

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 3, 2009**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meetings at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, September 3, 2009.

Closed Session

3:30 p.m. Property and personnel

Work Session

5:15 p.m. Council questions/comments

5:30 p.m. Library update

P. 6 - 12

5:50 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

III PUBLIC INPUT (*Any matter of City business not scheduled on agenda*)

IV NEW BUSINESS (*New items with presentations and/or anticipated detailed discussions*)

1. Consideration of an Ordinance approving a plat for Gigaplat, 1897 Prospector Avenue, Park City, Utah

(a) Public hearing

(b) Motion to Continue to October 1, 2009

2. Consideration of of Master Festival License for Florida State University Pep Rally in City Park on September 18, 2009

P. 13 - 21

(a) Public hearing

(b) Action

3. Consideration of authorization to proceed with the McPolin Farm ADA Access and Driveway Project and to enter into a construction contract, in a form approved by the City Attorney, with DRD Paving LLC in the amount of \$97,581

P. 22 - 42

4. Consideration of an Ordinance approving the Second Amendment to the Royal Plaza Condominium Record of Survey Plat, located at 7620 Royal Street East, Park City, Utah

P. 43 - 65

(a) Public hearing

- (b) Action

5. Consideration of an Ordinance approving Stein Eriksen Lodge common area amendment to the Condominium Record of Survey Plat, located at 7700 Stein Way, Park City, Utah P. 66 - 71

- (a) Public hearing
- (b) Action

6. Consideration of an Ordinance approving the First Amended Silver Strike Lodge Condominium Record of Survey Plat located at 8902 Empire Club Drive, Park City, Utah P. 72 - 78

- (a) Public hearing
- (b) Action

7. Consideration of Real Estate Purchase Agreement and the License Agreement to purchase approximately 136 acres, parcel PP-25-C, from Herb and Mel Armstrong

- (a) Public hearing P. 79 - 106
- (b) Action

V OLD BUSINESS (Continued items)

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and approving a Water Agreement, and amending the Official Zoning Map of Park city to zone the property in the Community Transition Zoning District (CT)

- (a) Public hearing
- (b) Motion to continue to September 17, 2009

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

**PARK CITY SUMMER TOUR
SUMMIT COUNTY, UTAH
SEPTEMBER 10, 2009**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, September 10, 2009. Members will be participating on a Summer Tour to Crested Butte, Colorado with staff and the Leadership Class. No formal City business will be conducted.

Posted: 08/31/09

See: www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

- 10 **No meeting – City Tour**
- 11 ***Move back to Marsac***
- 15 *Primary election*
- 17 **Liza gone**
 - Labyrinth proposal - work - SCB
 - North Silver Lake appeal
 - LMC Amendments – Definitions
 - 3800 Richardson Flat Rd, Quinn’s water treatment
 - 2300 Deer Valley Dr E, St. Regis
 - 518 Deer Valley Dr
 - Purchase agreement with SimplexGrinnell for purchase and installation of emergency call boxes and video surveillance camera system in Richardson Flat
 - Consideration of a Contract Amendment with Counterpoint Construction
 - Award of contract for utility bill printing and mailing services
 - Jan’s / White Pine Touring cross country skiing concession – CS
 - Housing Authority meeting – revised affordable housing plan - PR
- 22 *Special Meeting - Primary election canvass, 3 pm, Council Chambers, quorum required*
- 24 **Roger gone – no meeting**

October 2009

- 1 **Liza gone**
 - For hire vehicles licensing - work - SH
 - Comstock Drive sidewalk project – work
 - Amended PCMC Summit County transportation agreement
 - Sandstone Cove Subdivision
 - Ordinance approving a plat for Gigaplat, 1897 Prospector Avenue, Park City, Utah – old business
 - Parking Services Contract - BA
 - Amended PCMC/Summit County Transportation Agreement - KC
- 8
- 15 City Website presentation - work (20 min) SR
- 22
- 29

November 2009

- 3 *General Election*
- 5
- 12 *General election canvass, preceding work session or 3 pm, quorum required*
- 19
- 26 Thanksgiving

December 2009

- 3 Extraordinary funding requests review
- 10
- 17 Agency minutes

Pending Items:

Business license policy
Performance measures
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues

City Council Staff Report

Author: Linda Tillson
Subject: Annual Library Update
Date: September 3, 2009
Type of Item: Informational



Recreation Library
Department

Summary Recommendations:

An annual report developed to update City Council on library usage, project highlights, upcoming projects and comparison statistics is attached.

Description:

A. Topic:

Annual Library Update for Fiscal Year 2009

B. Background:

The Library Board reinstituted the practice of providing an annual update to City Council in addition to the detailed statistical report provided to the State Library in February 2008. This year the report was moved to the fall allowing for the most recent fiscal year's data to be compiled and presented.

C. Analysis:

The Library Board and staff developed the attached annual report to provide City Council with a snapshot of fiscal year 2009 library activities, statistics and a brief overview of upcoming projects.

D. Department Review:

The Recreation Library Team and City Manager have reviewed this report.

Alternatives:

No action is requested. This is an informational report.

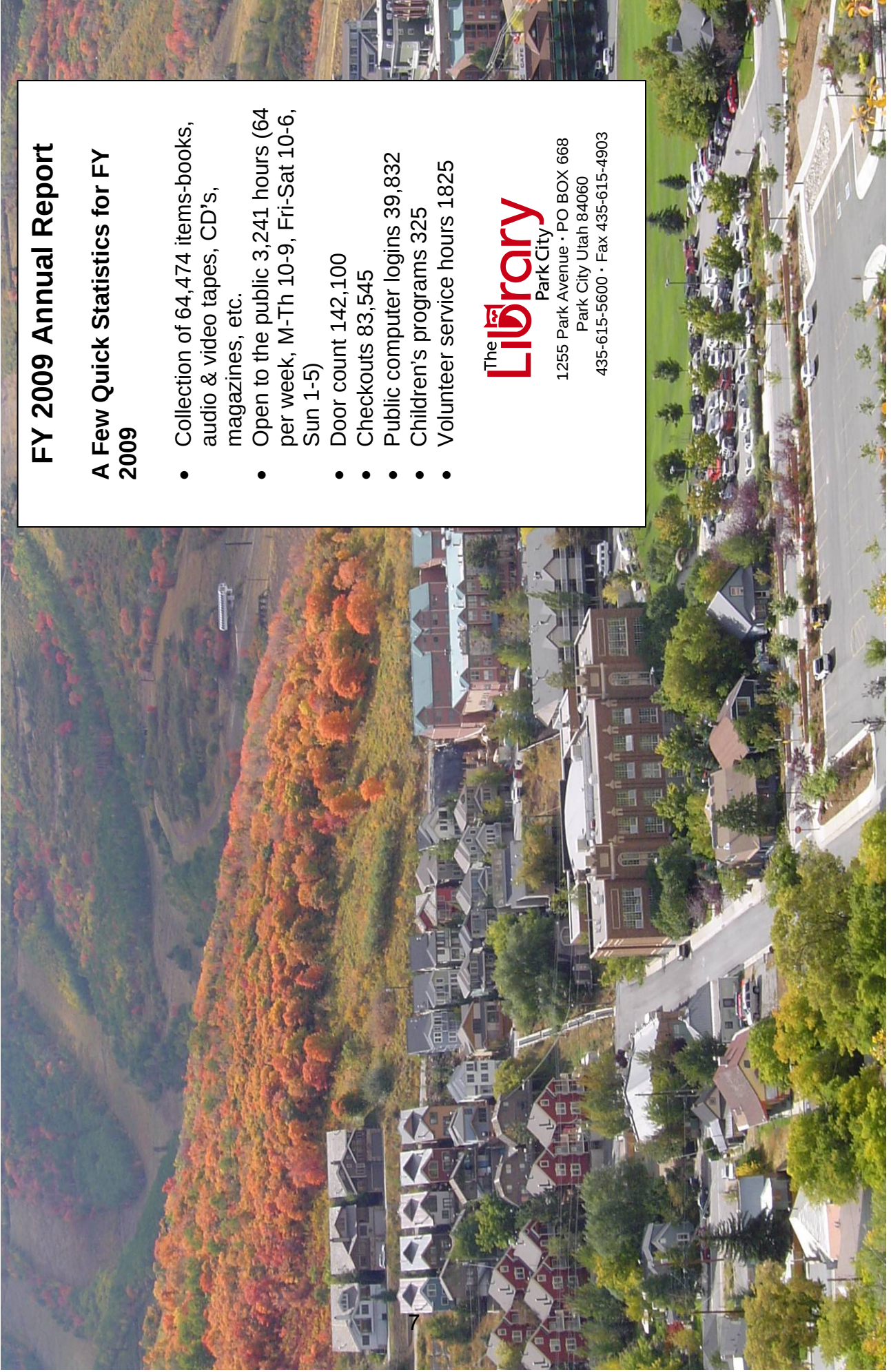
FY 2009 Annual Report

A Few Quick Statistics for FY 2009

- Collection of 64,474 items-books, audio & video tapes, CD's, magazines, etc.
- Open to the public 3,241 hours (64 per week, M-Th 10-9, Fri-Sat 10-6, Sun 1-5)
- Door count 142,100
- Checkouts 83,545
- Public computer logins 39,832
- Children's programs 325
- Volunteer service hours 1825

The **Library**
Park City

1255 Park Avenue • PO BOX 668
Park City Utah 84060
435-615-5600 • Fax 435-615-4903



2009 Highlights

- Statistically valid community survey results showed that 85% of library users were very satisfied with courteousness of staff and 80% were very satisfied with the knowledge of staff. Eighty two percent of respondents used the library to check out a book. The second most common reason to use the library was to check out an audio book (38%).
- Special Programs for Kids
 - Erich Herman's cool tunes for kids brought 115 people to the Santy Auditorium.
 - Kids were treated to a local author month during preschool storytime in February. Total attendance was 147. Authors featured included:
 - o Robert Neubecker. (author of *Wow! City!* and more)
 - o Jeannine Heil author of *Stetson: street dog of Park City*
 - o Corinne Humphrey (author of the *Tao of Rudy*).
 - o Ralph Kolts *My Pink Pillow*.

Special Programs for Adults

- "The Block Prints of Everett Ruess," a traveling exhibit from the Utah Arts Council scheduled for January 14- February 12.
- Utah Watercolor Society. A selection of prints from a competition juried by nationally recognized watercolorists.
- *Picturing America* exhibit from the National Endowment for the Humanities brought masterpieces of American art into classrooms and libraries nationwide. It contained high-quality reproductions of notable American art and gave participants the opportunity to learn about the nation's history and culture.
- "Frontline World: *Social Entrepreneurs*" film screening and discussion on Earth Day, Wednesday, April 22nd.
- One book featured the inspiration Randy Pausch book, *The Last Lecture*.
- Staff utilized CLEF (Community Level Enhancement Fund) grant funds to purchase audio language programs on flash drives and new comfortable chairs for the magazines and newspapers area.

The Park City Library's mission is to provide:

- ❖ Customer service that exceeds expectations
- ❖ Information that educates, inspires, and entertains in a variety of formats
- ❖ A welcoming environment for lifelong learning that links Park City to the world





Linda Tillson visited the Bimal Library in Dharan, Nepal to assess Sister Library Program and identify next steps for the partnership.

The Library Board and Staff completed an extensive Long Range Plan process resulting in a new framework that focuses on core services and articulates manageable goals and objectives related to essential services.

Reciprocal borrowing program for Summit County kids had double the expected number of participants.

The Friends of the Library Luncheon featured a very engaging speaker, Carolyn Jessop, whose book, *Escaped*, chronicles her life and eventual exodus from the FLDS Church and culture.



Trish Maynard, Library Cataloger, received an employee of the year award for the Recreation Library Department at the City's annual holiday party.

Heather Reynolds, Youth Services Librarian, attended the Guadalajara Book Fair in Mexico. She found many books and DVDs in Spanish to buy for the Library with Utah State Library grant funds.

Linda Tillson, Director, completed the third year of her term as the Utah Representative to the American Library Association.

