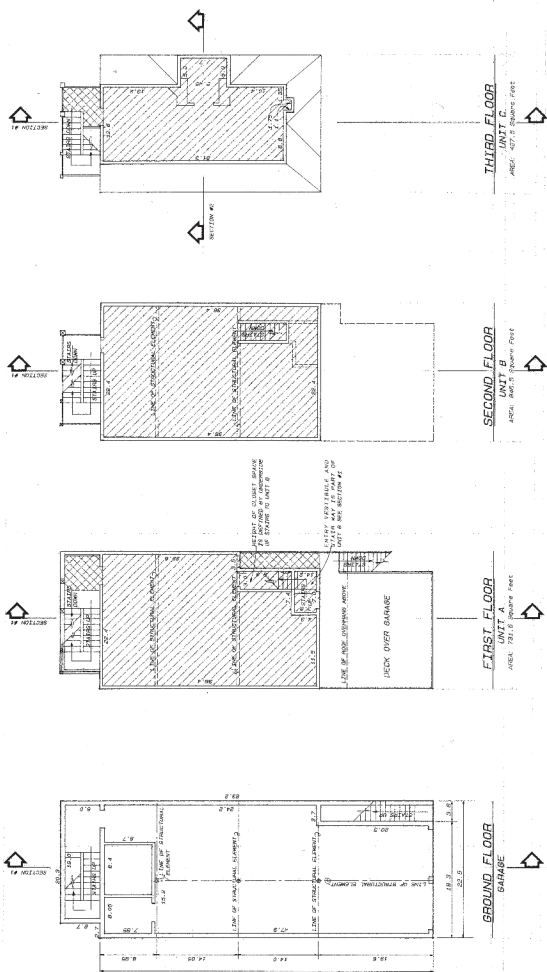
ATTEST:

Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment 1 – Proposed Plat

[illegible]

SCALE: FLOOR PLAN & SECTIONS ONLY

LEGEND

	INDICATES COMMON AREAS
	INDICATES PRIVATE OWNERSHIP
	INDICATES LIMITED COMMON AREAS

OWNER'S CERTIFICATE OF CONSENT TO RECORD

Know all men by these presents that David C. Cook, the owner of the herein described tract of land, to be hereinafter known as THE JOHN DYKLE HOUSE CONDOMINIUMS, does hereby certify that he has caused a survey to be made and this Record of Survey Map to be recorded in the public records of the State of Illinois, to wit: in the Record of Survey Map in accordance with the Utah Condominium Ownership Act, substituting the property to the provisions of that act.

David C. Cook 10-7-87 Date

ACKNOWLEDGEMENT

county of SUMMIT On the 7th day of Oct. 1927, personally appeared before me the undersigned Notary Public, David C. Cook, of the County of Summit, State of Ohio, the person described and that the above Owner's Certificate was signed freely and voluntarily, for the purposes therein mentioned.

My Commission Expires: Nov. 1990
Residing at: Salt Lake City, Ut.
Notary Public: Gerald R. Opton

State of Utah)
County of Summit) ss.
On the 4th day of Oct. 1987, personally
appeared before me, the undersigned Notary Public, R. A. Wilson,
who, being by me duly sworn, acknowledged that he is the President

OF SILVER KING STATE BANK, a Utah corporation, and that the above certificate was signed freely and voluntarily, for the purposes therein mentioned, in behalf of said corporation by authority, and said R. A. Wilde acknowledged to me that said corporation executed the same.

Gerald R. Ashton
Notary Public

My Commission Expires: Nov. 1990
Residing at: Salt Lake City, Ut.

SURVEYOR'S CERTIFICATE

I, JOHN DEMONWICZ, do hereby certify that I am a registered land surveyor in good standing under the laws of the State of Michigan and that I have caused to be made a true and correct plat of the above described premises under my direction, and by authority of the owner(s), this Record being made in accordance with the Provisions of the Michigan Condominium Ownership Act. I certify to it's accuracy and it's compliance with that act.

John Demonwicz
JOHN DEMONWICZ, PLS No. 61874

10-1-80
DATE

LEGAL DESCRIPTION

All of Lot 10, Block 3, Park City Survey, Summit County, Utah

CERTIFICATE OF CONSENT TO RECORD

Now, by these presents, the SILVER KING STATE BANK, a corporation duly organized under the laws of the State of Utah, and the SILVER KING STATE BANK hereby consents to the recordation of this Record of Survey Map in accordance with Utah Law

SILVER KING STATE BANK, A Utah Corporation

BY: RA. WILDE
R. A. WILDE

IT'S President

Alliance Engineering Inc.

44-38861-20102 RECORDED
 STATE OF UTAH COUNTY OF SUMMIT RECORDED AND FILED AT THE
 REQUEST OF Chancellor Tele Co.
 DATE 12-28-88 TIME 4:00 BOOK _____ PAGE _____
 BY Chancellor FILED RECORDED

COUNCIL APPROVAL AND ACCEPTANCE

APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL

THIS 10TH DAY OF SEPTEMBER, 1987 A.D.

BY [Signature]
MAYOR

CERTIFICATE OF ATTEST

APPROVED AS TO FORM THIS 10th DAY
OF SEPTEMBER 1987 A.D.
BY Barbara J. Hinkle
CLERK CITY RECORDS
2501

APPROVAL AS TO FORM

APPROVED AS TO FORM THIS 2nd DAY

OF March 1960 A.D.

BY ONE ONE ONE

PARK CITY ATTORNEY

ENGINEERS CERTIFICATE

I FIND THIS PLAN TO BE IN
ACCORDANCE WITH INFORMATION ON
FILE IN MY OFFICE THIS

3rd DAY OF NOVEMBER 1897 A.D.

BY Eric W. D. H. FE
PARK CITY ENGINEER

PLANNING COMMISSION

APPROVED BY THE PARK CITY
PLANNING COMMISSION THIS

28 DAY OF October 1987 A.D.

BY Barbara D. Vogelbein
CHAIRMAN

ALLIANCE ENGINEERING INC.

P.O. BOX 2884
353 MAIN STREET
PARK CITY, UTAH 84080
(801) 849-9407

alliance Engineering Inc.

Exhibit C

When recorded, return to:

Christopher D. Casey
PO Box 681961
Park City, Utah 84068

ENTRY NO. 01068385

04/28/2017 04:51:18 PM B: 2407 P: 1196

Termination PAGE 1/35

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 80.00 BY CHRISTOPHER D CASEY



DECLARATION OF TERMINATION OF JOHN DOYLE HOUSE CONDOMINIUMS

This DECLARATION OF TERMINATION OF JOHN DOYLE HOUSE CONDOMINIUMS ("Termination") is executed by CHRISTOPHER DAVID CASEY, (Owner"), pursuant to the provisions of Title 57, Chapter 8, Utah Code Ann., as amended ("Act").

RECITALS:

A. David C. Cook, as declarant, previously submitted the real property and improvements located in Park City, Summit County, Utah, more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("Project") to that certain Declaration of Condominium of John Doyle House Condominiums recorded on September 3, 1987 as Entry No. 291063 in Book 479, at Page 445 in the Official Records of Summit County, (collectively, "Declaration"). The John Doyle House Condominiums in its entirety consists of three (3) units: 1) Account Number 0021034, Parcel Number JDH-A, 2) Account Number 0259212, Parcel Number JDH-B and 3) Account Number 0259220, Parcel Number JDH-C, (collectively, "Units")

B. Owner is currently the sole owner of all Units of the JOHN DOYLE HOUSE CONDOMINIUMS. §57-8-22 of the Act provides that all of the unit owners in a condominium may remove the property from the provisions of the Act by an instrument duly recorded to that effect. There are no current holders of liens on the Property.

C. Owner, as owner of all the units in the Project, desires to exercise its right to revoke the Declaration in accordance with §57-8-22 of the Act. Pursuant to §57-8 22 of the Act, such revocation shall be effective upon Owner's execution of this Declaration of Termination and recordation thereof in the Official Records of Summit County, Utah.

NOW, THEREFORE, THE Declaration is terminated and revoked as follows:

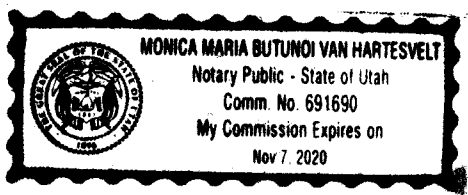
1. Status of Recitals. The Recitals set forth above shall constitute a portion of the of the terms of this Termination and are hereby incorporated by this reference.

2. Removal of Property and Termination. Pursuant to §57-8-22 of the Act, Owner hereby removes the entire Project from the Act and terminates and revokes the Declaration in its entirety. The Project is no longer submitted to, nor governed by, the provisions of the Declaration, and is hereafter free and clear from the covenants, restrictions and all other terms,

Accordingly, the John Doyle House Condominium Plat and Map of Survey, recorded on September 3, 1987 as Entry No. 291063 in the Official Records of Summit County, Utah, is hereby terminated, vacated and revoked in its entirety, and shall be of no further force and effect.

3. Ownership. Upon Owner's execution of this Termination and recordation thereof in the Official Records of Summit County, Utah, Owner shall be the sole fee title owner of the Project free and clear of the condominium regime described in the declaration.

IN WITNESS WHEREOF, this Declaration of Termination of JOHN DOYLE HOUSE CONDOMINIUMS is executed as of 27th Day of April, 2017.



By:

A handwritten signature in black ink, appearing to read "Christopher David Casey".

CHRISTOPHER DAVID CASEY, Owner

State of Utah County of Summit
Subscribed and sworn before me on 4/28/17
(Date)

(Notary Signature)

REG 291063 291063

ASSOCIATED TITLE CO.
88 JUN -2 PM 4:03

ALAN...
SUMMIT COUNTY RECORDER
BN 40-00 RECEIVED
SEP 3 1987

AFTER RECORDING, PLEASE RETURN TO:

Steven D. Peterson
EDWARDS & MCCOY
57 West 200 South, Suite 400
Salt Lake City, Utah 84101

PA Y
MUNICIPAL CORP.

**DECLARATION OF CONDOMINIUM
OF THE
THE JOHN DOYLE HOUSE CONDOMINIUMS**

THIS DECLARATION is made and executed this 2nd day of September, 1987, by DAVID C. COOK (hereinafter referred to as "Declarant").

RECITALS:

A. Declarant is the record owner of that certain Tract of real property more particularly described in Article II hereof.

B. Various improvements have been or will be made to the Tract so as to enable its use and operation as a Condominium Project. The construction of all of such improvements has been or will be performed in accordance with the information contained in this Declaration and in the Record of Survey Map.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said Tract and all improvements now or hereafter constructed thereon to the provisions of the Act as a Condominium Project to be known as the "The John Doyle House Condominiums."

D. Declarant intends to sell and convey to various persons fee title to the individual Units contained in the Project, together with the undivided ownership interests in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, restrictions, and limitations herein set forth.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Declaration:

BOOK 479 PAGE 445

I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1. Act shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated §57-8-1 et seq. (1953, as amended).

2. Affiliate of Declarant shall mean and refer to any person or entity which controls, is controlled by, or is under common control with Declarant. A person or entity shall be considered to control the Declarant if that person or entity is a general partner, officer, director, or employee of the Declarant who: (i) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting power of Declarant; or (ii) has contributed more than twenty percent (20%) of the capital of Declarant. A person or entity shall be considered to be controlled by Declarant if Declarant is a general partner, officer, director, or employee of that person or entity who: (i) directly or indirectly or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting power of that person or entity; (ii) controls in any manner the election of a majority of the directors of that person or entity; or (iii) has contributed more than twenty percent (20%) of the capital of that person or entity.

3. Association of Unit Owners, Owners Association, or Association shall mean and refer to The John Doyle House Condominium Owners Association, an unincorporated association comprised of all of the Owners of Condominiums in the Project.

4. Building shall mean and refer to a structure containing or to contain Units.

5. Building Number shall mean and refer to the number, letter, or combination thereof (if any) which designates a Building in the attached Exhibit "A" and on the Record of Survey Map.

6. Common Areas and Facilities or Common Areas shall mean, refer to and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act, including the entirety of the Tract (but excluding individual Units).

(b) All Common Areas and Facilities designated as such in the Map.

(c) (c) All Limited Common Areas and Facilities.

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(d) All foundations, roofs, and lobbies constituting a portion of or included in the improvements which comprise a part of the Project, and any halls, corridors, stairs, stairways, landings, entrances, and exits which are designed for the use of more than one Unit.

(e) All installations for and all equipment connected with the furnishing of Project utility services such as electricity, gas, water, and sewer.

(f) All tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus, installations, and facilities included within the Project and existing for common use.

(g) The Project outdoor lighting, fences, landscaping, laundry rooms, sidewalks, parking spaces, driveways and accessways.

(h) All portions of the Project not specifically included within the individual Units.

(i) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or management.

7. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, any Management Agreement which may be entered into for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt.

8. Condominium Project or Project shall mean and refer to The John Doyle House Condominiums.

9. Condominium Unit or Condominium shall mean, refer to, and include a Unit together with its appurtenant undivided ownership interest in the Common Areas and Facilities, and its appurtenant right to exclusive use of Limited Common Areas associates with such Unit.

10. Declarant shall mean and refer to David C. Cook or any successor thereof which either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Project as did its predecessor.

11. Declaration shall mean and refer to this Declaration of Condominium of The John Doyle House Condominiums, as the same may hereafter be modified, amended, supplemented, or expanded in accordance with law and the provisions hereof.

12. Eligible Mortgagee shall mean and include a Mortgagee which has requested notice of certain matters from the Association in accordance with the sixth paragraph of Section 33 of Article III of this Declaration.

13. Eligible Insurer or Guarantor shall mean and include an insurer or governmental guarantor of a Mortgage which has requested notice of certain matters from the Association in accordance with the sixth paragraph of Section 33 of Article III of this Declaration.

14. Limited Common Areas and Facilities or Limited Common Areas shall mean and refer to those Common Areas and Facilities designated in this Declaration or in the Survey Map as reserved for the use of a certain Unit to the exclusion of the other Units.

15. Management Committee or Committee shall mean and refer to the Management Committee of The John Doyle House Condominiums.

16. Mortgage shall mean and include both a first mortgage on any Condominium Unit and a first deed of trust on any Condominium Unit.

17. Mortgagee shall mean and include both a mortgagee under a first mortgage on any Condominium Unit and a beneficiary under a first deed of trust on any Condominium Unit.

18. Record of Survey Map, Survey Map, or Map shall mean and refer to the Record of Survey Map, filed herewith, entitled "Record of Survey Map of The John Doyle House Condominiums," executed and acknowledged by Declarant, consisting of one (1) sheet and prepared and certified to by John Demkowicz, a duly registered Utah Land Surveyor holding Certificate No. 6164, as the same may hereafter be modified, amended, supplemented, or expanded in accordance with law and the provisions hereof.

19. Tract shall mean, refer to, and consist of the real property which Article II of this Declaration submits to the terms of the Act.

20. Unit shall mean and refer to one or more rooms or spaces located in a Building and intended for independent use and which is designated as a Unit on the Record of Survey Map and in Exhibit "A" attached hereto (and incorporated herein by this reference). All walls on the perimeters of a Unit shall constitute a part of the Common Areas and Facilities. A Unit shall include any walls, partitions, floors, ceilings, and stairs which are wholly contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings, walls, or coverings which bound it; provided, however, that a Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve

more than one Unit and shall not include any load-bearing walls or floors comprising a part of the Building in which the Unit is contained. A Unit shall also include all fixtures contained within its vertical and horizontal perimeters and intended for the sole use of such Unit.

21. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached Exhibit "A" and on the Record of Survey Map.

22. Unit Owner or Owner shall mean and refer to the person who is the owner of record (in the Office of the County Recorder of Summit County, State of Utah) of a fee or an undivided fee interest in a Condominium Unit. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

II. SUBMISSION

There is hereby submitted to the provisions of the Act, as the Tract associated with The John Doyle House Condominiums, the following described parcel of real property situated in Summit County, State of Utah:

All of Lot 10, Block 3, Park City Survey, Summit County, Utah.

