City Council Staff Report

PARK CITY 1884

Author:	**Alison Butz**
Subject:	**Conservation Easements on Open Space**
Date:	**September 25, 2003**
Type of Item:	**Administrative - Easements**

Special Events and Facilities Department

Summary Recommendations:
Provide Staff with direction on the language included in the conservation easement template. Staff will return to Council for formal approval of conservation easements for the Round Valley Parcels and Richards Parcel in October 2003.

Description:

A. Topic:
Conservation Easements templates and reserved and prohibited rights for both the Richards parcel and Round Valley parcels.

B. Background:
The City Council reviewed the prohibited and reserved rights for the Round Valley Parcels and Richards Parcel. At that meeting Council requested the addition of the following items in the reserved rights section.

- Trail way-finding Signs
- Trailhead Parking
- Restoration of land and vegetation

Staff, per Council's direction, presented the uses to the Recreation Advisory Board to receive further input. Input received focused on the following topics.

Events. The reserved rights allows for events to take place on the property provided that the events are City sponsored. The Recreation Advisory Board requested a better definition of "significant" event be added.

Water Conservation. A suggestion was made to add language requiring drought tolerant grasses and plants be used on the property if developed for a use and along with minimizing the amount of grass that is planted. The Land Management Code addresses the use of drought tolerant vegetation and Staff is currently working to strengthen the language. Therefore, the suggested change was not added to the list of uses.

Lighting of Trailhead Parking. Council had added a reserved right to allow for trailhead parking. The Recreation Advisory Board had requested that the lighting of those lots be carefully looked at and eliminated if possible.

C. Analysis:
As stated at the August 31st meeting the entire easement template, Richards property is used as an example, has been presented for Council comment. The template is a similar template used by Utah Open Lands and other national non-profit land conservancy groups. The revised reserved rights and prohibited uses have also been amended in the draft.

The draft also discusses the baseline documentation. A baseline document outlining the vegetation, soils and habitat of the property, would be attached as Exhibit A to the easement. At this time Staff is concluding the surveying and documentation for both the Richards parcel and Round Valley parcels. The baseline document would be updated annually by COOL (Conserving Our Open Lands), which is part of their duties as outlined within a Special Service Contract.

D. Department Review:
The Lease has been reviewed all applicable City departments.

Issues for Discussion:
- Are the revised prohibited and reserved rights consistent with what Council envisioned for the Conservation Easement?
- Does the easement language address the issues, and meet what Council envisioned with regards to a conservation easement?

Recommendation:
Provide Staff with direction on the language included in the conservation easement template and on the prohibited uses and reserved rights for both the Richards parcel and Round Valley parcels. Once received Staff will continue to draft the easements and will return to Council for approval of the easements in October 2003.

Exhibits:
Exhibit A – Draft Conservation Easement for the Richards Parcel

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this _____ day of _______________, 2003, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation having an address of 445 Marsac Avenue, Post Office Box 1480, Park City, UT 84060-1480 ("Grantor"), in favor of the CONSERVING OUR OPEN LANDS, a Utah non-profit corporation having an address of Post Office Box 1775, Park City, UT 84060 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of approximately 20 acres of real property located west of SR 224 in Park City, Summit County, Utah, described more particularly at Exhibit A, attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Property possesses natural, scenic, recreational, and visual open space values (collectively, "Conservation Values") of great importance to Grantee, the people of Park City, and the people of the State of Utah which are worthy of protection and more fully described in the Baseline Documentation, attached hereto and incorporated herein as Exhibit B; and

WHEREAS, in particular, the Property could be developed for residential use, thereby destroying its natural, scenic and open space characteristics; and

WHEREAS, the Property is prominently visible from one of Park City's two entry corridors, namely SR 224; and

WHEREAS, the Property's proximity to Aspen Springs, the McPolin Farm, Willow Ranch, and the Huntsman Gateway open spaces is significant as it is part of a continuous corridor of open space on the sensitive SR 224 entry corridor; and

WHEREAS, at a November 3, 1998 special bond election, Park City voters authorized the issuance of general obligation bonds in an amount of ten million dollars for the express purpose of acquiring and forever preserving undeveloped park and recreational land; and

WHEREAS, the Property was purchased by Grantor using proceeds of the November 3, 1998 special bond election; and

WHEREAS, the specific conservation values of the Property are documented in an inventory of relevant features of the Property, dated ____________________, 2003, attached hereto and incorporated herein by reference at Exhibit B ("Baseline Documentation") (original on file at the offices of Grantee) which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as a objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by the continuation of land use patterns, including, without limitation, those relating to visual open space existing at the time of this grant, that do not significantly impair or interfere with those values; and

WHEREAS, Grantor further intends as owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition; and

WHEREAS, Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, which the Parties agree constitute adequate consideration for this agreement, and pursuant to the laws of the State of Utah and in particular Utah Code Annotated, Title 57, Chapter 18, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose**. It is the purpose of this Easement to assure that the Property will be maintained forever (predominately) in open and recreational use, protecting in perpetuity its scenic, open and undisturbed character and recreational value, and preventing any use of the Property that may significantly impair or interfere with the conservation values of the Property. Grantor intends that this Easement will confine the use of the Property to those activities that are consistent with the purpose of this Easement.

1.1 **Baseline Documentation**. To establish the present condition of the Property's agricultural, natural, scenic, and/or other conservation resources and the Property's manmade features, so as to make possible the proper monitoring of future uses of the Property and to ensure compliance with the terms of this Easement, the Parties hereto have prepared an inventory of the Property's relevant resources, features and conditions, which inventory is attached hereto and incorporated herein as Exhibit B, Baseline Documentation. This Baseline Documentation in its entirety is on file at the office of Grantee. The Parties expressly agree that said inventory is an accurate representation of the Property at the time this Agreement is signed. It shall further constitute the minimum level at which the Property shall be maintained by Grantor. If a controversy arises with respect to the nature and/or extent of the historical and/or present use and/or physical condition of the Property at the time of signing of this instrument, the Parties shall not be foreclosed from utilizing all relevant or material documents, surveys, reports, and other evidence to assist in the resolution of the controversy.

2. <u>**Rights of Grantee**</u>. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

(a) To preserve and protect the conservation values of the Property;
(b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
(c) To enter upon the Property in the case of an emergency as determined by Grantee, in which event Grantee shall notify Grantor prior to entering onto the Property, if possible, or as soon thereafter as is reasonably practical;
(d) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by inconsistent activity or use, pursuant to Paragraph 6 herein; and
(e) To enforce this Easement by appropriate legal proceedings, after providing Grantor with reasonable notice and reasonable opportunity to cure.

3. <u>**Prohibited Uses**</u>. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are prohibited in perpetuity on the Property:

(a) Development, pre-sale, division, subdivision, or defacto subdivision (through long-term leasing or otherwise) of the Property for any type of human occupation or use;
(b) Quarrying, mining, excavation, depositing, or removing of rocks, gravel, minerals, sand, or other similar materials from the Property;
(c) Dumping, depositing, abandoning, discharging, storing, maintaining, or releasing any gaseous, liquid, solid or hazardous wastes, substances, materials, pollutants, or debris of whatever nature on, in, or over the ground or into the surface or ground water of the Property;
(d) Placement, erection, or maintenance of signs, billboards, or outdoor advertising structures on the Property;
(e) Construction of buildings, residences, mobile homes, improved streets or roads, or other structures, or any other permanent improvements for use for <u>human habitation</u>, constructed or placed in, on, under, or upon the Property;
(f) Residential or industrial uses of the Property;
(g) Uses of the Property that would be detrimental to the water quality; and
(h) Any unanticipated use or activity on or at the Property which would significantly impair the conservation values of the Property, unless such us or activity is necessary for the protection of the conservation values that are the subject of this Easement, in

which case such use or activity shall be subject to the prior approval of Grantee, which approval shall not be unreasonably withheld.

4. **Reserved Rights**. Grantor reserves to himself, and to his personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, Grantor expressly reserves the right to:

(a) Construct and use temporary structures on the Property;
(b) Use mechanized equipment to maintain the Property;
(c) Construct and maintain ancillary structures on the Property, including but not limited to restrooms, storage, and equipment sheds;
(d) Construct and maintain trail head parking lots;
(e) Construct and maintain improved trails for use by the public;
(f) Place, erect, and maintain a reasonable number of signs on the Property for purposes consistent with the intent of this Easement, including but not limited to declaring the name of the Property and the purpose(s) for which it is preserved and trail wayfinding signs;
(g) Control noxious weeds either by tillage, digging or by use of chemicals and restoration of property. Restoration shall mean the deliberate attempt to speed recovery of damaged areas, including a wide range of possible interventions, from soil amendments, tillage, weed removal, seeding, planting, and aftercare. It ranges from practical and economic attempts to simply restore some productivity to grazing lands, to the attempt to return full ecosystem function and structure in a "natural" protected ecosystem";
(h) Permit grazing on the Property and/or the leasing thereof for grazing or otherwise use the Property for agriculture within in designated areas and accompanied with an approved animal management plan (excepting feedlots);
(i) Repair, restore, reconstruct, or replace existing fencing as necessary in a manner consistent with its condition established through the Baseline Documentation, and to construct and maintain additional fencing as necessary for agricultural or recreational purposes;
(j) Permit public access in accordance with the rules and regulations established by the Park City Parks Department and any subsequent regulations governing the safety and well-being of the pubic on City-owned property;
(k) any organized gathering, of over fifty (50) people, must be a City sponsored event;
(l) Construct and maintain any landscaping, art, wayfinding and entryway identification, resident and visitor rest areas, and other public improvements at the sole discretion of the City Council consistent with the Open Space Bond Issues, to enhance the resident and tourist experience in Park City; and

(m) Engage in all acts or uses that are not prohibited by governmental statute or regulation, not expressly prohibited herein, and not inconsistent with the purpose of this Easement.

5. **Continuous Conservation Reserve Program (CCRP)**. Part of the property is presently encumbered by a CCRP contract; dated June 1, 2003. The CCRP is a 15- year USDA - Farm Service Agency contractual agreement for the stream corridor that is enrolled is 180' from the stream embankment and the designated land classification is riparian buffer zone. The conservation easement shall not apply to the area covered by the CCRP contract during the CCRP's effective period, but the conservation easement will apply to the CCRP area upon termination of the CCRP. Both parties recognize the contract and will honor its terms for its effective period.

6. **Notice of Intent to Undertake Certain Permitted Actions**. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in Paragraph 4, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

6.1 **Grantee's Approval**. Where Grantee's approval is required, as set forth in Paragraph 5, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

7. **Grantee's Remedies**. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the thirty (30) day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under this Paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies not or hereafter existing at law or in equity. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee. If Grantee prevails in any action to enforce the terms of this Easement, Grantee's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantor.

7.1 **Grantee's Discretion**. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any right or remedy upon an breach by Grantor shall impair such right or remedy or be construed as a waiver.

7.2 **Acts Beyond Grantor's Control**. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

8. **Access**. No right of access by the general public to any portion of the Property is conveyed by this Easement.

9. **Costs and Liabilities**. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

9.1 **Taxes**. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon ten (10) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the lesser of two (2) percentage points over the prime rate of interest from time to time charged by Zion's Bank or the maximum rate allowed by law.

9.2 **Hold Harmless**. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees arising from or in any connection with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in Paragraphs 8 and 8.1; and (3) the existence or administration of this Easement.

10. **Extinguishment**. Grantee shall not voluntarily or willingly allow the extinguishment of any of the restrictions of this Easement, and if any or all of the restrictions of this Easement are nevertheless extinguished by a judicial or other governmental proceeding, any and all compensation received by Grantee as a result of the extinguishment shall be used by Grantee in a manner consistent with the conservation purposes of this Easement.

10.1 **Condemnation**. If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

10.2 **Amendment**. This Easement may be modified only by mutual written agreement of Grantor and Grantee. No amendment shall be made that will adversely affect the status of this Easement as a qualified conservation easement pursuant to Title 57, Chapter 18 of the Utah Code, nor Grantee's status as a publicly supported, tax-exempt charitable organization qualified under Sections 170(h) and 501(c)(3) of the Internal Revenue Code and applicable laws of the state of Utah. Any such amendment shall be consistent with the stated purposes of this Easement, shall not affect its perpetual duration, and shall not permit any impairment of the significant conservation values of the Property. Any such amendment shall be filed in the office of the Summit County Recorder.

11. **Transfer of Easement**. If Grantee determines that it no longer is able to perform its obligations or enforce its rights under this Easement, or that it no longer desires to enforce said rights, or if Grantee ceases to exist, or is otherwise prevented from enforcing its rights under this Easement, or if Grantee no longer qualifies as a qualified organization under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), Grantee may convey its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under State statute. Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out. Grantee is hereby expressly prohibited from subsequently transferring the Easement, under any circumstances and whether or not for consideration, unless:

(a) Grantee, as a condition precedent of the transfer, requires that the conservation purposes which this Easement is intended to advance continue to be carried out;

(b) The transferee is an organization qualifying at the time of transfer as an eligible done under Paragraph 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable) and regulations promulgated thereunder; and

(c) Grantor and/or its successor in interest, at its sole discretion, either selected the transferee or consents in writing to the transfer.

12. **Grantor Transfer of Interest**. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which he divests himself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

13. **Estoppel Certificates**. Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.

14. **Notices**. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows (or to such other address as either party from time to time shall designate by written notice to the other):

To Grantee: **CONSERVING OUR OPEN LANDS**
Attn: Executive Director
Post Office Box 1775
Park City, UT 84060

To Grantor: **PARK CITY MUNICIPAL CORPORATION**
Attn: City Recorder
445 Marsac Avenue
Post Office Box 1480
Park City UT 84060-1480

15. **Recordation**. Grantee shall record this instrument in timely fashion in the official records of Summit County, Utah, and may re-record it at any time as may be required to preserve its rights in this Easement.

16. **General Provisions**.

(a) Controlling Law. The laws of the state of Utah shall govern the interpretation and performance of this Easement.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purposes of Utah statute. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

(e) No Forfeiture. Nothing contained herein will result in the forfeiture or reversion of Grantor's title in any respect.

(f) Joint Obligation. If more than one person or entity is the successor or assign of Grantor, the obligations imposed by this Easement upon Grantor shall be jointly and severally binding on each such person or entity.

(g) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

(h) Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that ability for acts or omissions occurring prior to transfer shall survive transfer.

(i) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

(j) Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

GRANTOR: PARK CITY MUNICIPAL CORPORATION

____
Dana Williams, Mayor

ATTEST:

____
Janet M. Scott, City Recorder

APPROVED AS TO FORM:

____
Mark D. Harrington, City Attorney

GRANTEE: CONSERVING OUR OPEN LANDS

____
Name, Title

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of ________________, 2003, 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 (or affirmed), did say that he/she is the (TITLE) of the Conserving Our Open Lands by Authority of its Bylaws/Resolution of its Board of Directors, and acknowledged to me that said corporation executed the same.

____
Notary Public

EXHIBIT A

Beginning at a point West 2403.70 feet, and North 655.95 feet from the Southeast Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian: running thence East 187.26 feet; Thence South 577.14 feet to the North ling of Thaynes Creek Ranch Subdivision as Recorded; Thence Ease along said North line 831.89 feet to the West line of State Highway U-244; Thence North 21 deg. 12' West along said West line 1351.47 feet; Thence West 539.30 feet; Thence South 0° 44'37" East 682.93 feet to the point of beginning; containing 871,200 square feet or 20.000 acres, more or less;

Excepting all area within 180 feet of the stream embankment covered in the CCRP Agreement.

Subject to all matters of record.

EXHIBIT B

(Baseline Documentation)

<u>EXHIBIT C</u>

CCRP Contract

This form is available electronically.