Wi-fi use at the library exceeded bandwidth consistently enough to necessitate the purchase of an additional T1 line.

A new public computer printer and copy machine were purchased when their older counterparts failed. Both were replaced with new machines which offer color prints.



- Utilizing funds raised from book sales and their luncheon the Friends of the Library made it possible for the Park City Library to better serve residents and visitors by providing additional funds for; childrens' books, foreign films, bestsellers, audio books, furniture, equipment, and supplies for library programs and services. The list of items provided is impressive:

10

Books for Kids

Alphabet books
Children's Lit. Award of UT Nominee books (2009)
Christmas picture books
Issues books (death, divorce, moving, etc.)
New puzzles
Biographies

Books, DVD's and CD's for Adults

Foreign films, including BBC series
Audio book classics on CD
Rapid Readers Bestseller Collection

Furniture, Equipment and Supplies

Colibri Book Covering System
New furniture for teen area
Child size Safari Rocker for kids room
Slat-wall for displays in AV/Teen/Spanish Room
Scanning function for copy machine
Washable slipcovers for chair in Children's Room
Flash drives for library computer users to purchase
Cake and supplies for children's Peter Rabbit Tea Program



Special Projects & Events Slated for FY 2010

Facility Needs Study & Recommendations

Develop a proposal describing how expanding the Library's space in the Library and Education Center could meet the needs identified by the community survey, library growth statistics and usage trends.

Reciprocal Borrowing

Begin phase II of reciprocal borrowing which offers free Park City Library cards to Summit County residents working in Park City who reside outside of City limits. Phase II will be implemented if Summit County approves budget to contribute 50% of funds for this program.

Onebook in partnership with High School and Summit County Library

Partner with Summit County Library and Park City School District in selection and programming for the community One Book Program.

Joint Meeting with Summit County Library Board

Hold a joint meeting with the Summit County Library Board to discuss library topics, share ideas and identify partnership opportunities.

Increase Library Study Room Availability

Reallocate Library Staff to former U of U staff space on first floor and convert three offices on library mezzanine to study rooms for the public.

Comparison of Key Statistics

Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Check out of Library Materials	74,208	68,887	77,798	75,491	79,814	80,970	83,545
% change from previous year		-7.17%	12.94%	-2.97%	5.73%	1.45%	3.18%
Computer workstation sessions	43,374	43,759	54,543	51,038	47,504	40,370	39,832
% change from previous year		0.89%	24.64%	-6.43%	-6.92%	-15.02%	-1.33%
Library Visits	113,329	97,252	119,401	115,225	123,947	131,817	142,100
% change from previous year		-14.19%	22.77%	-3.50%	7.57%	6.35%	7.80%
Library Materials Collection	49,145	51,334	52,899	56,032	60,402	60,716	64,474
% change from previous year		4.45%	3.05%	5.92%	7.80%	0.52%	6.19%

Library Budget *	2009 Budget	2010 Budget
Personnel	634,419	662,422
Materials, Supplies & Services	158,729	177,777
Capital Outlay	15,972	4,972

*Does not include grants or Friends of the Library funds

**PUBLIC LIBRARY PEER GROUP COMPARISONS
FY 2008**

Library	Population of Legal Service Area	Total Expenditures	Total Operating Expenditures per Capita	Total Paid Staff	Collection Expenditures	Total Coll. Exp per Capita	Annual Visits	Visits per Capita
Aspen	11,187	\$2,984,334	\$266.77	21	\$233,139	\$20.84	292,842	26.18
Park City	8,030	\$743,482	\$92.59	11	\$100,193	\$12.48	131,817	16.42
Steamboat	16,140	\$2,583,130	\$160.05	23	\$226,016	\$14.00	249,200	15.44
Telluride	6,003	\$2,292,807	\$381.94	22	\$230,648	\$38.42	247,947	41.30
Vail	4,871	\$873,108	\$179.25	9.02	\$139,709	\$28.68	140,751	28.90

Average 9,246 \$1,895,372 \$216.12 17.20 \$185,941 \$22.88 212,511 25.65

Library	Total Circulation	Total Circulation per Capita	Total Public Access Computers	Attendance at Childrens Programs	Books & Bound Volumes	Books & Bound Volumes per capita	Total# of Library Holdings	Total # of Holdings per Capita
Aspen	173,273	15.49	21	6,634	109,413	9.78	146,990	13.14
Park City	80,970	10.08	18	6,791	50,126	6.24	60,716	7.56
Steamboat	227,172	14.08	33	11,509	68,807	4.26	85,235	5.28
Telluride	210,960	35.14	36	10,656	50,001	8.33	65,346	10.89
Vail	75,360	15.47	19	4,936	42,712	8.77	55,266	11.35

Average 153,547 18.05 25 8,434 64,212 7.48 82,711 9.64

Park City Library Board of Trustees FY 2009 Bill Jahnsman, Chair Kate Reichartinger, Vice Chair Roger Harlan, Council Liaison Pat Ball Chris Cherniak		Friends of the Library Board FY 2009 Barbara Bretz, co-president Darlene Breitenfeld Russ Britton Marisa Durham Linda Jacobson Carol Janulaitis		Friends of the Library Board FY 2009 Cathy Martone Cindy Meyer Madelyn Miamidian Ann Miller Trine Nielsen, co- president Patti Sanborn	
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City Council Staff Report

Subject: Florida State University Pep Rally
Author: Max J. Paap
Department: Sustainability
Date: September 3, 2009
Type of Item: Administrative – Master Festival License

Summary Recommendations:

Review the Master Festival License application, conduct a public hearing, and approve the license for the Florida State University Pep Rally, as conditioned, on September 18, 2009 to be held at South City Park.

Description:

Topic:

Review the Master Festival License Application, submitted by the Utah Seminole Booster Club for the Florida State University Pep Rally at South City Park on September 18, 2009.

Background:

Michele Cone, on behalf of the Utah Seminole Booster Club, submitted an application requesting a Master Festival License to hold a pep rally in support of the Florida State University football team that is playing a game against Brigham Young University on Saturday, September 19th. The event would be very similar to the other pep rallies that were hosted a few years ago in South City Park for the USC and Notre Dame Football Boosters. The organizer expects the attendance to be about 200 at any given time during the duration of the event. The space would be programmed from 5:00 pm to 9:00 pm on Friday, September 18, 2009. The organizer has met on-site with Special Events staff to go over any logistical challenges or other issues.

The Florida State University Pep Rally is consistent with the City Council's Goal #4 which is to continue to promote Park City as multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this.

Analysis:

FSU Pep Rally

The event organizers have requested to hold their event on Friday, September 18, 2009. They would begin to take over South City Park at 3:00 pm to facilitate the build out the green space between the BBQ area and the pavilion. The event is scheduled to begin at 5:00 pm and will run until 9:00 pm. The programmed activities planned will feature FSU dignitaries as guest speakers, a performance by the FSU

cheerleaders, food and beverage, and festive amplified music. The event is open to boosters and the general public. The organizer has met with the UDABC, to acquire a single event beer permit and Summit County Health to acquire the proper necessary permits.

Parking

Parking for the anticipated crowd can be accommodated with the public parking in North City Park, the Mahwhinney lot and street parking along Park Avenue. PCMC Transit would also be an option for attendees. The applicant is currently working with PCMR to secure the Silver King Lot which would also be available as a satellite parking option.

Park City Promotion

The FSU Alumni Association website is actively promoting Park City as the holder of all official events and recommended lodging options (Exhibit B). The web site additionally promoted Main Street nightlife, daytime activities at PCMR, and the Park City Municipal Golf Course.

This application is being reviewed as a Master Festival License due to the request to have amplified music and use of City property. The applicant has indicated the amplified music/sound would take place only between the hours of 5:00 pm and 9:00 pm in South City Park and be oriented towards Deer Valley Drive.

Department Review:

All applicable departments have reviewed the application for the Florida State University Pep Rally and their comments have been incorporated into the report.

Alternatives:

Approve the Request:

Approve the Master Festival License allowing the Florida State University Pep Rally as described.

Deny the Request:

Deny the Master Festival License, preventing the addition of the Florida State University Pep Rally to Park City's schedule of events.

Continue the Item:

The City Council may continue the discussion in order to receive additional information.

Significant Impacts:

Park City has held many similar events to the Florida State University Pep Rally. The activities will be contained within the venue and will conclude by 9:00 pm.

Consequences of not taking the recommended action:

The Florida State University Pep Rally would not take place.

RECOMMENDATION:

Staff recommends the City Council conduct a public hearing and approve a Master Festival for the Florida State University Pep Rally on September 18, 2009 based on the following Findings of Fact, Conclusions of Law and Conditions of Approval.

Findings of Fact:

1. The Florida State University Pep Rally will be held on Friday, September 18, 2009. The event will last from 5:00 pm to 9:00 pm and will occur at South City Park.
2. Parking for the anticipated crowd of 200 people can be accommodated within the existing public parking lots in and around the venues. The conduct of the Florida State University Pep Rally will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
3. The events associated with the Florida State University Pep Rally will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The event will be held at South City Park. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. There are other Master Festival or Special Event licenses that have been granted for September 18, 2009. The table below will show in column (A) – Geographic separation of the events; column (B) – Proposed time and duration of the events; and column (C) – Anticipated attendance.

2009 DATE	EVENT	A – Geographic Separation	B - Proposed Time & Duration	C – Anticipated Attendance
Sept 18	FSU Pep Rally	City Park	5PM-9PM	200
Sept 18	PC Farmers Market	The Yard	11AM-6PM	400

6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

1. The applicant, at its' cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.
2. Applicants shall provide proof of liability insurance in the amount of two million dollars (\$2,000,000) or more as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as additional insured. All Applicants shall further indemnify the City from liability occurring at the event except for any claim arising out of the sole negligence or intentional torts of the City or its employees.
3. All amplified music/sound may begin at 5:00 pm and at least cease by 9:00 pm on Friday, September 18, 2009 in South City Park.
4. The applicant will work with City Staff to orient the music/demonstration stage so as to minimize sound impacts to the neighborhood and the applicant shall monitor the following:
 - (A) The program manager, or his/her designee, shall provide on-site management for the event.
 - (B) A sound technician shall provide on-site monitoring for the event with music, amplified or otherwise, and any amplified event.
 - (C) The program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage.
5. All plans for tents, fireworks, stages, signs and other temporary structures shall be submitted to the Building Department for review and permitting by September 11, 2009.

Attachments

Exhibit A- Applicant's Summary of Activities

Exhibit B- BYU Game/Weekend Information

PARK CITY MUNICIPAL CORPORATION SPECIAL EVENT AND MASTER FESTIVAL LICENSE EVENT APPLICATION - PART I



Special Events
435.615.5150
specialevents@parkcity.org

PART I of the Special Event and Master Festival License (MFL) must be completed and submitted electronically to the Special Events Department no less than **90 days prior to a MFL** or no less than **60 days prior to a Special Event**.
The application will be reviewed by the Special Events Department. *Granting of the permit is not guaranteed.*

APPLICATION FEES – DUE AT TIME APPLICANT SUBMITS PART I

All new applications require a \$100 application processing fee.
All applications for returning events require a \$50 application processing fee.
The Application Fee is **NON-REFUNDABLE**.

ADDITIONAL FEES

Additional fees for other services, including Health Department, Fire Department, and City Services will be estimated and provided to the applicant. Applicant will receive a final invoice approximately two weeks after the event concludes.