TOGETHER WITH: (i) all buildings, if any, improvements, and structures situated on or comprising a part of the above-described parcel of real property; (ii) all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying said parcel; and (iii) all articles of personal property intended for use in connection with said parcel.

ALL OF THE FOREGOING IS SUBJECT TO: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described Tract at such time as construction of all

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Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or for any assignee or successor of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) To construct and complete each Building and all of the other improvements described in this Declaration or in the Survey Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; and (ii) To improve portions of the Tract with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant or as such assignee or successor may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the above-described Tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire seven (7) years after the date on which the Declaration is filed for record in the office of the County Recorder of Summit County, Utah.

III. COVENANTS, CONDITIONS AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions, and restrictions:

1. Description of Improvements. The improvements included in the Project are now or will be located upon the Tract. The significant improvements contained in the Project include one (1) Building containing three (3) Units and four (4) parking spaces. The parking spaces are a portion of the Common Areas of the Project. One parking space is hereby reserved for each unit. Otherwise, parking spaces may be used on a first come first serve basis. The location and configuration of the improvements referred to in the foregoing sentence are depicted on the Survey Map. The Survey Map shows the number of stories and the number of Units which are contained in the Buildings included in the Project. The Building is composed of the following materials: a portion of the load bearing walls on the lowest floor are of concrete; all other load bearing and all non-load bearing walls are wooden frame and studded with wood; the ground floor is of concrete; the second, third and fourth floors are of wooden

joists covered with plywood and cement; the roof is of wood tresses covered with plywood and asphalt shingles; interior walls are surfaced with sheetrock or gypsum board; and above ground exterior walls are surfaced with wood siding.

2. Description and Legal Status of Units. The Record of Survey Map shows the Unit Number of each Unit, its location and dimensions. Each Condominium Unit shall be capable of being separately owned, encumbered, and conveyed. The undivided ownership interest in the Common Areas and Facilities appurtenant to a Unit may not be partitioned from the balance of the Common Areas and Facilities by an action pursuant to Chapter 39 of Title 78, Utah Code Annotated (1953), or by any other means. The immediately foregoing sentence shall not prejudice or otherwise affect the rights set forth in Sections 27 through 31, inclusive, of this Declaration in the event of Substantial Destruction, Condemnation, or Obsolescence. There shall not be any restriction upon any Unit Owner's right of ingress to and egress from his Unit.

3. Contents of Exhibit "A". Exhibit "A" to this Declaration furnishes the following information with respect to each Unit contained in the Project: (i) The Unit Number; (ii) The square footage of each Unit; (iii) The percentage of undivided ownership interest in the Common Areas which is appurtenant to the Unit; and (iv) the number of votes associated with each Unit.

4. Computation of Undivided Interests. The percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to a Unit shall be equal to the ratio between the square footage of such Unit and the aggregate square footage of all Units included in the Project. In determining the percentage of undivided ownership interest which is appurtenant to each Unit contained in the Project, Declarant may have made minor adjustments in some or all of the percentage interests which result from a strict application of the formula described in the immediately foregoing sentence solely for the purpose of assuring that the total undivided ownership interest respecting the Project equals 100.00% as required by the Act. The percentages of individual ownership interest in the Common Areas which are appurtenant to the Units and which are set forth on Exhibit "A" have been computed in the aforesaid manner.

5. Limited Common Areas. The Limited Common Areas and Facilities which are contained or to be contained in the Project consist of certain porches and walkways as shown on the Survey Map. The exclusive use of each such porch or walkway is reserved as designated on the Survey Map.

6. Conveyancing. Any deed, lease, deed of trust, or other instrument conveying or encumbering a Condominium Unit shall

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September 2, 1987

describe the interest or estate involved substantially as follows:

Unit No. _____ contained within The John Doyle House Condominiums, as the same is identified in the Record of Survey Map recorded in Summit County, Utah, as Entry No. 291062 (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium of The John Doyle House Condominiums recorded in Summit County, Utah, as Entry No. 291063 in Book 479 at Page 445 (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in said Project's Common Areas and Facilities which is appurtenant to said Unit as more particularly described in said Declaration.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. Neither the percentage of undivided ownership interest in the Common Areas and Facilities, nor the right of exclusive use of a Limited Common Area and Facility, shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such percentage of undivided ownership interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

7. Use Restrictions. All Units are intended to be used for residential housing and are restricted to such use. Nightly leasing or renting of a Unit for hotel or similar purposes is permitted. All leases or rental agreements for a Unit shall be in writing and subject to the requirements of this Declaration, the Association Bylaws, the Record of Survey Map and such rules, regulations, and procedures as may be promulgated by the Management Committee. Neither the Committee nor the Association shall create or enforce any restriction relating to the term of a lease or the term of a rental agreement of any Condominium Unit in the Project other than those contained in this Section 7. No Unit shall be used, occupied, or altered in violation of law, so as to detract from the appearance or value of any other Unit, so as to create a nuisance or to interfere with the rights of any Unit Owner, or in a way which would result in an increase in the cost of any insurance covering the Project as a whole. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units. Without limiting the breadth of the foregoing sentence: (i) No automobile or other vehicle shall be parked in front of a driveway or walkway; (ii) No radio or television antenna or any wiring for any purpose may be installed on the exterior of any Building without the prior

written approval of the Management Committee; (iii) No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted, or fixed by any Owner at any location within the Common Areas or at any location within each Unit visible from the Common Areas without the prior written consent of the Management Committee; (iv) No inoperable vehicles shall be parked or stored within the Project; (v) No sidewalk, entrance, passage, vestibule, stairway, corridor, or hall comprising a part of the Common Areas (other than Limited Common Areas) may be obstructed or encumbered or used for any purpose other than ingress or egress to and from Units; (vi) No garments, rugs, other household items, or wash lines of any kind may be hung, erected, or maintained outside of an Owner's Unit; (vii) No Unit Owner shall discard or permit to fall any items from the windows of his or her Unit; and (viii) No articles belonging to Owners shall be kept within or upon Common Areas (other than Limited Common Areas associated with his Unit). No leases, charges for use, rental agreements, licenses, or similar arrangements shall be employed or entered into with respect to any portion of the Common Areas and Facilities. No animals or pets shall be kept or allowed in any part of the Project.

8. Declarant's Sales Program. Notwithstanding the provisions of the foregoing Section 7, until the happening of the event described in the last paragraph of this Section 8, Declarant shall have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all Units owned or to be owned by Declarant:

(i) Declarant shall have the right to maintain sales offices and/or model apartments in the Project at such locations and/or in such Units as Declarant shall determine. Such offices and/or model apartments may be one or more Units (of any floor area and at any location) owned by Declarant, one or more separate structures or facilities placed on the Tract for the purpose of aiding Declarant's sales efforts, or any combination of the foregoing. If one or more separate structures or facilities is so employed by Declarant, each shall be reasonably located given the layout of the Project and each shall have an aggregate floor area not substantially in excess of the aggregate floor area of the largest Unit contained in the Project.

(ii) Declarant shall have the right to maintain a reasonable number of promotional, advertising, and/or directional signs, banners, or similar devices at any place or places on the Tract, but any such device shall be of a size and in a location as is reasonable and customary.

Declarant shall have the right from time to time to locate or relocate any of its sales offices, model apartments, and/or signs, banners, or similar devices, but in connection with each

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such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the event described in the last paragraph of this Section 8, below, Declarant shall have the right to remove from the Project any signs, banners, or similar devices and any separate structure or facility which was placed on a portion of the Tract for the purpose of aiding Declarant's sales effort. Any signs, banners, or similar devices and any separate structure or facility for aiding Declarant's sales effort shall comply with applicable zoning ordinances. Upon the happening of the event described in the last paragraph of this Section 8, below, any Unit or portion of the Common Areas used as a sales office or model apartment shall revert to residential use and may not thereafter be used as commercial office space or for any other nonresidential use if prohibited by applicable zoning ordinances.

The event referred to in the first paragraph of this Section 8 shall be the first to occur of the following:

(a) Declarant ceases to be a Unit Owner; or

(b) The expiration of five (5) years after the date on which this Declaration is filed for record in the office of the County Recorder of Summit County, Utah.

9. Completion Obligation. Declarant hereby covenants in favor of each person who contracts with Declarant for the purchase of a Unit located or to be located on any portion of the Tract that no later than twenty-three (23) months after the date on which such contract is entered into: (i) the Unit which such person has contracted to purchase, the Building within which such Unit is contained or is to be contained, and each Limited Common Area appurtenant to such Unit shall be fully constructed and ready for use or occupancy (as the case may be); and (ii) there shall be substantially completed and usable as part of the Common Areas all proposed or planned roadways, parking spaces, sidewalks, fences, outdoor lighting, landscaping, and utility lines and conduits necessary to enable full use and enjoyment of the Unit concerned.

10. Condition and Maintenance of Units and Limited Common Areas. Each Unit, and all utility facilities, lines, ducts, and other such apparatus (including air conditioning apparatus) serving solely such Unit, shall be maintained by the Owner thereof so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Unit or other portions of the Project.

11. Encroachments. In the event that any portion of the Common Areas, a Limited Common Area, a Unit, and/or a Building (whether constructed by Declarant or reconstructed so as to substantially duplicate a Unit or Building originally constructed

by Declarant) encroaches or comes to encroach on the Common Areas, another Limited Common Area, another Unit, and/or another Building, as a result of construction, reconstruction, repair, shifting, settlement, or movement of any portion of the foregoing, an easement for such encroachment and for the maintenance of the same is created hereby and shall exist so long as such encroachment exists.

12. Membership in the Association. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance or other disposition, respectively, of a Condominium shall include the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium. The Association shall make available to the Owners, Mortgagees and the holders of the first mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, upon not less than five (5) days prior request, during normal business hours or under other reasonable circumstances. Membership in the Association shall be governed by this Declaration and the Bylaws attached hereto as Exhibit "B" and incorporated herein by this reference.

13. Status and Authority of Management Committee. The Condominium Project shall be managed, operated, and maintained by the Management Committee on behalf of the Association. The Management Committee shall have, and is hereby granted, the following authority and powers:

(a) A right of entry upon any Condominium Unit and any Limited Common Area to effect emergency repairs, and a reasonable right of entry thereupon to effect other repairs, improvements, replacement, or maintenance of the Project, or any portion thereof, as necessary.

(b) The authority, without the vote or consent of the Unit Owners, Mortgagees, insurers or guarantors of Mortgages,

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or of any other person(s), to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and easements over, under, across, and through the Common Areas and Facilities for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Project.

(c) The authority to execute and record, on behalf of all the Unit Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the vote or consent necessary to authorize such amendment.

(d) The power to sue and be sued.

(e) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

(f) The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained.

(g) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(h) The power and authority to add any interest in real property obtained pursuant to subparagraph (g) above to the Condominium Project, so long as such action has been authorized by the necessary vote or consent.

(i) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners, including rules governing the use of the Common Area Deck facility and the Common Area parking facilities.

(j) The power and authority to levy and collect general and special assessments for the payment of Common Expenses as provided for in Section 19 and 20 of this Article III.

(k) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Unit Owners.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported

to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

13. Management. The Committee shall have full authority and authorized to manage the Project. The Committee may elect to carry out through a professional manager those of its functions which are properly the subject of delegation. Any professional manager so engaged shall be responsible for managing the Project for the benefit of the Committee and the Unit Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any such management agreement shall run for a reasonable period of from one to three years and shall provide that either party, with or without cause and without payment of any termination fee or being subject to any penalty, may terminate same upon not in excess of thirty (30) days written notice to the other party thereto.

14. Composition of Management Committee. The Committee shall be composed of three members. Each Owner of a Condominium shall be entitled to appoint one member of the Committee. Notwithstanding the foregoing provisions, until the first annual meeting of the Owners the members of the Committee shall be the following persons and each shall hold the office(s) indicated opposite his name:

David C. Cook	President
Martin Vander Veur	Vice-President
Annette C. Cook	Secretary/Treasurer

Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business. The Committee may fix such compensation for any member as may be reasonable in light of the Committee duties which that member is required to perform.

15. Voting--Multiple Ownership. The vote attributable to and exercisable in connection with a Unit shall be the percentage of undivided ownership interest which is then appurtenant thereto. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determined among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

16. Lists of Unit Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Committee shall maintain up-to-date

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records showing: (i) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Unit which is encumbered by the Mortgage held by such person or entity; and (iii) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Unit which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Summit County, Utah. The Committee may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Committee may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Summit County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Committee is otherwise advised.

17. Limitation on Improvements by Association. Until occurrence of the event described in the last Paragraph of Section 8 of this Article III, neither the Association nor the Management Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

18. Capital Improvements. Additions or capital improvements to the Project which cost no more than One Thousand Dollars (\$1,000.00) may be authorized by the Management Committee alone. Additions or capital improvements the cost of which will exceed such amount must, prior to being constructed or accomplished, be authorized by at least a majority of the undivided ownership interest in the Project. Any addition to capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven percent (67%) of the Project's undivided ownership interest. All provisions of this Section 18 are subject to the limitations imposed by the foregoing Section 17.

19. Operation and Maintenance. The Management Committee shall as a portion of the Common Expenses, pay for, or provide for the payment of, all utility services furnished to the Project which are not separately metered and billed to individual Units by the utility or other party furnishing such service. Except as otherwise provided in the balance of this Section 19 or

in Section 10 of this Article III, the Committee shall provide for such maintenance and operation of the Common and Limited Common Areas and Facilities as may be reasonably necessary to make them appropriately usable in conjunction with the Units and to keep them clean, functional, attractive, and generally in good condition and repair. Without limiting the breadth of the foregoing, the Committee shall provide for maintenance and cleaning of any storm water catch basins within the Project on a weekly basis or more often if the circumstances so require.

20. Payment of Expenses. Before November 15 of each year the Committee shall prepare a budget which sets forth an itemization of the Common Expenses which are anticipated for the 12-month period commencing with the following January 1. Such budget shall take into account any deficit or surplus realized during the current fiscal year and such sums as may be necessary to fund the reserves required under the second Paragraph of this Section. The total of such expenses shall be apportioned among all the Units on the basis of their respective appurtenant percentages of undivided ownership interest (subject, however, to the provision which appears at the end of this Paragraph). Prior to the tenth (10th) day of each month during the fiscal year covered by the budget, each Unit Owner shall pay to the Association as his share of the Common Expenses one-twelfth of the amount so apportioned to his Unit. If the aggregate of monthly payments attributable to all of the Units is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments. The dates and manner of payment shall be determined by the Committee. The foregoing method of assessing the Common Expenses to the Units shall commence when Declarant conveys the first Unit to a purchaser and may be altered by the Committee thereafter so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Unit during a 12-month period be determined on the basis of its appurtenant undivided ownership interest.

The Committee shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of the Common Areas and Facilities and to cover any deductible amounts under the insurance policies required to be maintained by Section 23 of this Article III. As provided in the immediately foregoing Paragraph, such fund shall be maintained out of regular monthly payments of Common Expenses. Such fund shall be maintained in a reasonably liquid, interest bearing investment or account as determined by the Management Committee.

The Committee shall also establish a working capital fund for the initial months of the Project's operation equal to at least two months' estimated Common Expenses. Each Condominium Unit's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale

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of such Condominium Unit. The working capital fund shall be maintained in a segregated account for the use and benefit of the Association. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Condominium Unit contained in the Project shall be paid to the Association within 60 days after the date of the conveyance of the first Condominium Unit. With respect to each Condominium Unit for which the Declarant pays the contribution to the working capital fund, the Declarant shall be reimbursed for such contribution by the purchaser of such Unit at the time of the closing of the sale to such purchaser. The purpose of the working capital fund is to insure that the Committee will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Committee. Amounts paid into the fund are not to be considered as advance payment of regular monthly payments of Common Expenses and are not refundable by the Association.