Form Approved - OMB No. 0560-0125

CRP-1 (06-03-02)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

CONSERVATION RESERVE PROGRAM CONTRACT

1. ST. & CO. CODE C/D: 49043	2. SIGN-UP NUMBER
3. CONTRACT NUMBER	4. ACRES FOR ENROLLMENT: 23.2
5. FARM NUMBER: 189	6. TRACT NUMBER(S): 127
8. OFFER (Select one) STANDARD [ ] ENVIRONMENTAL PRIORITY [✓]	9. CONTRACT PERIOD FROM: (MM-DD-YYYY) 10-01-2002 TO: (MM-DD-YYYY) 09-30-2017

7. COUNTY OFFICE ADDRESS (Include Zip Code):
Farm Service Agency
30 South Main St
PO Box 437
Coalville, UT 84017

TELEPHONE NUMBER (Include Area Code):

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "Owner", "Operator", and "Tenant", respectively) on the farm identified above. The undersigned person or persons may hereafter collectively be referred to as "the Participant". The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") for the stipulated contract period from the date the Contract is executed by the CCC or other use set by CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with the terms and conditions contained in this Contract including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. ***The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1; CRP-1 Appendix and any addendum thereto; CRP-2; and if applicable, CRP-15.***

10. OFFER FOR PERMISSION TO ALLEY CROP

In order to participate in CRP under CP19, Alley Cropping, I (we) submit an offer of $ ____________ per acre reduction, from the amount specified in Item 11A, in the annual rental payments for permission to produce agricultural commodities on eligible acres in accordance with the provisions for alley cropping set out in the applicable regulations. I (we) understand that for each year of the CRP contract the annual rental payment will be reduced by the amount agreed to above, which reduction must be a reduction of at least 50 percent in the annual rental payment.

11A. Rental Rate Per Acre $ 45.00

B. Annual Contract Payment $ 1,044

C. First Year Payment $

(Item 11C applicable only to continuous signup when the first year payment is prorated.)

12. Identification of CRP Land *(See Page 2 for additional space)*

A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total C/S
127	1	CP-22	10.3	3,863
127	2	CP-22	6.8	2,550
127	3	CP-22	4.9	1,838

13. OWNERS, OPERATORS, AND TENANTS

Name and Address	%	Social Security Number / Signature	Date (MM-DD-YYYY)
A. OPERATOR NAME AND ADDRESS (Include Zip Code): Park City Municipal Corp, 445 Marsac Ave, Park City, UT 84060-1480	100	SOCIAL SECURITY NUMBER: 876-00-0260; SIGNATURE: [signature]	
B. OWNER NAME AND ADDRESS (Include Zip Code):		SOCIAL SECURITY NUMBER; SIGNATURE	
C. NAME AND ADDRESS (Include Zip Code):		SOCIAL SECURITY NUMBER; SIGNATURE	

14. CCC USE ONLY - *Payments according to the shares are approved.* | SIGNATURE OF CCC REPRESENTATIVE | DATE (MM-DD-YYYY)

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L. 99-198), as amended, and regulations promulgated at 7 CFR PART 1410 and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.*

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0125. The time required to complete this information collection is estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

[✓] Original - County Office Copy [ ] Owner's Copy [ ] Operator's Copy [ ] NRCS Copy

This form is available electronically.

Form Approved - OMB No. 0560-0125

CRP-2 (09-14-99)

U.S. DEPARTMENT AGRICULTURE
Farm Service Agency

CONSERVATION RESERVE PROGRAM WORKSHEET

See Page 2 for Privacy Act and Public Burden Statements.)

1. TRACT NUMBER	127
2. PROGRAM YEAR	2004
3A. SIGN UP NUMBER	
3B. EFFECTIVE DATE (MM-DD-YYYY)	
4A. FARM NUMBER	189
4B. NAME AND ADDRESS OF PRODUCER (Zip Code):	Park City Municipal Corp 445 Marsac Ave Park City, UT 84060-1480
4C. CROPLAND	60
5A. STATE & COUNTY CODE ADMIN. LOCATION	49043
5B. STATE & COUNTY CODE PHYSICAL LOCATION	49043
6. CONTRACT NUMBER	
7. ACRES FOR ENROLLMENT	23.2
4D. COUNTY OFFICE ADDRESS (Zip Code):	Farm Service Agency 30 South Main PO Box 437 Coalville, UT 84017
4E. COUNTY OFFICE TELEPHONE NO. (Area Code):	(435) 336-5573
8. IS COST-SHARE REQUESTED?	YES ☑ NO ☐
9. RENTAL RATE PER ACRE OFFERED	$ 45.00
10. Will Forest Service Have Technical Responsibility for any Practice Offered?	YES ☐ NO ☑
11A. ACRES UNDER ACTIVE CRP-1	
11B. ACTIVE CRP-1 NUMBER(S) (Include Suffix)	
12. SIGNUP TYPE (Select one)	STANDARD ☐ CONTINUOUS ☐ CONTINUOUS CREP ☑
13. TOTAL ALLOTMENT AND QUOTA	
14. REDUCTION FACTOR	
15. PEANUT REDUCTION ACRES	
16. TOTAL TOBACCO REDUCTION ACRES	

17. PRACTICES / **18. LAND ELIGIBILITY CATEGORY BY ACRES:** (Enter the amount eligible for each criteria)

A. PRACTICES	B. ACRES	C. ESTIMATED TOTAL C/S	D. LENGTH	Category	Acres	Category	Acres
				HEL (EI 8 or Greater)		Noncropped Wetland - Associated Acres	
CP-22	23.2	$8,701	7680	National CPA		Scour Erosion	
				State CPA - Air Quality		Water Bank Program Acres	
				State CPA - Water Quality		CREP Acres	
				State CPA - Wildlife		Continuous Sign Up Wellhead Protection Acres	
				Cropped Wetland - Associated Acres		Continuous Sign Up Other Acres	23.2
				Cropped Wetland - Wetland Acres		Continuous Sign Up Marginal Pasture Land Acres Devoted to Trees	

19. National Ranking Factors *(for standard offers only)* / 20. N1 Subfactors *(for standard offers only)*

N1	N2	N3	N4	N5	N6	N1a	N1b	N1c	N1d	N1e	N1f
NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

21. N2 Subfactors *(for standard offers only)* / 22. N4 Subfactors *(for standard offers only)* / 23. N5 Subfactors *(for standard offers only)*

N2a	N2b	N2c	N2d	N4a	N4b	N5a	N5b	N5c
NA	NA	NA	NA	NA	NA	NA	NA	NA

24. Soil Loss Tolerance	25. Erosion Index Water	26. Erosion Index Wind	27. HUA Number	28. Restored Wetland Acres	29. Reserved
3	.17	48	16020101010	NA	NA

30. Soil Map Data and Maximum Payment Rate Calculations

	A. Soil Survey ID No.	B. Map Unit Symbol	C. Acres		D. Soil Rental Rate ($)		E. Total Rent ($)
(1) Primary	UT 613	178	23.2	X	30.00	=	696.00
(2) Secondary				X		=	
(3) Tertiary				X		=	
	(4) TOTALS		23.2				696.00

31. Weighted Average Soil Rental Rate ($) (Col. E total divided by Col. C total)		32. Incentive ($) (if applicable) (Item 31 times applicable incentive percentage)		33. Maintenance Rate ($)		34. MAXIMUM PAYMENT RATE ($) (Per Acre)
30.00	+	6.00	+	9.00	=	45.00

☑ ORIGINAL - FSA COUNTY OFFICE COPY ☐ FSA PENDING COPY ☐ NRCS FILE COPY

This form is available electronically.

CCC-526
(11-26-02)

U.S. DEPARTMENT OI ЯICULTURE
Commodity Credit Corporation

PAYMENT ELIGIBILITY
AVERAGE ADJUSTED GROSS INCOME CERTIFICATION

1A. County FSA ꝏe or Service Center Address *(Include Zip Code)*

SUMMIT COUNTY FSA OFFICE
30 SOUTH MAIN
P.O. BOX 437
COALVILLE, UT 84017

1B. Telephone Number *(Include Area Code)*: (435) 336-5573

The authority to collect the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995.

NOTE: *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a), as amended. The Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171), and the regulations at 7 CFR Part 1400, as amended, authorize the collection of the information required by this certification. The information will be used to establish payment eligibility in accordance with the requirements of the law for applicants who are requesting program benefits subject to these provisions. Providing this information is voluntary; however, failure to furnish the requested information will result in a determination of ineligibility for program benefits. This information may be used by and provided to other agencies, IRS, Department of Justice, other State or Federal law enforcement agencies, and in response to orders of a court magistrate, or administrative tribunal. All information provided herein is subject to verification by the Commodity Credit Corporation. As provided in various statutes, failure to provide true and correct information may result in civil suit or criminal prosecution and the assessment of penalties or pursuit of other remedies.* ***PLEASE RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OR SERVICE CENTER OFFICE.***

2A. Individual or Entity's Name and Address *(Include Zip Code)*

Park City Municipal Corporation
445 Marsac Avenue
Park City, UT 84060

2B. Telephone Number *(Include Area Code)*:

3. Program Year

2003

4. Identification Number *(SSN or Tax ID No.)*

876000260

CERTIFICATION OF AVERAGE ADJUSTED GROSS INCOME: Each individual or entity that requests program benefits must complete a certification of average adjusted gross income.

By signing this form, I acknowledge that:

- all definitions, requirements, and examples on Page 3 of this form were reviewed;
- this certification of average adjusted gross income is true and correct, and will be considered a continuous certification through 2007, unless changes or revisions are submitted;
- it is my responsibility to timely notify FSA in writing of any changes in the farming, ranching or forestry operation, or financial status that may affect this certification;
- evidence such as tax records, accountant's certification, or other documentation may be required to validate this certification.

5. Type of Operation *(Check One)*

- ☐ Individual *(Complete Item 6)*
- ☐ Trust or Estate *(Complete Item 7)*
- ☑ Corporation *(Complete Item 8)*
- ☐ Limited Partnership, Limited Liability Company, Limited Liability Partnership or Similar Entity *(Complete Item 9)*
- ☐ Tax-Exempt or Non-Profit Organizations *(Complete Item 10)*

6. **Individual** For individuals that file the IRS Form 1040, line 33 represents the adjusted gross income and line 18 represents the income from farming, ranching or forestry operations. The Schedule F is the source for line 18.

A. The average of the adjusted gross income, as specified on line 33 of the IRS Form 1040 (or similar item on IRS Forms for individuals) for the applicable 3 years, was $2.5 millon or less. YES ☐ NO ☐

If "NO", proceed to Item 6B.

B. The average of the amount represented to be from farming, ranching, or forestry operations on line 18 on the IRS Form 1040 (or similar on Form 1040A or 1040EZ) for the applicable years, was at least 75 percent of the amount on line 33 (or comparable amount on Form 1040A or 1040EZ). YES ☐ NO ☐

C. Signature	Date (MM-DD-YYYY)

AVERAGE ADJUSTED GROSS INCOME

The Farm Security and Rural Investment Act of 2002 included average adjusted gross income as a payment eligibility requirement. Any individual or entity requesting certain 2003 through 2007 program payments will be subject to this provision. Any individual or entity that is determined to have an average adjusted gross income, as defined, that is less than 75 percent from farming, ranching or forestry operations and that exceeds $2.5 million will be ineligible for any covered benefit during the applicable year.

DEFINITIONS AND OTHER INFORMATION

Average Adjusted Gross Income means the average of the adjusted gross income or comparable measure of the individual or entity over the preceding 3 tax years. For instance, if 2003 program benefits are requested, the tax years for average adjusted gross income determination would be 2002, 2001 and 2000.

Entity means a corporation, joint stock company, association, limited partnership, charitable organization, or similar entity, including any such entity or organization participating in the operation as a partner in a general partnership, a participant in a joint venture, a grantor in a revocable trust, or as a participant in a similar entity, as determined by the Secretary.

Covered Benefit means any payment or benefit under the programs subject to the regulations at 7 CFR Part 1400.

Commensurate Reduction means that any covered benefit issued to an entity, general partnership, or joint venture shall be reduced by an amount that is commensurate with the direct or indirect ownership interest the entity, general partnership, or joint venture of each individual who does not comply with the adjusted gross revenue requirement.

Certification of Compliance means that an individual or entity shall provide either a certification by a certified public accountant that the average adjusted gross income does not exceed the requirement; or provide information and documentation regarding the adjusted gross income through other procedures established by the Secretary.

Income from farming, ranching or forestry means income derived from producing crops, livestock, or unfinished raw forestry products.

Special Rules for Certain Individual and Entities are applicable to those entities that are not required to file a tax return, and individuals and entities that did not have taxable income in one or more tax years used to determine the 3-year average. For example, if an entity was in existence only two years prior to the year of requesting program benefits, then the average adjusted gross income would only include those two tax years.

EXAMPLES

Situation 1 - Joe Smith requests benefits from the Direct and Counter-Cyclical Payment Program and from a Conservation Reserve Program contract approved effective for 2003. Mr. Smith's average adjusted gross income exceeds $2.5 million and was all from farming and livestock operations.

Determination - At least 75 percent of the average adjusted gross income was received from farming, ranching and forestry operations. Therefore, Mr. Smith complies adjusted gross income requirement and is eligible for the program benefits requested.

Situation 2 - Grace Jones is a share rent landowner and requests benefits from the Direct and Counter-Cyclical Payment Program on a contract with her tenant. Ms. Jones' average adjusted gross income was less than $2.5 million and over 75 percent was from non-agricultural interests.

Determination - Less than 75 percent of the average adjusted gross income was from farming, ranching and forestry, but the amount was less than $2.5 million. Therefore, Ms. Jones is eligible for the program benefits requested.

Situation 3 - William Davis is a share rent landowner and requests benefits from the Direct and Counter-Cyclical Payment Program on a contract with his tenant. Mr. Davis' average adjusted gross income was greater than $2.5 million and over 75 percent was from non-agricultural sources.

Determination - Less than 75 percent of the average adjusted gross income was from farming, ranching and forestry, and exceeds $2.5 million. Therefore, Mr. Davis is ineligible for the program benefits requested.

Situation 4 - Mark Johnson is a 25 percent stockholder in Johnson Farms, Inc. Johnson Farms requests benefits from the Direct and Counter-Cyclical Payment Program. The average adjusted gross income for Johnson Farms was all from farming and ranching. The average adjusted gross income for each of the stockholders was mostly from non-agricultural sources and the amounts were less than $2.5 million with the exception of Mark.

Determination - Any program benefit issued to an entity, general partnership, or joint operation shall be reduced by an amount commensurate with the direct or indirect ownership interest of an individual or entity who has an average adjusted gross income in excess of $2.5 million. Therefore, Johnson Farms is eligible for the benefits requested, but reduced by the 25 percent, which represents the interest held by Mark.

Wayne Greenha...
1860 N. 100 E
N. Logan, Utah 84341
753-5616-21

NRCS-LTP-11-E

Lee Broadbent
DC

Contract Support Document

Park City Muuicipal Cooporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480

Contract Number: ______________

Tract	Field	Item #	Planned Conservation Treatment	Estimated Amount	Units	Cost / Unit	Program	Cost Share	2003	2004	2005	2006
		1	RIPARIAN FOREST BUFFER (391)									
1	1A,1B,1C,1D											
	✓	1c	Riparian Forest Buffer	10.3	AC	$750.00	CRP	50.0% am	$3,863			
		2	RIPARIAN FOREST BUFFER (391)									
1	2A,2B,2C,2D,2E											
	✓	2c	Riparian Forest Buffer	6.8	AC	$750.00	CRP	50.0% am		$2,550		
		3	RIPARIAN FOREST BUFFER (391)									
1	3A,3B,3C,3D											
	✓	3a	Riparian Forest Buffer	4.9	AC	$750.00	CRP	50.0% am			$1,838	
		4	RIPARIAN FOREST BUFFER (391)									
1	4A,4B											
	✓	4a	Riparian Forest Buffer	1.2	AC	$750.00	CRP	50.0% am				$450
			Total Cost-Share by Calendar Year						$3,863	$2,550	$1,838	$450

Total Contract Cost-Share	$8,701

NOTES:

A. All items numbered under "Item #" must be carried out as part of this contract to prevent violation.

B. When established, the conservation practices listed as "Planned Conservation Treatment" must be maintained by the participant at no cost to the government.