APPLICANT AND SPONSORING ORGANIZATION INFORMATION

NAME	Michele Cone
STREET ADDRESS	3061 Fairway Hills Ct.
CITY, STATE, ZIP CODE	Park City, UT 84060
DAY PHONE	435-602-0886
FAX PHONE	435-658-5466
E-MAIL ADDRESS	michelecone@kw.com
SPONSORING ORGANIZATION	Utah Seminole Booster Club
Contact Person "ON SITE" Day of Event	Name: Michele Cone Cell Number: 435-602-0886

EVENT INFORMATION

Type of Event (**Check all that apply**):

Master Festival Criteria: A PUBLIC EVENT (If one box is checked, the event is automatically a MFL)	☐ Attraction of crowds over 500	☐ Street Closure	☒ Use of City park, building or property	☐ Use of off-site parking facility	☒ Use of amplified music
Special Event Criteria: PRIVATE OR PUBLIC EVENT	☐ Causes significant public impacts via disturbance, crowd, traffic/parking	☐ Disruption of the normal routine of the community or affected neighborhood	☐ Necessitates temporary business or liquor licensing	☐ Events signs, visible from public property	☐ Temporary structures
☐ Run/Walk	☐ Parade	☐ Trail Event			
☐ Road Bike Event	☐ Park Festival	☒ OTHER (please specify):			
☐ Street Fair	☐ Concert				
EVENT TITLE:	FSU Pep Rally				
FIRST TIME OR ANNUAL EVENT (IF ANNUAL, HOW MANY YEARS?)	First time event				
EVENT DATE (S)	September 18, 2009				
EVENT HOURS	START: 5:00pm		END: 9:00pm		
SET-UP	DATE: September 18, 2009		TIME: 3:00pm		
BREAK DOWN	DATE: September 18, 2009		TIME: 9:00pm		

ATTENDANCE	PARTICIPANTS:	SPECTATORS:	TOTAL: est. 200
LOCATION	City Park		

OVERALL EVENT DESCRIPTION (Briefly explain event and activities):
Pep rally and Booster Club event for Florida State University fans, alumni. Cheerleader will perform and coaches will speak.

MARKETING YOUR EVENT		
(Your Marketing Plan is criteria for approval of your event)		
Contact the Park City Chamber/Bureau to help market y our event	435.649.6100	www.parkcityinfo.com
PLEASE DESCRIBE MARKETING AND PROMOTIONAL EFFORTS FOR YOUR EVENT:		
We are working with the park City Chamber to market this event locally. It is being featured on all university websites, as well as various national FSU Booster Club and Alumni Association websites.		

RULES AND REGULATIONS
• A non-refundable application fee is required at the time the application is submitted to Park City Municipal Corporation. For new events the application fee is \$100, for returning events the application fee is \$50.00. • Part I of the application must be submitted a minimum of 90 days prior to a Master Festival License (MFL) and 60 days prior to a Special Event. Part II of the application for both a MFL and a Special Event must be submitted 45 days prior to the requested event date. • A site plan of your event is required with your application identifying street closures, signs, supply trucks, barricades, tents, activity location, portable toilets, bleachers, other temporary structures, water stations, headquarters, solid waste containers, entrance/exits, walkways and any other details that would assist the Special Event Staff with understanding the setup of your event. • For runs, walks and parades a site plan outlining your route must be submitted along with your Special Event Permit application. If your event will generate additional traffic, or interrupt existing traffic on any city street, a traffic control plan outlining necessary street closures is required before a Special Event Permit will be issued. • Permit Applications may require review by the City Council for approval or denial. Need for review is based on size, location, scope and impact of event. • An applicant must schedule a meeting with Special Event Staff 30 working days prior to event. • A certificate of insurance must be filed with Special Event Services ten (10) working days before the event in the amount of \$2,000,000. The City of Park City requires all certificates of insurance to be submitted on a standard ACORD form, or on the insurance company's letterhead. Park City Municipal Corporation must be listed as additionally insured. If you do not have insurance, the City of Park City is able to provide you insurance, at a cost, through the TULIP Program. Please visit our website at: www.parkcity.org/Special Events & Facilities/applications/index.html. • All debris and trash must be removed from an event site immediately after the event. Failure to do so may require more City Services. All expenses will be the responsibility of the event applicant. It is highly recommended that the applicant provide recyclable receptacles at the event. Please contact a local recycle company (information provided in Application Part II). Thank you. • Depending on the duration of your event and the availability of public restrooms, you may need to rent portable chemical toilets to accommodate participants. Park City Municipal Corporation City Code requires one (1) chemical toilet for every 65 people. The figure is based upon the maximum number at your event during peak time. The total number of toilets will be determined on a case-by-case basis. • You must receive approval for your event before you promote market or advertise your event. Conditional

approval will be made after the event organizer submits the application and it is initially screened. Acceptance of your Special Event Application by the City is not a guarantee of the date, location or an automatic approval of your event.

- Only readily removable barricades may be used for street closures and a 20-ft lane of clearance is required for emergency vehicle access at all times. You may be required to provide advisory signs if your event impacts a major use roadway. Advisory signs are intended to provide advanced notice to the regular users of a roadway of the scheduled closure.
- In some cases, the hiring of officers from the Park City Police Department, a professional security company, or a combination of both may be required in order to obtain a Special Event Permit. The Park City Police Department determines the need, number, and type of security personnel based on expected attendance, location of the event, the presence of alcohol, history of the event, nature of the event, street closures, and the amount of advertising used for an event.
- The Fire Department must review and approve the following: your plans for first aid and/or emergency medical services; your route for emergency vehicle access;
- The Building Department must review parade floats; use of an open flame; use of fireworks or pyrotechnics; handling of vehicle fuel; cooking facilities; the location of power sources; the availability and location of on-site fire suppression equipment; the occupancy and spacing of tables or enclosures; and the use of tents, canopies or any fabric shelters. The Building Department will require an inspection before and/or during the event.
- All temporary structures, i.e. tents, stages, platforms, etc. must be engineered and stamped by a State of Utah Licensed Engineer.
- The applicant(s) shall assume and reimburse the City for any and all costs and expenses determined by City to be unusual or extraordinary, and related to the event for which the permit is sought, including but not limited to:
 - A. The cost of providing, erecting, and moving barricades and/or signs;
 - B. The cost of providing and moving garbage or waste receptacles;
 - C. The cost of city personnel who are required by the city to work overtime hours
- The City may require, as a condition to issuance of a permit, that a sum be deposited with the city to meet such costs. The required deposit shall not exceed one thousand dollars (\$1,000.00).

AGREEMENT AND SIGNATURE

I the undersigned representative have read the rules and regulations with reference to this application and am duly authorized by the organization to submit this application on its behalf. The information contained herein is complete and accurate.

Name (printed)	Michele Cone
Signature <i>(if electronic signature is available):</i>	Date: May 18, 2009

REMITTAL INFORMATION

Park City Municipal Corporation (PCMC) ATTN: Special Events PO Box 1480 Park City, Utah 84060 435.615.5150	<i>If you would like to pay by credit card or make your payment in person please contact Jennifer Byrd at 435.615.5056.</i>
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OFFICE USE ONLY

PERMIT APPLICATION #:	ASSIGNED TO:
NOTES:	

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Utah

Seminole Club

FLORIDA STATE UNIVERSITY

Contact: Richard Clark
Utah Seminole Club
440 Country Club
Stansbury Park, Utah 84074
Phone: (801) 558-3274
Email: rcsc11@msn.com

SEE OUR FACEBOOK PAGE, UTAH SEMINOLES CLUB:

<http://www.facebook.com/album.php?profile=1&id=104974018409#/pages/Salt-Lake-City-UT/Utah-Seminole-Club/104974018409>

BYU GAME/WEEKEND INFORMATION-- Go to "NEWS" tab below.

UTAH SEMINOLE CLUB MEMBERSHIP APPLICATION- Go to "NEWS" tab.

[Home](#) | [Events](#) | [News](#) | [Contacts](#)**Announcements****FSU/BYU football official events**

8/3/2009



Updated: 8/3/2009

All official events will be in Park City, UT

The official hotel of the Seminole Boosters is the Hotel Park City. Contact The Seminole Boosters to book your

travel.

For all other FSU fans, we are recommending the Park City Marriott for lodging. Be aware that there are 3 Marriott properties in Park City. The one to select is the Park City Marriott. [Click here to book your room at the Park City Marriott](#): <http://www.gametimetravel.com/MFB/EventInfo.aspx?E=3406> or call Gametime at 850-668-7777.

September 18, 2009

Pep Rally. 5:00 pm - 8:00 pm. Location: City Park, located at the north end of Historic Main Street. Come see the Cheerleaders, listen to comments from FSU officials, and hobnob with a great crowd of Noles.

Historic Main Street Bar Crawl. 8:00 till whenever.

September 19, 2009

FSU Activity Time. 12 pm - 2 pm. Location: Park City Mountain Resort. The resort is offering tremendously discounted prices to FSU fans on all resort activities such as the Alpine Slide, Zip Line and other attractions. The Legends Sports Bar will be our gathering place for eats and imbibing. [Click the link below for a look at the resort's summer activities](#):

<http://www.parkcitymountain.com/summer/activities/index.html>

Shuttles to game. From Park City Mountain Resort to Lavell Edwards Stadium and back. Reservations must be made through the FSU Alumni Association. Here is the link to the bus registration form. It is officially live.

<http://alumni.fsu.edu/community/Page.aspx?pid=634>

Scroll to September 19th FSU vs BYU then click on Bus Travel from Park City to Provo. We will gather in the large parking lot following FSU Activity Time to board the buses at 3:00 pm. The buses will drop us off at this lot following the game.

THINGS TO DO IN UTAH:

If you are staying a few days, there are 7 national parks within a 4 hour drive of Salt Lake City: Yellowstone, Arches, Canyonlands, Capitol Reef, Bryce Canyon, Zion and Great Basin.

"Must see" things in the Wasatch Front area include:

Salt Lake City:

The Mormon Tabernacle Choir performance on Sunday morning, 9:00 am in Salt Lake City. If you go, follow it up with a tour of Temple Square, Utah's most visited attraction.

Another attraction going on at the time is Oktoberfest at Snowbird Resort. A mountain setting, with regional beers from all over the USA.. a very nice experience.

Park City

Do you golf? There are several public mountain courses near Park City that are excellent.. and inexpensive. There is mountain hiking in the Park City area and shopping on Historic Main Street and the Factory Outlets. There is also horseback riding and trout fishing nearby. A nice characteristic of Park City is that it has several outstanding restaurants, featuring just about any style that you could want. Some of them will be expensive, but most are fairly reasonable in the context of resort reasonable.

Utah is world renowned for its micro-brews. They are located in Park City and Salt Lake City for the most part.

NOTE: {more will be added to this section}
Membership application for Utah Seminole Club
 7/20/2009

JOIN THE CLUB

Fill out the membership form and send your payment to:

City Council Staff Report



Subject: McPolin Farm ADA Access and Driveway Project
Author: Heinrich Deters, Matt Twombly, Denise Carey
Department: Sustainability, Recreation
Date: September 3, 2009
Type of Item: Award of Construction Contract

Summary Recommendation:

Staff requests authorization to proceed with the McPolin Farm ADA Access and Driveway project and authorize the City Manager to enter into a construction contract in a form approved by the City Attorney's Office with DRD Paving LLC in the amount of Ninety Seven Thousand Five Hundred Eighty One Dollars (\$97,581).

Topic: Award of Construction Contract for the McPolin Farm ADA Access and Driveway project

Background:

The Farm Strategic Plan was updated and approved by Council in October of 2008. As part of the strategic plan for improvements at the McPolin Farm, several construction projects were identified by staff, the Friends of the Farm (FOF) and Council. The projects include:

Painting of Farmhouse	Building, windows and railings	\$15,000
Remove metal ties on foundation of shed	Ties were left after construction and never removed	\$500
Chimney repair and flashing on Farmhouse	Both flashing and brick repair needed. This is a maintenance item every 3 - 4 years	\$5,000
Replace eave boards on sheds		\$5,000
Noxious Weed Control on Fields	Environmental Stewardship	\$4,200
Paving Driveway *	Pave existing driveway with exposed aggregate colored concrete material	\$150,000 - \$208,000
ADA Access from Tunnel to Main Shed; assume driveway paving *	Grade and pave the access road from tunnel to driveway to main shed; use of colored concrete	\$70,000

Paved Connection from Upper trail to shed *	Grade and pave an access trail from upper trail to shed/drive	\$12,000
Antique Farm Equipment Display	Move and install antique equipment and hard surface pads, interpretive signs and conservations supplies	\$25,000
Remove paint on sandstone foundation on Barn	Paint degrades sandstone over the years. Removal will extend life.	\$500
Alfalfa Field - Reseed	Quality Agriculture/wetland grasses	\$1,300
Repair Irrigation Ditch and replace gate at Farm		\$2,000
Remove and replace wire fence along stream	Wire fence was installed by the Division of Wildlife to protect the stream bank erosion when the land was grazed	\$30,000
Restore Barn		\$5,000,000
Move outhouse closer to farmhouse with gravel base	The outhouse would have been located closer to the house.	\$1,000

* Identified in the WALC study

The project scope includes: The paving of the driveway including ADA accessibility from the parking lot on the East side of the highway to the Farm buildings and restrooms; and the paving of an asphalt trail connecting the Farm Trail above the Farm to the ADA access, driveway and underpass to the McLeod Creek trail on the East side of SR-224. The WALC committee identified the trail connection between the Farm Trail and McLeod Creek Trail and the asphalt overlay of the McLeod Creek trail (from the underpass to the new SR-224 trail in the County) as a high priority.