21. Remedies for Nonpayment. Regardless of the terms of any agreement to the contrary, liability for the payment of Common Expense assessments shall be joint and several among the owners of each Unit, and any remedy for the collection of such assessments may be enforced against any Owner of the Unit concerned or against the Unit itself; provided, however, that the personal obligation of an Owner to pay his share of the Common Expenses shall not pass to successors in title unless assumed by them. Should any Unit Owner fail to pay when due his share of the Common Expenses, the delinquent payment shall bear interest at the rate of eighteen percent (18%) per annum and the Association may enforce any remedy provided in the Act or otherwise available for collection of delinquent Common Expense assessments. If any Unit Owner fails or refuses to make any payment of Common Expenses when due, the amount thereof shall be, constitute, and remain a charge and continuing lien upon the Unit and shall be the personal obligation of each person who is an Owner of such Unit at the time the Common Expense assessment falls due. Any relief obtained, whether or not through foreclosure proceedings, shall include the Association's costs and expenses and reasonable attorneys' fees. In the event of foreclosure, after institution of the action the Association shall, without regard to the value of the Unit or the extent of the Owner's equity therein, be entitled to the appointment of a receiver to collect any income or rentals which may be produced by the Unit concerned.

22. Management Committee Liability. No member of the Management Committee shall be liable to the Unit Owners for any mistake of judgment, for negligence, or on other grounds, except for such member's own individual and willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each member of the Management Committee from and against all liability to third parties arising out of any contract made by the Management Committee on behalf of the Owners, unless such

contract was made in bad faith or contrary to the provisions of the Act or this Declaration. The liability of any Unit Owner arising out of any contract made by the Management Committee or out of the indemnification provision set forth in the foregoing portion of this Section 22 shall be limited to the total liability concerned multiplied by such Owner's undivided ownership interest in the Common Areas.

23. Hazard Insurance. The Association shall at all times maintain in force, and pay the premiums for, hazard insurance meeting the following requirements:

(i) A "master" or "blanket" type policy of property insurance shall be maintained covering the entire Project, including: Common Areas and Facilities; Limited Common Areas; Units; fixtures; building service equipment, personal property and supplies comprising a part of the Common Areas and Facilities or owned by the Association; and fixtures, equipment, or other property comprising a part of or located within any Unit and which are of a class typically encumbered by mortgages held by the Federal National Mortgage Association (hereinafter "FNMA") or other similar institutional Mortgage investors; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to condominium projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The maximum deductible amount for such policy shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount.

(ii) If any part of the Project is or comes to be situated in an area identified by the Federal Emergency Management Agency as having special flood hazards, a "master" or "Blanket" policy of flood insurance shall be maintained covering Buildings, any machinery and equipment that are not part of a Building but which are owned by the Association or Management Committee and any other common areas within the Project (hereinafter "Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (1) the

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maximum limit of coverage available under the National Flood Insurance Program ("NFIP") for all Buildings and Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) the greater of one hundred percent (100%) of the current replacement cost of all such Buildings and Insurable Property or the outstanding balance of the loans guaranteed by the Veterans Administration and secured by any portion of the Project. Such policy shall be in a form which meets the criteria set forth in the most current Guidelines on the subject issued by the Federal Insurance Administrator. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000.00) or one percent (1%) of the policy face amount.

(iii) The name of the insured under each policy required to be maintained by the foregoing items (i) and (ii) shall be set forth therein substantially as follows: "Association of Unit Owners of The John Doyle House Condominiums for the use and benefit of the individual Owners." [Said Owners shall be designated by name, if required.] Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Unit Owners. Loss payable shall be in favor of the Owners Association (or Insurance Trustee), as a trustee for each Unit Owner and each such Owner's Mortgagee. Each Unit Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy in the percentage of such Owner's undivided ownership interest in the Common Areas and Facilities. Evidence of insurance shall be issued to each Unit Owner and Mortgagee upon request.

(iv) Each policy required to be maintained by the foregoing items (i) and (ii), shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. If FNMA is a holder of one or more Mortgages on Condominium Units within the Project, such mortgage clause shall name FNMA or FNMA's servicer of such Mortgages as Mortgagee. If FNMA's servicer is named as mortgagee in such mortgage clause, such servicer's name shall be followed therein by the phrase "its successors and assigns". In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a schedule holder of a Mortgage in the policy.

(v) Each policy required to be maintained by the foregoing items (i) and (ii), shall provide for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Unit Owners individually; the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Unit Owners collectively; and the policy is primary, even in the event the Unit Owner has other insurance covering the same loss. The requirements stated in this item (v) are generally provided by the insurer in the form of a "special Condominium Endorsement" or its equivalent.

(vi) Each policy required to be maintained by the foregoing item (i) shall also contain or provide the following: (1) "Agreed Amount and Inflation Guard Endorsement", if available; (2) "Construction Code Endorsement" (such as a "Demolition Cost Endorsement", a "Contingent Liability from Operation of Building Laws Endorsement" and an "Increased Cost of Construction Endorsement"), if the Project is subject to a construction code provision which would become operative upon Partial or Substantial Destruction and require changes to undamaged portions of the Building(s), thereby imposing significant costs in the event of such Destruction of the Project by an insured peril; and (3) "Steam Boiler and Machinery Coverage Endorsement" which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Building containing the boiler or machinery.

24. Fidelity Bonds. The Association shall to the extent economically feasible at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Committee or the Association, regardless of whether such persons receive compensation for their services. Furthermore, where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, the management agent shall provide "blanket" fidelity bonds with coverage identical to such bonds required of the Association, for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association. The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three months' aggregate assessments on all Condominium Units plus the Association's reserve funds. The bonds required shall meet the following

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additional requirements: (1) the fidelity bonds shall name the Owners Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and (4) the bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association, to any Insurance Trustee, and to each servicer of loans on behalf of FNMA.

25. Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas and Facilities, public ways in the Project, if any, all other areas of the Project that are under the Association's supervision, and commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for condominium projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to condominium projects similar to the Project in construction, location, and use, including but not limited to, host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Unit Owner's claim because of negligent acts of the Association or Management Committee or any other Unit Owner. Such policy shall provide that it may not be cancelled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

26. Insurance Trustees and General Requirements Concerning Insurance. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, and notwithstanding Section 30 of this Article III, there may be

named as an insured on behalf of the Committee and the Association, the Association's authorized representative, including any trustee with whom the Committee and the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Unit Owner hereby appoints the Committee, or any Insurance Trustee or substitute Insurance Trustee designated by the Committee, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Committee, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Unit Owners and their mortgagees, as their interests may appear.

Each insurance policy maintained pursuant to the foregoing Sections 23, 24, and 25 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating by Best's Key Rating Guide of Class VI or better, or which is written by Lloyd's of London even though it has no Best's rating. No such policy shall be maintained where: (i) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, a Unit Owner, a borrower, a Mortgagee, the Management Committee, the Association of Unit Owners, FNMA, FHA, or the designee of FNMA or FHA; (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, a Unit Owner, FNMA, FHA, or their borrowers) from collecting insurance proceeds. The provisions of this Section 26 and of the foregoing Sections 23, 24, and 25 shall not be construed to limit the power or authority of the Management Committee or Association of Unit Owners to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee or Association may deem appropriate from time to time.

27. Destruction, Condemnation, and Obsolescence. The provisions of this Section 27 and of the following Sections 28 through 31 shall apply with respect to the destruction, condemnation, or obsolescence of the Project. As used in such Sections each of the following terms shall have the meaning indicated:

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(a) Destruction. "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(b) Condemnation. "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(c) Obsolescence. "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(d) Restoration. "Restoration" shall mean restoration of the Project, to the extent reasonably possible, in accordance with the Declaration, the Survey Map, and the original plans and specification for the Project and to a condition the same or substantially the same as the condition in which the Project existed prior to the damage or destruction concerned; and the extent not so possible, "Restoration" shall mean restoration of the Project to an attractive, sound, and desirable condition. Any "Restoration" not in accordance with the Declaration, the Survey Map, and the original plans and specifications for the Project shall require the consent of Eligible Mortgages holding Mortgages on Condominium Units which have appurtenant at least fifty-one percent (51%) of the undivided ownership interest in the Common Areas and Facilities which is then subject to mortgages held by Eligible Mortgages.

(e) Restored Value. "Restored Value" shall mean the value of the Project after Restoration.

(f) Estimated Costs of Restoration. "Estimated Costs of Restoration" shall mean the estimated costs of Restoration.

(g) Available Funds. "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu

of condemnation, and any uncommitted funds of the Management Committee and Association, including amounts contained in any reserve or contingency fund. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee of a Condominium Unit for the condemnation or taking of the Unit in which they are interested.

28. Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Committee shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

29. Restoration of Project. Restoration of the Project shall be undertaken by the Association promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent (67%) of the Project's undivided ownership interest and is further consented to by Eligible Mortgagees holding Mortgages on Condominium Units which have appurtenant at least fifty-one percent (51%) of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees. Within thirty (30) days after the Committee has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Association (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Committee or Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Condominium Unit is the subject of a Mortgage shall be made

jointly to such Owner and the interested Mortgagee. In the event the cost of Restoration exceeds Available Funds, all of the Units shall be assessed for the deficiency on the basis of their respective percentages of undivided ownership interest in the Common Areas. In the event that all or any portion of one or more Units will not be the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Units in accordance with the method set forth in Section 4 of this Article III.

29. Sale of Project. Unless Restoration is accomplished in accordance with the foregoing Section 28, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, condominium ownership under this Declaration and the Survey Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion of their respective undivided interests in the Common Areas. Payment to any owner whose Condominium Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

30. Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Unit Owners and their mortgagees as their interests may appear. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Condominium Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds, or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

31. Consent in Lieu of Vote. In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the stated percentage of undivided ownership interest. The following additional provisions shall govern any application of this Section 31:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) Any change in ownership of a Condominium Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

(c) Unless the consent of all owners having an interest in the same Unit is secured, the consent of none of such Owners shall be effective.

33. Mortgage Protection. The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Association of Unit Owners pursuant to this Declaration or the Act shall be subordinate to any Mortgage recorded on or before the date of such assessments or charges become due.

The lien or claim against a Condominium Unit for such unpaid assessments or charges shall not be affected by any sale or transfer of such Condominium Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available thereunder shall extinguish a subordinate lien for such assessments or charges which became payable prior to such sale or transfer. Nevertheless, any such unpaid assessments or charges which are extinguished in accordance with the foregoing sentence may be reallocated and assessed to all Condominium Units as Common Expenses. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit from the lien of, any assessments or charges becoming due thereafter.

The Committee or the Association shall make available to Unit Owners, to lenders, and to holders, insurers, and guarantors of any Mortgage current copies of this Declaration, the Survey Map, Association Bylaws and other rules concerning the Project, and the books, records, and financial statements of the Committee and the Association. "Available", as used in this Paragraph, shall mean available for inspection upon request during normal business hours or under other reasonable circumstances.

In the event that the Project comes to contain fifty (50) or more Condominium Units, any holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to an audited financial statement of the Association for the immediately preceding fiscal year free of charge to the party so requesting. So long as the Project contains less than fifty (50) Condominium Units, the holders of fifty-one (51) or more of the Mortgages shall be entitled to have such an audited statement prepared at their expense if one is not otherwise available. Any financial statement requested pursuant to either of the immediately

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foregoing two sentences shall be furnished to the requesting party within a reasonable time following such request.

Until the happening of the event described in the last Paragraph of Section 14 of this Article III, any agreement for professional management of the Condominium Project and any contract or lease, including franchises and licenses, which is entered into by the Management Committee or the Association or to which the Management Committee or the Association is a party shall provide that either party, with or without cause and without payment of any termination fee or being subject to any penalty, may terminate same upon not in excess of ninety (90) days written notice to the other party thereto, except that such agreements for professional management shall be terminable on the same basis upon not in excess of thirty (30) days written notice and shall have a maximum term of one (1) year.

Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Unit Number or address of the Unit encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder, insurer, or guarantor shall be deemed thereafter to be an Eligible Mortgagee or Eligible Insurer or Guarantor (as the case may be), shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Mortgagee or such Eligible Insurer or Guarantor.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium Unit subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee or such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of 60 days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the Association.

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Sections 27, 29, and 34 of this Article III.

The right of any Unit Owner to sell, transfer, or otherwise convey his or her Condominium Unit shall not be subject to any right of first refusal or similar restriction.

35. Amendment. Except as provided in and/or subject to the terms of items (a) through (d) below, the vote of at least 67% of the undivided ownership interest in the Common Areas and Facilities shall be required and shall be sufficient to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee on behalf of the Association. In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgages is required for such amendment, that such approval has been obtained. The foregoing right of amendment shall, however, be subject to the following:

(a) Until the happening of the event described in the last Paragraph of Section 8 of this Article III, no amendment to the Survey Map or to any provision of this Declaration which has or may have the effect of diminishing or impairing any right, power, privilege, protection, or control accorded to Declarant (in its capacity as Declarant) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant.

(b) The consent of Eligible Mortgagees holding Mortgages on Condominium Units which have appurtenant at least 67% of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project as a condominium.

(c) The consent of Eligible Mortgagees holding Mortgages, or Eligible Insurers or Guarantors insuring or guaranteeing Mortgages on Condominium Units which have appurtenant at least 51% of the undivided ownership interest in the Common Areas and Facilities which is then subject to mortgages held by Eligible Mortgagees or insured by Eligible Insurers or Guarantors shall be required to add to or amend any material provision of this Declaration or the Survey Map which establishes, provides for, governs, or regulates any of the following: (i) voting rights; (ii) assessments, assessment liens, or subordination of assessment liens; (iii) reserves for maintenance, repair, and replacement of the Common Areas and Facilities; (iv) insurance or fidelity bonds; (v) rights to use of the Common Areas and Facilities; (vi) responsibility for maintenance and repair of the several portions of the Project; (vii) the boundaries of any Unit; (viii) the interests in the Common Areas and Facilities or Limited Common Areas; (ix) convertability of Units into Common Areas or of Common Areas into Units; (x) leasing of Condominium Units; (xi) imposition of any restrictions on the right of a Unit Owner to sell, transfer, or otherwise convey

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September 2, 1987

his or her Condominium Unit; (xii) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; (xiii) insurance or fidelity bonds; (xiv) imposition of any restrictions on an Owner's right to sell or transfer his Unit; (xv) restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified herein; and (xvi) any action to terminate the legal status of the Project after substantial destruction or condemnation occurs. An addition or amendment shall not be considered material for purposes of this Paragraph (c) if it is for the purpose of correcting technical errors or for clarification only. Any Eligible Mortgagee, Insurer or Guarantor, to whom a written request to approve an addition or amendment to this Declaration or the Survey Map (or to approve a decision of the Owners and/or the Committee with respect to the nature of Restoration under Section 27(d) hereof or a decision not to undertake Restoration pursuant to Section 29 hereof) is mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association and who does not deliver to the Committee or the Association a negative response within 30 days from the date of such mailing shall be deemed to have approved such request.

(d) The consent of the Veterans Administration, as per applicable regulations of the Veterans Administration, shall be required to add to or amend any material provision of this Declaration or the Survey Map which establishes, provides for, governs, or regulates any of the following: (i) termination of the legal status of the Project as a condominium; (ii) insurance or fidelity bonds; (iii) convertability of Units into Common Areas or of Common Areas into Units; (iv) leasing of Condominium Units; and (v) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Condominium Unit.

The consent requirements set forth in the foregoing items (b), (c), and (d) of this Section shall not be applicable to amendments to this Declaration and the Survey Map or to termination of the legal status of the Project as a condominium if such amendments or such termination are made or accomplished in accordance with the provisions of Sections 27 through 31 of this Article III in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence.

36. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer, or assignment.