C. Enter total cost per unit under "Cost/Unit" unless the method of cost-share is flat rate. When flat rate, enter the amount per unit to be paid to the participant.

D. All cost share rates shown under "Cost Share" are based on average cost (AC) with the following exceptions:

- AA = Actual costs not to exceed average cost
- FR = Flat rate
- NC = Non cost-shared
- AM = Actual cost not to exceed a specified maximum

This information is used in both the development and implementation of a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 U.S.C. 590a-f (Soil and Water Conservation); 16 U.S.C. 590h(b) (Agriculture Conservation); 16 U.S.C. 590p(b) (Great Plains); 30 U.S.C. 1236 et seq. (Rural Abandoned Mine Reclamation); 43 U.S.C. 1592(c) (Colorado River Basin Salinity Control); The Food Security Act of 1985, Public Law 99-198; Federal Agriculture improvement and Reform Act of 1996, Public Law 104-127 and the regulations promulgated thereunder. Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

USDA Wayne Greenhalgh
1860 N. 100 E
N. Logan, Utah 84341
753-5616-21

Lee Broadbent
District Conservationist

Conservation Plan

Park City Muuicipal Cooporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480

Pasture

Tract: 1

RIPARIAN FOREST BUFFER

Create or maintain an area of grass, trees and/or shrubs adjacent to water bodies.

Field	Planned Amount	Month	Year	Applied Amount	Date
1A	3.4 ac	9	2003		
1B	2.9 ac	9	2003		
1C	2.3 ac	9	2003		
1D	1.7 ac	9	2003		
2A	2.3 ac	9	2004		
2B	3.0 ac	9	2004		
2C	0.7 ac	9	2004		
2D	0.7 ac	9	2004		
2E	0.1 ac	9	2004		
3A	1.6 ac	9	2005		
3B	1.1 ac	9	2005		
3C	1.0 ac	9	2005		
3D	1.2 ac	9	2005		
4A	0.7 ac	9	2006		
4B	0.5 ac	9	2006		
Total:	23.2 ac				

PEST MANAGEMENT

Manage infestations of weeds, insects and disease to reduce adverse effects on plant growth, crop production and material resources.

Field	Planned Amount	Month	Year	Applied Amount	Date
All	23.2 ac.	9	2007		
Total:	23.2 ac.				

WETLAND WILDLIFE HABITAT MANAGEMENT

Retain, create, or manage wetland habitat for water fowl, furbearers, or other wildlife.

Field	Planned Amount	Month	Year	Applied Amount	Date
All	23.2 AC	9	2007		
Total:	23.2 AC				

CERTIFICATION OF PARTICIPANTS

CERTIFICATION OF PARTICIPANTS

Dana Williams 9/27/02

Park City Muuicipal Cooporation Date

CERTIFICATION OF:

DC

Lee Broadbent 9/27/02

Lee Broadbent Date

CONSERVATION DISTRICT

SCD Board Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

Job Sheet No. 327

VEGETATIVE JOB SHEET

Operator: Park City Municipal Cooperation Date: 8/5/02

Soil(s): Erosion Potential: slight

Elevation: 4500 to 5000' Ecological Site: Silt Loam Riparian Area

Field(s) and Acres: **Tract 1, Fields 1-4, 23.2 Acres** Rainfall: 14-17"

Intended Use: WILDLIFE HABITAT

Seedbed Preparation: Spray the weeds prior to seeding to ensure a good stand and to eliminate the potential for rocks and gravel to be on the surface to damage equipment.

Seeding Mixture: FOR PURE LIVE SEED (PLS) REQUIREMENTS, SEE REVERSE SIDE

Species	Lbs PLS/Ac	x	Acres	=	Total lbs PLS	$/PLS
Blue Bunch Wheat grass	2.0	x	23.2	=	46.4	$1,080.00
Westen Wheat	1.0	x	23.2	=	23.2	$135.00
Great Basin Wild Rye	1.0		23.2		23.2	$540.00
Intermidiate Wheat	1.0	x	23.2	=	23.2	$54.00
Tall Wheat	1.0		23.2		23.2	$75.60
Alfalfa	2.0	x	23.2	=	46.4	$151.12
Small Burnett	1.5	x	23.2	=	34.8	$129.60
Sainfoin	3.0	x	23.2	=	69.6	$405.00
~~Blue Flax~~	0.5	x	23.2	=	11.6	$81.00
			Col check sum -->		301.6	
Tota	13.0	x	23.2	=	301.6	$2,651.32

Time of Seeding: Anytime before April 15

Method of Seeding: Broadcast on snow and let the mositure take the seed in to the gro

Other Treatment:

Signatures: Dana Williams 9/27/02 [illegible] 10/30/02
Farmer/MAYOR Date NRCS Date

Job Sheet No. 327 (reverse)

Seedbed Preparation: Firm, weed-free seedbeds are essential to a successful seeding. The type of seedbed (conventional, stubble, preparatory crop, etc.) selected should suite the conditions of the site.

Seed Mixture: The number and kind of grasses and legumes seeded will depend on the soil conditions and the intended use. The need for sod formers in erosion control and grass waterways, etc., are all factors that will determine species selection.

Seeding Rates: All seeding rates are expressed in pounds of pure live seed (PLS) per acre. PLS is determined by multiplying percent total germination by the percent purity and dividing by 100.

Example: 98% purity, 90% germination

$$\frac{98 \times 90}{100} = \frac{\#\#}{\#\#} = 88.20\%$$

Actual seeding rate to obtain ten pounds PLS would be 11.3 pounds.

$$\frac{10}{0.882} = \underline{\underline{11}}$$

Time of Seeding: Seedlings put under stress before they become established will have a poor survival. Timely seedings are most important to prevent summer drought or winter kill.

Management of New Seedings: Weeds are highly competitive and must be controlled to prevent reduction of seedling vigor and stand.

Riparian Forest Buffer - Specifications Sheet

Landowner Park City Municipal Field number all

Purpose (check all that apply)	
☒ Intercept sediment, nutrients, pesticides, other contaminants	☒ Wildlife habitat
☒ Lower water temperature	☐ Other (specify):

Location and Layout		
Water body/course type and name, other: McLoud Creek		
Minimum buffer zone widths (ft.) - specify left and right of stream (facing upstream) for a two-side buffer; use left only for water bodies, such as lakes and ponds; include herbaceous species in zone 3 notes or refer to other job sheets:		
~~Label~~ Stream Edge	Zone 2 Top of Bank	Zone 3
Left Right:	Left: Right:	Left: Right:
Notes: Plant trees to depth of water	Notes: Plant trees to depth of water	Notes (refer to filter strip job sheets):
Buffer zone length (ft): 16000	Buffer zone area (ac): 23.2	
Additional location and layout requirements: None Trees will be every 5 feet		

Woody Plant Materials Information Species/cultivars: Spacings:	Plants/acre:	Kind of stock¹:	Planting dates:	Average
Zone #1				
1 Yellow Willow	3200	Cuttings	Spring	
2				
3				
4				
Zone #2				
1 Golden Current	3200	Bare Root	Spring	
2 Woods Rose	3200	Bare Root	Spring	
3 Rred Osier Dogwood	3200	Bare Root	Spring	
4				

1BAreroot, QQntainer, -Cuttings; include size, caliper, height, and age as applicable. average spacing between plants to achieve plants/acre-

Temporary Storage Instructions
Planting stock that is dormant may be stored temporarily in a cooler or protected area. For stock that is expected to begin growth before planting, dig a V-shaped trench (heeling-in bed) sufficiently deep and bury seedlings so that all roots are covered by soil. Pack the soil firmly and water thoroughly.
Site preparation
Remove debris and control competing vegetation to allow enough spots or sites for planting and planting equipment. Additional requirements:
Planting Method(s)
For container and bareroot stock, plant stock to a depth even with the root collar in holes deep and wide enough to fully extend the roots. Pack the soil firmly around each plant. Cuttings are inserted in moist soil with at least 2 to 3 buds showing above ground. Additional requirements:

Buffer Maintenance
The buffer must be inspected periodically and protected from damage so proper function is maintained. Replace dead or dying tree and shrub stock and continue control of competing vegetation to allow proper establishment. Periodic harvesting of trees and shrubs in zones 1 and 2 may be necessary to maintain the health and vigor of mature stands. Additional requirements:

Form Approved OMB No. 0560-0125
See CRP-1 for Privacy Act and Public Burden Statements

U. S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

APPENDIX TO FORM CRP-1, CONSERVATION RESERVE PROGRAM CONTRACT

1 DEFINITIONS

The following definitions are applicable to the Conservation Reserve Program (CRP) Contract:

A CRP contract or CRP-1 means the program documents including the applicable contract appendix, conservation plan and the terms of any required easement, if applicable, entered into between CCC and the participant. Such contract shall set forth the terms and conditions for participation in the CRP and receipt of CRP payments.

B Current agricultural market value for offer evaluation purposes means the amount in dollars per acre, determined by CCC to be the adjusted price at which the land placed in the CRP could be rented based on the average cash rental rate, or equivalent, per acre, paid for dryland cropland at the time at which this contract is signed by the participant.

C Vegetative cover means perennial or permanent grasses, legumes, forbs, and shrubs with a life span of 10 years or more, or trees.

D All other words and phrases, unless the context of subject matter otherwise requires, shall have the meanings assigned to them in the regulations governing the Conservation Reserve Program which are found at 7 CFR Part 1410.

2 ELIGIBILITY REQUIREMENTS FOR CONSERVATION RESERVE PROGRAM

A By signing the CRP contract, the participant, except in the case of persons qualifying solely as a tenant, certifies that such participant will control the land subject to the contract for the contract period and, if applicable, the easement period and shall, upon demand, provide evidence to CCC demonstrating that such participant will control the land for that period.

B Land otherwise eligible for the CRP shall not be eligible, except as agreed otherwise, in writing, by CCC, if the land is subject to a deed or other restriction prohibiting the production of agricultural commodities or where a benefit has or will be obtained from a Federal agency in return for the participant's agreement not to produce such commodities on the land during the same time as the land would be enrolled in the CRP. By offering land for enrollment, the participant certifies as a condition for payment that no such restrictions apply to such land, except as agreed otherwise, in writing, by CCC.

3 RESTRICTIONS ON PAYMENTS TO FOREIGN PERSONS

A Any person who enters into this CRP contract or participates in such contract at any time who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.) shall be ineligible to receive annual rental payments under this contract unless such person meets the requirements of 7 CFR Part 1400 which shall be applicable to this contract.

B CCC agrees, subject to the availability of funds, to:

(1) Share the cost with owners and operators of establishing an eligible practice, or an identified unit thereof, agreed to in the Conservation Plan, except that, in no case may the share of CCC exceed an amount equal to 50 percent of the price at which the land placed in the CRP could be sold for use as farmland at the time at which this contract is signed by the participant, unless the CCC otherwise approves such amount, provided further, that such approval must specifically reference the particular land placed in the CRP under this contract;

(2) Pay the agreed-upon annual rental payment, including any incentive payment, based upon the shares to which the parties have agreed as set forth on Form CRP- 1 for a period of years not in excess of the contract period;

(3) Pay to the participant, to the extent required by CCC regulations, an interest penalty on cost- share payments, incentive payments, and all annual rental payments not made by the date, as determined by CCC, the payment is due;

(4) At the time of contract expiration or termination, reinstate the allotment or quota, required to be reduced for participation in the CRP, subject to the regulations governing Federal farm programs except that in no case may such reinstated allotments or quotas exceed the amount that would have been applicable had there been no CRP contract;

(5) Make annual rental payments after October 1 of each year of the contract period.

5 CONSERVATION PLAN

A Subject to the approval of CCC, the Conservation Plan will include some or all of the following information and requirements:

(1) The vegetative or water cover to be established on the CRP land;

(2) A tree planting plan, developed in cooperation with the Forest Service, if trees are to be established as the vegetative cover on the CRP land;

(3) A schedule of completion dates for establishment of the cover on the CRP land;

(4) The level of environmental benefits which must be attained on the CRP land;

(5) Any other practices required for the establishment or maintenance of the cover on the CRP land including weed, insect, pest, and other controls of undesirable species, and such maintenance as necessary to avoid an adverse impact on surrounding land as determined appropriate by CCC, taking into consideration the needs of water quality, wildlife concerns, and other factors.

(6) The acreage will not be disturbed during the primary nesting season for wildlife as determined by CCC.

B By signing the Conservation Plan, the participant agrees to implement the practices specified in such Conservation Plan on the CRP land even if such practices differ from those listed on Form CRP-1.

(2) fails to maintain tenancy, as determined by CCC, throughout the CRP contract period;

(3) files for bankruptcy and the trustee or debtor in possession fails to affirm this CRP contract;

(4) dies during the term of this CRP contract and the administrator of the operator or tenant's estate (or a similar person with authority to administer the affairs of the operator or tenant) fails to succeed to this contract within the time required by CCC; or

(5) was removed for cause, as determined by CCC.

C The removal of an operator or tenant from the agreement shall not release the operator or tenant from liabilities for actions arising before such removal.

8 ERRONEOUS REPRESENTATION AND SCHEME AND DEVICE

A A participant who is determined to have erroneously represented any fact affecting a determination with respect to this CRP contract and the regulations applicable to this CRP contract, adopted any scheme or device which tends to defeat the purposes of this CRP contract, or made any fraudulent representation with respect to this contract will not be entitled to payments or any other benefits made in accordance with this CRP contract and the participant must refund to CCC all payments received by such participant, plus interest and liquidated damages thereon, with respect to the CRP contract. Such liquidated damages will be determined in accordance with paragraph 9 of this Appendix.

B Unless CCC regulations provide otherwise, refunds determined to be due and owing to CCC in accordance with this CRP contract will bear interest at the rate which CCC was required to pay for its borrows from the United States Treasury on the date of the disbursement by CCC of the monies to be refunded. Interest will accrue from the date of such disbursement by CCC.

C The remedies provided under paragraph 8A of this Appendix shall be applicable in addition to any remedies under criminal and civil fraud statutes, including 18 U.S.C. 268, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729, or any other remedy available under law.

9 LIQUIDATED DAMAGES

It is mutually agreed that in the event the CRP contract is breached by the participant, the CCC will suffer substantial damages which may not be possible to quantify with certainty. Therefore, in addition to the refund of payments received plus interest due, for breach of contract prescribed in this contract, the participant agrees to pay an amount equal to the product obtained by multiplying: (1) 25 percent of the rental payment rate per acre on Form CRP-1 by, (2) the number of acres that are the subject of the CRP contract. Such amount shall be due as liquidated damages in addition to such other damages or amounts as may be due, and not as a penalty.

10 NOTIFICATION OF CHANGES TO TERMS AND CONDITIONS OF THE CONTRACT

CCC agrees that, if any changes of any terms and conditions of this CRP contract, including changes necessary to reconcile the practices listed on the CRP-1 to those specified in the conservation plan, become necessary prior to the date that this contract is approved on behalf of CCC, CCC will notify the persons signing the CRP-1 of such change and such person will be given 10 days from the date of notification in which to agree to the revised terms and conditions or to withdraw from the offer. The participant agrees to notify the CCC of an intention to withdraw from the offer within 10 days from the date of the issuance of such notice and further agrees that failure to notify the CCC will constitute agreement to the revised terms and conditions.

City Council
Staff Report

Author: **Alison Butz**
Subject: **Moose on the Loose**
Date: **September 25, 2003**
Type of Item: **Administrative – Display of Public Art**

Special Events and Facilities Department

Summary Recommendations:
Provide Staff with direction on the placement of art on City property from October 2003 – April 2004 for the Moose on the Loose Program. If Council is supportive of the event, Staff will return with an MFL and encroachment agreement for use of City property on October 9, 2003.