Included in the contract scope not identified and approved as part of the WALC project recommendations is the pouring of concrete pads for the antique farm equipment display;

Analysis:

The project was advertised in the legal notices of the Park Record on August 8, and August 12, 2009; and in the Salt Lake Tribune on August 10, and 11, 2009. The bids were publicly opened on August 25, 2009. There were 4 bidders for the project: DRD Paving LLC, was the low bidder at \$97,581 for the base bid, \$5.08/sf for Alternate # 1 Colored Concrete and \$6.89 for Alternate #2 Exposed Aggregate Concrete; then Kilgore Paving at \$113,502; then Granite at \$126,021; then Lyndon Jones at \$132,488.

Company	Base Bid	Alternate #1 Colored Concrete	Alternate #2 Exposed Aggregate
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DRD Paving LLC	\$97,581	\$5.08/square foot	\$6.89/sf
Kilgore Paving	\$113,502	\$8.10/sf	\$9.25/sf
Granite Construction	\$126,021	\$11.05/sf	\$10.25/sf
Lyndon Jones	\$132,488	\$6.50/sf	\$9.50/sf

In October of 2008 Council reviewed the Farm strategic plan including the driveway concrete paving options and directed to staff to bid the projects with options on the concrete including plain concrete, colored concrete and exposed aggregate concrete due to concerns with the look of the driveway. According to the alternates by the low bidder, the cost for performing alternate #1 colored concrete for the driveway at \$5.08/sf is \$4,093 more than the base bid on that specific item. The cost increase for exposed aggregate concrete based on \$6.89/sf is \$12,913.

At the Friends of the Farm meeting in June, 2009 the 3 options for the concrete driveway (regular concrete mix, colored concrete, exposed aggregate concrete) were discussed and the FOF recommendation was for the regular concrete instead of colored concrete or exposed aggregate. Their recommendation is mainly based on the fact that it matches all the other concrete on the site.

Staff and the engineer (Stantec Engineering) have also discussed the options and recommend that regular concrete be used for the longevity and maintenance, as opposed to exposed aggregate which has a significantly shorter life span and is more expensive to maintain. Colored concrete has a somewhat shorter life span than regular concrete due to the fact that the color is an additive and a little more expensive to maintain. In addition, if sections need replacement the color generally does not match the original color. Therefore, staff recommends that the contract is awarded using the basic bid and regular concrete for the driveway.

Department Review:

City Manager, Sustainability, Recreation, Legal.

Alternatives:

Approve the Request:

Authorize the City Manager to enter into a construction contract in a form approved by the City Attorney's Office with DRD Paving LLC in the amount of Ninety Seven Thousand Five Hundred Eighty One Dollars (\$97,581).

Deny the Request:

The Farm would remain in its current state without ADA and trail access.

Continuance:

Delaying a decision would delay the proposed schedule for construction starting this fall and completion by November 1, 2009.

Do Nothing:

Same effect as delaying the project.

Significant Impacts:

The Farm does not have fire code compliance and does not have ADA access from the parking which has prevented issuance of a full Certificate of Occupancy. There is currently a total of \$150,000 budgeted in the WALC bond funds for this project. There is also a total of approximately \$106,000 remaining in the Farm CIP account. The Friends of the Farm also received a \$25,000 Restaurant Tax Grant for the Antique Farm Equipment display, to be used on the concrete pads included in this contract, and interpretive signs and conservation supplies not included in this contract.

The majority of the project will be funded with WALC bonds because it was a high priority Walkability project. A portion will be funded through the Farm CIP and a portion by the grant. Staff has broken out the costs associated with the WALC, Farm and Grant from the unit cost schedules on the bid form from the contractor in the table below. The FOF have scheduled a retreat for October 3, 2009 to discuss the remaining projects contemplated in the Strategic Plan and Farm CIP.

Scope	Amount	Percent	Grant	Farm CIP	WALC
Mobilization/General Conditions/Cleanup	\$7,620	Split by % of project	\$473.20	\$1,416.56	\$5,730.24
Asphalt Trail (Farm Trail to Shed)	\$40,071	100%			\$40,071
Asphalt Trail from Shed to Driveway	\$12,192	50/50%		\$6,096	\$6,096
Concrete Driveway	\$20,662	50/50%		\$10,331	\$10,331
Drainage, Demo and reconstruct trail at tunnel	\$9,939	100%			\$9,939
Concrete Pads	\$5,483	%100	\$5,483		
Landscaping	\$1614	Split by % of project	\$100.23	\$300.04	\$1,213.73
Total	\$97,581		\$6,056.43	\$18,143.6	\$73,380.97

The maintenance of the approximate 3020 linear feet of new asphalt trail is estimated at approximately \$440.77 per year, replacement time frame of 10-12 years. The concrete driveway will require replacement within at approximately 20 years (\$1000/yrx20).

Consequences of not taking the recommended action:

If Council needs more time to review the project then the construction schedule for completion this fall would need to be adjusted and the project would likely need to be rebid.

Recommendation:

Staff recommends that Council authorize City Manager to enter into a construction contract in a form approved by the City Attorney's Office with DRD Paving LLC in the amount of Ninety Seven Thousand Five Hundred Eighty One Dollars (\$97,581).

Attachments:

Exhibit A Map

Exhibit B Construction Agreement

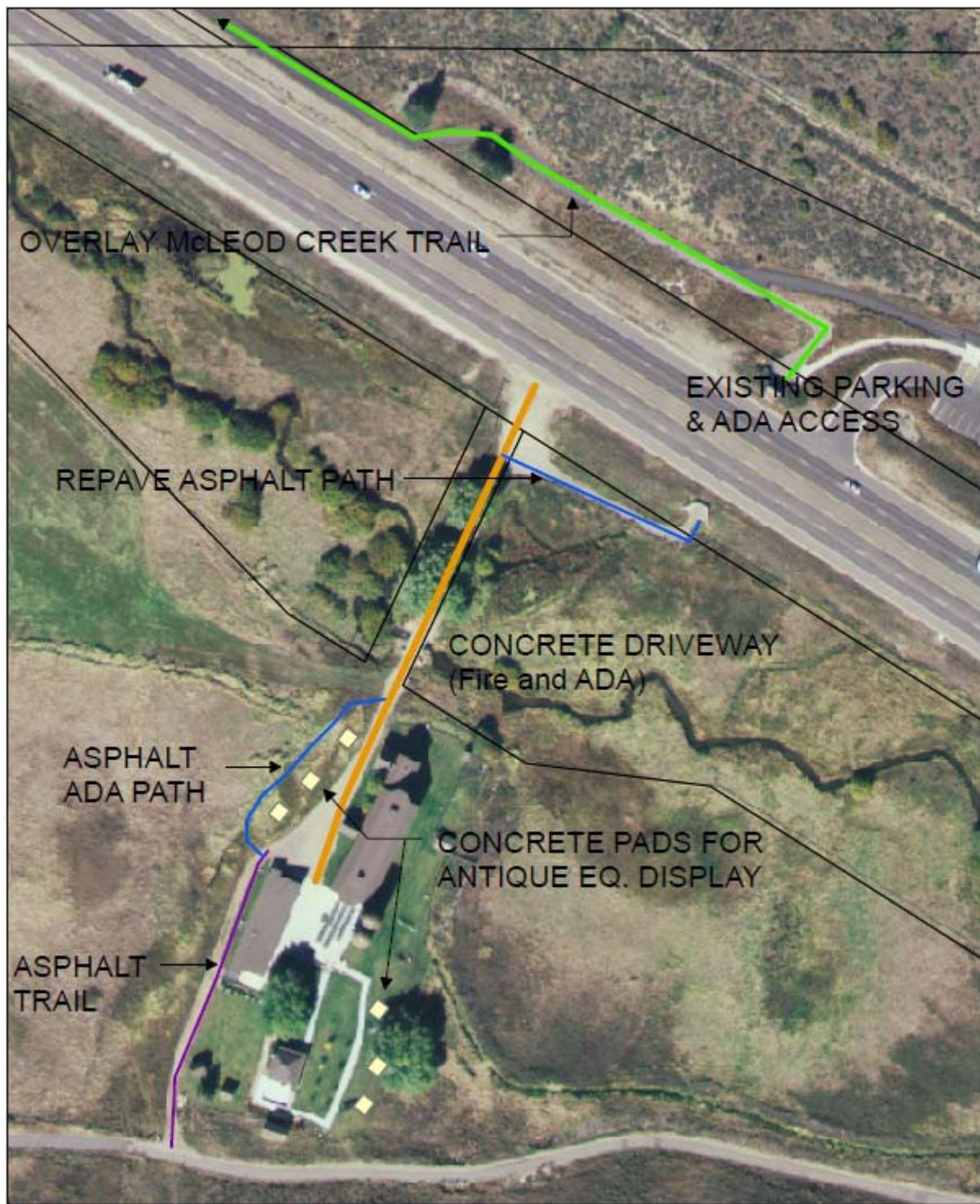


EXHIBIT A

THE FARM

0 30 60 90 120 150 Feet



CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2009, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and DRD Paving L.L.C. 27W, 3900S, Salt Lake City, UT. 84107 which is a (check one) ____ corporation ____ partnership ____ sole proprietorship X limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the McPolin Farm ADA Access and Driveway Project (hereinafter "Project"), which consists of the construction of a 10' concrete driveway access to the barn, drainage, constructing an ADA asphalt pathway, constructing a section of asphalt trail, installing a trench drain; construction of 6 concrete exhibit pads for the antique farm equipment displays; asphalt trail overlay and miscellaneous work and cleanup.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

SECTION 1. SCOPE OF WORK. Contractor shall furnish all labor, materials and equipment to complete the Project, consisting of the work described in the Information for Bidders as the Basic Bid, as specifically set out in the contract specifications, which is made a part hereof by reference, herein called the "Project."

The Project will be bound by the specifications referenced herein, according to the Advertisement for Bid, the Information for Bidders, the General Project Requirements and Specifications provided by City, the Bid of the Contractor, Bid Bond, Drawings, Notice of Award and Notice to Proceed, collectively referred to as the Contract Documents, all of which are incorporated herein by reference and on file in the Sustainability Department. To the extent that this Agreement conflicts in any way with a proposed form agreement which may have been submitted as part of the bid specifications, this Agreement shall control.

If any of the work performed by Contractor in any phase of the Project does not meet City standards as outlined in the bid documents and specifications, then Contractor shall immediately repair or correct the work at no additional cost to City.

A. SUBCONTRACTORS. No part of this contract shall be subcontracted by the Contractor without prior written approval by City through the Project Manager/Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

If written approval is granted to subcontract a part of this contract the Contractor shall require each subcontractor that physically performs services within Utah to

submit an affidavit to the Contractor stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee.

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and material men who supplied services or materials to the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release.