37. Interpretation. To the extent the provisions of the Act are consistent with this Declaration, such provisions shall

supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

38. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all other signatories hereto, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Condominium Units shall be subject to, the terms of this Declaration and the provisions of any rules, bylaws, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

39. Enforcement. Subject to the provisions of Section 25 of this Article III, the Declarant, the Association, and any aggrieved Unit Owner shall have a right of action against the Declarant, the Association, or any unit Owner for any failure by such person or entity to comply with this Declaration, the Survey Map, or the provisions of any rules, regulations, agreements, instruments, supplements, amendments, or determinations contemplated by this Declaration.

40. Agent for Service of Process. David C. Cook whose address is 339 Park Avenue, Unit B, Park City, Utah 84060, is the person to receive service of process in the cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Summit County, State of Utah.

41. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Survey Map shall take effect upon its being filed for record in the office of the County Recorder of Summit County, Utah.

EXECUTED by Declarant on this 3rd day of Sept.,
1987.

DECLARANT

David C. Cook
DAVID C. COOK

STATE OF UTAH)
COUNTY OF Summit :ss.

On this 3rd day of Sept, 1987, personally
appeared before me David C. Cook, who being by me duly sworn did
acknowledge to me that he executed the foregoing Declaration of
Condominium.

My Commission Expires:

Nov. 1990

Gerald D. Ashton
NOTARY PUBLIC

Residing at: Salt Lake City, UT

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September 2, 1987

APPROVAL BY CITY

PARK CITY, a body corporate and politic and the City in which The John Doyle House Condominiums are or are to be located, by and through its duly elected mayor, does hereby give final approval to the said project, to the foregoing Declaration of Condominium, to the Record of Survey Map recorded concurrently with said Declaration, and to the attributes of the said Project which are mentioned in Section 57-8-35(3) of the Utah Condominium Ownership Act.

DATED this _____ day of _____, 1987

PARK CITY

By Signature not required for
Mayor approval as recorded
See Area Planning Dept.

ATTEST:

Recorder

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On this _____ day of _____, 1987, personally appeared before me _____ and _____, who being by me duly sworn did say that they are the Mayor and Recorder, respectively, of Park City, Utah, a municipal corporation of the State of Utah, and that they signed the foregoing Approval by proper authority, and each did acknowledge to me that said City executed the same.

My Commission Expires: _____

NOTARY PUBLIC
Residing at: _____

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September 2, 1987

CONSENT TO RECORDATION BY MORTGAGEE

Silver King State Bank, a lien holder on the property described in Article II of this Declaration by virtue of a Deed of Trust, hereby consents to the recordation of this Declaration and accompanying Bylaws and Record of Survey Map; provided, however, that in so doing it shall not be deemed either a Declarant or developer of the Project.

DATED this 3rd day of Sept, 1987.

SILVER KING STATE BANK

By Gerald Ashton
Its Mortgage Dept mgr

STATE OF UTAH)
COUNTY OF Summit) ss.

On this 3 day of Sept, 1987, personally appeared before me Gerald Ashton, who being by me duly sworn, did say that he is a Mgr of Silver King State Bank, a corporation of the United States, and that the foregoing "Consent to Recordation by Mortgagee" was signed by him in behalf of said corporation by authority of a resolution of its Board of Directors.

My Commission Expires:

11-6-87

Wanda Chamberlain
NOTARY PUBLIC
Residing at KAMAS UTAH

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EXHIBIT "A"
TO
DECLARATION OF CONDOMINIUM OF THE
THE JOHN DOYLE HOUSE CONDOMINIUMS

<u>Unit No.</u>	<u>Square Footage</u>	<u>Ownership Percentage</u>	<u>Votes</u>
A	731.5 feet	35.5%	35.5
B	896.5 feet	43.5%	43.5
C	427.5 feet	21.0%	21.0

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September 2, 1987



July 3, 2017

RE: 339 Park Avenue, Park City, Utah – Property Evaluation Certification Letter

To Whom It May Concern:

At the request of the owner of record Chris Casey (Quit Claim Deed, Entry Number 841227, Summit County Recorder's Office), an evaluation was completed on the property located at 339 Park Avenue, Park City, Summit County, Utah (Parcel JDH-A, JDH-B and JDH-C), to determine if the existing structure and/or property has been modified, following the completion of a Record of Survey Map entitled "The John Doyle House Condominiums", Entry Number 291062, as recorded in the Summit County Recorder's Office. Said property is further located in Block 3, Park City Survey, Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Said evaluation was also completed at the request of the Park City Municipal Corporation Planning Department, pursuant with the owner's intent to abandon the existing condominium plat for a single family residence parcel.

The following findings are from the field work that was completed on Tuesday, June 27, 2017:

1. The two rear property corners set by Alliance Engineering were found, per the record plat.
2. All site and building exterior dimensions are consistent with the record The John Doyle House Condominiums plat.
3. The exterior building footprint has not been altered, except for the removal of the stairs and landings located at the rear of the building.
4. The measured interior dimensions and square footage for the Ground, First and Second floors, are consistent with the record The John Doyle House Condominiums plat.
5. The measured dimensions of the third floor are not consistent with those published on The John Doyle House Condominiums plat and appear to have been altered after the plat was recorded. The Third floor has record square footage of approximately 434.8 feet, with a measured square footage of approximately 655.2 feet.
6. Aerial pictures (Exhibit Sheet 1) and exterior site pictures (Exhibit Sheet 2 and 3) are attached.
7. No encroachments appear to exist on this property, with the parcel boundary consistent with The John Doyle House Condominiums plat. However, a title report was not reviewed or a Record of Survey completed by Epic Engineering to determine encroachments or boundary concerns.
8. The record legal description is per the current conveyance and ownership document: Quit Claim Deed, Entry Number 841227, as recorded in the Summit County Recorder's Office.
9. The proposed or new legal description is as follows:

"Lot X, formerly known as Lot 10, Block 3, Park City Survey, Summit County, Utah."

This letter and the attached exhibit (3 Sheets) is intended to certify that the above information gathered during the property evaluation conducted on the aforementioned property located at 339 Park Avenue, Park City, Utah, is true and correct. As mentioned, a published title report or current Record of Survey on said parcel has not been evaluated, and therefore could not be taken in to account during this evaluation.

Please contact me with any questions or concerns at 801-955-5605 or via email at pchristensen@epiceng.net.

Respectfully,

Phil Christensen

Phillip R. Christensen, PLS
Epic Engineering, P.C.



339 PARK AVENUE THE JOHN DOYLE HOUSE CONDOMINIUMS

LOCATED IN THE:
BLOCK 3, PARK CITY SURVEY
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

EXHIBIT - AERIAL VIEW



EXISTING / SURROUNDING STRUCTURES AND PROPERTIES



EXISTING STRUCTURE AND PROPERTY

N:\PROJECTS\2017 SM PROJECTS\339 PARK AVENUE\DWGS\339 AVE EXHIBIT.DWG



3341 South 4000 West
West Valley, Utah 84120
(801)955-5605
50 East 100 South
Heber City, Utah 84032
(435)654-6600

PROJECT NAME:

339 PARK AVENUE
THE JOHN DOYLE HOUSE CONDOMINIUMS

PROJECT LOCATION:

PARK CITY, SUMMIT COUNTY, UTAH

SCALE:

NOT TO SCALE

DRAWN: PC
DESIGNER: PC
REVIEWED: AP
DATE: 07/03/2017

PROJECT #
17SM3010
SHEET:
1 of 3

339 PARK AVENUE THE JOHN DOYLE HOUSE CONDOMINIUMS

LOCATED IN THE:
BLOCK 3, PARK CITY SURVEY
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

EXHIBIT - FRONT BUILDING



DECK AND UPPER THREE FLOORS



GARAGE AT GROND FLOOR



SOUTHEAST CORNER



NORTHEAST CORNER

N:\PROJECTS\2017 SM PROJECTS\339 PARK AVE\DWGS\339 AVE EXHIBIT.DWG



PROJECT NAME:

339 PARK AVENUE
THE JOHN DOYLE HOUSE CONDOMINIUMS

PROJECT LOCATION:

PARK CITY, SUMMIT COUNTY, UTAH

SCALE:

NOT TO SCALE

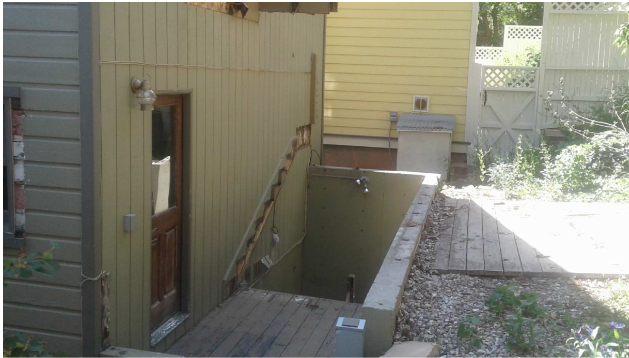
DRAWN: PC
DESIGNER: PC
REVIEWED: AP
DATE: 07/03/2017

PROJECT #
17SM3010
SHEET:
2 of 3

339 PARK AVENUE THE JOHN DOYLE HOUSE CONDOMINIUMS

LOCATED IN THE:
BLOCK 3, PARK CITY SURVEY
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

EXHIBIT - REAR AND SIDES BUILDING



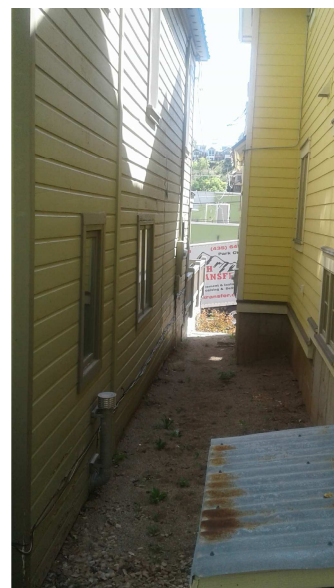
**FIRST FLOOR REAR ENTRANCE
AND WEST SIDE PROPERTY**



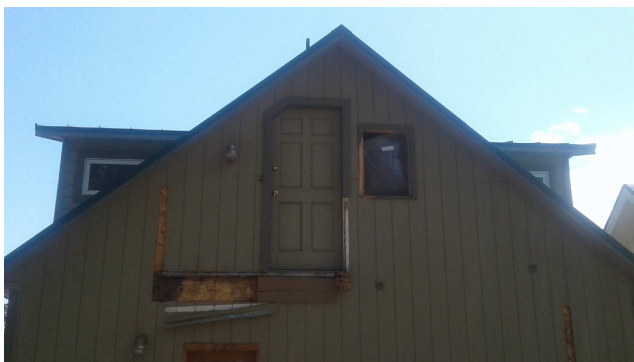
NORTH SIDE



SECOND AND THIRD FLOOR REAR ENTRANCES



SOUTH SIDE



THIRD FLOOR REAR ENTRANCE

N:\PROJECTS\2017 SM PROJECTS\339 PARK AVE\DWGS\339 AVE EXHIBIT.DWG



epic
ENGINEERING
3341 South 4000 West
West Valley, Utah 84120
(801)955-5605
50 East 100 South
Heber City, Utah 84032
(435)654-6600

PROJECT NAME:

**339 PARK AVENUE
THE JOHN DOYLE HOUSE CONDOMINIUMS**

PROJECT LOCATION:

PARK CITY, SUMMIT COUNTY, UTAH

SCALE:

NOT TO SCALE

DRAWN: PC
DESIGNER: PC
REVIEWED: AP
DATE: 07/03/2017

PROJECT #
17SM3010
SHEET:
3 of 3



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

On September 22, 2017 staff received a Film Permit from Fire and Ice Productions for use/activity at Park City Film Studios. The request included the use of Richardson Flat Park and Ride Lot for additional parking for cast and crew members.

Under the Administrative Conditional Use Permit (Admin CUP) for Phase One of the Park City Film Studios, condition 21 states:

A Traffic Management Plan for special events and activities at the property shall be reviewed by the City's Special Events Staff and Police Departments of Transportation and Public Safety and all necessary special event permits and/or conditional use permits shall be obtained prior to the commencement of the event or activity. Use of the City's Richardson Flat Road Park and Ride shall be permitted only with specific approval granted by the City Council.

Staff recommends that Council approve the use of Richardson Flats Park & Ride for Fire and Ice Productions from October 8 through December 20, and enter into a License Agreement for Temporary Parking to in order to mitigate parking and traffic generated by this temporary use. The use of this lot for such activities is consistent with previous lease of Richardson Flat lot.

Respectfully:

Jennifer Diersen,

City Council Staff Report



Subject: Approval of Richardson Flat Park & Ride Use Agreement for Fire and Ice Productions at Park City Film Studios
Author: Jenny Diersen, Special Events & Economic Development Program Manager
Department: Economic Development
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendation

Staff recommends Council hold a public hearing, review and approve the use of the Richardson Flat Park & Ride for Fire and Ice Productions a film production at Park City Film Studios from October 8 to December 20, 2017 and authorize the City Manager to enter into a License Agreement for Temporary Parking in a form approved by the City Attorney.

Executive Summary

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Acronyms

Admin CUP Administrative Conditional Use Permit

The Problem and the Opportunity

The condition of approval requiring City Council approval for the use of the Richardson Flat Park and Ride leaves a small amount of time to come up with the best possible

transportation plan when requested for activity/use in association with the Park City Film Studios. Film activities often pop up quickly and change just as frequently. Rather than require return to Council for each request, Special Event staff recommends an approval for a specific time period (October 8th to December 20) pursuant to conditions.

Fire and Ice Productions is an important film production to the Utah Governor's Office of Economic Development and Utah Film Commission. It is the largest film production that the state has seen, bringing an estimated forty million dollars (\$40,000,000) in economic impact to Summit County specifically. It is likely that this production will continue seasons providing further economic opportunities in the future.

Background

- Staff received a Film Permit from Fire and Ice Productions for a 10 episode series called *Yellowstone* on September 22, 2017. The Film Permit is for specific outdoor activity at Park City Film Studios from October 8 to December 20th.
- As staff coordinated, they became aware of Condition 21 of the Admin CUP for the use of Richardson Flat Park and Ride in association with the Park City Film Studio on September 27, 2017.
- Fire and Ice Productions has permitted additional filming activities throughout the State of Utah for *Yellowstone*, but more specifically within Summit County. Use of Richardson Flat Park and Ride was permitted for last weekend through one of these other filming permits.

Analysis

After reviewing the Fire and Ice Productions Film Permit, staff has evaluated the Parking and Transportation Plan and recommends that the Richardson Flat Park and Ride be used for additional parking for cast and crew members during the filming for October 8 to December 20, 2017.

- Fire and Ice Productions will provide shuttle services between Park City Film Studio and Richardson Flat Park and Ride.
- Staff will require that Fire and Ice Productions provide no less than five business days advanced notice of when they are using the Richardson Flat Park and Ride specifically, however, staff recommends that Council allow the use of such parking lots for parking during the dates as requested.
- Staff has attached a DRAFT License Agreement for Temporary Parking as Exhibit A.

Additionally, Council should discuss if staff should return to frame a long-term approval for Park City Film Studios to allow Special Event and Transportation staff to administratively approve the use of Richardson Flat Park and Ride with a License Agreement. If not, staff will continue to return to Council for Richardson Flat Park and Ride use associated with Park City Film Studios on a case by case basis, until parking is again addressed via the Administrative Conditional Use process upon the next phase/application for the project.

Alternatives for City Council to Consider

1. Recommended Alternative:

Staff recommends Council hold a public hearing, review and approve the use of the Richardson Flat Park & Ride for Fire and Ice Productions a film production at Park City Film Studios from October 8 to December 20, 2017 and authorize the City Manager to enter into a License Agreement for Temporary Parking in a form approved by the City Attorney.

Pros

- a. Staff believes the donation and maintenance contract align with [City Council's goals](#) of providing a complete community that values economic diversity and arts and culture, creating engaged and effective government, and a thriving mountain community.
- b. Approval of the use of Richardson Flats Park and Ride, support's Council's critical goal of reducing traffic and associated congestion.
- c. Approval of this use supports a project that is important to the Governor's Office of Economic Development and Utah Film Commission.