Description:

A. Topic:
Moose on the Loose is a fundraiser benefiting the Park City Performing Arts Foundation, Kimball Art Center and Egyptian Theater. Twenty-two life-sized moose will be placed throughout the community during the winter season.

B. Background:
Moose on the Loose is a public art effort, which will serve as a tourist attraction as well as a fundraiser for three of Park City's art organizations (the Egyptian, the Kimball and PCPAF). Twenty-two moose will be displayed throughout town (in public and private locations) until December 26th, when the herd will gather outside the Kimball. Local artists will transform all moose into "moosterpieces". The life-size sculptures will be auctioned off on December 27th. The moose will be re-distributed to the designated public and private locations for the remainder of the ski season, provided purchasers of the moose permit their moose to be on display.

The auction on December 27, 2003 will be reviewed by Council under a Master Festival License (MFL), which would request the closure of Heber Avenue. Heber Avenue (between Park Avenue and Main Street) would be closed from December 26th through noon on December 28th.

C. Analysis:
The Land Management Code (LMC), Section 15-4-15, states requirements for the outdoor display of works of art. The requirements for display on private property are different than public. For the display on private property, permission from the private property owner is required and visual setbacks on corner properties must be met. A majority of the moose will be displayed on private property and include the following locations.

Blind Dog *1781 Sidewinder Drive*	P.C. Board of Realtors *1912 Sidewinder Drive*
Iron Horse District *1270 Iron Horse Drive*	Deer Valley Resort 2250 Deer Valley Drive

Park City Mountain Resort *1310 Lowell Avenue*	Park Meadows Country Club *2000 Meadows Drive*
Prudential Utah *2200 Park Avenue*	Kimball Art Center *638 Park Avenue*
San Francisco Design *1890 Bonanza Drive*	Cole Sport *1615 Park Avenue*
Wells Fargo Bank *1400 Kearns Blvd*	Zion's Bank *1100 Snowcreek Drive*

Since these locations are on private property, no City approval is required.

For those locations on public property, the Planning, Engineering and Building Departments will review the locations for compliance with applicable building codes to make sure the display does not create a hazard to the public. Upon compliance with the set criteria, Council shall review and take final action on the request by approving an encroachment agreement.

An encroachment agreement can be issued, for multiple locations, to allow for the placement of moose on City property once administrative approval is given to the locations. The agreement outlines insurance requirements, clearance for pedestrian walkways and maintenance of the moose.

The following are requested locations for moose displays on public property.

Park City Transit Center *558 Swede Alley*	Miners Hospital *1354 Park Avenue*
Phoenix *508 Main Street*	O.C. Tanner *416 Main Street*
Chloe Lane *556 Main Street*	Coda Gallery *804 Main Street*
Olympic Welcome Plaza *Intersection of SR 224 and SR 248*	"Welcome to Park City" Sign *SR 224 Entry Corridor*

The additional four locations will be outside of the Park City limits.

D. Department Review:
The Moose on the Loose program has been reviewed all applicable City departments.

Issues for Discussion:

- Are the proposed locations for the Moose, on City property, appropriate provided that they meet necessary permit requirements per Section 15-4-15 of the Land Management Code?
- Does Council support the closing of Heber Avenue for the display of the moose and auction from December 26th through noon on December 28th?

Recommendation:
Provide Staff with direction on placement of Moose on City property and the closure of Heber Avenue from December 26th through December 28th. If Council is supportive of the event, Staff will return with an MFL and lease for use of City property.

City Council
Staff Report

Public Works Department

Author:	**Kent Cashel, Asst. Public Works Dir.**
Subject:	**DRAFT SHORT RANGE TRANSIT DEVELOPMENT PLAN**
Date:	**September, 25th, 2003**
Type of Item:	**Informational**

Summary Recommendations:
Review and comment on Draft Short Term Transit Development Plan (SRTDP) and schedule for adoption. Authorize Staff to present Chapter 11 of the SRTDP for public comment at a meeting scheduled for October 14, 2003.

A. Background:

In June of this year Council authorized staff to contract with LSC Transportation Consultants, Inc. (LSC) to begin preparing a joint Short Term Transit Development Plan (SRTDP) with Summit County. This study, required by the Federal Transit Administration, will provide a financially constrained service, capital, institutional and management plan that will guide transit development for Park City\Summit County Transit over the next 7 years.

A steering committee that included Park City Councilman Jim Hier, Summit County Commissioner Bob Richer, Park City Asst. Public Works Director, Summit County Public Works Administrator and other Park City Transit Staff was formed in early July of this year. The steering committee has worked with LSC over the past ten weeks to research and develop the attached draft Chapter SRTDP. Chapter eleven (attached) contains the details of all recommended service, capital and management elements of the SRTDP. Chapters 1-10 of the SRTDP (not attached) contain several hundred pages of data and analysis that are summarized in Chapter 11. Staff can provide a copy of these chapters upon request.

Staff requests that the Mayor and City Council review and comment on the draft SRTDP and authorize Staff to present the draft plan to the public for comment at a public forum scheduled for October 14th, 2003. Staff will provide the Mayor and City Council at least two more opportunities to review and comment on the SRTDP prior to final adoption.

B. Analysis:
Development of the SRTDP followed the sequential steps (tasks) outlined in the table below:

Task	Description
1. Prepare introduction and setting for services.	Kickoff meeting with steering committee, determine data availability and sources, review existing goals and objectives for transit.
2. Prepare description of existing services.	Catalog and document the supply side of public\private transit service within the Park City\Snyderville area.
3. Prepare analysis of transit demand.	Provide a basis for assessing how current service is meeting demand. This process will provide the basis for developing service enhancement determinations.
4. Analyze existing system performance.	To determine how effectively and efficiently current services are provided.
5. Technical Memorandum #1.	Findings of above tasks documented by consultant and reviewed and commented on by steering committee.
6. Develop goals and objectives.	Provide an organizational framework for future improvements to management and operations of transit services.
7. Develop alternatives.	Develop a wide range of service, capital and management alternatives to address issues identified in Technical Memorandum 1.
8. Review organizational structure.	Analyze the strength and weaknesses of current taxing authorities. Conduct a review of current inter-local agreement to determine if improvements in this agreement are required.
9. Prepare 7-Year source and uses statement.	Identify all operating costs and revenue sources to provide the basis for financial feasibility analysis of any recommended management, capital and service alternatives.
10. Feasibility analysis and recommendations.	Provide a comprehensive evaluation of the feasibility of each alternative identified in Task 7 in order to develop a set of recommended actions for the planning period.
11. Technical Memorandum # 2.	Findings of above tasks documented by consultant and reviewed and commented on by steering committee.
12. Prepare draft short range transit development plan.	Recommended management, service and capital alternatives documented in draft plan (Chapter 11).

Staff, unless directed otherwise, plans to follow the schedule for adoption found below (Summit County plans to follow a similar schedule). It is important to note that this schedule is tentative and may change if additional time is required as both the County and City move through this process.

Short Range Transit Development Plan Final Review Schedule

September 25	Present draft plan (Chapter 11) to City Council for review and comment.
October 14	Public meeting to present draft SRTDP to the public and take comment.
October 23rd	Present final draft to City Council for review and comment.
October 30th	Present final SRTDP to City Council for adoption.

C. Department Review:
This report has been reviewed by the City Manager, the Office of Capital Management and Budget and Public Works.

Alternatives:

A. **Review and comment on the SRTDP's recommended management, service and capital alternatives :** Council could authorize staff to present the draft SRTDP to the public for comment at a meeting to be held on or about October 14. Council will have at least two more opportunities to provide input on the recommendations prior to approval. This is Staff's recommendation.

B. **Direct Staff to modify the SRTDP:** Council could direct Staff to modify the SRTDP prior to presenting the draft SRTDP to the public for comment.

C. **Continue the Item:** Council could defer review and comment of SRTDP to a later date. Staff does not recommend this alternative.

D. **Do Nothing:**
Council could do nothing on this item. Staff does not recommend this alternative.

Recommendation:
Review and comment on the Draft Short Term Transit Development Plan (SRTDP) and schedule for adoption. Authorize Staff to present Chapter 11 of the SRTDP for public comment at a meeting scheduled for October 14, 2003.

City Council
Staff Report

Author: Mark Harrington
Subject: CITY ATTORNEY
Date: September 25, 2003
Type of Item: Work Session- Legislative

PARK CITY 1884

LEGAL DEPARTMENT

Summary Recommendations:
Provide staff with direction regarding proposed art display and vending in the park space north of the Library.

Description:

A. Topic:
Art display and vending in public park space.

B. Background:
This matter was previously discussed before City Council on July 31, 2003. Please refer to Staff Report dated July 28, 2003. At the July 31 meeting, the Council directed staff to explore the use of the Coalition Parcel for the limited display and sale of art, provided such use was consistent with the open space bond restrictions. The Council did not support use of City Park at this time. The Council also directed staff to make some technical changes in the draft ordinance to clarify several points, including: 1) seasonal display- summer only; 2) three consecutive days a certain number of weekends per year; 3) minimize license application requirements; 4) clarify hours of display; and 5) explore ways to sunset the ordinance with re-adoption so not to create precedent or vesting in the event that the City determines there are adverse impacts that cannot be mitigated.

C. Analysis:
Since the July 31 meeting, staff conducted several meetings to explore how to move forward, including meeting with the Alison Butz, Brian Hess/Arts Council, Linda Tillson and Stephen Cornelius. Meetings with staff and Mr. Cornelius resulted in the determination that the Coalition Parcel would not work for a number of reasons: inadequate size, no public restrooms close by, and the likelihood of conflicts with other uses of the parcel.

Mr. Cornelius suggested looking at the area to the north of the Library and staff met with Linda Tillson to review that possibility. After review and looking at other areas, including Library parking lot areas and City Park space near Miner's Hospital, adjacent to the tennis courts, and near the new parking lot near the Skate Park, there was consensus that the field space north of the Library would work best. Linda felt the proposed activity could occur on weekends with minimal or no impact to the Library and its parking.

As staff prepared to move forward with that location, the Arts Council, PCMR and Town Lift project applied for and received a Special Event for art vending on private property at the Town Lift plaza for four weekends. The event was modeled after SLC's Mainly Art program. Staff encouraged Brian Hess and Stephen Cornelius to meet to see if their efforts could be combined to avoid duplicative efforts and overlapping events. While their meetings have been productive and supportive, staff understands that both efforts would still prefer to move forward separately. The door remains open for future consolidation and cooperation.

Accordingly, staff requests direction from the Council regarding:

1. Does the Council support moving forward with the Library location? The specific area would be the eastern portion of the field, allowing open use of the majority of the field. The event would be weekly in the summer, self-policed for the most part by the artists pursuant to City policy.
2. Does the Council favor the use of small tents to protect the artists' work, subject to meeting all UBC/code requirements?
3. Would the Council support no business fee for individual participants?
4. A narrow definition of "art" to allow original artwork only and not craft or other items of practical utility. See attached memo dated 8/29/03 from Stephen Cornelius.
5. Rather than have an automatic sunset, Mr. Cornelius requests specific performance criteria or reasons that the City's approval would be revoked. Staff still recommends that the Council consider a one-season test.

D. Department Review:
Legal, Special Events, Planning and Library staff have reviewed this matter.

Alternatives:

A. Approve the Request:
Direct staff to move forward.

B. Deny the Request:
Direct staff to explore other options, including consolidation with the Arts Council test program at the Town Lift plaza.

C. Continue the Item:
Encourage the interested parties to continue a dialogue about coordinating their efforts prior to directing staff one way or the other.

D. Do Nothing:
Except for approved Special Events or MFLs, outdoor sale of art on public property would remain prohibited.

Significant Impacts:
Staff and interested parties have focused on a positive and proactive approach to addressing this issue. Mutual goals of effectively using limited public space and promoting art and culture have driven the effort so far. Staff believes the Library area can be utilized with minimal impacts.

Consequences of not taking the recommended action:
No action may result in a challenge to existing City vending restrictions.

Recommendation:
Provide staff with direction regarding proposed art display and vending in the park space north of the Library.

Park City Municipal Corporation
City Council

C/O: City Attorney

RE: Original Art/Artist Exhibition Ordinance
Draft Development Suggestions

FROM:
t. Stephen Cornelius August 20, 2003
(435) 901-8697 P.O. 1136 Park City UT. 84060

PROBLEM WITH DEFINING THINGS - TRY THESE and other refined thoughts?

Person: The embodiment and visceral singularity of being a human as opposed to some other life form having life or of having had life as an independent actualized experience as opposed to the possibility of experience. Having no and making no comparative to other individuals of a group or parts of a whole as an experience.

Individual: A person who is inclusive, not separate from other persons, as a member of a group. An individual of the human species is distinct from a person; whereas, no two persons by any know evidence are absolute in likeness, but are of similarity in general character as a comparative group of individual elements of a relationship to something other than self which constitutes the ultimate whole of person.

Person Rights: NONE. "Rights" presumes and can only presume a posture as a comparative in context to the ordering of a relationship between one or more individuals in a group. Accordingly, a governing compact merely attempts to constitute a means and way to regulate a relationship between individuals, not persons. The term citizen implies membership standing relevant to a specific group of individuals in constitutional compact governing and dictating the granting of such title to individuals and rights of an individual in context to the group.

(I am compelled in my person to an unconditional, inconsequential, certainty or uncertainty of existence. I am compelled by a constituted accord of limited individuality whereas my being is subject to possible consequence relevant in context to a group experience requiring submission to a prescription of order (Rule of Law) imposed to govern and affect the effect of individuality upon the constitution and character of the relationship as a whole).

There is no Symmetrical meaning to the idea of a person or individual being the same.

Law compels behavior and dictates consequence. Policy proposes behavior subject to its consequence.

Law rejects self-governing. Policy delineates and disseminates self-governing.

Law imposes. Policy proposes.

Law has the effect to affect- FORCE COMPLIANCE. Policy has the affect to effect- COPERATIVE COMPLIANCE.

Law requires a protocol of law in order to change what is law to facilitate practical necessity.
Policy requires no protocol of change to facilitate the necessity of practical policy.

2.

The term "Art Craft" or "arts and Crafts" are of common usage in our cultural society and thus clearly demonstrate defining differences from the use of the word "Art" alone. It is similar to the misuse of the words "Person" and "Individual" in inappropriate syntactical applications to imply they mean the same. THUS,

POSSIBLE ORDINANCE LANGUAGE:

CALL IT Paragraph POLICY STATEMENT A-1 or [PS-A-1] for example.

PS-A-1: "Original Art/Artist - Expression" means:
A person's sole expression, creation or interpretation of their experience of experience by acts or by means of tangible objects personifying a conveyance of that person's being having no other intent and purpose of functional utility application of demonstrative use beyond personal expression, and is not a mere device attached to or applied to facilitate or enhance the promotion and marketability of some other idea or object of which the primary appeal to possession is its utility functionality of designed application."

Possible wording of an ordinance provision qualifying and quantifying what is to be exhibited under this ordinance and what is not it's specific intent and purpose:

PS -A-2: "Qualifying Intent & Purpose of Ordinance" (Exclusionary Policy)

"Whereas this ordinance in its intent and purpose is to promote and provided for the expression of Original art/artist the place of exhibition on public property in public domain as stated in meaning as set forth in section PS-A-1 of this ordinance, the exhibition or display for sale of any other object or services in the places of public property of public domain is not provided for under this ordinance and shall be prohibited under this ordinance. Any person or individual not wishing to exhibit and display under this ordinance policy and provisions, but exhibit otherwise, is subject to Council review and provisions of other existing codified ordinance and law. No person or individual shall be prohibited from petitioning the City or City Council to enact any ordinance or to make change in ordinance should that person or individual so wish. However, the person or individual desiring to exhibit and display shall have the burden of proof and necessity to provide supportive evidence and argument to qualify and quantify that their individual and personal activity meets the meaning of original art and expressionism as set forth in this specific ordinance, or show just cause for exception for inclusion. This ordinance does not prohibit nor exclude any person or individual from seeking a permit of permission to otherwise exhibit or display or conduct other activity not specific to this ordinance for use of City Property or public domain places for other kind of activity or purpose that may be and can be facilitated and reasonably served within the bounds and limitations of existing City Public Property.