If the City reasonably believes that Contractor has failed to pay Subcontractors, material men, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

C. INSPECTION AND TESTING. All materials and equipment used in the construction shall be subject to inspection by the Project Manager/Engineer. If laws, ordinances, rules or regulations of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than Project Manager/Engineer, the Contractor shall give the Project Manager/Engineer timely notice of readiness. Inspections, tests or approvals by the City or appropriate authorities will not relieve the Contractor from obligations to perform the work in accordance with the requirements of the Contract Documents and/or provisions. The Project Manager/Engineer and other designated persons will at all times have access to the work. All work shall ultimately be inspected for final acceptance by the Project Manager/Engineer within a reasonable time upon receipt of notice from the Contractor that work is complete and ready for final inspection.

During construction, the work will be inspected and observed by the Project Manager/Engineer or his designated representative. All work that is deficient or does not meet specifications shall be removed and replaced with proper material at Contractor's expense.

D. WARRANTY. Contractor warrants that all materials and supplies used in the construction of the Project shall be new, except as otherwise agreed to in writing by the City's Representative. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of at least one (1) year following the date of substantial completion of the Project

under the terms of the performance bond or as provided in the project specifications and construction documents, whichever is longer.

SECTION 2. PERFORMANCE AND PAYMENT BONDS. Contractor shall furnish to the City payment and performance bonds satisfactory to the City guaranteeing Contractor's payment and performance, in the amount, for each separately, of one hundred percent (100%) of the Contract Amount.

SECTION 3. INSURANCE. Unless otherwise specified in the bid documents, the Contractor 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 Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide Park City Municipal Corporation a Certificate of Insurance evidencing:

A. Commercial General Liability insurance written on an occurrence basis with limits no less than two million dollars (\$2,000,000) combined single limit per occurrence and four million dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's practices.

The Contractor shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

B. Automobile Liability insurance with limits no less than two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

C. Workers Compensation insurance limits written as follows:
Bodily Injury by Accident \$500,000 each accident;
Bodily Injury by Disease \$500,000 each employee, \$500,000 policy limit

Park City Municipal Corporation shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to request certified copies of any required policies.

The Contractor'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.

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Ninety Seven Thousand, Five Hundred Eighty One Dollars (\$97,581)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (City fees waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

SECTION 5. PERMITS AND FEES. As set out in Section 4 above, the Contract Amount includes the price of all normally applicable fees and permits. The City may, at its discretion, arrange for the waiver of certain fees, permits and expenses.

SECTION 6. TERMS OF PAYMENT. The City shall pay for services provided hereunder according to and in an amount not to exceed that detailed in the attached payment schedule (Attachment A) and only upon Contractor's request on forms approved by and submitted to the Project Manager. The City shall make payment within thirty (30) days thereafter. Requests for a more rapid payment may be considered if a discount is offered for early payment. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work. No payment shall be made for any service rendered by the Contractor except for services set forth and identified in this Agreement. The City reserves the right to withhold payment in whole or part from the Contractor for non-compliance with the provisions of the Contract Documents.

A. RETAINAGE. The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

Before final payment is made, the Contractor must submit evidence satisfactory to the City that all payrolls, material bills, subcontracts and all outstanding indebtedness in connection with the Project have been paid for.

The City may withhold a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project plus ten percent (10%) of such indebtedness as the City's cost of administering such claims until Contractor supplies a release satisfactory to the City, signed by all persons who have supplied labor or materials to the Project or, at the City's option if no claim is made, until 105 days after the date on which any person performed the last of the labor or supplied the last of the material for the Project and upon written request from the Contractor.

The Contractor shall supply to the Project Manager/Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

B. FINAL PAYMENT. Acceptance by the Contractor of the final payment from the City shall release the City of all claims, demands and liability of the Contractor, its officers, agents, employees and subcontractors, whether communicated or not by the Contractor, except with respect to those matters referred to in writing delivered to the Contractor and approved in a signed writing by the Project Manager.

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **November 1, 2009**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **One Hundred Dollars (\$100.00)** which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. **TIME IS OF THE ESSENCE IN THIS AGREEMENT.**

SECTION 8. ADDITIONAL WORK/CHANGE ORDERS. The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in

writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in order of precedence listed below:

- A. An agreed lump sum; or in the event the parties cannot agree; then
- B. The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then
- C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

SECTION 10. DEFAULT, REMEDY AND TERMINATION. The City may terminate this agreement upon the occurrence of one or more of the following events:

- A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;
- B. If Contractor substantially fails to perform any part of this Agreement;

C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;

D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

After serving ten (10) days written notice on the Contractor and its surety of its intention to terminate the services of Contractor, and if within ten (10) days after serving such notice, the violation is not corrected to City's reasonable satisfaction, the City then may take over the work and prosecute it to completion by contract or by any other method it may deem advisable at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the service herein.

The Contractor shall be entitled to a hearing before a City hearing officer upon the issue of termination if it submits a written request therefore within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of

the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

The Contractor shall continue the performance of this agreement to the extent not terminated under the provisions of this section.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to 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 arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's 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 Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

SECTION 12. CONTROLLING LAW. These general conditions shall be construed in accordance with and enforced under the laws of the State of Utah. Any action of law, suit in equity, or judicial proceeding for the enforcement of the Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

SECTION 13. ASSIGNMENT. The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

SECTION 14. SAFETY AND TRAFFIC CONTROL. Contractor shall take all reasonable precautions to protect the safety of pedestrians, school children, motorists, and others who may use or come near to the Project site, including but not limited to compliance with the Manual of Uniform Traffic Control Devices.

SECTION 15. SAFETY AND PROTECTION OF THE WORK. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project work. Contractor shall provide reasonable protection to prevent damage, injury or loss to employees on the Project work and all other persons who may be affected thereby, materials and equipment, whether on or off the site, and other property at the work site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. In addition, the Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by the existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, setting safety regulations, and notifying owners and user of adjacent utilities.

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

SECTION 16. UNENFORCEABLE CONTRACT, WAIVERS. In the event that any provision of this contract shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

SECTION 17. ENTIRE AGREEMENT. This contract represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

SECTION 18. COMMENCEMENT OF WORK. Contractor will commence work as required by the specifications within ten calendar days after receiving the NOTICE TO PROCEED.

SECTION 19. UTILITIES. The right is reserved to the owners of public utilities and franchises to enter upon the street or work site for the purpose of making repairs or changes of their property that may become necessary by the work. The City shall also have the privilege of entering upon the street or work site for the purpose of repairing culverts, storm drains, water system repairs or adjustments and any and all other necessary City work.

The Contractor takes the whole risk, responsibility and expense with respect to the location of utilities, and in working with utility owners about locating, moving, repairing, and modifying utilities. All utility locations shown on the plans and specifications are approximate and are marked on the plans, if at all, only for convenience. The City makes no representation about the location of any such utilities, and Contractor is encouraged to contact utility companies and owners about the location of all utilities that may be impacted by or impact the Project work.

SECTION 20. HOURS AND DAYS OF WORK. All work performed by the Contractor, its subcontractors, material men, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- A. Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries
- B. Construction of decks, patios, landscape walls less than 4 feet in height, and fences on individual single-family lots
- C. Non-mechanized exterior painting on individual single-family residences
- D. Non-mechanized landscaping on individual single-family residences
- E. Survey work not involving grading or use of power equipment to cut vegetation.

Extended Hours Special Permit. The Building Official may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation or modify or waive the hours of work on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants. In such cases, the Building Official shall issue a Special Permit identifying the extended hours. Contractor shall display the special permit on site.

Special Event Regulations. The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events.

SECTION 21. CONSTRUCTION MANAGEMENT PLANS. Contractor shall submit a Construction Mitigation Plan to be approved by the Community Development

Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department.

A. Hours and Days of Operation. The Construction Mitigation Plan shall specify the daily construction start and finish times. Construction activity occurring outside of the times specified in Section 11-14-6 of the Park City Municipal Code may only be allowed by Special Permit issued by the Building Official or the City Engineer.

B. Parking. The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department review and approve a parking plan. The plan shall also include anticipated temporary parking, e.g. delivery vehicles, large equipment parking.

C. Deliveries. The Construction Mitigation Plan shall identify proposed delivery locations and routes. Deliveries of construction materials and supplies including concrete may be regulated as to time and routing if such deliveries will cause unreasonable noise, parking, or access issues. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on or near the site may be required. In the case of multiple construction sites in close proximity, a common materials storage and staging site may be required.

D. Construction Phasing. Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public safety or nuisance problems. In cases where phasing is deemed necessary by the Community Development Department, the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

E. Trash Management and Recycling. Construction sites shall provide adequate storage and a program for trash removal.

F. Control of Dust and Mud on Streets. A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

G. Noise. Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of the Park City Municipal Code.

H. Grading and Excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of excavated material shall be noted.

I. Construction Sign Requirements. A sign, indicating the name of the party responsible for the Project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed 12 square feet in size, six feet in height and shall not exceed a letter type of 4". Information on the sign shall include, at a minimum:

1. Name, address and phone number of contractor;
2. Name, address, and phone number of person responsible for the project; and
3. Phone number of party to call in case of emergency.

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

A. The Contractor shall obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. Contractor shall not permit accumulated debris, litter, or trash on the construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

B. The Project site shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees= two toilets and so on).

SECTION 23. OBEY LAWS.

A. The Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

B. The Contractor shall register and participate in E-Verify, or equivalent program. The Contractor agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah.

SECTION 24. NONDISCRIMINATION.

- A.** The City is an equal opportunity employer.
- B.** In the performance of this Agreement, the Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

SECTION 25. THIRD PARTY RIGHTS. Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION 26. PROJECT MANAGER/ENGINEER. The Project Manager/Engineer for this Project is Matthew A. Twombly, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

SECTION 27. PARTIES' REPRESENTATIVES. For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered or mailed, or sent by facsimile transmission certified mail, postage pre-paid, to the parties at the following addresses:

Contractor: Justin Petty, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Park City: Project Manager/Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

SECTION 28. SEVERABILITY. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

IN WITNESS WHEREOF, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

PARK CITY MUNICIPAL CORPORATION

Thomas B. Bakaly, City Manager

ATTEST:

City Recorder's Office

APPROVED AS TO FORM:

City Attorney's Office

DRD Paving LLC
27W. 3900S.
Salt Lake City, UT 84107

Dave Harrison

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 2009, personally appeared before me Dave Harrison, 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 is the Owner DRD Paving LLC., by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said Limited Liability Company executed the same.

Notary Public

City Council Staff Report



Subject: 7620 Royal Street East
Second Amended Record of Survey
Royal Plaza condominiums
Author: Kirsten A. Whetstone, AICP
Date: September 3, 2009
Type of Item: Administrative – Condominium Record of Survey Amendments

PLANNING DEPARTMENT

Summary Recommendations

Staff recommends the City Council open a public hearing and discuss a request for amendments to the Royal Plaza condominiums record of survey plat. Staff has included draft findings of fact, conclusions of law and conditions of approval for the City Council's consideration.

Topic

Applicant: Robert Wells, Deer Valley Resort Company, representing the Owners of Units 301, 309, and 402 and Royal Plaza HOA
Zoning: Residential Development as part of the Deer Valley Master Planned Development (RD-MPD)
Adjacent Land Uses: Condominiums, support commercial, offices, ski terrain of Deer Valley Resort
Reason for Review: Amendments to condominium record of survey plats require Planning Commission review and recommendation to City Council and City Council action.

Background

Royal Plaza Condominiums are located on Lot A of the Silver Lake Village No. 1 Subdivision. The Subdivision was recorded in November 8, 1989. The condominium record of survey plat was recorded on April 4, 1991. The property was developed, subject to requirements and restrictions of the Deer Valley Master Planned Development (MPD) as a mixed use condominium building with residential, commercial, and office uses with underground structured shared parking.

Lot A was approved in the MPD for seven residential units or 7 Unit Equivalents (UEs) using the table in the Land Management Code at the time of development. The subdivision plat includes a note that allows 14,400 square feet of commercial/offices uses on Lot A. An additional 5% floor area (1,390 sf) is allowed for support commercial and an additional 5% (1,390 sf) is allowed for meeting space per the MPD.