Consequences of Selecting This Alternative

Alternative parking and transportation plans for Fire and Ice Productions would cause more traffic and congestion than the current proposed plan. If the License Agreement for Temporary Parking for Fire and Ice Productions at the Film Studio were not approved, the production would likely spread parking at other temporary filming and nearby locations. Ultimately, if sufficient parking is not found, the production may re-evaluate whether to continue to film in the area and the studio.

2. Continue the Item Alternative: The City Council may continue the item for more information or discussion.

Cons:

- a. This will postpone the use of Richardson Flats Park & Ride for the Yellowstone Film Activity. The applicant would be required to find alternate parking locations for their filming activity, which may cause increased traffic and congestion.

3. Deny Alternative:

City Council could deny the use of Richardson Flats Park and Ride and the License Agreement for Temporary Parking.

Cons

- a. The applicant would be required to find parking in an alternate location, which may cause increased traffic and congestion.
- b. If an alternate parking and transportation plan could not be found, staff would deny the Film Permit for Fire and Ice Productions until a sufficient parking plan is submitted.

Department Review

Economic Development, Planning, Public Works, Transportation Planning, Budget, Legal and Executive have reviewed this report and their comments have been incorporated.

Funding Source

No funding is required from the City. Revenues received from the License Agreement for Temporary Parking go to the Parking and Transportation Fund.

Attachments

Exhibit A DRAFT License Agreement for Temporary Parking for Fire and Ice Productions

LICENSE AGREEMENT FOR TEMPORARY PARKING

This Agreement is made this ____ day of _____, 2017, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (“City”) and FIRE AND ICE PRODUCTIONS INC. a Utah corporation, (“Licensee”) to set forth the terms and conditions under which Licensee may temporarily use property owned by the City in Summit County, Utah. City and Licensee are referred to in this agreement individually as a “Party” and collectively as “Parties.”

WHEREAS, employee parking benefits the residents and visitors of Park City and Summit County as a traffic mitigation tool; and

WHEREAS, one of the goals of the City is reduce traffic impacts of large developments and special events in Park City;

NOW THEREFORE, based upon mutual consideration herein, the adequacy of which is hereby acknowledged, the City and Licensee agree as follows:

1. **Property.** The area known as the existing Richardson Flat Park and Ride Lot in Summit County, Utah (the Property), which property is more particularly described in **Exhibit “A”** attached hereto and incorporated herein, (the “Property”).
2. **Commencement Date.** This License Agreement for Temporary Parking shall be valid upon execution by the Parties.
3. **Term** The License shall be valid from **8th day of October, 2017** until **December 20, 2017**, unless revoked earlier or extended by City in writing. Revocation or extension may be given by delivering three (3) days written notice to the Licensee.
4. **Use of the Property.** Consistent with the terms and conditions of the Ground Lease dated April 30, 2010, attached hereto as **Exhibit “B”** and incorporated herein, Licensee is hereby granted a revocable License to non-exclusive use of the Property for parking consistent with the Construction Mitigation Plan and Flagstaff Annexation Agreement. Licensee may not charge for said parking and shall restrict such parking to buses and permitted employees only. City shall be responsible for the operation of lighting, lot pavement sweeping, snow removal, trash removal, and access to the Property. The current parking area may not be expanded. Bus or shuttle transportation to or from the lot shall be organized, managed and paid for by the Licensee.

The following conditions apply to use of the property

- a) Lot shall be open from **5:30 a.m. to 5:30 a.m.** each day.
- b) Licensee shall comply with all Summit County laws and regulations in the use of the lot, including obtaining required permits for any temporary structures placed on lot.

- c) Licensee shall have access to five hundred (500) spaces only.
- d) Licensee shall pay in full all City user fees for lighting, lot sweeping, snow removal, trash removal, sanitation and access control required during use of the parking. For use of the parking lot, Licensee shall pay the City Six Thousand Dollars \$6,000.00 due October 7, 2017.
- e) No parking of, multiple axle trucks, equipment, or tractor trailers is allowed in the lot.
- f) No storage of equipment, supplies, or materials is allowed in the lot.
- g) Buses and shuttles will be operated only on park and ride access road and designated bus drop off pickup road (as depicted in **Exhibit "C"** attached hereto and incorporated herein).
- h) Licensee shall be responsible for security of lot users and vehicles.

5. **Indemnity.** Licensee covenants and agrees to indemnify, hold harmless and defend the City, its agents and employees, from all fines, suits, claims, demands and actions of any kind including attorney fees by reason of any and all of its operations hereunder and agrees to assume all the risk in using the Property and is solely responsible and answerable in damages for any and all accidents or injuries to person or property. Nothing herein shall apply to the intentional torts of the City.

These provisions have been mutually negotiated by the Parties, and are expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement. Nothing herein shall waive or limit any defense, requirement or limitation in the Governmental Immunity Act of Utah.

6. **Insurance.** Licensee shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the uses hereunder by Licensee, their agents, representatives, employees, volunteers or subcontractors.

Licensee shall provide a Certificate of Insurance evidencing:

- A. Automobile Liability insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
- B. Commercial General Liability insurance written on an occurrence basis with limits no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage.
- C. Worker's Compensation insurance limits written as follows:
Bodily Injury By Accident Five Hundred Thousand Dollars (\$500,000) each accident;
Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee, Five Hundred Thousand Dollar (\$500,000) policy limit.
- D. The City shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the

Certificate of Insurance. The Licensee shall provide City with thirty (30) days advanced written notice of cancellation. The City reserves the right to request certified copies of any required policies.

Licensee's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7. **Assignment/Sublease.** This License may not be assigned or the Property sublet.

8. **Entire Agreement.** This Agreement constitutes the entire and only agreement between the parties and it cannot be altered except by written instrument, signed by both Parties.

DATED THIS _____ day of _____, 2017.

PARK CITY MUNICIPAL CORPORATION

Diane Foster, City Manager

Attest:

City Recorder

Approved as to Form:

Thomas A. Daley, Deputy City Attorney

Licensee:

FIRE AND ICE PRODUCTIONS INC.a Utah
corporation

Signature

Name Printed:

Title: _____

STATE OF UTAH)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2017, personally appeared before me
_____, whose identity is personally known to me/or
proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that
he/she is the _____ FIRE AND ICE PRODUCTIONS INC. a
Utah corporation, by Authority of its Bylaws/Resolution of the Board of Directors, and said
_____ acknowledged to me that he/she executed the same on
behalf of the Corporation.

Notary Public

EXHIBIT A

RICHARDSON FLAT 30-ACRE PARCEL

A parcel of land located in the west half of Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at point that is South 00°34'37" West 1576.63 feet along section line and East 945.28 feet from the northwest corner of Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 77°11'28" East 994.74 feet; thence South 34°18'26" East 855.13 feet; thence South 57°47'58" West 285.31 feet; thence South 10°16'00" East 253.35 feet; thence South 79°44'00" West 60.00 feet; thence North 10°16'00" West 229.19 feet; thence South 57°47'58" West 172.70 feet; thence North 77°12'02" West 1251.75 feet; thence North 12°48'25" East 951.79 feet to the point of beginning.

License Agreement for Temporary Parking

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1 (NORTH A)

A PARCEL OF LAND LOCATED IN THE EAST HALF OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS SOUTH 00°31'05" WEST 1723.83 FEET ALONG THE QUARTER SECTION LINE FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG PARCEL SS-91-A- NORTH 25°20'00" EAST 568.78 FEET, MORE OR LESS TO THE WESTERLY RIGHT-OF-WAY OF A UTAH DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY THENCE ALONG SAID RIGHT-OF-WAY SOUTH 07°04'23" EAST 972.39 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY OF THE ABANDONED UNION PACIFIC RAILROAD RIGHT-OF-WAY; THENCE ALONG SAID ABANDONED RAILROAD RIGHT-OF-WAY SOUTH 34°31'10" WEST 656.58 FEET, MORE OR LESS, TO THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 2; THENCE ALONG THE NORTH-SOUTH QUARTER SECTION LINE NORTH 00°31'05" EAST 991.93 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2 (NORTH B)

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, ALL IN SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS SOUTH 00°31'05" WEST 2894.59 FEET ALONG THE QUARTER SECTION LINE FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE SOUTHERLY BOUNDARY OF THE ABANDONED UNION PACIFIC RAILROAD NORTH 34°31'10" EAST 692.17 FEET, MORE OR LESS TO THE WESTERLY BOUNDARY OF A UTAH DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY; THENCE ALONG THE WESTERLY BOUNDARY OF SAID RIGHT-OF-WAY THE FOLLOWING THREE (3) COURSES: 1) SOUTH 07°04'23" EAST 119.30 FEET, MORE OR LESS; THENCE 2) SOUTH 18°22'59" EAST 203.96 FEET, MORE OR LESS; THENCE 3) SOUTH 07°04'23" EAST 643.87 FEET, MORE OR LESS, TO THE NORTHERLY BOUNDARY OF COUNTY ROAD F.A.P. 93-B; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID COUNTY ROAD F.A.P. 93-B THE FOLLOWING THREE (3) COURSES: 1) NORTH 84°12'19" WEST 410.32 FEET, MORE OR LESS, TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 2914.90 FEET, OF WHICH

License Agreement for Temporary Parking

THE RADIUS POINT BEARS SOUTH 05°47'41" WEST; THENCE 2) WESTERLY ALONG THE ARC OF SAID CURVE 261.16 FEET, MORE OR LESS, THROUGH A CENTRAL ANGLE OF 05°08'00"; THENCE 3) NORTH 89°20'19" WEST 53.14 FEET, MORE OR LESS, TO THE SOUTHERLY BOUNDARY OF THE ABANDONED UNION PACIFIC RAILROAD RIGHT-OF-WAY, SAID POINT ALSO BEING ON A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1532.69 FEET, OF WHICH THE RADIUS POINT BEARS NORTH 49°42'44" WEST; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID RAILROAD RIGHT-OF-WAY THE FOLLOWING (3) COURSES: 1) NORTHEASTERLY ALONG THE ARC OF SAID CURVE 154.31 FEET, MORE OR LESS, THROUGH A CENTRAL ANGLE OF 05°46'06"; THENCE 2) NORTH 34°31'10" EAST 135.85 FEET, MORE OR LESS; THENCE 3) NORTH 00°31'05" EAST 89.41 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 3 (CORNER PARCEL)

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, SAID POINT IS LOCATED NORTH 00°27'36" WEST 1312.58 FEET ALONG SECTION LINE AND SOUTH 89°17'57" EAST 1341.02 FEET FROM THE SOUTHWEST CORNER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2 NORTH 00°02'01" EAST 90.30 FEET; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE ABANDONED UNION PACIFIC RAILROAD NORTH 68°35'10" EAST 611.92 FEET TO A POINT ON A 1532.69 FOOT RADIUS CURVE TO THE LEFT, OF WHICH THE RADIUS POINT BEARS NORTH 21°24'50" WEST; THENCE ALONG THE ARC OF SAID CURVE AND THE UNION PACIFIC RAILROAD RIGHT-OF-WAY 622.07 FEET THROUGH A CENTRAL ANGLE OF 23°15'16"; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF THE COUNTY ROAD (UDOT F.A.P. 93-B) SOUTH 89°20'19" EAST 143.65 FEET TO A POINT ON A 2814.90 FOOT RADIUS CURVE TO THE RIGHT OF WHICH THE RADIUS POINT BEARS SOUTH 00°39'41" WEST; THENCE ALONG THE ARC OF SAID CURVE AND THE COUNTY ROAD RIGHT-OF-WAY 252.20 FEET THROUGH A CENTRAL ANGLE OF 05°08'00"; THENCE ALONG THE COUNTY ROAD RIGHT-OF-WAY SOUTH 84°12'19" EAST 300.22 FEET TO AN EXISTING RIGHT-OF-WAY MONUMENT; THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE FRONTAGE ROAD OF HIGHWAY US-40 SOUTH 07°01'44" EAST 625.34 FEET; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2 SOUTH 89°58'53" WEST 517.28 FEET; THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2 NORTH 89°17'57" WEST 1341.02 FEET TO THE POINT OF BEGINNING.

(Part of Tax Serial No. SS-88)

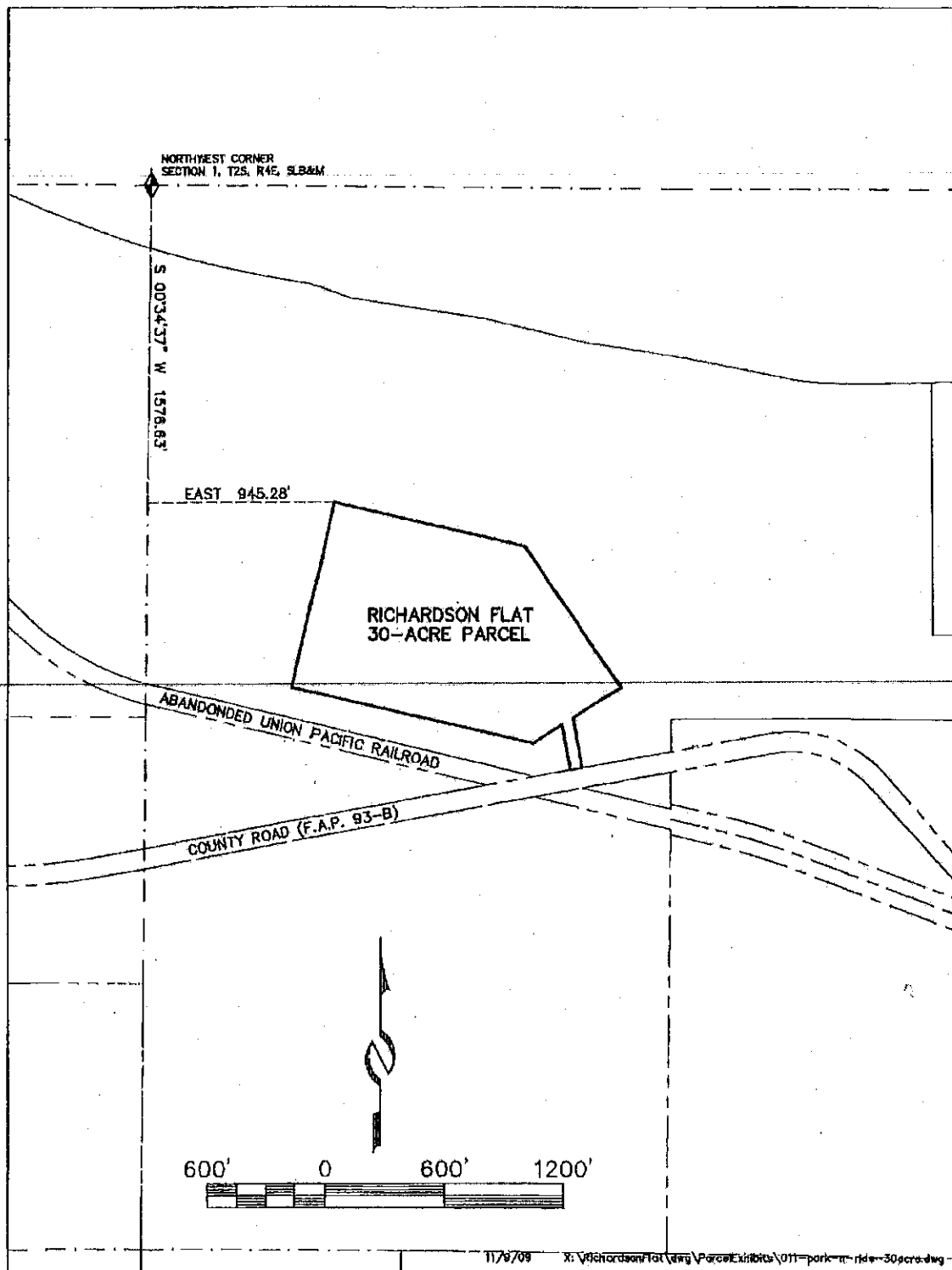


EXHIBIT A
PAGE 4

EXHIBIT B

GROUND LEASE

between

UNITED PARK CITY MINES COMPANY
("Landlord")

and

PARK CITY MUNICIPAL CORPORATION
("Tenant")

dated as of

April 30, 2010

GROUND LEASE

THIS GROUND LEASE (the "Lease") is made and entered into this 30th day of April, 2010 (the "Effective Date") by and between United Park City Mines Company, a Delaware Corporation ("Landlord") and Park City Municipal Corporation, a political subdivision in the State of Utah (the "City" or "Tenant"). Landlord and Tenant are sometimes collectively referred to as the "Parties."