3.

PS-A-3: "The necessity of reasonable Public Property Use Allocation":

Where as the City owned Parks and other property is greatly limited and is of significant importance to the life style activity interests of its resident culture and a principal resource for use to help support the commercial base of the community as a resort visitor sport and cultural activity destination, the Council must be responsive and is responsible for the allocation of, orderly and consistent access to, maintenance and use of Public Parks to provide for a multiplicity of demand and use expectations of all concerns. As well, the City and it's Council has the responsibility to make reasonable guidelines, laws or ordinance to assure orderly and affective use by all for all and require reasonable and responsible use by any and all individuals and persons, and the duty to defend, protect and serve the general welfare, safety, goodwill of any and all individuals and persons within and upon public property or in public domain.

PS-A-4: "The Original art/Artist Exhibition Place Zone":

The policy of the Council is to provided dedicated City Park space for the exhibition, display and sale of original art directly by the creator of the original art in person in such reasonable manner of exhibition in places, at times in such ways aligned with the policy and needs of the community set forth in PS-A-3.

The Council has the right and authority to modify use or reassign space bounds where and when such is deemed necessary and aligned with PS-A-3. It is not the policy of the City or Council to so modify or reassign based on bias or prejudiced use interests that holds this activity is of less importance than others, nor that this activity shall be limited so as not to compete with commercial interests to which it may be of affect upon, nor used as and directed so as to, by design, promote other commercial activity not related specific to the exhibition and display or original artist and their original expression.

<u>Dedicated Original Art/Artist Exhibition Zones</u>: (FOR EXAMPLE)
Primary Dedicated Zone (A).: City Library Park:

The area beginning at _____ (et cetera) is provided for the exclusive use of original art/artist exhibition, display and sell, on the following days and during the following times. (Example) Monday - Sunday from 9 a.m. to 6 p.m. (as interest will dictate and seasonable conditions would allow) beginning May 1st to October 15th (or as weather permits) on a first come first serve basis subject only to policy guidelines of individual use of space as set forth herein, or until such time as there is a demonstrative demand for space that a need to limit space and/or assign space to specific persons/individuals is deemed necessary to assure all possible access may be afforded.

The Zone should be open at all times set forth, and not disallowed during other major events, particularly during other types of art events. IF AT ALL POSSIBLE exhibitors should be allowed to park their vehicles on the grass area to display from or behind display area to limit street parking space use. This also allows for ease of set up and take down and for exhibitors to come at will to set up (if space is available). When an artist comes is up to the artist. No mandatory set up time or leaving time should be dictated.

NOTE - for Optional Dedicated Zones: It is highly unlikely that the number of artists as defined in PS-A-1 will be in such number that an area other than Library Park would be needed. However, having options allows for consistency in the event that for some reason the Library Park can not be used for some technical reason.

DISPLAY POLICY: (Example):

1). NO exhibitor or person as original artist shall have any exclusivity or claim to any specific space or area within a zone.
(2). No artist may setup or occupy a space prior to 8:am.
(3). No exhibiting artist shall occupy or have a right to use a space in an exhibiting zone covering an area larger than 100 square feet.
(4). No exhibiting artist may erect any display, shading device or tent structure covering an area larger than 100 square feet or exceeding a height of 10 feet without FIRST submitting a written request and just need to City Building and Safety, and other such City departments so required for review and the issuance of a permit to do so, which if such activity is question by other exhibiting artist may be provided to show compliance.
(5). ALL displays, shading or tent structures MUST BE REASONBLY secured and of stable integrity to withstand human contact or weather conditions that would contact them under ordinary circumstances to prevent injury to persons and property. Failure to comply with commonsense reasonable practices is deemed reasonable grounds to disallow any artist from exhibition in the interest of common safety. The Council (Police) has the sole and absolute authority to request reasonable compliance or to prohibit uses of such display, shading or tent devices demonstrating a clear and present danger to public safety.
(6). NO exhibitor or public attendee has the AUTHORITY TO FORCE COMPLIANCE and shall defer all enforcement to local City authority in the event any issue may arise where an exhibitor or public attendee may not be in compliance with this ordinance.
Reasonable compliance means: Presenting no clear and present danger of being able to cause personal injury or property damage to others by the manner of placement or condition of structure under reasonable conditions.
(7). No exhibitor space may be used for any other purpose than the exhibition, display and sell of personal, original art, prints of copies of original works exhibited and displayed directly by and offered for sale by the original creator. The selling of anything else is prohibited in any zone, by anyone for any reason (THIS SHOULD INCLUDE any political or religious materials unless the direct, exclusive expression of the person by them as their original expression, as opposed to an individual simply conveying the ideas of others... The idea is not to have politician booths, other art organization fund raising booths, Chamber booths, food vendors, or what ever taking up space in a zone that have

nothing to do with the primary intent and purpose of this ordinance and the ZONE dedicated to that purpose. What the City and Council might allow outside the immediate zone is not an issue

(8) No zone may be used by a commercial gallery to promote itself or display artist clients work, unless each artist that may have work exhibited must be present when such art is on exhibition/display and must present and must directly deal with the public. Agency representation or selling by anyone other than the original artist to any other person or individual is prohibited

(9) NO amplified music shall be performed or played, nor will the use of electronic radios or other apparatus be use for personal pleasure where such projections of sound intrudes upon local residential areas or other exhibiting artists and violates standing City noise ordinances.

(10). The use of sound, kinetic mechanical devices, automation, light projection and such elements incorporated into the conveyance of expression in the exhibiting artists work must be applied responsibly and in appropriate respect for the place, time and general health, safety and welfare of the public. Where there may be a clear and present danger to these concerns, such may be prohibited or limited by Council or by standing Building and Safety Ordinance, Fire Marshal, or Parks and Recreational divisions, or other departments of the City applicable..

EXTENDED THOUGHTS NOTES on Originality:

Food Making is a Craft, not an art. Displaying food can be done with a sense of the essentialisms of art to enhance its appeal, thus it is merely a device of art concepts applied to sell an appeal to eat (buy) the food. Selling art supplies does not constitute art nor is the selling of HOW TO do art, art. Instructional materials teaches craft - NO book can teach one to be a person or express as a person. Home made foods are produce products, not artistic personal expressions accept as taste. Craft appeals to another individuals taste, ART HAS NO TASTE as objective. The same applies to jewelry or clothing, both being apparel or accessory to apparel for all intent and purpose though the device of art may be incorporated to facilitate the desire to eat the food or wear the object. As far as pottery, it has or may not have (as sculpture works) a primary utilitarian appeal incorporating art as a device. However, cups and other dining ware has a utility functional design, using decorative elements that may or may not reflect essentialism of art, but they are not art, nor is the primary objective expression of person. Hence, we use the word utensils to describe their function. A sculpture work has no other purpose than the expression of an idea, and if more than that it is craft using art as a device to facilitate functional use. Such as an intended use in architectural design, a tomb stone. It's tricky. I do not create art as decoration. If such is an intent of the creative process, then it is crafted to fit some specific function - (space, room color, theme…) which is commercial art, industrial art or other prejudiced fabrications meeting another's expression beyond myself. Hence, when any content or evolved context of my artistic expression is censored to fit any other individuals perceptual senses, ideas or taste (if you will), its an exercise in craft (craft art). My personal expression has been converted to individual expression in compact with the individual expression of others.

6.

I OFFER THIS COMMENTARY because it is sometimes difficult to distinguish where art originality and art as a device to facilitate the selling of a craft (like advertising art) can easily be perverted to circumvent the idea one is selling a product, merchandise as opposed to merely expressing ideas. I expect individuals to abuse the intent and purpose of this ordinance to facilitate product merchandising on the pretense of being personal expression and original creation. It's not practical to neither try and define an absolute difference item for item, nor toss the baby out with the bath water so to speak by not enacting the ordinance because this problem may have to be dealt with. I BELIEVE, however, PS-A-1 and qualifying ordinances on a policy basis reasserting the intent and purpose of the ordinance, will serve to minimize abuse and minimize if not eliminate any challenge possible. A challenge would require an individual to draft a rebuttal argument of significant substance requiring significant research and demonstrative precedence to show cause that THIS ORDINANCE is something other than what it's stated purpose and intent in design is, and not an affront to free speech or public access use. The Ordinance does not prohibit ANY REQUEST for an ordinance or a right to challenge an ordinance. It merely says it is what it is and if you want to exhibit under it, then the exhibitor, not the Council must quantify and qualify their person to exhibit under it. If you meet the definition of PS-A-1, etcetera- NO PROBLEM. If you do not, then you can opt to have an ordinance considered by the Council that fits your thing unless your thing is already clearly defined in already existing ordinances - which you can challenge to modify.

(**SPACE friendly to and conducive to display:** Flat, open space between exhibited pieces for proper viewing distanced, reasonable shading or placement where direct sunlight is minimal, and variances of wind minimized. Grass, or other less high absorbing and reflective surfaces is best. Refined environments... a couple of signs to help direct people to location, very little promotion as the art world of interest is moved well on its own word of mouth. Art is not invasive, and mostly passive, requiring minimal interaction.

Making it an ars gratia artist experience - art for the gratification and greatness of art and personal expression creates a forum where ideas about art and expression from a visceral point of technical composition to empirical expressionism can be voiced and discussed amongst artist and art interests - a place for and where every week a process amongst artist and artistic interests can engaged in the very important process of mutual critique and personal discovery. THIS ENVIRONMENT is greatly diminished where an atmosphere of craft or product vender activity is also immediately present. Such mutual activity combined diminishes the value and worth of the art as art as opposed to craft.

Who knows that when the exhibiting ordinance is in place and the zone open, that any but a few artists will exhibit, if any at all. I would expect some, perhaps a lot initially, but you will see ONLY THOSE committed as artist consistently active. There are lots of persons thinking about being artists as the primary design of life purpose and means to existence, but few TRULY COMMITTED last or have the necessary discipline and dedication to make it more than just a hobby. It's a very difficult life style with constant uncertainty and lack of security - BUT A GREAT EXISTENCE.

I hope this memo helps you and the Council formulate the ordinance. Feel free to call anytime with any point I might help with in its framing based upon my experience with the issues. Keep me informed on what's being drafted before drafting your time and energy to writing out a final detailed draft that my input might be felt relevant to the editing or expanding of wording or qualifying of stated provisions. The more succinct the reading and clear conveyance of the ordinance the better the extent the intended purpose is not compromised nor readily challenged as appropriate.

t. Stephen Cornelius
(435) 901-8697
P.O. 1136
Park City, Ut. 84060

City Council Staff Report

PARK CITY 1884

POLICE DEPARTMENT

Author: Chief Lloyd Evans
Subject: CITIZEN POLICE PARTNERSHIP
Date: Sept. 25, 2003
Type of Item: Discussion and Direction

Summary Recommendations:

Staff requests that City Council discuss the outlined plan and provide direction on next steps as outlined.

COUNCIL DIRECTION

In July 2002, a majority of City Council provided direction to staff that they did not favor a citizen review or oversight committee. At its visioning workshop in February 2003, City Council did ask the police chief and city manager to work with the Mayor on options similar to an ombudsman or independent auditor model to work with the police department.

PLAN SUMMARY

The purpose of this plan was to frame a discussion with the police chief, city manager and the Mayor consistent with council direction. The major source of information staff used to develop this discussion sheet are publications from the International Association of Chiefs of Police (IACP), which is probably the most recognized law enforcement executive's professional organization in North America. The Chief, City Manager and Mayor reviewed and discussed the plan and the Mayor recommended the plan be taken to City Council for discussion.

BACKGROUND

There are four classes of citizen review models that are commonly used in development of specific review boards or processes at this time, which are outlined below. However citizen review of police misconduct takes many forms and there are hundreds of different kinds of citizen review boards or programs being used around the country.

Citizen Review Models

- **Class I: Citizen Review Board.** Citizen complaints are reviewed and investigated, and recommendations for disciplinary or policy action are made, by a board comprised wholly of citizens. The board may or may not have subpoena power.

  Under this model, a citizen review board handles each step on the continuum from original complaint through review, investigations and recommendations for sanctions. This is the most independent citizen review model.

- **Class II: Police Review/Citizen Oversight.** Complaints are reviewed and investigated, and recommendations for disciplinary or policy action are made by law enforcement officers, with oversight of each case by a citizen or board of citizens.

  Under this model, the steps on the complaint continuum are handled by the police. A board of citizen reviewers, or a single individual, reviews those actions/determinations. Since law enforcement conduct the initial fact-finding investigation, the Class II model is considered less independent than a Class I.

- **Class III: Police Review/Citizen-Police Appeal Board.** Complaints are reviewed and investigated by law enforcement officers in the Internal Affairs Unit, which recommends disciplinary action to the chief. Complainants who are not satisfied with outcomes of investigations can appeal for review to a board composed of both citizens and sworn officers.

  Under this model, the complaint process is handled by the police. In the event a complainant is not satisfied with the outcome of his/her case, a board that includes police officers undertakes review of how the case was originally investigated. Citizen participation is limited to appeal review only.

- **Class IV: Independent Citizen Auditor.** An independent citizen auditor or auditor system reviews the law enforcement agency's internal complaint review process (internal investigations) and makes recommendations as needed.

  Under this model, the complaint process is fully in the hands of the police. However, an auditor or audit team has access to that process and reviews it for effectiveness and accuracy of findings, making recommendations to improve the process as needed. The auditor reviews completed complaint cases and contacts complainants to assess satisfaction with outcome.

It is a long standing belief that choosing the right model/solution is very important to both the law enforcement agency and the community. Trying to address and solve problems or concerns with the wrong approach may only further compound those problems or concerns.

Choosing the right approach/model can be done most accurately by first, determining what the perceived problem(s) and/or actual problem(s) are from the community point of view, second, providing the law enforcement executive the opportunity to assess/analyze the stated problem(s) and/or concerns and determine the level at which those problems exist, if found, and third, providing the law enforcement agency the financial resources needed to address the desired outcome, ie; development of a program (model) for citizen review, increase training for police, staffing needs, etc.

NEED ASSESSMENT

Perhaps the biggest challenge faced in addressing this matter is the lack of specific problem identification to guide staff in determining the best approach to this issue. As generally indicated earlier in this report, it is important that the proper process be put in place so that the needs and expectations of both the community and the police department are met. The majority of the information or complaints which have been presented are antidotal in nature or concerned the specific behavior by an identifiable officer. A perceived need may be to have citizens review how the police department interacts with the community because of publicity that generally occurs surrounding use of force cases, however it isn't as simple as that in staff's opinion.

The department has attempted over the past few years to work with the community in developing partnerships and gathering input from those groups and/or individuals we have contact and worked with. There is no question that a police department should be accountable to the community it serves and the Chief is ultimately responsible for the conduct of the employees of the department and the police department should not fear self-review or constructive criticism. It is only through feedback from the community we serve that law enforcement will know if they are doing a good job and/or what adjustments need to be considered and/or made.

Typically, the most vocal critics of the police department are ones who have directly been affected, on an individual based, by the actions of a specific officer, such as; excessive use of force, officer rudeness and/or failure to respond effectively in resolving complaints, whether civil or criminal. Thus the focus often falls on a small part of what the solution seems to be to establish an effective, efficient police department, which ensures that their officers and employees are doing their jobs correctly. The police department does not believe that we now have a 'use of force' problem or an across the board officer misconduct problem. The department has demonstrated that discipline within the department, when appropriate and necessary, is being done to address officer conduct issues.