Thirteen residential units were developed under the unit equivalent option as 9 one-bedroom units, 2 two-bedroom units, and 2 three-bedroom units. In reviewing the

condominium plat and condominium declaration of unit sizes, staff discovered that the existing residential condominium unit configuration currently equates to 7.269 residential UE. The total residential square footage, based on the “as-built” condominium record of survey, is 14,538 square feet (7.269 UE at 2,000 sf per residential UE).

A total of 16,805 sf of office, commercial space, meeting space and support commercial exists within the building, including 15,757 sf originally built and 1,048 sf added for expansion of the Cole Sport commercial space (Unit 101) with a plat amendment in 2003. The first amended Royal Plaza record of survey plat, recorded on April 30, 2003, addressed commercial space but there was no review or analysis of the residential density.

On April 13, 2009, the City received a completed application for a second amendment to the Royal Plaza record of survey. This application consisted of the following: 1) convert 150 sf of limited common deck area appurtenant to Units 301 and 309 into private space for Unit 309, 2) convert 425 sf of common area (within the existing walls and roof of the building) to private area for Unit 402, 3) convert 346 sf of limited common deck area appurtenant to Unit 402 as private area for this Unit, and 4) convert 151 sf of private space currently within Unit 402 to limited common deck area (Exhibits A-C).

On July 7, 2009, following an initial discussion with the Planning Commission, the applicant modified the application to reduce the converted area of Unit 402 to 555 sf (0.2775 UE). The application was also modified by not including an enclosure of 216 sf of the westerly deck as originally proposed and by eliminating the conversion of the 151 sf of private area to deck space. The proposed remodeled space is all contained within the existing building and located under the existing roof structure.

The proposed plat amendment includes a 150 sf increase in floor area for unit 309 and a 555 sf increase in floor area for Unit 402 for a total increase of 705 sf (0.352 residential UE.)

The Royal Plaza owners association voted to approve and consent to the transfers of common and limited common space to private space for units 301, 309, and 402 (Exhibit D).

The proposed plat amendment does not change Unit 301 in terms of floor area; it only decreases the associated deck area for this unit.

On May 22, 2009, Bob Wells, representative of Deer Valley Resort, submitted an application for an amendment to the Deer Valley Master Plan requesting a transfer of 1,038 sf of unallocated commercial from Silver Lake area to Royal Plaza to be utilized as 0.654 UE of residential. The amendment was a request to correct the existing residential non-compliance plus allow the proposed density increase.

On July 7, 2009, the MPD and plat amendment applications were revised to reduce the amount of converted limited common deck area for Unit 402 by 65 sf to 555 sf (0.2775 UE) resulting in a net increase of 0.352 residential UE for the Royal Plaza condominium project. The revised MPD amendment transfers to Royal Plaza condominiums 1,243 sf (1.243 UE) of the undeveloped and unallocated Silver Lake commercial density allowance. This commercial density is transferred as 0.621 UE of residential to cover the 0.352 UE increase due to conversion of common area to private area and 0.269 UE increase approved with the 1991 recorded as-built Royal Plaza record of survey plat.

On June 24, 2009, the Planning Commission conducted a public hearing on the Deer Valley MPD amendment and the plat amendment and continued the hearing to August 12, 2009. There was no specific discussion regarding the plat amendment other than the related discussion on the MPD amendment and a request for additional information regarding exterior physical changes to the building.

Without the concurrent MPD amendment to transfer density to Royal Plaza, the plat amendment request would not be consistent with the Deer Valley MPD.

On August 12, 2009, the Planning Commission approved the 10th Amended and Restated Deer Valley Master Planned Development and forwarded a positive recommendation on the condominium record of survey plat amendment. The Commission added the following language to finding of fact #9, "Visual impacts on the building are de minimus."

Analysis

Zoning for the property is Residential Development (RD) and the property is subject to the 9th Amended Deer Valley MPD, or the 10th Amended Deer Valley MPD, if approved. The following is an analysis of the proposed amendment per requirements of the LMC and MPD.

	Permitted through MPD/CUP	Proposed
Height	Zone height is 33' with pitched roof. Existing height is 59' - Height exception was granted in the Master Plan for Lot A.	No additional building height is proposed. All proposed construction would be within the existing building envelope and roof structure. No change
Front setback	4' to 29' to Lot Boundary. 30' to Royal Street ROW per MPD and plat	No construction is proposed into the existing front setbacks. No change
Rear setback	0' to 5' to Lot boundary per MPD and plat	No construction is proposed into the existing rear setbacks. No change
Side setbacks	0' to 5' to Lot boundary per MPD and plat	No construction is proposed into the existing side

		setbacks. No change
Residential Unit Equivalents	MPD allowed 7 units or 7 unit equivalents (14,000 sf of residential). Existing is 7.269 UE constructed as 13 Units under the MPD unit equivalent option (14,538 sf of floor area)	Net increase of 0.352 UE due to conversion of 705 sf of existing platted common area and covered deck area to private area for Units 309 and 402. Total proposed residential UE is 7.621, including the 0.269 UE approved with the 1991 record of survey plat. MPD amendment request to transfer 1,234 sf (1.243 Commercial UE to Royal Plaza from undeveloped, unallocated Silver Lake density was approved by Planning Commission. MPD amendment to allow this transfer was approved by Planning Commission on August 12, 2009.
Commercial and Office uses Support uses	14,312 sf total commercial space.	No change to commercial, office, meeting, or support uses proposed. 14,400 sf commercial/offices allowed per the subdivision plat. Complies.
Parking	168 total parking spaces- 58 apportioned by easements to Royal Plaza- 15 spaces for the residential units, 43 spaces for the 14,400 allotted commercial space.	No changes are required to the number of parking spaces, as no additional bedrooms are created and proposed unit sizes do not create added parking demand. No changes.

Staff reviewed the applicant's parking summary and determined that sufficient parking exists to accommodate the proposed additions. No additional bedrooms are created. The existing parking garage is equitably owned by Royal Plaza, Mt. Cervin and Deer Valley. The parking garage contains 168 parking spaces apportioned by easements to Royal Plaza (58 spaces), Mt. Cervin (35 spaces), and Deer Valley Resort (75 spaces). The Royal Plaza spaces are based on 15 spaces for the residential units at the rate of

1 space for the 9 one bedroom units, 1.5 spaces for the 4 two and three bedroom units.

On April 2, 2009, the Royal Plaza owners association voted to approve and consent to the transfers of common and limited common space to private space for units 301, 309, and 402 (Exhibit D).

In reviewing the density and unit equivalent calculations, staff finds that there are currently 7.269 UE between the existing 13 residential units (0.269 UE above the 7 UE assigned by the MPD). The total increase proposed through amendments to Units 301, 309, and 402 is 705 sf equating to .352 UE. Therefore, the total increase over the residential density permitted by the MPD is 0.621 residential UE (1,243 sf of equivalent commercial).

The related amendment to the Deer Valley Master Plan allowed a transfer of 1,243 sf of unallocated and undeveloped commercial (1.243 UE) from Silver Lake Community to Royal Plaza (also located in the Silver Lake Community) to be converted to 0.621 UE of residential. This is a 2 to 1 transfer in that 1 UE of residential is 2,000 sf and 1 UE of commercial is 1,000 sf and commercial UE are generally a more intensive use. There would be 4,968 sf of unallocated commercial remaining, in addition to the 7,000 sf of commercial density allocated to Lot C. Three lots within the Silver Lake subdivision (F, G, and H) are yet to be developed.

This plat amendment can not be approved without the related Deer Valley MPD amendment, therefore these items are being reviewed concurrently.

Department Review

The plat amendment application was taken before the Development Review team on March 24, 2009 and reviewed by the Planning and Legal Departments in subsequent meetings. All issues raised are presented in the report.

Alternatives

- The Planning Commission may forward a positive recommendation to City Council to approve the Second Amended Record of Survey for Royal Plaza as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to City Council to deny the Second Amended Record of Survey for Royal Plaza and direct staff to make findings for this decision, or
- The Planning Commission may continue discussion and action on the plat amendment to a future date to allow additional time for staff to provide additional information.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was published in the Park Record.

Public Input

Staff has not received any public input at the time of this report. There was no public input presented at the Planning Commission meeting on August 12, 2009.

Future Process

Approval of this condominium record of survey application by the City Council would constitute Final Action that may be appealed following the procedures found in LMC 15-1-18.

Recommendation

Staff recommends the City Council conduct a public hearing and discuss the request for amendments to the Royal Plaza condominium record of survey plat. Staff has included draft findings of fact, conclusions of law and conditions of approval for the City Council's consideration.

Exhibits

Ordinance

Exhibit A- Record of Survey plat

Exhibit B- Floor Plans and Elevations showing proposed changes

Exhibit C- Letter from Applicant

Exhibit D- Minutes of HOA meeting approving the changes

Ordinance No. 09-

AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE ROYAL PLAZA CONDOMINIUM RECORD OF SURVEY PLAT LOCATED AT 7620 ROYAL STREET, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Royal Plaza condominiums record of survey plat, Lot A of the Silver Lake Subdivision, have petitioned the City Council for approval of amendments to reconfigure limited common, common, and private space for Units 301, 309, and 402; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on June 24, 2009 and August 12, 2009, to receive input on the proposed amendments to the record of survey plat;

WHEREAS, the Planning Commission, on August 12, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, on September 3, 2009, the City Council held a public hearing on the proposed amendments to the record of survey plat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the proposed amendments to the Royal Plaza condominium record of survey plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Royal Plaza condominium record of survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 7620 Royal Street.
2. The Royal Plaza condominium building is located on Lot A of the Silver Lake # 1 Subdivision. The subdivision plat was recorded on November 8, 1989.
3. On April 4, 1991, a record of survey plat was recorded creating 13 residential condominiums (7.269 UE) and 13 commercial/office condominiums identifying private, common, and limited common areas with underground shared parking to be known as the Royal Plaza Condominium plat.

4. The property is located within the Residential Development (RD-MPD) zoning district and is subject to the Deer Valley Master Planned Development, that sets forth maximum densities, location of densities, allowed uses, developer-offered amenities, and other conditions for the entire Master Plan. The property is located within the Silver Lake Community of the MPD.
5. The Deer Valley MPD, 9th Amended, assigned 7 units or 7 UE (14,000 sf) of residential density to this property. The 1991 approved and recorded record of survey plat identifies 13 existing condominium units consisting of a total of 14,538 sf of residential floor area (7.269 UE). The existing unit configuration exceeds the allocated residential density by 0.269 UE. The Planning Commission and City Council approved the plat and the Deer Valley MPD was not amended at that time to reflect the change in density.
6. The Deer Valley MPD 9th Amended identifies 6,211 square feet of unallocated and undeveloped commercial space at the Silver Lake Community, in addition to the 7,000 sf of undeveloped commercial space allocated to Lot C.
7. On April 13, 2009, the City received a completed application for a condominium record of survey plat amendment to reconfigure Units 301, 309 and 402. On July 7, 2009, the applicant modified the application to reduce the converted area of Unit 402 to 555 sf. The application was also modified to delete a west side deck enclosure of 216 sf as originally proposed and eliminated the conversion of the 151 sf of private area to deck space. The proposed remodeled space is contained within the existing building and located under the existing roof structure. The proposed plat amendment includes the 150 sf increase in floor area for unit 309 and a 555 sf increase in floor area for Unit 402 for a total increase of 705 sf (0.352 UE).
8. No new units or are created; only the legal ownership of existing space is modified. The proposed modifications are not substantive and will not have a negative impact on the surrounding area, the Deer Valley project, or the greater Park City community. Visual impacts on the building are de minimus.
9. If the plat amendment is approved and the units are re-configured, Royal Plaza Condominiums will have a total residential density of 7.621 UE that is a combination of the existing 0.269 UE excess and the 0.352 UE specific to this plat amendment.
10. On May 22, 2009, an application to amend the Deer Valley MPD, 9th Amended, was submitted to the City. This application was modified on July 7th to reflect the modified plat amendment referred to above. The revised MPD amendment is a request to transfer to the Royal Plaza condominiums 1,243 square feet of commercial density (1.243 commercial UE) from the undeveloped and unallocated Silver Lake Community commercial density allowances. This commercial density would be transferred as 0.621 UE of residential density.
11. On August 12, 2009, the Planning Commission approved the 10th Amended and Restated Deer Valley MPD allowing a transfer of 1,243 sf of commercial density (1.243 commercial UE) from Silver Lake Community commercial allowance to Royal Plaza as 0.621 UE of residential density.
12. The State Condominium Act requires a vote of the condominium owners and approval of the amendment by 2/3 of the condominium owners.
13. On April 2, 2009, a special meeting of the Royal Plaza condominium owners was held to consider the conversion of common and limited common area to private

area. Minutes of the meeting indicate that 100% of the Units and voting power of the Association approved the proposal. Additionally, the owners voted to authorize and direct Mr. Wells to execute an amendment to the Declaration of Condominium and to make submittal to the City for a record of survey plat amendment.