RECITALS

A. The Parties are signatories to an Amended & Restated Development Agreement dated March 2, 2007 (the "Development Agreement").

B. Section 3.1 and related Schedule 3.1 of the Development Agreement contain certain provisions related to a 30-acre parcel which is to be deeded or leased to the City. This Lease is in fulfillment of, and is implemented pursuant to, those provisions.

C. The Premises described herein are subject to the requirements of that certain Consent Decree (the "Consent Decree") between United Park City Mines and the United States Environmental Protection Agency approved by the United States District Court for the District of Utah on October 4, 2007, a copy of which has been provided to Tenant by Landlord.

TERMS & CONDITIONS OF LEASE

NOW THEREFORE, in consideration of the mutual promises of Landlord and Tenant, and for other good and valuable consideration, Landlord and Tenant agree as follows:

1. LEASED PREMESIS AND RENT

1.01 For the payment of One Dollar (\$1.00), Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that improved parking lot and surface use rights as defined herein on the parcel of land more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, together with all improvements thereon and appurtenances related thereto (collectively, the "Premises"). Nothing herein shall be interpreted to include any Hazardous Material within the Premises.

1.02 Except for: 1) the existing Development Improvement Agreement with Summit County dated July 18, 2008, and the associated Parking Lot Pavement Warranty (as described in the letter from Derek Radke, Summit County Engineer, dated February 2, 2010), which obligations shall remain with Landlord; 2) as otherwise expressly provided in this Lease; and 3) subject to the Landlord's indemnity in Section 7.03 below; Tenant hereby accepts the Premises from Landlord on an "AS-IS," "WHERE-IS" basis, without any representations or warranties from Landlord, and subject to all physical conditions of the Premises, whether known or unknown.

2. DURATION OF LEASE

2.01 The term of this Lease shall commence on the date hereof and shall continue for a period of Ninety-Nine (99) years (the "Term").

2.02 Tenant may by right extend the term of this Lease on the same terms and conditions as provided herein for an additional term of Ninety-Nine (99) years (the "Renewal Term") by sending Landlord written notice of the exercise of this renewal option not less than 12 months prior to the expiration of the Initial Term. Upon such receipt of written notice, the Lease shall be renewed for the Renewal Term.

3. USE OF THE PREMISES, AND LANDLORD'S RESERVED RIGHTS AND OBLIGATIONS

3.1 The Premises shall be used by the Tenant only for ball fields or similar recreational spaces, and improvements related thereto, and parking (the "Permitted Uses"). Landlord has constructed a Park & Ride facility and related improvements on the Premises comprising 750 parking spaces which will accommodate (i) segregated Montage Hotel and Empire Pass parking (up to 100 spaces) the access and use of which is reserved to Landlord, and (ii) parking for the City (up to 650 spaces) which may also be used by the City for reasonable ancillary uses such as special events. This parking area also serves as the location for Montage Hotel construction parking, and the Landlord or Montage Hotel shall be responsible for providing or arranging construction parking shuttles. Landlord has the exclusive right to name the ball fields or similar recreational spaces, and will not select a name that is inappropriate.

3.2 Subject to the use rights and restrictions specified herein, Tenant shall control the use of and access to the Premises. Landlord shall have access to the Premises as may be necessary to conduct restoration and reclamation activities including, without limitation, any activities directed by any federal or state agency with jurisdiction over the Premises.

3.3 Landlord shall not perform any act or omission in relation to the Premises that is materially inconsistent with or which will materially impair Tenant's actual utilization of the permitted uses under this Lease; provided, however, that nothing in this provision shall be construed to prevent Landlord from complying with any Environmental Law or any other applicable law, rule, regulation or order. Landlord shall provide Tenant written notice of any certificate of completion, violation notice, or any material modification of the Consent Decree in relation to the Premises.

4. COSTS AND EXPENSES

Tenant shall, during the Term of this Lease, be responsible for and shall pay all costs and expenses of any kind or nature whatsoever related to the Premises and the use, occupancy, improvement and operation thereof, including, without limitation, all assessments, utilities, taxes, operating and maintenance costs, and other charges, costs and expenses of every kind and nature whatsoever, extraordinary as well as ordinary. The precise layout and costs of any kind associated with the ball fields or similar recreational spaces, and improvements related thereto, are the Tenant's responsibility.

5. LIENS

Tenant shall not permit any lien to be filed against the Premises or any interest of Landlord or Tenant that remains more than sixty (60) days after it has been filed. Tenant shall cause any such lien to be discharged of record by payment, deposit, bond, order if a court of competent jurisdiction, or as otherwise permitted by law. If Tenant fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the lien by paying the amount in question. Tenant may, at Tenant's expense, contest the validity of any such asserted lien, provided Tenant has furnished a bond in an amount sufficient to release the Premises from such lien. Any amounts paid by Landlord to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Tenant upon demand.

6. MAINTENANCE AND USE

6.01 Tenant shall, at Tenant's sole expense, use, occupy, operate and maintain the Premises in accordance with applicable laws, and consistent with the terms of this Lease and the Consent Decree, and in accordance with all Environmental Laws applicable to Tenant's use, occupancy, operation, and maintenance of the Premises. Tenant shall take no action or make no omission that shall exacerbate any condition relating to Hazardous Materials that may exist on the Premises or its surrounding environs.

6.02 In the event that Landlord is required by any federal or state agency having jurisdiction over the Premises to conduct any response action, maintenance, or other work on the Premises, Tenant shall accommodate and provide Landlord reasonable access to complete any such action, maintenance or work.

6.03 Tenant shall neither cause nor permit any Hazardous Materials to be used, generated, stored, transported, handled or disposed of in or about the Premises at any time following the Effective Date, unless thereafter expressly authorized to do so by Landlord in a manner that is consistent with the Consent Decree and the 2005 Memorandum of Understanding between Tenant and Landlord.

7. RELEASE AND INDEMNIFICATION

7.01 Landlord shall not be liable to Tenant and Tenant hereby releases, agrees to hold harmless, and waives all claims and causes of action against the Landlord for any injury to or death of any person or damage to or destruction of property in or about the Premises arising by or from any use, occupancy, operation or maintenance by Tenant of the Premises pursuant to this Lease, except to the extent resulting from any Environmental Conditions, or any negligence or intentional torts of Landlord.

7.02 Tenant shall indemnify, protect and hold the Landlord harmless from and defend (by counsel reasonably acceptable to Landlord) the Landlord against any and all claims, causes of action, liability, damage, loss or expense (including reasonable attorneys' fees and costs and court costs),

statutory or otherwise arising out of or incurred in connection with (i) the use, operation, occupancy or existence of the Premises or the presence of visitors, or any other person, at the Premises during the Term or the Renewal Term, (ii) any activity, work or thing done or permitted or suffered by Tenant in or about the Premises, (iii) any acts, omissions or negligence of Tenant, any person claiming through Tenant, or the contractors, agents, employees, members of the public, invitees, or visitors of Tenant or any other such person ("Tenant Party" or "Tenant Parties"), (iv) any breach, violation or nonperformance by any Tenant Party of any provision of this Lease or of any law of any kind, or (v) except to the extent resulting from any Environmental Conditions, or any negligence or intentional torts of Landlord, or any injury to or damage to the person, property or business of any Tenant Party or any other person or entity.

7.03 Landlord shall indemnify, protect and hold Tenant harmless from, and shall defend Tenant against, any and all Environmental Claims arising out of or incurred in connection with the violation of any Environmental Law by Landlord. Notwithstanding the foregoing, Landlord shall have no duty, liability or responsibility to Tenant to the extent that any Environmental Claim arises out of or is based on any action or omission by Tenant that directly or indirectly exacerbates any condition relating to Hazardous Materials that may exist on the Premises or its surrounding environs.

7.04 The foregoing indemnity obligations shall include reasonable attorneys' fees and all other reasonable costs and expenses incurred by reason of any of the foregoing. The provisions of this Paragraph 7 shall survive the expiration or earlier termination of this Lease with respect to any damage, injury or death occurring prior to such expiration or termination. Nothing herein shall limit or waive any defense or limitation of the Utah Government Immunity Act.

8. INSURANCE

8.01 Tenant will maintain, and/or cause to be maintained, at no cost to Landlord, public general liability and umbrella and/or excess insurance insuring its interests against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Premises with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) in an amount to be reasonably designated from time-to time by Landlord, with an initial designation of not less than Five Million Dollars (\$5,000,000.00), for total claims for any one occurrence.

8.02 All policies of insurance carried by Tenant pursuant hereto shall be issued by insurance companies which have a Best's Rating of "A-IX" or better and which are qualified to do business in the State of Utah. Landlord shall be named as an "additional insured" on Tenant's policies. Insurance certificates evidencing Tenant's compliance with the insurance requirements herein shall be delivered to Landlord prior to delivery of possession of the Premises to Tenant, within ten (10) days after renewal of any policy of insurance, and within thirty (30) days after written request by Landlord. All policies of insurance or certificates thereof delivered to Landlord must specify thereon the amount of deductible, if any, and shall contain a provision that the company writing the policy shall give to Landlord thirty (30) days' advance written notice of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All liability and property damage and other casualty policies shall be written as primary policies, not contributing with, and not in excess of coverage which Landlord or any other party may carry respecting the Premises.

8.03 From time-to-time as determined by Landlord, Landlord may review the nature, type extent, levels of insurance coverage, and any other insurance related matter to update the insurance requirements of this Lease to be generally consistent with insurance customarily being maintained by comparable properties with comparable uses, which determinations by Landlord shall be final and binding on the Parties.

9. DEFAULT AND REMEDIES

9.01 **Events of Tenant's Default.** Tenant shall be in default under this Lease if any of the following occurs: Tenant shall have failed to perform any material obligation, term, covenant or condition of this Lease to be performed by Tenant, and Tenant fails to substantially cure same within sixty (60) days after written notice from Landlord, delivered in accordance with the provisions of this Lease, specifying the nature of such default, where such failure could reasonably be cured within said sixty(60)-day period: provided, however, that where such failure could not reasonably be cured within said sixty(60)-day period, that Tenant shall not be in default unless it has failed to promptly commence and thereafter continue to make diligent and reasonable efforts to substantially cure such failure as soon as practicable.

9.02 **Landlord's Remedies.** In the event of Tenant's default, Landlord may, at Landlord's election, enforce all of its rights and remedies at law or in equity, including the right to recover sums as they become due by appropriate legal action or proceed in equity or at law to compel Tenant to perform its obligations and/or to recover damages proximately caused by such failure to perform.

9.03 **Landlord's Default and Tenant's Remedies.** In the event Landlord fails to perform any material term, covenant or condition of this Lease to be performed by Landlord, and Landlord fails to substantially cure such default within sixty (60) days after written notice from Tenant, delivered in accordance with the provisions of this Lease, specifying the nature of such default, where such default could reasonably be cured within said sixty (60) day period, or fails to commence such cure within said sixty (60) day period and thereafter continuously with due diligence prosecute such cure to completion where such default could not reasonably be cured within said sixty (60) day period, then Tenant may, at its option proceed in equity or at law to compel Landlord to perform its obligations and/or to recover damages proximately caused by such failure to perform.

10. SUBLETTING AND ASSIGNMENT

10.01 Tenant shall not, without the prior written consent of Landlord, which consent may be withheld for any reason, (a) assign this Lease or any interest hereunder, or (b) permit any assignment of this Lease by operation of law. Tenant may not sublet the Premises or any part thereof and may permit the use or occupancy of all or any part of the Premises by any parties other than Tenant, its agents, employees and invitees without the consent of Landlord. Temporary or seasonal licenses for parking use with Montage or similar employee, ski resort or master festival/special event users shall not require prior written consent, provided that such do not interfere with the uses and access described in Section 3.1.

10.02 Landlord shall cause any transferee of Landlord's interest in the Premises to assume Landlord's obligations under this Lease, and shall provide Tenant with advance written notice of such transfer.

11. ENVIRONMENTAL DEFINITIONS

(a) "Environmental Claim" means any claim for damages, personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any other governmental entity, employee, former employee, or their respective legal representatives, heirs, beneficiaries and estates, relating to the Premises and arising or alleged to arise under any Environmental Law and resulting from the presence of Hazardous Material in existence prior to the Effective Date.

(b) "Environmental Conditions" shall mean any Hazardous Material subject to the Consent Decree on, under, or related to the Premises, except to the extent exacerbated by the use, occupancy, operation, or maintenance of the Premises by Tenant.

(c) "Environmental Law" means any federal or state statute, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

(d) "Hazardous Material" is defined to include any chemical or hazardous or toxic substances, material or waste which is or becomes regulated by the State of Utah, or the United States Government, including, without limitation, petroleum, asbestos, lead, PCBs, hazardous substances and hazardous wastes.

12. QUIET ENJOYMENT

Landlord, subject to the provisions hereafter set out, warrants that Landlord will not disturb Tenant's quiet possession or enjoyment of the Premises throughout the Term and the Renewal Term, provided Tenant is not in default in performance of any of the covenants or conditions of this Lease.

13. CAPTIONS/NUMBER/GENDER

The headings of the Sections contained herein are for convenience only and do not define, limit, or construe their contents. When required by context, the singular includes the plural, and the neuter gender includes a person, corporation, firm or association.

14. NOTICES

Wherever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall, except as otherwise provided herein, not be deemed to be given or served unless such notice is in writing and personally delivered, or forwarded by certified or registered mail, or sent for next-day delivery through a courier or delivery

company maintaining delivery records and providing nationwide service, addressed to the following addresses:

If to Landlord:

United Park City Mines
1850 Sidewinder Drive, 2nd Floor
P.O. Box 4349
Park City, Utah 84060
Attn: David J. Smith

If to Tenant:

Park City Municipal Corporation
1354 Park Avenue
P.O. Box 1480
Park City, Utah 84060
Attn: Mark Harrington

Either Party may change such address by written notice to the other given at least ten (10) days prior to the effective date of the change.

15. RELATIONSHIP TO THE PARTIES

Nothing herein shall be deemed or construed by the Parties or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the Parties, it being understood and agreed that no provision herein, nor any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of landlord and tenant.

16. CONSENT OF LANDLORD AND TENANT

Except as otherwise provided in this Lease, wherever Landlord or Tenant is required to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld conditioned or delayed. This Paragraph 16 shall not apply to Paragraph 10.

17. SUCCESSORS

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of the respective successors, grantees and assigns of the Parties.

18. SEVERABILITY

If any term or provision of this Lease or the application of it to any person or circumstance shall to any extent be held by a court in an action between the Parties or otherwise affecting this Lease to be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable shall

not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

19. AUTHORITY

The individuals who execute this Lease represent and warrant that they are duly authorized to execute this Lease on behalf of Landlord or Tenant, as the case may be, that the Parties named are all the necessary and proper parties, and that no other signature, act or authorization is necessary to bind such entity to the provisions of this Lease.

20. GOVERNING LAW

This Lease shall be governed by and construed in accordance with the laws of the State of Utah.

21. WAIVER

A waiver of any breach, default or condition shall not be a waiver of any other breach, default or condition. Landlord's consent to, or approval of, any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

22. SURRENDER

On the last day or sooner termination of the Term or the Renewal Term of this Lease, Tenant shall quit and surrender to Landlord the Premises, and any permanent improvements located thereon, provided, however, that notwithstanding anything in this Lease to the contrary, Tenant shall have the right, but not the obligation, at the end of the term, to remove any improvements made, constructed or installed by Tenant upon the Premises, provided that such removal shall be accomplished within thirty (30) days following the end of the term.