Further, staff believes it is very important to take into consideration the impacts on morale of department members when implementing a new process. Obtaining input from those who will be affected, the officers, is important step in proper implementation of new processes as well. Staff believes that we have built, over the past year, a good solid officer base and would not want to move the progress we have made backwards based on morale issues. But we should look at any potential processes in a manner that will strengthen our officer workforce and support a professional department image.

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RESEARCH

The following 5 models are examples of methods by which law enforcement agencies review the conduct of their personnel, both sworn and civilian. Staff reviewed many more departments than just the five listed. These departments represent the choices that staff believes represent the 'standard' programs among hundreds of hybrid models. Several of these processes are hybrids designed to address specific needs for that community.

TYPE	DESCRIPTION
Ombudsman's Office	The Ombudsman is an independent facilitator who works with the citizens who have complaints against officers, assuring that complaints are addressed fully and timely and that internal investigations and findings are adequate and appropriate. The Ombudsman refers his findings to a panel of judges for review and report. The Ombudsman acts as an appeal officer and reviews those cases in which complainants are dissatisfied with the outcome. The Ombudsman and panel of judges can direct the sheriff's office to further investigate. The sheriff makes all disciplinary decisions.
Agency: **Los Angeles County Sheriff's Office**	

TYPE	DESCRIPTION
Civilian Review Board	The Board audits and reviews certain complaints and internal police investigations regarding conduct of the police to provide periodic report and recommendations with respect to the complaints and investigations. The Mayor and Council appoint 5 citizens to meet quarterly to audit the police internal investigation files for that quarter. The board recommendations are not binding and have no direct authority over the police department. The police chief makes all disciplinary decisions.
Agency: **Salt Lake City Police Department**	

TYPE	DESCRIPTION
Review Committee	The review committee does not investigate cases. The committee reviews cases to ensure that each and every case was fully investigated, proper procedures were followed and cases are properly classified and cleared. The committee consists of the chief, city manager, 2 citizens and the department professional standards coordinator. The committee meets at lease annually to review all citizen initiated professional standards complaints. The committee has the authority to reopen cases to determine if criminal actions should be taken. The police chief makes all disciplinary decisions.
Agency: **Durango, Co. Police Department**	

TYPE	DESCRIPTION
Internal Investigation Auditing Committee	The committee is composed of city council members. It hears appeals on internal investigations, performs random audits of internal investigations to determine whether complete and unbiased investigations have taken place, and reviews all closed "use of force" cases. The committee does not perform independent investigations. The police chief makes all disciplinary decisions.
Agency: **Portland, Or. Police Department**	

TYPE	DESCRIPTION
Independent Auditor	The auditor takes citizen complaints but does not investigate them. Complaints are investigated by the Police Department Professional Standards and Conduct Unit. The auditor can sit in on questioning during the investigative phase but cannot question. The auditor can recommend modifications of policies and procedures but recommendations are not binding. The auditor does not discipline officers and cannot appeal the chief's decisions regarding any sanctions.
Agency: **San Jose, Ca. Police Department**	

APPROACH

Staff has listed strategies for discussion. Although these are not the only option(s), they should provide us with enough information to expand the discussion beyond this point if necessary.

In light of the recent reorganization of the police department and past council direction, staff recommends the use of a multi-pronged approach to address the desired goal for the police department; which is; **a well managed, accessible, responsive, professional police department.**

With this goal in mind, the first prong would be to address five areas within the police department which staff believes comes to the heart of the issue, which are;

1 - Training of officers – (additional use of force, civil liability)
2 - Professional Standards and Discipline (Internal Investigations) policy development
3 - Accountability of supervisors and officers on policy
4 - Citizen Complaint Procedures and Processes defined & established
5 - Community Oriented Policing Program expansion & implementation

The second prong would be to institute either a review committee modeled after Durango, Colorado or an independent auditor modeled after San Jose, California. Using a hybrid approach to meet the defined need of our community and police department.

SUMMARY

Over this past year and a half, staff has had the opportunity to participate with the Citizen Alliance Committee members, the Park Host Program volunteers, the Neighbors Helping Neighbors meeting attendees and citizens at the general neighborhood meetings hosted by the City where citizen input was taken. Concerns about police conduct were basically absent from most of those meetings, however, citizens are concerned that the police department serve the community in a professional, effective and efficient manner, that we take into consideration the character of the City when designing/deciding our approach to providing police services. As well, citizens loudly said: Address those issues that make our community safer, such as enforcement of traffic/speed laws and drug related crimes.

NEXT STEPS

1. Input from the Mayor
2. Input from City Council
3. Implementation of plan involving the community

City Council Staff Report

Author: Mark Christensen
Subject: Council Compensation Task Force Recommendations
Date: September 25, 2003
Type of Item: Informational

Attached are the recommendations forwarded by the Council Compensation Task Force. On Thursday September 25, 2003, during Work Session, the Task Force members will present to the Mayor and Council their findings.

Compensation Task Force Members
Richard Fontaine (Chair)
Roger Harlan
Chuck Klinginstein
Bart McEntire
Bob Swank

Council Compensation Task Force Recommendations
September 25, 2003

In July of 2003, the Mayor and City Council gave direction regarding the creation of a five-member Citizen Task Force. The mission of the task force was to:

> Provide a fair and objective compensation and benefit review for the Mayor and City Council, examining compensation, benefits, equipment usage, and other amenities available for carrying out City business.

The Task Force met on three separate occasions and reviewed information from other communities studying the compensation, benefits, and other amenities available to mayors and councils. Information was gathered by City staff at the direction of the Task Force and was used in conjunction with a pay philosophy developed by the Task Force to carry out the mission of the Task Force.

The Task Force members come from a diverse background with two members formerly serving on City Council. The members of the task force are Richard Fontaine (Chair), Bart McEntire, Bob Swank, Chuck Klinginstein, and Roger Harlan. The group's experience represents a wide background of professional experience from human resources to prior experience determining compensation for corporate board members.

This report will discuss the following issues and summarize the process used to make the recommendations contained in this report

1. Task Force Mission
2. Work Plan
3. Pay Philosophy
4. Methodology
5. Findings
6. Recommendations
7. Attachments

Task Force Mission
The mission of the Task Force entailed conducting a review process culminating in a summary report of findings on compensation for the Mayor and City Council. The report was to include a discussion of their total compensation package, reimbursement policy, equipment availability, and other amenities for City business. The work plan detailed below largely mirrors the original plan approved by Council.

Work Plan
1. Develop a methodology for review and a rationale for decisions;
2. Review the compensation packages of the Mayor and Council and compare with other communities;
3. Gather any data required for this analysis;

4. Determine if current compensation and benefits for the Mayor and City Council are equitable given the Mayor's and Council's roles and workload;
5. Make a recommendation to Council based on findings;
6. Conduct a public input process;
7. Formal Council action on the recommendations of the Task Force and public comment.

Pay Philosophy: The Task Force's first item of business was to determine a pay philosophy that would serve as a framework for the group's methodology and decisions. To that end the Task Force discussed some general points that formed the philosophical principles guiding the process.

a. *Form of Government.* Under the Council/Manager form of government, the mayor and the council are elected citizens who provide policy direction to the city manager, a professional administrator who manages the affairs of the city.
b. *Given the resort nature of our community, compensation for elected leaders should be comparable to that of other "like" communities.* In determining appropriate compensation for the Mayor and City Council, the Task Force identified several comparably-sized resort towns in the intermountain west (the "peer group").
c. *Serving as a mayor or councilperson is community service, a volunteer job with a stipend.* The stipend is intended to acknowledge and partially pay for the significant time commitment and dedication required of the positions.
d. *City service is not a part-time job compensated at market rates per hour of service.* The time commitment required of a mayor and city council varies greatly between councils and municipalities. Time is largely determined by the personal commitment of the individual. It is therefore impractical to determine compensation based primarily on hours of service.
e. *Compensation should be based on the position as opposed to the person in that position.* Because time commitment will vary with the individual elected official, compensation should be based on the position and not on actual hours of service. This is consistent with how salaried employee positions are compensated in both the public and private sector.
f. *All Councilpersons should be compensated equally.* All councilpersons are expected, in addition to preparing for and attending council meetings, to serve on various committees and task forces. In addition, the City has no administrative process for differentiating the quantity or quality of work for each Councilperson. Therefore, all Councilpersons should receive equal compensation.
g. *Demands on the Mayor's time exceed those of Councilpersons, and the additional hours required should be differentially compensated.* The Mayor has responsibilities beyond those of the City Council and should therefore receive proportionately greater compensation.

Methodology

1. Identify Cities in Peer Group
2. Filter Peer Group
3. Determine Compensation Methodology
4. Conduct Analysis

For the purpose of this analysis the Task Force determined to look only at a peer group of resort communities. The underlying belief is that resort communities share common elements that may not be seen in non-resort communities. Elements of commonality include demographics, seasonal nature of services, visitor population, number and size of special events, affordable housing issues, economic development, and maintaining a "tourist" level of service for the residents and guests. While each community is different, the Task Force felt that the communities chosen would likely provide a representative group within which to compare. With the notion of a peer group determined, the task force identified 18 resort communities as the potential study population. Attachments D1 and D2 contain a complete list of the cities originally identified by the Task force along with the compensation data received from their respective communities.

Upon review, the peer group was reduced to 9 members. The Task Force excluded six communities that had dissimilar populations to Park City (i.e. less that 2,000 or greater than 15,000).

It next excluded three additional communities that had a Council/Mayor form of government. In the Council/Mayor form of government the Mayor is the chief administrative officer and is responsible for directing the daily affairs of the City and its staff. Park City has a Council/Manager form of government by ordinance. The Mayor and City Council have hired a City Manager to run the daily operations of the City. The City Council is the legislative body with the primary responsibility of making policy decisions for the City. The Mayor is the chief executive of the City, representing the City on public and ceremonial occasions, executing legal instruments/documents of the City. The duties and responsibilities of the Mayor and Council are largely consistent with that of other Council/Manager forms of government.

Each community in the peer group used a varying scale of benefits and pay. Because there is no consistent way to compare on a community to community basis, the task force determined to use the total compensation as the comparable value for this analysis.

The Task Force at this point determined to use the average of the top 5 communities total compensation value as the standard for determining what was appropriate compensation for the Mayor and Council. This threshold analysis is comparable to the methodology employed in conducting staff compensation analysis for all Park City employees.

The Task Force discussed the relevance of using hours per week as a standard and measurement for the analysis. It was determined that in each community the needs of the constituency dictated the hours of service. In some cases the time demands might be either higher or lower but in all cases the community established a compensation package for their Mayor and Council that they deemed appropriate. It was also felt that input regarding time requirements was more anecdotal than hard data. So the Task Force determined that the similarity of the elected offices across the board was significant enough that time differences not be considered a factor in determining compensation.

Additional comparisons regarding the benefits available to the Mayor and Council were reviewed in the context of the peer group. It was determined that each community offers benefits and compensation that are unique to the needs of the individual constituency. Where resources are readily available to the Mayor and Council at city facilities, it was determined as unnecessary to provide services and equipment for use at home. The promotion of communication via the internet was deemed desirable using a City sponsored email address.

Findings

Attachments A and B show the total compensation data for the Mayor and City Council, respectively. Table 1 summarizes this information.

	Peer Group Top Five		Park City	Difference
	Median	Average	Actual	(Actual-Average)
Mayor - Total Annual Compensation	$ 21,876	$ 22,300	$ 22,554	$ 254
Council - Total Annual Compensation	$ 16,562	$ 16,894	$ 13,751	$ (3,143)
Mayor to Council Compensaton Ratio	132%	132%	164%	

Attachment A shows that using the Methodology identified by the Task Force, Park City's current compensation for the Mayor is comparable to that of other communities in the peer group. The compensation that the Park City Council is currently receiving is approximately $3,140 below that of the peer group (Attachment B). This study additionally indicates that mayors in the top five of the peer group typically receive approximately 1/3 more in total compensation than Councilpersons in the same community. This finding was consistent with the notion that the Mayor fills a different role with different responsibilities than the Council. When comparing this ratio to Park City, the Task Force discovered that the Mayor is being compensated 2/3 higher than the Council (Table 1). Using the identified methodology of the average of the top five cities in the peer group, the Mayor's current compensation package is competitive and the Council's total compensation package is low by approximately $3,140.

Recommendations

The Council Compensation Task Force recommends the following:

1. The Mayor's total compensation is comparable to that of other communities in the peer group and is not recommended to change at this time.

2. Council compensation should be increased $3,140 on January 1, 2004 to bring Council to peer group levels.

3. The Mayor and Council should have a "cafeteria" option for benefits as long as the total compensation package does not exceed the peer group average. (i.e. the Mayor and Council can elect to have Family medical benefits but their pay should be reduced correspondingly.)

4. Staff should use the methodology established by the Council Compensation Task Force biannually as part of the budget process (in conjunction with the Staff Pay Plan Analysis) to determine the subsequent two years compensation for the Mayor and Council.

5. The existing reimbursement policies are consistent with other communities as it relates to travel, meals, mileage reimbursement, and availability of resources in City buildings for City business and should continue in effect.

6. The Task force does not recommend issuing take home laptop computers or cell phones for elected official use. This is consistent with the practices of most of the communities in the peer group (see Attachment C).

7. Long distance calls, postage, fax, copy services, and other equipment usage should be done using available City resources where they exist.

8. The Task Force does not recommend the payment of home internet service expenses or reimbursement of incidental charges for Council use where existing resources are available.

9. The Task Force recommends that the City provide a City email address for Council members to use either at a City location or through the internet. This form of communication should be encouraged in publications for the public.

10. Changes to these policies and practices should be effective January 1, 2004.

11. Public input should be heard regarding these recommendations after which the Mayor and Council should determine if appropriate compensation adjustments should occur.