14. The existing parking garage contains 168 parking spaces apportioned by easements to Royal Plaza (58 spaces), Mt. Cervin (35 spaces), and Deer Valley Resort (75 spaces). The Royal Plaza residential parking space allocation of 15 is based on a rate of 1 space for each of the 9 one bedroom units, 1.5 spaces for each of the 4 two and three bedroom units.
15. The number of bedrooms does not increase with the expansion. There is sufficient parking to accommodate the proposed expansions and no additional parking demand is created.
16. The proposal is unique in that there is no increase in building footprint or units and no impacts of use or developed space at Royal Plaza. Only legal ownership of existing space is modified. The proposal is not precedent setting.
17. Findings in the staff analysis section are included herein.

Conclusions of Law:

1. There is good cause for this record of survey plat amendment.
2. The record of survey plat amendment is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. As conditioned, the record of survey plat amendment is consistent with the proposed Tenth Amended and Restated Deer Valley MPD.
4. The proposed record of survey plat amendment will materially injure neither the public nor any person.
5. Approval of the record of survey plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. As a condition precedent to recordation of this plat, the Tenth Amended and Restated Deer Valley MPD transferring 1,243 square feet of the Silver Lake community undeveloped and unallocated commercial density (1.243 commercial UE) to the existing Royal Plaza condominium building and converted to 0.621 residential UE, shall have been approved.
4. All conditions of approval of the Deer Valley MPD, Silver Lake Village No. 1 Subdivision Parcel A, and Royal Plaza condominium record of survey plat, as amended shall continue to apply.
5. All construction subject to this plat amendment requires a Building Permit and approvals from the Building and Planning Departments.

6. A plat note shall be added requiring maintenance of all required elements of the fire protection plan, including residential fire sprinkler systems.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of September 2009.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

OWNER'S DEDICATION AND CONSENT TO RECORD

[illegible]

INDIVIDUAL MUST COMPLY AND LETTING S. STEPHEN, business under agreement of fact
as per R. Stearn, dated July 8, 1953

ACKNOWLEDGMENT

State of _____
County of _____

On this _____ day of _____, 2008, personally appeared _____, known to me, undersigned, County Clerk, to be and duly qualified, making affidavit that the foregoing is a true and correct copy of the _____ Agreement of Trust of John A. Slem, dated July 6, 1933, and that he approved the same under his Dedication and Consent to Record hereto and accordingly.

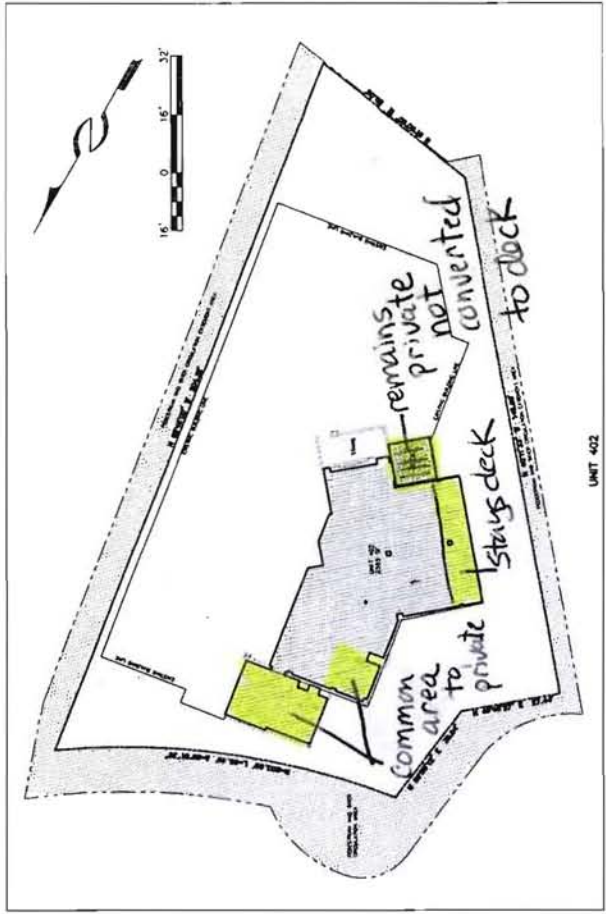
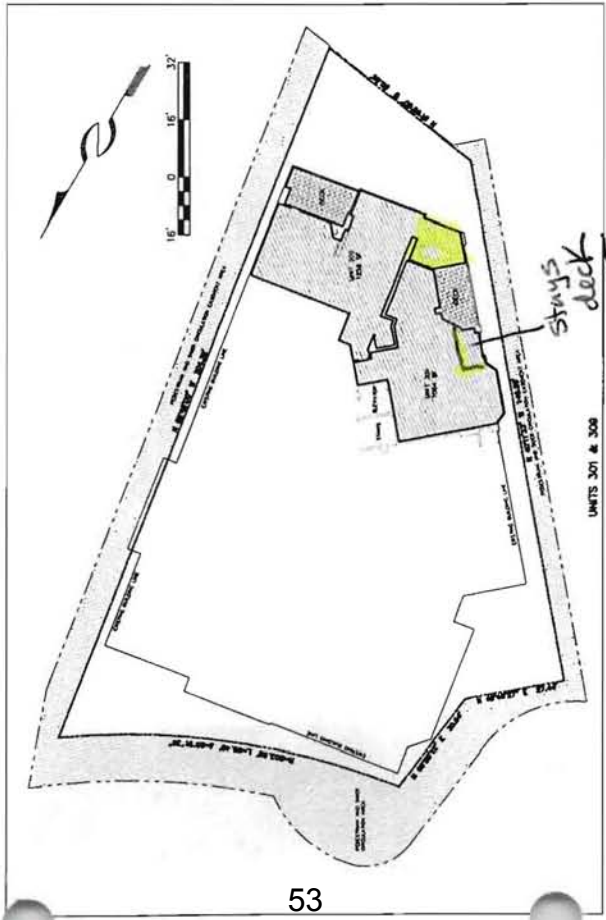
Address: _____
 Building in: _____
 City: _____

SUMMARY OF CONCLUSIONS

I, John Demantetz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 13431 as prescribed by the laws of the State of Utah, and that by authority of the owners, I have caused to be made under my direction the Record of Survey map of the ROYAL PLAZA, a Utah Condominium Project, in accordance with the provisions of the Utah Condominium Ownership Act.

Printed Name _____ Date _____

LEGAL DISPOSITION

[illegible]

Legend	Percent Change	Change	United States Change	Percentage and Scale
				
				
				
				

EXHIBIT A

SECOND AMENDED
RECORD OF SURVEY MAP
ROYAL PLAZA
A UTAH CONDOMINIUM PROJECT
LOCATED IN SE 1/4 OF SECTION 8 & SW 1/4 OF SECTION 9
T2S, R4E, S1B & M

SHEET 1 OF 2


 CHRISTIAN ENGINEERING LAM PLUMBING SERVICES
 123 Main Street P.O. Box 1000 Port City, Utah 84050-1000
 (435) 433-1000

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER
RECLAMATION DISTRICT STANDARDS ON THIS _____
DAY OF _____, 2009 A.D.
BY _____ S.B.W.R.D.

PLANNING COMMISSION
APPROVED BY THE PARK CITY
PLANNING COMMISSION THIS
DAY OF _____, 2009 A.D.
BY _____
CHAIRMAN

ENGINEER'S CERTIFICATE

I FIND THIS PLAN TO BE IN
CONFORMANCE WITH INFORMATION ON
FILE IN MY OFFICE THIS _____
DAY OF _____, 2008 A.D.

BY _____
PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS
DAY OF 2009 A.D.
BY PARK CITY ATTORNEY

CERTIFICATE OF ATTESTATION

I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2009 A.D.

BY _____ PARK CITY RECORDER

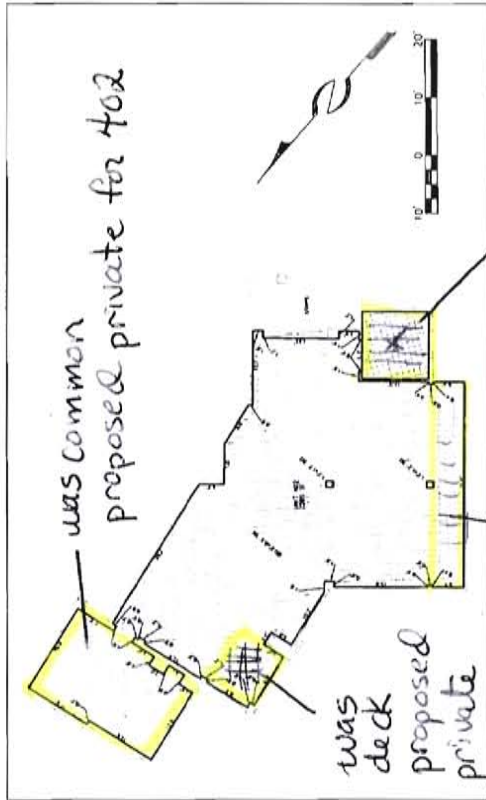
COUNCIL APPROVAL AND ACCEPTANCE

APPROVAL AND ACCEPTANCE BY THE PARK CITY
COUNCIL THIS _____ DAY OF _____
2008 A.D.