23. FEDERAL COMPLIANCE OBLIGATIONS

23.01 Access to Records. The following access to records requirements apply to this Lease:

(a) Where the Tenant is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Landlord agrees to provide the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Landlord which are directly pertinent to this Lease for the purposes of making audits, examinations, excerpts and transcriptions. Landlord agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(b) Landlord agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this Lease, except in the event of litigation or settlement of claims arising from the performance of this Lease, in which case Landlord agrees to maintain same until the Tenant, the FTA Administrator, the Comptroller

General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

23.02 No Obligation by the Federal Government

(a) Landlord and Tenant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of any underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Tenant, Landlord, or any other party (whether or not a party to that contract) pertaining to any matter resulting from any underlying contract.

(b) Landlord agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that this clause shall not be modified, except to identify any sub-tenant who will be subject to its provisions.

23.03 Program Fraud and False or Fraudulent Statements or Related Acts

(a) Tenant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, may apply to its actions pertaining to use of the Premises. Upon execution of the underlying Lease, Landlord certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, to the Federal Government pertaining to the underlying Lease. In addition to other penalties that may be applicable, the Landlord further acknowledges that if it knowingly and willingly makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government directly pertinent to the underlying lease, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Tenant to the extent the Federal Government deems appropriate.

(b) Landlord also acknowledges that if it knowingly and willingly makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government has the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Landlord, to the extent the Federal Government deems appropriate.

23.04 Suspension and Debarment. This Lease is a covered transaction for purposes of 49 CFR Part 29. As such, the Tenant is required to verify that none of the Landlord, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The certification in this clause is a material representation of fact relied upon by the Tenant. If it is later determined that Landlord knowingly rendered an erroneous certification, in addition to remedies available to it the certification in this clause is a material representation of fact relied upon by the Tenant, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Landlord agrees to comply with the requirements of 49 CFR 29, Subpart C during the term of this Lease.

23.05 Civil Rights. The following requirements apply to the Lease:

(a) Nondiscrimination -In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Tenant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Tenant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b) Equal Employment Opportunity -The following equal employment opportunity requirements apply to the Lease:

(i) Race, Color, Creed, National Origin, Sex -In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49,

U.S.C. § 5332, the Tenant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Tenant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Tenant agrees to comply with any implementing requirements FTA may issue.

(ii) Age -In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Tenant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Tenant agrees to comply with any implementing requirements FTA may issue.

(iii) Disabilities -In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Tenant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Tenant agrees to comply with any implementing requirements FTA may Issue.

(iv) Tenant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

23.06 Lobbying. The Parties understand and agree that Landlord's ability to enter into this Lease is subject to the Landlord's certification regarding lobbying, as outlined in Exhibit B.

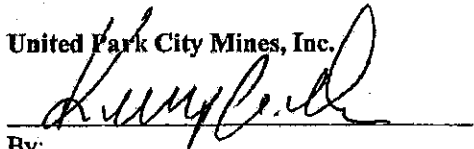
23.07 Federal Changes. Landlord shall at all times comply with the applicable FTA regulatory provisions as contained in this Section 23, and as the same may be amended or promulgated from time to time during the Term of the Lease.

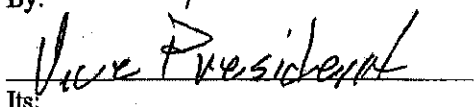
23.08 Incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Lease. Landlord shall not perform any act, fail to perform any act, or refuse to comply with any Tenant requests which would cause Tenant to be in violation of the FTA terms and conditions in this Lease.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the day and year first above written.

Landlord:

United Park City Mines, Inc.

By: 

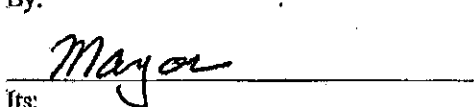
Its:  Vice President

Date: 4-30-10

Tenant:

Park City Municipal Corporation

By: 

Its:  Mayor

Date: 4/30/10

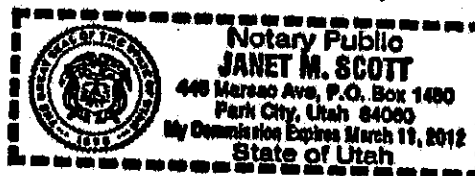
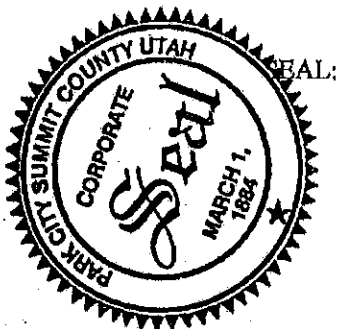
STATE OF UTAH
COUNTY OF SUMMIT

I hereby certify that on this 30 day of April, 2010, before the subscribed, a Notary Public of the State of Utah, and for the County of Summit, personally appeared DANA WILLIAMS for the Tenant who did acknowledge the foregoing instrument to be his/her Act.

In testimony whereof,
I have affixed my official seal.


NOTARY PUBLIC

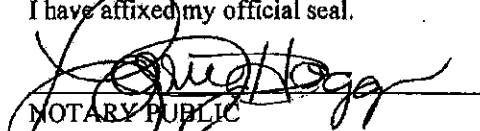
My Commission Expires: 3/11/12



STATE OF UTAH
COUNTY OF SUMMIT

I hereby certify that on this 30th day of April, 2010, before the subscribed, a Notary Public of the State of Utah, and for the County of Summit, personally appeared Kerry Bre for the Landlord who did acknowledge the foregoing instrument to be his/her Act.

In testimony whereof,
I have affixed my official seal.


NOTARY PUBLIC

My Commission Expires: June 3, 2012

SEAL:

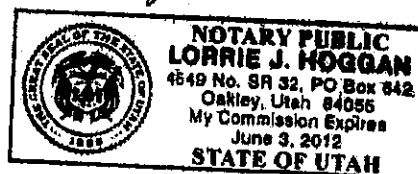


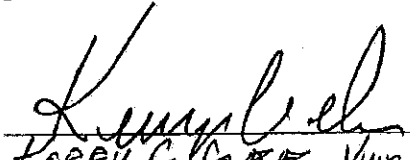
Exhibit B

49 CFR PART 20 – CERTIFICATION REGARDING LOBBYING

The undersigned Landlord certifies, to the best of its knowledge and belief, that:

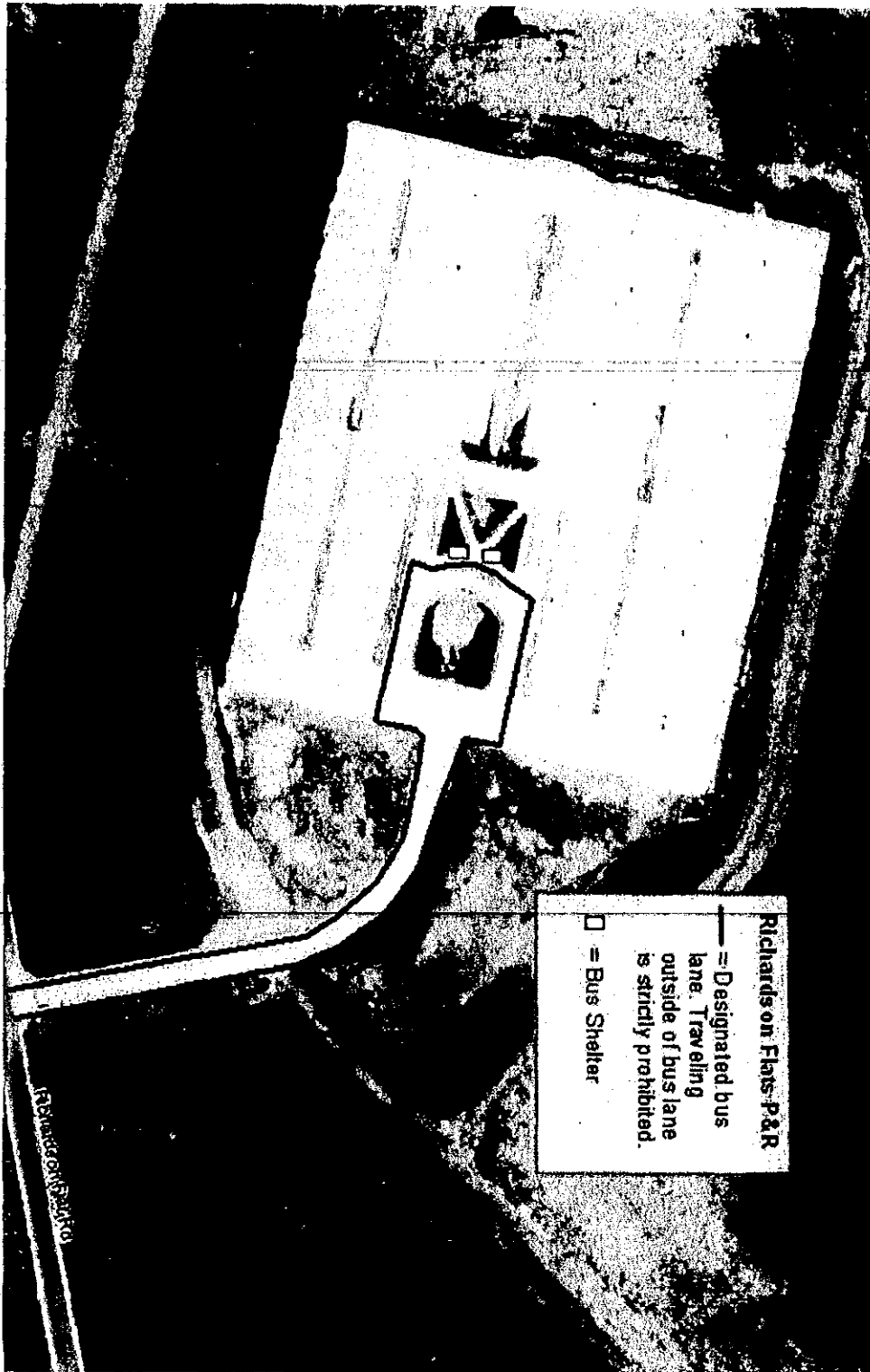
- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

~~This certification is a material representation of fact upon which reliance was placed when this~~
Lease was made or entered into. Submission of this certification is a prerequisite for making or entering into this Lease imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The Landlord certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Landlord understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.


KERRY C. GIFF, Vice Pres.
4-30-10

Signature of Landlord's Authorized Official
Name and Title of Landlord's Authorized Official
Date

EXHIBIT C





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/28/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc.
dba: Dewitt Stern of California Insurance Services
500 N. Brand Boulevard, Suite 1600
Glendale, CA 91203

OF06675

CONTACT NAME: Christina Born
PHONE (A/C, No, Ext): 818-623-5434 FAX (A/C, No): 818-623-5475
E-MAIL ADDRESS: cborn@dewittstern.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Vigilant Insurance Company	20397
INSURER B: Federal Insurance Company	20281
INSURER C: Chubb National Insurance Company	10052
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Fire and Ice Productions, Inc.
4001 Kearns Blvd.
Park City UT 84060

COVERAGES

CERTIFICATE NUMBER: 38081978

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			7996-9346	5/22/2017	5/22/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Incl. in Gen. Agg. \$
B	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☒ *Non-Owned Physical Damage			7996-9347 *7996-9345 Phys. Damage Incl. in Equipment Limit Ded: \$5,000	5/22/2017	5/22/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			7996-9349	5/22/2017	5/22/2018	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	7996-9348	5/22/2017	5/22/2018	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Props/Sets/Wardrobe Third Party Property Damage Miscellaneous Equipment			7996-9345	5/22/2017	5/22/2018	\$5,000,000 Limit; \$3,500 Ded. \$5,000,000 Limit; \$3,500 Ded. \$5,000,000 Limit; \$5,000 Ded.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THIS COVERAGE IS CO-BROKERED BY THE BUCKNER COMPANY, 6550 SOUTH MILLROCK DRIVE, SUITE 300, SALT LAKE CITY, UT 84121
Certificate Holder is included as an Additional Insured and/or Loss Payee as their interest may appear but only as respects to claims arising out of the operations of the Named Insured in connection with the production entitled: "Yellowstone"

CERTIFICATE HOLDER

Park City Municipal Corporation
PO Box 1480
1053 Iron Horse Drive
Park City UT 84060

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Charles R. Johnson, Jr.

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DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The Exclusive Utility Easement is for Dominion Energy (formerly Questar Gas) and would allow them to provide gas service to the affordable housing complex located at 1450/1460 Park Avenue.

Respectfully:

Matthew Cassel, City Engineer



RDA Staff Report

Subject: Utility Gas Easement for the Benefit of 1450/1460 Park Avenue
Author: Matthew Cassel, City Engineer
Date: October 5, 2017
Type of Item: Legislative

Summary Recommendations:

Staff recommends that the RDA grant an exclusive utility easement across RDA property to Dominion Energy, in a form approved by the City Attorney, for the benefit of 1450/1460 Park Avenue.

Executive Summary:

The Exclusive Utility Easement is for Dominion Energy (formerly Questar Gas) and would allow them to provide gas service to the affordable housing complex located at 1450/1460 Park Avenue.

Acronyms:

CUP	Conditional Use Permit
DDW	Division of Drinking Water
HDDR	Historic District Design Review
HPB	Historic Preservation Board
SBWRD	Snyderville Basin Water Reclamation District

Problem:

This item came before Council during the September 21, 2017 City Council meeting. However, the next day I realized that the property is owned by the RDA and not PCMC and should have been presented to the RDA not to Council. The write-up following, except for a few small edits regarding ownership of the property, is the same as the previous report.

During the development of this project, a 21 foot wide non-exclusive sewer easement was established in the common space of the project. With SBWRD approval, other utilities are located in this easement including the City's water line. Dominion Energy was not comfortable with the non-exclusive easement and requested an exclusive easement.

Background:

On March 29, 2007, Ordinance 07-20 approved the creation of two (2) legal lots of record from two (2) metes and bounds parcels at 1450-1460 Park Avenue. Later that year, the Retreat at the Park Subdivision was recorded on August 16, 2007.

In 2009, the City purchased the properties at 1450-1460 Park Avenue through the Lower Park Redevelopment Agency with the intent of creating an affordable housing project. In March 2012, City Council began collaborating with Green Park Cohousing,

LLC on the purchase of the property following an RFP process. Following the approvals of the Conditional Use Permit (CUP) and a plat amendment that was not recorded, Green Park Cohousing withdrew their applications as they were unable to secure financing for the project.

The City then chose to develop these two lots at 1450-1460 Park Avenue by rehabilitating the existing two (2) historic houses as well as build six (6) new single-family houses for a total of eight (8) affordable housing units.

On December 8, 2015, the Planning Department received two Historic District Design Review (HDDR) applications for the rehabilitation and relocation of the historic houses at 1450 and 1460 Park Avenue. On February 3, 2016, the Historic Preservation Board (HPB) approved the material deconstruction at both 1450 and 1460 Park Avenue. The relocation of the house at 1450 Park Avenue by a distance of 8'6" to the west and the relocation of the house at 1460 Park Avenue by a distance of 5'5" to the west towards Park Avenue were approved by the HPB on March 2, 2016. The HDDR applications for the rehab of the historic homes were approved by the Planning Department on June 14, 2016; the HDDRs to construct the new single-family dwellings behind the historic house were approved on November 21, 2016.

On May 2, 2016, the Planning Department received a CUP application for access off Sullivan Road; the application was approved by the Planning Commission on July 13, 2016.

The applicant submitted applications to combine the lots at 1450-1460 Park Avenue to create one legal lot of record and then record a condominium plat in order to create individual ownership. This application for a plat amendment to combine Lots 1 and 2 of the Retreat at the Park Subdivision was deemed complete on March 27, 2017.