Compensation Task Force
Richard Fontaine (Chair)
Roger Harlan
Chuck Klinginstein
Bart McEntire
Bob Swank

Compensation Comparison - Mayor

(sorted from highest Total Compensation Value to lowest)

Peer Group City/Town	Population	Salary	Benefits	Total Comp.
Aspen	5,914	$ 27,900	$ 4,620	$ 32,520
Telluride	2,221	$ 18,000	$ 6,024	$ 24,024
Frisco	2,443	$ 7,800	$ 14,076	$ 21,876
Moab	5,500	$ 12,000	$ 9,015	$ 21,015
Steamboat	9,814	$ 3,804	$ 7,404	$ 12,065
Breckenridge	2,408	$ 9,600	$ 732	$ 10,332
Glenwood Springs	8,306	$ 8,400	$ 648	$ 9,048
Durango	14,630	$ 3,600	$ 5,136	$ 8,736
Gunnison	5,700	$ 6,300	$ 480	$ 6,780
Average of Peer Group		$ 10,823	$ 5,348	$ 16,266
Midpoint of Top 5 (Steamboat)		$ 7,800	$ 14,076	$ 21,876
Average of Top 5	6,326	$ 13,901	$ 8,228	$ 22,300
Park City	**7,714**	**$ 18,498**	**$ 4,056**	**$ 22,554**
Difference		$ 4,597	$ (4,172)	$ 254
% Difference		33%	-51%	1%

Data Source: Colorado Municipal League, Staff interviews

Attachment A

Compensation Comparison - City Council

(sorted from highest total compensation value to lowest)

Peer Group City/Town	Population		Salary		Benefits		Total Comp.
Aspen	5,914	$	20,400	$	4,620	$	25,020
Frisco	2,443	$	3,000	$	13,704	$	16,704
Moab	5,500	$	6,000	$	10,562	$	16,562
Telluride	2,221	$	9,600	$	5,376	$	14,976
Steamboat	9,814	$	3,804	$	7,404	$	11,208
Durango	14,630	$	2,400	$	5,028	$	7,428
Breckenridge	2,408	$	6,000	$	456	$	6,456
Glenwood Springs	8,306	$	6,000	$	456	$	6,456
Gunnison	5,700	$	5,100	$	396	$	5,496
Average of Peer Group		$	6,923	$	5,334	$	12,256
Midpoint of Top 5 (Steamboat)		$	6,000	$	10,562	$	16,562
Average of Top 5	6,326	$	8,561	$	8,333	$	16,894
Park City	**7,714**	**$**	**10,895**	**$**	**2,856**	**$**	**13,751**
Difference		$	2,334	$	(5,477)	$	(3,143)
% Difference			27%		-66%		-19%

Data Source: Colorado Municipal League, Staff interviews

Attachment B

Additional Benefit Comparison

Peer Group City/Town	Population	Cell phone	Laptop/PC	Computer at City Hall	Office at City Hall (Council use)	Postage for City Business	Home Internet Access	Car Allowance	On Site Copy Service	Mileage Reimbursement	Meal Reimbursement	Travel Reimbursement	Phone Reimbursement	Non-City Website	Other	
Aspen	5,914			X	X	X	X		X	X	X	X				
Breckenridge	2,408					X			X	X	X	X			X	City-issued fax and partial pay of designated phone line; health club membership
Durango	14,630					X			X	X	X	X				
Frisco	2,443			X	X	X			X	X	X	X	X		X	Training, city-issued uniforms, membership to professional organizations
Glenwood Springs	8,306					X			X	X	X	X	X			
Gunnison	5,700					X			X	X	X	X	X			
Moab	5,500	X*		X		X				X	X	X	X			*Mayor Only, Cell Phone and Desktop Computer, Council Computer availible.
Steamboat	9,814								X	X	X	X	X		X	City-issued fax provided for home use
Telluride	2,221									X	X	X				
Resort Towns Excluded by Form of Government (Council/Mayor)																
Jackson Hole	8,647		X	X	X	X			X	X	X	X	X			
Ketchem	3,003					X			X	X	X	X			X	Medical, Dental, State Retirement, Long Term Disability
Vail	4,531			X	X	X			X	X	X	X	X		X	Ski/Recreation pass
Resort Towns Excluded by Population (under 2,000 or greater than 15,000)																
Crested Butte	1,532					X			X	X	X	X				
Dillion	792					X			X	X	X	X	X			
Loveland	55,273					X			X	X	X	X	X			
Snowmass Village	1,815		X			X	X		X	X	X	X	X		X	Dedicated phone line for citizens to leave messages for council.
South Lake Tahoe	23,609					X			X	X	X	X	X		X	Pagers, e-mail addresses, option to participate in California's public retirement system
Winter Park	715		X			X			X	X	X	X	X			
Park City	**7,714**					X		X*	X	X	X	X	X			*Mayor recieves $100 per month car allowance.

Data Source: Colorado Municipal League, Staff interviews

Attachment C

Total Survey Population - Mayor

(sorted from highest total compensation value to lowest)

Peer Group City/Town	Population	Salary	Benefits	Total Comp.
Aspen	5,914	$ 27,900	$ 4,620	$ 32,520
Telluride	2,221	$ 18,000	$ 6,024	$ 24,024
Frisco	2,443	$ 7,800	$ 14,076	$ 21,876
Moab	5,500	$ 12,000	$ 9,015	$ 21,015
Steamboat	9,814	$ 3,804	$ 7,404	$ 12,065
Breckenridge	2,408	$ 9,600	$ 732	$ 10,332
Glenwood Springs	8,306	$ 8,400	$ 648	$ 9,048
Durango	14,630	$ 3,600	$ 5,136	$ 8,736
Gunnison	5,700	$ 6,300	$ 480	$ 6,780

Average of Peer Group	6,326	$ 10,823	$ 5,348	$ 16,266
Park City	**7,714**	**$ 18,498**	**$ 4,056**	**$ 22,554**
Difference		$ 7,675	$ (1,292)	$ 6,288
% Difference		71%	-24%	39%

Resort Towns Excluded by Population (less than 2,000 or greater than 15,000)

South Lake Tahoe	23,609	$ 5,424	$ 14,859	$ 20,283
Snowmass Village	1,815	$ 14,400	$ 1,104	$ 15,504
Dillion	792	$ 10,800	$ 828	$ 11,628
Loveland	55,273	$ 7,200	$ 552	$ 7,752
Crested Butte	1,532	$ 7,200	$ 552	$ 7,752
Winter Park	715	$ 3,600	$ 276	$ 3,876

Resort Towns Excluded by Form of Government (Council/Mayor)

Ketchem*	3,003	$ 18,000	$ 23,430	$ 41,430
Jackson Hole**	8,647	$ 12,000	$ 12,564	$ 24,564
Vail	4,531	$ 12,000	$ 180	$ 12,180

* Ketchem's benefit package varies depending upon the coverage required (i.e. single, single w/ spouse, family). This analysis assumes the maximum benefit possible (Family Dental: $83.50/mo.; Family B Medical: $1,869/mo).

**Jackson's mayor currently receives $400 per month. This will be increased to $1,000 per month in 2005. This analysis uses the 2005 amount in its calculations. Medical and Dental benefits vary depending upon the coverage required. The amount reflected in this study assumes the maximum benefit possible (Family Dental: $79.60/mo; Family Medical: $968/mo).

Data Source: Colorado Municipal League, Staff interviews

Total Survey Population - City Council

(sorted from highest total compensation value to lowest)

Peer Group City/Town	Population	Salary	Benefits	Total Comp.
Aspen	5,914	$ 20,400	$ 4,620	$ 25,020
Frisco	2,443	$ 3,000	$ 13,704	$ 16,704
Moab	5,500	$ 6,000	$ 10,562	$ 16,562
Telluride	2,221	$ 9,600	$ 5,376	$ 14,976
Steamboat	9,814	$ 3,804	$ 7,404	$ 11,208
Durango	14,630	$ 2,400	$ 5,028	$ 7,428
Breckenridge	2,408	$ 6,000	$ 456	$ 6,456
Glenwood Springs	8,306	$ 6,000	$ 456	$ 6,456
Gunnison	5,700	$ 5,100	$ 396	$ 5,496

Average of Peer Group	6,326	$ 6,923	$ 5,334	$ 12,256
Park City	**7,714**	**$ 10,895**	**$ 2,856**	**$ 13,751**
Difference		$ 3,972	$ (2,478)	$ 1,495
% Difference		57%	-46%	12%

Resort Towns Excluded by Population (less than 2,000 or greater than 15,000)

South Lake Tahoe	23,609	$ 5,424	$ 14,859	$ 20,283
Snowmass Village	1,815	$ 8,400	$ 648	$ 9,048
Loveland	55,273	$ 4,800	$ 372	$ 5,172
Crested Butte	1,532	$ 3,600	$ 276	$ 3,876
Dillion	792	$ 3,600	$ 276	$ 3,876
Winter Park	715	$ 1,800	$ 132	$ 1,932

Resort Towns Excluded by Form of Government (Council/Mayor)

Ketchem*	3,003	$ 15,000	$ 23,430	$ 38,430
Jackson Hole**	8,647	$ 3,600	$ 12,564	$ 16,164
Vail	4,531	$ 6,000	$ 96	$ 6,096

* Ketchem's benefit package varies depending upon the coverage required (i.e. single, single w/ spouse, family). This analysis assumes the maximum benefit possible (Family Dental: $83.50/mo.; Family B Medical: $1,869/mo).

**Jackson's council currently receives $50 per council meeting. This will be increased to $150 per meeting in 2005. This analysis assumes two meeting per month at $150 each. Medical and Dental benefits vary depending upon the coverage required. The amount reflected in this study assumes the maximum benefit possible (Family Dental: $79.60/mo; Family Medical: $968/mo).

Data Source: Colorado Municipal League, Staff interviews

Attachment D2

City Council Staff Report

Author: Alison Butz
Subject: Strachan and Strachan Lease
Date: September 25, 2003
Type of Item: Administrative - Lease Authorization

PARK CITY 1884

Special Events and Facilities Department

Summary Recommendations:
Review and approve the lease for space within the Old City Hall Building located at 528 Main Street, to the Strachan and Strachan Law Offices.

Description:

A. Topic:
Review and approve the lease for the rental of space within the Old City Hall Building to the Strachan and Strachan Law Offices.

B. Background:
Strachan and Strachan Law Offices has an existing lease for space on the second floor of the Old City Hall Building located at 528 Main Street. The existing lease expires on December 31, 2003. Gordon Strachan, Managing Partner of the firm, has requested an extension of his lease.

At the September 11 meeting, the City Council discussed the extension of the lease for Strachan and Strachan Law Offices. The discussion outlined the terms of the extension to not exceed fifteen months and to allow for the termination of the lease, by the tenant, with only thirty days written notice.

C. Analysis:
The attached lease outlines the terms of a fifteen (15) month extension, which would allow the lease to expire on March 31, 2005. The rental amount for the lease is set at Fifteen Dollars and Ninety-Four Cents ($15.94) per square foot of gross floor area, excluding the stairwell, for a total leased space of 870 square feet. The base rent shall be adjusted annually on July 1st based upon the Consumer Price Index (CPI).

D. Department Review:
The Lease has been reviewed all applicable City departments.

Alternatives:

A. Approve the Request:
Approve the lease, allowing Strachan and Strachan Law Offices to continue to lease the space at 528 Main Street.

B. Modify the Request:
Modify the terms and approve the lease, allowing the Strachan and Strachan Law Offices to lease the space at 528 Main Street.

C. Deny the Request:
Deny the lease, thereby requiring Strachan and Strachan Law Offices to vacate the premises by December 31, 2003.

D. Continue the Item:
The City Council may continue the item for more information and discussion.

Significant Impacts:
The proposed lease ties up 870 square feet on the second floor of the Old City Hall Building located at 528 Main Street until March 31, 2005. Rent is being collected for the space and the annual rent totals $13,871.76.

Consequences of not taking the recommended action:
Strachan and Strachan Law Offices would need to vacate the premises by December 31, 2003.

Recommendation:
Review and approve the lease for space within the Old City Hall Building located at 528 Main Street, to Strachan and Strachan Law Offices.

Exhibits:
Exhibit A – Lease

LEASE AGREEMENT

STRACHAN & STRACHAN AND
PARK CITY MUNICIPAL CORPORATION

THIS AGREEMENT is made by and between Park City Municipal CORPORATION (hereinafter referred to as "Landlord") and Strachan & Strachan Attorneys at Law, a professional corporation (hereinafter referred to as "Tenant") to set forth the terms and conditions under which Park City will lease to the Strachan & Strachan surplus space in the Old City Hall. The parties agree as follows:

1. Property. The property leased is the second floor level of the Old City Hall, having a street address of 528 Main Street, Park City, Utah. The space contains 480 square feet of office area and 390 square feet of common area for a total of eight hundred and seventy (870) gross square feet with access through the first floor and the stairs.

2. Term. The Lease shall have a term of fifteen (15) months commencing on December 31, 2003. The property being leased is surplus municipal space at the present time, but may be required for municipal purposes by Landlord. At any time, Landlord may give the Tenant one year's written notice to terminate this Lease. No option for renewal or extension is created.

3. Rent. The base rent for the space shall be Fifteen Dollars and Ninety-Four Cents ($15.94) per square foot of gross floor area, excluding the stairwell, for a total leased space of 870 square feet. The base rent of Thirteen Thousand Eight-Hundred and Seventy-One Dollars and Seventy-Six Cents ($13,871.76) shall be paid in twelve (12) equal monthly installments of One Thousand One-Hundred and Fifty-Five Dollars and Ninety-Eight Cents ($1,155.98). Base rent shall be adjusted annually on July 1st based upon the CPI. Base rent shall be due on the first of each month, and is past due if not paid by the tenth (10th) of the month. Landlord shall be entitled to collect $25 for every five days the rent is past due.

4. Utility Services. Tenants shall be responsible to pay for all utilities including but not limited to natural gas, electricity, telephone, sewer and water for the leased space. If the utility is separately metered, Tenant will establish an account in its own name. If any utility is not separately metered, the Tenant shall be responsible for payment for the utility and will pay $300.00 per month for the utilities, which the Tenant agrees, are reasonably related to the utility usage for the leased space:

Utility payments are additional rent and deemed a part of the rental due. Failure to pay for utility service is a default in the payment of rent.

5. Prohibited Uses. The Tenant will use the leased space for a professional law office use only.

6. Telephone. The Tenant will install its own telephone in the lease space and will not have its calls tied into the Landlord's switchboard in any way. Any specialized telephone wiring will be done at the Tenant's expense.

7. Insurance. The Tenant will provide insurance at its expense covering its contents against loss through theft, fire, vandalism or similar casualties. The Landlord will maintain insurance on the structure for the replacement of the building itself, and the contents of the building owned by the Landlord. The Landlord also carries a public liability policy insuring it against claims of personal injury on Landlord's property. The Landlord's policy does not cover the Tenant's employees or patrons who are on Landlord's property exclusively for the purpose of doing business with the Tenant. The Tenant agrees to include the lease premises in its comprehensive property liability policy and will obtain a certificate of insurance for Park City Municipal Corporation and the Municipal Building Authority of Park City and evidencing coverage as to any person on the premises as a result of Tenant's business or activities. It is the purpose of this provision to protect the Landlord from liability or allegations arising out of the Tenant's use of the Landlord's property.

8. Rent Commencement Date. This Lease shall commence on December 31, 2003 and the term of the Lease shall begin on that date. The Lease shall expire on March 31, 2005.

9. Tenant Improvements. The space is being leased to Tenant in a completely finished state. Electrical work is complete. The space is heated and plumbed. Any additional interior finish desired by the Tenant and approved by the Landlord in writing is the responsibility of the Tenant, with no allowance made for the costs of Tenant improvements unless agreed to by Landlord in writing. At the termination of the Lease, all Tenant improvements become the property of the Landlord.

10. Liens. Tenant shall not permit any liens to attach to the property for work done at Tenant's request or for Tenant's benefit. If Landlord receives notice of any such lien against the property, Tenant shall promptly discharge the lien at Landlord's request, or post funds sufficient to satisfy the lien during any period of good faith contest of the lien by Tenant. In the event Landlord feels its title to the property is in jeopardy because of any lien Tenant has elected to attach to the property, Landlord may discharge the lien and collect the amount paid from the Tenant. The Tenant agrees to pay all reasonable costs incurred by Landlord in the defense or discharge of any liens on the property.

11. Signage. Tenant shall be entitled to install a sign on the front of the Old City Hall building. The sign shall conform to the Park City sign regulations in effect on the date the sign is installed. Landlord reserves the right to specifically review and approve or reject proposed signage on the building. Landlord's approval for signage will not be reasonably withheld, so long as the sign meets the requirements of the Park City sign code, the historic nature of Main Street and conforms with the architectural detailing of the building. Signage shall be removed at the termination of the Lease, and Tenant shall be responsible for all costs associated with the installation, maintenance and removal of signage.

12. Assignment/Sublease. No assignment or sublease of the property is allowed.

13. Remedies. In the event the Tenant fails to pay monthly installment payments when due, or fails to pay additional rent as billed for, or violates or breaches any other term or condition of the Lease, Landlord shall have the right to exercise the following remedies, and any other remedies available at law or in equity:

(a) Landlord may, by written notice to Tenant, demand that Tenant either pay rental installments and additional rent due within ten (10) days, or quit the premises within fifteen (15) days;

(b) Landlord may permit the Tenant to remain in possession and sue for the installments and additional rent that are past due;

(c) Landlord may re-let premises for Tenant's account at the rate and on such terms as are commercially reasonable at the time and under the circumstance, and charge Tenant for any difference in the rental received and the rental agreed to herein, provided that any re-letting shall be done in good faith under the circumstance;

(d) Landlord may agree to a payment of damages in such amount as the parties then agree, and release the Tenant from obligations under this Lease entirely. Unless Landlord has released Tenant's continued performance under this Lease, Tenant is deemed to be in possession of the premises, and any re-letting by Landlord is on Tenant's account. Tenant is responsible for all payments and obligations under the Lease until Landlord releases Tenant.