The Park City Planning Commission reviewed this plat amendment request on June 28, 2017. The Planning Commission forwarded a positive recommendation to City Council for the plat amendment with a three-to-one vote.

On July 13, 2017, Council approved the plat amendment for the Retreat at the Park, First Amended located at 1450-1460 Park Avenue.

On September 21, 2017, staff brought this easement request to Council for consideration. The next day, staff realized that the development is on RDA property and the request was supposed to go to the RDA.

Alternatives:

A. Approve the Request:

This alternative approves and grants a utility easement to Dominion Energy. This is staff's recommendation.

Pros – Because the gas service is a critical path item for the construction of this affordable housing complex, approving this easement and, thus the installation of the gas service, allows the project to stay close to schedule

Cons – Cost of the gas service (which was already anticipated)

B. Deny the Request:

If this request is denied, City staff would need to find another source of heat for this affordable housing complex.

Pros – There are no pros,

Cons – City staff has started looking at electric heat as an alternative heating source but the time it would take for the design and construction to happen will significantly delay and add cost to the project.

Analysis:

During the development of this project, a 21 foot wide non-exclusive sewer easement was established for SBWRD in the common space of the project and is shown on the plat. With SBWRD approval, other utilities are able to locate their facilities in this sewer easement. The City's water line is located in the sewer easement (the water line and sewer line are spaced appropriately and meet DDW standards).

Dominion Energy was not comfortable with the non-exclusive easement and requested their own exclusive easement. This request came only a few months ago and after construction had started on the development. Installation of the gas main and services is now on the critical path of construction and needs to be completed in the near future so the project stays on schedule.

The location of the Dominion Energy easement is within the SBWRD easement. The gas main and service lines are relatively close to where staff had anticipated them to be located. Staff does not see this easement as causing any new site constraints and, thus, staff supports the easement.

Department Review:

This report has been reviewed by City Manager, Legal, Planning, Affordable Housing and Sustainability. All concerns raised by these departments have been incorporated herein.

Funding:

There are no significant or financial impacts arising from the recommended action that have not previously been considered.

Recommendation:

Staff recommends that the RDA grant an exclusive utility easement across RDA property to Dominion Energy, in a form approved by the City Attorney, for the benefit of 1450/1460 Park Avenue.

Attachments: 1450/1460 Park Avenue Site Plan
 Draft Dominion Energy Easement Agreement

path: M:\01_MDS\01_Eng\2016_Caddis\160303_Park Ave Utility Plan.dwg | plot date: June 10, 2016 | plotted by: KJH



- SYMBOL LEGEND**
- SANITARY SEWER MANHOLE
 - EXISTING SANITARY SEWER MANHOLE
 - ⊕ GATE VALVE
 - WS WATER METER IN HOME
 - WS EXISTING WATER SERVICE
 - ⊕ EXISTING FIRE HYDRANT
 - BELOW GRADE RETENTION CHAMBER

1450 & 1460 PARK AVE
UTILITY PLAN

MULHOLLAND DEVELOPMENT SOLUTIONS
info@muholland-development.com
P.O. BOX 60082
PARK CITY, UTAH 84008
435.001.2510 (s)

NOT FOR CONSTRUCTION

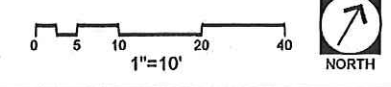
DATE:	JUNE 10, 2016
DESIGN BY:	KJM
DRAWN BY:	BRC
REVIEW BY:	
PROJECT NO:	PARK AVE
ISSUE:	UTILITY PLAN
REVISIONS:	

SHEET TITLE:
OVERALL UTILITY PLAN

SHEET NUMBER:
C1

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WHEN RECORDED MAIL TO:

Questar Gas Company
P.O. Box 45360, Right-of-way
Salt Lake City, UT 84145-0360
Park Avenue MJ 2010138.lp;

Space above for County Recorder's use
PARCEL I.D.# RPS-1 & RPS-2

RIGHT-OF-WAY AND EASEMENT GRANT
RW# 40547

Park City Redevelopment Agency, "Grantor", does hereby convey and warrant to QUESTAR GAS COMPANY, a corporation of the State of Utah, dba Dominion Energy Utah, Grantee, its successors and assigns, for the sum of ONE DOLLAR (\$1.00) in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, a right-of-way and easement to construct, lay, maintain, operate, repair, alter, inspect, protect, make connections to, remove and replace pipelines, valves, valve boxes and install cathodic monitoring and mitigation facilities and other gas transmission and distribution facilities (hereinafter collectively called "Facilities"), through and across the following described land and premises situated in the County of Summit, State of Utah, and more particularly described as follows, to-wit:

Land of the Grantor located in Section 9, Township 2 South, Range 4 East, Salt Lake Base and Meridian; Park City, Summit County, Utah more particularly described as follows:

Commencing at the east corner of Lot 2 of The Retreat at the Park Subdivision recorded Entry #822375 and running thence North 32°34'40" West, a distance of 40.45 feet along the northeasterly property line to the true **Point of Beginning**. Thence South 57°25'20" West 175.60 feet to a point on a 1,406.80 foot radius non-tangent curve to the right, of which the radius point bears North 59°33'49" East, thence Northwesterly 21.02 feet along the arc of said curve through a central angle of 00°51'22"; thence North 57°25'20" East 174.90 feet; thence South 32°34'40" East 3.46 feet; thence South 56°29'20" West 0.24 feet; thence South 32°34'40" East 17.53 feet to the Point of Beginning.

Containing 3,679 square feet or 0.08 acres, more or less.

TO HAVE AND TO HOLD the same unto said QUESTAR GAS COMPANY, its successors and assigns, so long as such Facilities shall be maintained, with the right of ingress and egress to and from said right-of-way to construct, lay, maintain, operate, repair, alter, inspect, protect, make connections to, remove and replace the same. This right-of-way and easement shall carry

with it the right to use any available access road(s) for the purpose of conducting the foregoing activities. During temporary periods, Grantee may use such portion of the property along and adjacent to said right-of-way as may be reasonably necessary in connection with construction, maintenance, repair, removal or replacement of the Facilities. Grantor shall have the right to use said premises except for the purposes for which this right-of-way and easement is granted to Grantee, provided such use does not interfere with the Facilities or any other rights granted to Grantee hereunder.

Without limiting the generality of the foregoing, Grantor does hereby covenant, warrant and agree as follows:

1. Grantor shall not build or construct, nor permit to be built or constructed, over or across the right-of-way, any building, retaining walls, rock walls, footings or improvement which impairs the maintenance or operation of the Facilities.

2. Grantor shall not change the contour within the right-of-way without prior written consent of Grantee.

3. Grantor shall not plant, or permit to be planted, any deep rooted trees, or any vegetation with roots that may damage the Facilities, within the right-of-way, without prior written consent of Grantee.

4. Grantor shall not place personal property within the right-of-way that impairs the maintenance or operation of the Facilities.

5. Grantee shall have the right to cut and remove timber, trees, brush, overhanging branches, landscaping and improvements or other obstructions of any kind and nature which may injure or interfere with Grantee's use, occupation or enjoyment of this easement and right-of-way, without liability to Grantor, and without any obligation of restoration or compensation.

6. Grantor agrees to indemnify, hold harmless and defend Grantee, its agents and employees, from all claims, mechanics liens, demands, damages, actions, costs and charges for personal injury and property damage, and any other liabilities, including attorney's fees, arising out of or by any reason of Grantor's use of the easement or any activities conducted thereon by Grantor, his/her/its agents, employees, invitees or as a result of Grantor's negligence.

This right-of-way shall be binding upon and inure to the benefit of the successors and assigns of Grantor and the successors and assigns of Grantee, and may be assigned in whole or in part by Grantee.

It is hereby understood that any parties securing this grant on behalf of Grantee are without authority to make any representations, covenants or agreements not herein expressed.

WITNESS the execution hereof this ____ day of _____, 2017.

[Signatures and Acknowledgments on Following Page]



DATE: October 5, 2017

TO HONORABLE MAYOR AND COUNCIL

The attached agreement is identical in all respects to the agreement entered into between the PCWSD and Vail for the 2016-17 ski season with the exception of the change of dates to cover the 2017-18 ski season. This agreement is a corollary to the PCWSD's recent approval of the lease agreement between the PCWSD and Salt Lake City whereby Salt Lake City provides Spiro Tunnel water to the PCWSD during the winter. Both the attached Spiro Tunnel Water Agreement and the lease agreement with Salt Lake City expire on October 31, 2018.

Respectfully:

Michelle Kellogg, City Recorder

Park City Water Service District Staff Report



Subject: Spiro Tunnel Water Agreement between VR CPC Holdings, Inc., d/b/a Park City Resort (aka Vail) and Park City Water Service District
Author: Tom Daley
Department: Deputy City Attorney
Date: October 5, 2017
Type of Item: Administrative

Summary Recommendations

Staff recommends the Park City Water Service District (PCWSD) authorize the Chair to execute the Spiro Tunnel Water Agreement attached hereto as Exhibit A.

Executive Summary

The attached agreement is identical in all respects to the agreement entered into between the PCWSD and Vail for the 2016-17 ski season with the exception of the change of dates to cover the 2017-18 ski season. This agreement is a corollary to the PCWSD's recent approval of the lease agreement between the PCWSD and Salt Lake City whereby Salt Lake City provides Spiro Tunnel water to the PCWSD during the winter. Both the attached Spiro Tunnel Water Agreement and the lease agreement with Salt Lake City expire on October 31, 2018.

Acronyms

PCWSD – Park City Water Service District
VR CPC Holdings, Inc - Park City Resort, or Vail
SLC – Salt Lake City Corporation

Background

Under the PCWSD-SLC lease agreement referenced above, PCWSD leases water from SLC in the Spiro Tunnel. That lease and its related staff report may be viewed here. H:\Legal\2017-09-14_Staff_Rpt_Water_Agmt.pdf. The purpose of the Spiro Tunnel Water Agreement that is before you today is to make the same SLC Spiro Tunnel water available to Vail for snowmaking during the 2017-18 ski season.

Analysis:

The waters of the Spiro Tunnel are cold and confounding. They have been the subject of intense debate and entrenched litigation since the portal first passed water in 1917. The water rights associated with the tunnel have been reinvented as the demand for water evolved from mining and agriculture to municipal and resort uses. Numerous agreements between SLC, Park City, mine companies, Deer Valley, and Vail's predecessors have allocated the water to different users for different uses at different times of the year.

The resolution of a lawsuit in 1974 left SLC with a share of the tunnel's flow. In March of 2016, the PCWSD for the first time leased some of SLC's water for use during the winter. PCWSD, in turn, made that water available to Vail for the 2016-17 ski season.

With the goal of achieving a long-term arrangement, the interested parties continue to work on the issues that germinate in the tunnel's perfect darkness. In the meantime, staff feels that executing the agreement attached to this staff report as Exhibit "A" is a good idea.

Department Review:

This report has been reviewed by the Water Department and the City Manager's Office.

Alternatives:

A. Approve:

This is staff's recommended alternative. This would extend for one year PCWSD's delivery of SLC Spiro Tunnel Water to Vail for snowmaking.

B. Deny:

Denying would result in PCWSD not increasing snowmaking deliveries to Vail Resorts in the short term. The underlying lease between PCWSD and SLC would remain in effect.

C. Modify:

Council could request modifications to the terms of the agreement, but staff feels this is a straightforward agreement that will, in any event, expire prior to the 2018-19 ski season.

D. Continue the Item:

Council could continue the item. The existing agreement expires on October 31, 2017, and council will have at least one opportunity to revisit the agreement prior to the water being needed for snowmaking operations.

E. Do Nothing:

Council could do nothing. This option would have the same impacts as denying (if Council does not revisit the item prior to October 31, 2017) and continuing (if Council does revisit the item prior to the October 31, 2017).

Recommendation:

Staff recommends the Park City Water Service District (PCWSD) authorize the Chair to execute the Spiro Tunnel Water Agreement attached hereto as Exhibit A.

Exhibits

Exhibit A – Spiro Tunnel Water Agreement

SPIRO TUNNEL WATER AGREEMENT

This Agreement dated _____, 2017, is between the Park City Water Service District (the “District”) and VR CPC Holdings, Inc., a Delaware corporation, d/b/a Park City Resort (“VR”).

RECITALS

A. By Amendment to Water Supply Agreement dated _____, 2017 (“Amendment”), between the Salt Lake City Corporation (the “City”) and Park City Water Service District (the “District”), the City has agreed to make available to the District from November 1, 2017 through April 30, 2018 the “Available City Spiro Tunnel Winter Water” as that term is defined in the Amendment.

B. The term of the Amendment extends until October 31, 2018, unless terminated or extended pursuant to the terms of the Amendment.

C. The price for the quantity of the City Spiro Tunnel Winter Water that is used is 55% of the current “Metropolitan Water Rate,” payable on a monthly basis. The current Metropolitan Water Rate is \$_____ per acre foot, and 55% of the Metropolitan Water Rate is \$_____ per acre foot.

D. The Amendment provides that the Available City Spiro Tunnel Winter Water may be used for snowmaking, and that 80% to 85% of that water will return to the surface streams in the form of snow melt runoff (the “snowmaking return flows”).

E. The Amendment further provides that the District shall be entitled to such snowmaking return flows to the extent it files, at the District’s expense, an application with the Utah Division of Water Rights seeking credit for the snowmaking return flows, and such application is granted.

F. VR operates the Park City Resort and owns the unencumbered right to 34% of the waters flowing through and from the Spiro Tunnel beyond the first 6600 feet (“VR’s Spiro Tunnel water”).

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The District agrees to make available to VR for use at the Park City Resort any portion of the Available City Spiro Tunnel Winter Water that VR desires to use during the term of the Amendment.

2. The price for the amount of the City Spiro Tunnel Winter Water used by VR at the Park City Resort shall be the same price set forth in the Amendment. No additional fee shall be charged by the District for such water.

3. The point of delivery of the Available City Spiro Tunnel Winter Water to VR shall be at the District's golf course ponds below the portal of the Spiro Tunnel (the "Point of Delivery"). VR shall measure the total amount of water diverted at the Point of Delivery and used for snowmaking at the Park City Resort and furnish such information to the District at the end of each month during the snowmaking season.

4. For purposes of this Agreement, the Available City Spiro Tunnel Winter Water used by VR shall be 36% of the total amount of water diverted at the Point of Delivery and used for snowmaking at the Park City Area of the Park City Resort. VR shall make payment to the District for the amount of Available City Spiro Tunnel Winter Water that VR uses within 30 days of providing the District the monthly information on the amount of water it diverted and used for snowmaking pursuant to paragraph 3 above. VR does not intend to use any of the Available City Spiro Tunnel Winter Water in the Canyons area of Park City Resort.

5. Any information or payment required to be given to the parties hereunder shall be sufficiently given when sent by registered or certified mail addressed or made by hand delivery to:

The District:

Park City Water Service District
Attention: Public Utilities Director
1050 Ironhorse Drive
P.O. Box 1480
Park City, Utah 84060

VR:

VR CPC Holdings, Inc.
Attention: Senior Vice President and Chief Operating Officer
390 Interlocken Crescent
Broomfield, Colorado 80021

With a copy to:

Vail Resorts Management Company
Attention: Legal Department
390 Interlocken Crescent
Broomfield, CO 80021
LegalNotices@vailresorts.com

7. VR shall cooperate with the District in the District's application with the Utah Division of Water Rights seeking credit for the snowmaking return flows resulting from the Available City Spiro Tunnel Winter Water used for snowmaking at the Park City Resort, and provide such information regarding the snowmaking use of water as may be required in connection with such application.

8. This Agreement shall be subject to the terms of the Amendment.

Executed as of the date first set forth above.

PARK CITY WATER SERVICE DISTRICT

Attest:

Park City City Recorder

By: _____
Chairman

VR CPC Holdings, Inc., a Delaware corporation,
d/b/a Park City Resort

By: _____
Senior Vice President