14. Covenant of Quiet Possession. Landlord covenants with Tenant that Landlord has leased the premises from the Municipal Building Authority, and that Tenant's possessions will not be disturbed by acts or omissions of the Landlord so long as Tenant faithfully performs the obligations of this Lease.

15. Maintenance. The Landlord shall be responsible for all structural maintenance of the premises, including the rood, foundation, structural members, and exterior wall surfaces. Tenant shall be responsible for all interior maintenance, including mechanical and electrical fixtures, heating and lighting, janitorial service, and glass maintenance (both cleaning and replacement in the event of damage), which is within the leased premises or solely, services the lease premises. Landlord shall be responsible for mechanical systems, which serve portions of the building other than, or in addition to Tenant's space as reasonably necessary to maintain the structure and to service common utility facilities. Exterior maintenance and snow removal shall be Landlord's responsibility.

16. Access to Other Spaces. Tenant shall not interfere with the access to other spaces within the building or obstruct the entrances to those other spaces in any way. Landlord shall have such access through Tenant's Space as reasonably necessary to maintain the structure

and to service common utility facilities. Landlord shall have the right to inspect the leased space during the Tenant's normal business hours.

17. Force Majeure. This lease agreement shall automatically terminate upon any holding, interpretation, or determination by a Court, legislative, or administrative body that Landlord may not lease to a private law firm or similar establishment or that the bonds issued by Park City Corporation or the Municipal Building Authority will not qualify as tax exempt if the property is leased to a private entity.

18. Increased Insurance Risk. Tenant will not permit said premises to be used for any purpose which would render the fire insurance on the building or the premises void or cause cancellation thereof or increase the insurance risk or increase the insurance premium in effect at the time of the terms of this Lease. Tenant will not keep, use or sell, or allow to be kept, used or sold in or about the Premises any article or materials which are prohibited by law or by standard fire insurance policies of the kind customarily in force with respect to the Premises of the same general type as those covered by this Agreement.

19. Care and Repair of Premises by Tenant. Tenant will inspect and accept the Premises for the purposes of this agreement prior to taking occupancy. Tenant will not commit any waste on Premises nor shall it use or permit the use of the Premises in violation of any state law or county or municipal ordinance or regulation applicable thereto. Tenant may, with the prior written consent of the Landlord, but at its own cost and expense, in a good workmanlike manner, make such alterations and repairs to the leased space as Tenant may require for the conduct of its business without, however, materially altering the basic character of the building or improvements or weakening the structure on the leased premises. Any permanent alterations or improvements to the Premises shall become the property of the Landlord upon expiration or termination of this Lease. Tenant is responsible for obtaining all necessary permits and Historic District Commission approvals, and paying all fees, required for any proposed renovation.

20. Damage or Destruction. If the Premises or any part thereof shall be damaged or destroyed by fire or other casualty, Landlord shall promptly repair all such damage and restore the premises without expense to the Tenant subject to delays due to adjustment in insurance claims, strikes and other causes beyond the Landlord's control. If such damage or destruction shall render the Premises uninhabitable in whole or in part, the rent shall be abated wholly or proportionately until the damage shall be repaired and the premises restored. If the damage or destruction shall be of which may require removal of Tenant's operations from the Premises, either Landlord or Tenant may elect to terminate this lease by written notice to the other within thirty (30) days after the occurrence of such damage or destruction.

21. Surrender of Premise. Tenant agrees to surrender the Premises at the expiration or sooner termination of this Agreement or any extension thereof in the same condition or as altered pursuant to the provisions of this Agreement. Ordinary wear, tear and damage by the elements or other acts of God excepted.

22. Hold Over. Should Tenant hold over the leased premises or any part thereof after the expiration of the term of this Lease unless otherwise agreed in writing, such holding

over shall constitute a tenancy at will, and Tenant shall pay as monthly rental the same monthly rental provided for herein.

23. Indemnity. Tenant covenants and agrees to indemnify and hold Landlord harmless from all claims, loss damage, injury or liability (hereafter "liability") resulting from Tenant's use and occupancy of the leased premises to the full extent provided in the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any liability resulting from acts or omissions of Landlord, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. § 63-30-1, et seq.). The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act.

24. Default/Termination. If the Landlord determines that Tenant is in default of the observance of any of the covenants of this Agreement or other cause determined by Council, it shall give Tenant notice of the alleged default, and a reasonable period of time, not less than thirty (30) days nor more than sixty (60) days, in which to cure the default. If Tenant fails to cure the default, this lease shall terminate. Tenant will immediately become a Tenant at will of the Landlord, and the Landlord may demand possession of the space upon ten (10) days written notice, or, at the Landlord's option, the Landlord may increase the rental to the fair market value of the space until Tenant has vacated it, and state a date certain by which the space must be vacated. The Tenant may terminate the lease with no penalty, prior to its expiration, by giving the Landlord thirty (30) days written notice.

25. Landlord Liable only for Negligence. Except where caused by Landlord's negligence, Landlord shall not be liable for any failure of water supply, natural gas supply or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms or disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains or any subsurface area or from any part of the building or buildings or for an interference with light.

26. Nondiscrimination. Tenant agrees not to discriminate against anyone on the basis of race, color, national origin, age, sex or handicap in its hiring practices, services or operation of its business hereunder.

27. Waiver of Covenants. It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein contained.

28. Rights of Successors and Assigns. The covenants and agreements contained within the Lease shall apply to the benefit of and be binding upon the parties hereto and upon their respective successors in interest and legal representatives, except as expressly otherwise hereinbefore provided.

29. Security. The Tenant is entitled to put a lock on the door to its space, provided the Landlord is given a key for reasonable access and building is completed for the day,

and the Tenant shall have the obligation of checking all exterior doors at the conclusion of each day to make sure that they are locked, and that windows in the rooms used by the Tenant are secured. Lights and radiators should be turned off at the conclusion of the Tenant's use each day.

30. Entire Agreement. This agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

DATED this th day of, 2003.

PARK CITY MUNICIPAL CORPORATION

____
Dana Williams, Mayor

Attest:

____
City Recorder

Approved as to Form:

____
Mark Harrington, City Attorney

STRACHAN & STRACHAN

____
Gordon Strachan

ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this ______ day of October, 2003, personally appeared before me Gordon Strachan, who being duly sworn, did say that he is the Managing Partner of Strachan and Strachan, and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and he acknowledged that the company did execute the same for its stated purpose.

____
Notary Public

City Council Staff Report

Author: Colin Hilton
Subject: TRAFFIC CALMING CONTRACT
Date: September 25, 2003
Type of Item: Award of Contract

PARK CITY 1884

Economic Development & Capital Projects

Summary Recommendations:
Staff is requesting authorization to enter into a services provider contract with Fehr & Peers Associates, Inc. for traffic engineering and traffic calming consulting services.

Description:

A. **Topic:** Request for award of contract to perform traffic engineering and traffic calming consulting services

B. **Background:** Council adopted a traffic calming policy in July of 2002 that allows for an intensive and thorough review of neighborhood traffic concerns throughout the city. One component in the process to review traffic concerns is to have a service provider with traffic engineering and traffic calming experience assist with consulting and engineering help.

   With projections of needing these services in excess of $20,000 over a 1-2 year period, Staff did an RFP for firms capable and interested in doing this service.

   Three firms (Fehr & Peers, InterPlan, and Stantec) submitted proposals. Through a selection committee and criteria ranking process, Fehr & Peers became the selection committee's choice.

   The term of the agreement would be from date of award to October 29, 2004.

C. **Analysis:** Although it is unknown as to what neighborhood traffic concerns will come up over the next year, Staff feels that a services provider contract in an amount not to exceed $80,000 is appropriate at this time. Services will be billed on a time and materials basis as outlined in the attached Agreement.

D. **Department Review:** Public Works, Police, Engineering, and Legal have all had input on the selection process and current recommendation to enter in this Agreement.

Alternatives:

A. **Approve the Request:** Authorize Staff to enter into this Agreement
B. **Deny the Request:**
C. **Continue the Item:**

Recommendation: Enter into the Agreement with Fehr & Peers as recommended by the Selection Committee

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this 14th day of August, 2003, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (City), and Fehr & Peers Associates, Inc. a California corporation (Service Provider).

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possess sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. <u>SCOPE OF SERVICES</u>.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the Scope of Services attached hereto as Exhibit A and incorporated herein (the Project). The total fee shall not exceed Eighty Thousand Dollars ($80,000).

2. <u>TERM</u>.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on October 29, 2004 or earlier, unless extended by mutual written agreement of the Parties.

3. <u>COMPENSATION AND METHOD OF PAYMENT</u>.

A. City will compensate Service Provider on a time and materials basis pursuant to the rate structure provided at Exhibit A. Payments for services provided hereunder shall be made monthly following the performance of such services.

B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.

C. For all extra work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as ExhibitA, or if none is attached, as subsequently agreed to by both parties in writing.

D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.

E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. **REPORTS AND INSPECTIONS.**

A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.

B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly, to this Agreement.

5. **INDEPENDENT CONTRACTOR RELATIONSHIP.**

A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. **SERVICE PROVIDER EMPLOYEE/AGENTS.**

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. **HOLD HARMLESS INDEMNIFICATION.**

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City directly arising out of, in connection with, or incident to the negligent execution of this Agreement and/or the Service Provider's negligent performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. **INSURANCE.**

The Service Provider 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 performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

A. General Liability insurance written on an occurrence basis with limits no less than one million dollars ($1,000,000) combined single limit per occurrence and two million dollars ($2,000,000) aggregate for personal injury, bodily injury and property damage.

B. Automobile Liability insurance with limits no less than five hundred thousand dollars ($500,000) combined single limit per accident for bodily injury and property damage.

C. Professional Liability (Errors and Omissions) insurance written on a claims made basis with limits no less than one half million dollars ($500,000) combined single limit per occurrence.

D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars ($500,000) combined single limit per occurrence.

E. The City shall be named as an additional insured on the General Liability and Automobile Liability insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation, except in the case of non-payment in which case 10 days notice will be provided. The City reserves the right to request certified copies of any required policies.

F. The Service Provider'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.

9. <u>TREATMENT OF ASSETS</u>.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder). The City agrees to assume the full liability arising out of the improper use of any information provided by Fehr & Peers.

10. **COMPLIANCE WITH LAWS.**

A. The Service Provider, in the performance of this Agreement, shall take reasonable care to comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. **NONDISCRIMINATION.**

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.

C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. MAINTENANCE AND INSPECTION OF RECORDS.

A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. **POLITICAL ACTIVITY PROHIBITED.**

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. **PROHIBITED INTEREST.**

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. **MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.**

A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.

B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an "extra" pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.

C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. **TERMINATION.**

A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.

B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. **NOTICE**.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

20. **ATTORNEYS FEES AND COSTS**.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

21. **JURISDICTION AND VENUE**.

A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. **SEVERABILITY**.

A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. **ENTIRE AGREEMENT**.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
Post Office Box 1480
Park City UT 84060-1480

____
Tom Bakaly, City Manager

Attest:

____
City Recorder

Approved as to form:

____
City Attorney

FEHR & PEERS ASSOCIATES, INC.
Billing Address: 3685 Mt. Diablo Boulevard, Suite 301
Lafayette, California 94549

Local Address: 302 West, 5400 South, Suite 100
Murray, Utah 84107
Tax ID# 68-0065540

____
Signature

Matthew J. Henry
Printed name

Vice President
Title

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On this 16 day of September, 2003, personally appeared before me Matthew J. Henry, 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 Vice President (*title or office*) of Fehr & Peers Associates Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and said Matthew J. Henry acknowledged to me that said Corporation executed the same.

Carol J Murray

Notary Public

CAROL J MURRAY
Commission # 1374188
Notary Public - California
Contra Costa County
My Comm Expires Sep 10 2006

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Exhibit "A" - Scope of Services Needed

From the period of August 2003 through October 2004, Park City will be involved in numerous traffic engineering and traffic calming projects. Fehr & Peers will provide the following scope of services over that period of time.

1. Technical Support
   - Design and Engineering services
     - Service Provider will be requested to advise on study elements and techniques to evaluate neighborhood concerns, and provide suggestions on speed and volume control measures.
     - Service Provider will be required to produce design drawings for agreed upon street modifications.

2. Educational Support
   - Service Provider will assist PCMC in its Traffic Calming Program implementation by providing explanations and third party objectiveness to the concept of traffic calming
   - Service Provider will attend and participate in neighborhood meetings to assist City Staff in explaining program options and possible action steps
   - Service Provider will suggest to City Staff pro-active steps that can be incorporated into its current program.

PCMC will compensate the Service Provider on a time and materials basis following the rate structure below:

Rates:

Jon Nepstad, Project Manager	$135/hr
Dave Goeres, Associate	$130/hr
Eric Rasband, Signal Tech	$ 90/hr
Brett Wells, Engineer Tech	$ 85/hr

Service Provider will submit a detailed memo for each area of study. These "Task Memos" will provide estimated costs for individual projects that come up throughout the period of this contract and will be confirmed in writing by PCMC prior to any work being done.

City Council
Staff Report

PARK CITY 1884

ECONOMIC DEVELOPMENT AND CAPITAL PROJECTS

Author:	**Matthew A. Twombly**
Subject:	**MCLEOD CREEK TRAIL PAVING PHASE 1**
Date:	**September 25, 2003**
Type of Item:	**Award of Construction Contract**

Summary Recommendations:
Staff requests authorization to proceed with the McLeod Creek Trail Paving project between Holiday Ranch Loop Road and Meadows Drive. Staff recommends that Council award the construction contract to DRD Paving, in the amount of Fifty One Thousand Nine Hundred Ninety One and One Half Dollars ($51,991.50).

Description:

A. Topic: McLeod Creek Trail Paving Phase I

B. Background:
The Trails Master Plan has identified the paving of McLeod Creek Trail as a priority in completing a paved multi-use loop trail to the Farm. In 2002 Park City received a RAP tax grant award in the amount of $200,000 where a major portion of these funds would be used on the Entryway Corridor Trails paving and trailhead parking. The trail was installed in 1995/96 using reclaimed asphalt millings. Portions of the trail have held up well, while other portions are rutted. Willows have also encroached into the trail and need to be cleared back.

C. Analysis:
The project was advertised in the legal notices of the Park Record on September 6, and 10, 2003. There were two bidders for the project: DRD Paving was the low bidder at Fifty One Thousand Nine Hundred Ninety One and One Half Dollars ($51,991.50) for the Base Bid and Additive/Alternate #1 Paving Fabric; and Preferred Paving at Fifty Two Thousand One Hundred and Thirty Five Dollars ($52,135.00).

Staff recommends Additive Alternate #1: Paving fabric to help enhance the longevity of the pavement where it is placed on such an uneven surface. Staff has coordinated the project with the Snyderville Basin Water Reclamation District (SBWRD) where the sewer manhole lids have been raised in anticipation of the paving project.

D. Department Review:
City Manager's Office

Alternatives:

A. Approve the Request:

Award the construction contract to DRD Paving, in the amount of Fifty One Thousand Nine Hundred Ninety One and One Half Dollars ($51,991.50).

B. Deny the Request:
If Council chooses not to proceed with the project the trail will remain in its current condition. The manholes have been raised and would need to be reset.

C. Continue the Item:
Continuance would jeopardize completion by the October 15th City cut off date.

D. Do Nothing:

Significant Impacts:
There is approximately $640,000 budgeted in the Trails Master Plan Account, where $200,000 is budgeted from RAP tax funds for trails.

Consequences of not taking the recommended action:
The trail will remain in its current condition, and the manholes would need to be lowered back down.

Recommendation:
Staff recommends that Council award the construction contract to DRD Paving, in the amount of Fifty One Thousand Nine Hundred Ninety One and One Half Dollars ($51,991.50).