BY _____ MAYOR

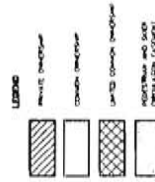
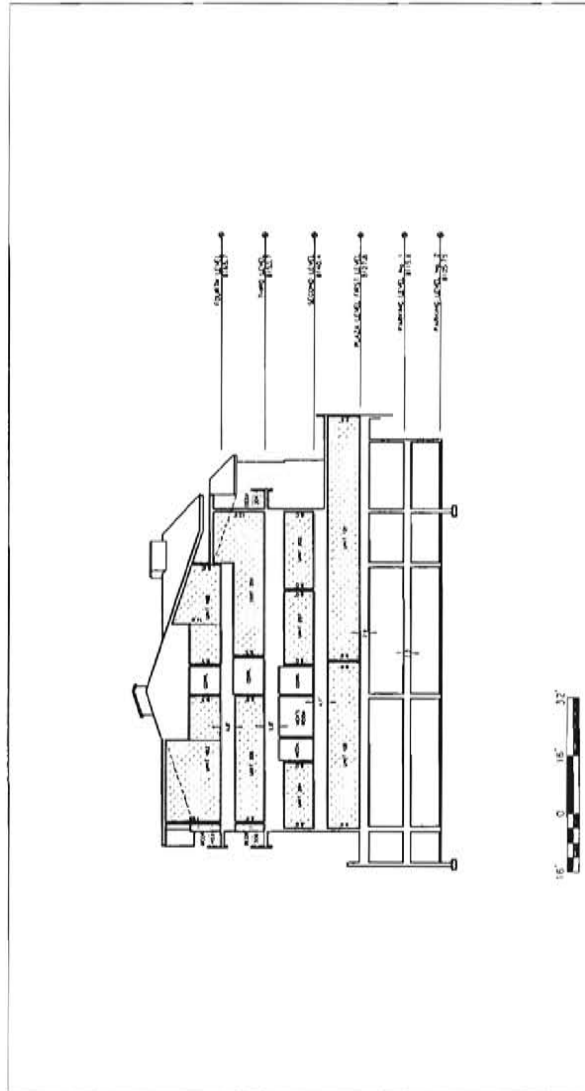
RECORDED
STATE OF UTAH, COUNTY OF SALT LAKE
AT THE REQUEST OF
DATE _____ TIME _____ BOOK _____

RECEIVED
APR 13 2009
PARK CITY
PLANNING DEPT.



remains as private - not converted to deck.

deck to remain



SECOND AMENDED RECORD OF SURVEY MAP ROYAL PLAZA

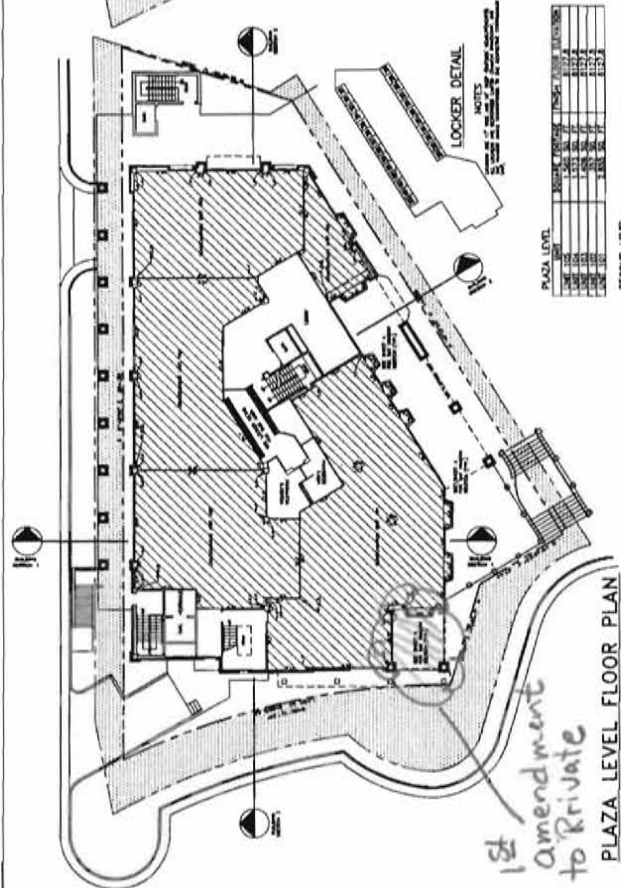
A UTAH CONDOMINIUM PROJECT
LOCATED IN SE 1/4 OF SECTION 8 & SW 1/4 OF SECTION 9
T2S 14N, R6E & M

SHEET 2 OF 2
RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF
PAGE

RECEIVED

APR 13 2000

PARK CITY
PLANNING DEPT.

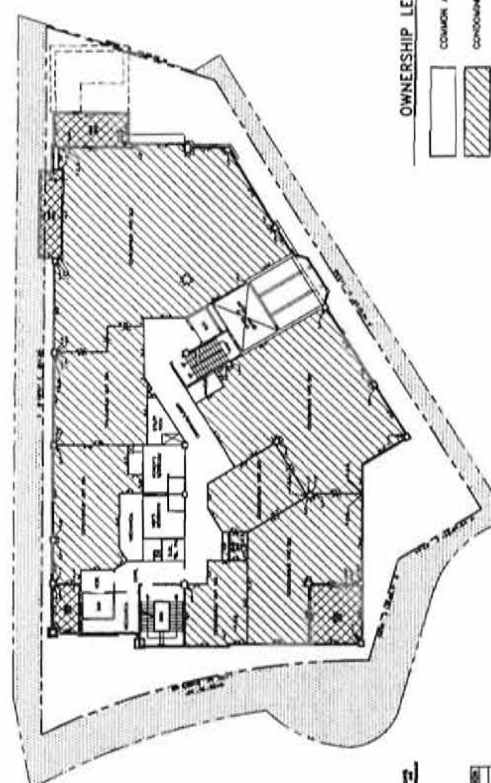


PLAZA LEVEL

UNIT	AREA	FINISH	PRICE	REMARKS
101	1,200	1	120,000	
102	1,200	1	120,000	
103	1,200	1	120,000	
104	1,200	1	120,000	
105	1,200	1	120,000	
106	1,200	1	120,000	
107	1,200	1	120,000	
108	1,200	1	120,000	
109	1,200	1	120,000	
110	1,200	1	120,000	
111	1,200	1	120,000	
112	1,200	1	120,000	
113	1,200	1	120,000	
114	1,200	1	120,000	
115	1,200	1	120,000	
116	1,200	1	120,000	
117	1,200	1	120,000	
118	1,200	1	120,000	
119	1,200	1	120,000	
120	1,200	1	120,000	

SECOND LEVEL

UNIT	AREA	FINISH	PRICE	REMARKS
201	1,200	1	120,000	
202	1,200	1	120,000	
203	1,200	1	120,000	
204	1,200	1	120,000	
205	1,200	1	120,000	
206	1,200	1	120,000	
207	1,200	1	120,000	
208	1,200	1	120,000	
209	1,200	1	120,000	
210	1,200	1	120,000	
211	1,200	1	120,000	
212	1,200	1	120,000	
213	1,200	1	120,000	
214	1,200	1	120,000	
215	1,200	1	120,000	
216	1,200	1	120,000	
217	1,200	1	120,000	
218	1,200	1	120,000	
219	1,200	1	120,000	
220	1,200	1	120,000	



OWNERSHIP LEGEND

COMMON AREA	CONDOMINIUM UNIT	LIMITED COMMON AREA	RESERVATION AND OVER CIRCULATION EAST/WEST
[Pattern]	[Pattern]	[Pattern]	[Pattern]



THIRD LEVEL

UNIT	AREA	FINISH	PRICE	REMARKS
301	1,200	1	120,000	
302	1,200	1	120,000	
303	1,200	1	120,000	
304	1,200	1	120,000	
305	1,200	1	120,000	
306	1,200	1	120,000	
307	1,200	1	120,000	
308	1,200	1	120,000	
309	1,200	1	120,000	
310	1,200	1	120,000	
311	1,200	1	120,000	
312	1,200	1	120,000	
313	1,200	1	120,000	
314	1,200	1	120,000	
315	1,200	1	120,000	
316	1,200	1	120,000	
317	1,200	1	120,000	
318	1,200	1	120,000	
319	1,200	1	120,000	
320	1,200	1	120,000	

FOURTH LEVEL

UNIT	AREA	FINISH	PRICE	REMARKS
401	1,200	1	120,000	
402	1,200	1	120,000	
403	1,200	1	120,000	
404	1,200	1	120,000	
405	1,200	1	120,000	
406	1,200	1	120,000	
407	1,200	1	120,000	
408	1,200	1	120,000	
409	1,200	1	120,000	
410	1,200	1	120,000	
411	1,200	1	120,000	
412	1,200	1	120,000	
413	1,200	1	120,000	
414	1,200	1	120,000	
415	1,200	1	120,000	
416	1,200	1	120,000	
417	1,200	1	120,000	
418	1,200	1	120,000	
419	1,200	1	120,000	
420	1,200	1	120,000	



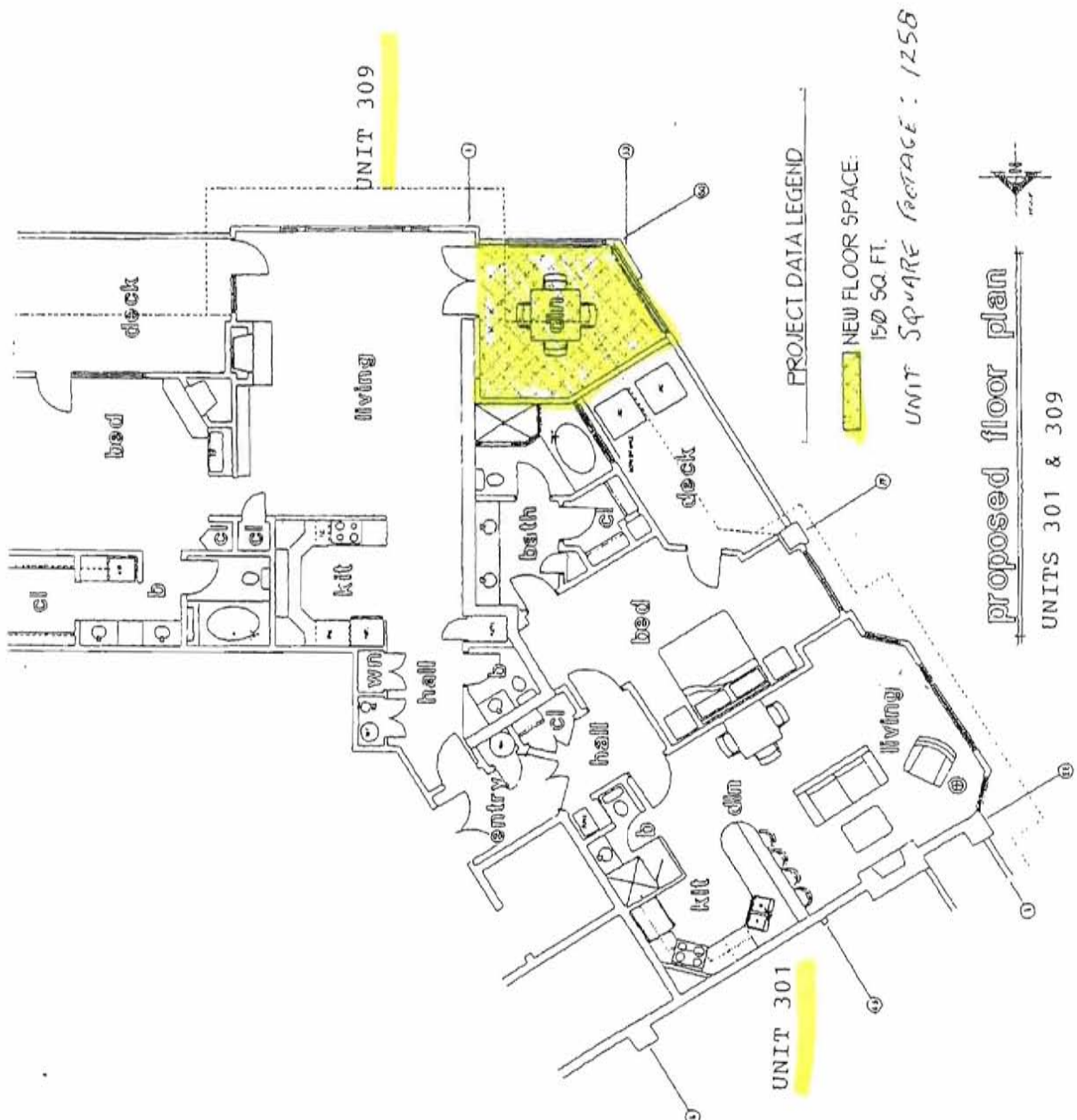
RECORD OF SURVEY MAP OF
ROYAL PLAZA
A UTAH CONDOMINIUM PROJECT
LOCATED IN THE NORTHWEST QUARTER OF SECTION 27
TOWNSHIP 3 SOUTH, RANGE 4 EAST
SALT LAKE BASIN AND MERIDIAN
PLATE COUNTY, UTAH
SHEET 3 OF 4
FILE NO. 13014
FILED AT THE REQUEST OF
ALAN SHAW
FEE \$150.00
RECEIVED
JAN 17 1984

POINT OF BEGINNING (P.O.B.)
COORDINATES

RECEIVED OF
DATE
TIME
BOOK
PAGE
FILE

A1

RECEIVED
 MAR 10 2009
 PARK CITY
 PLANNING DEPT



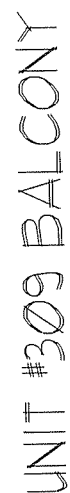


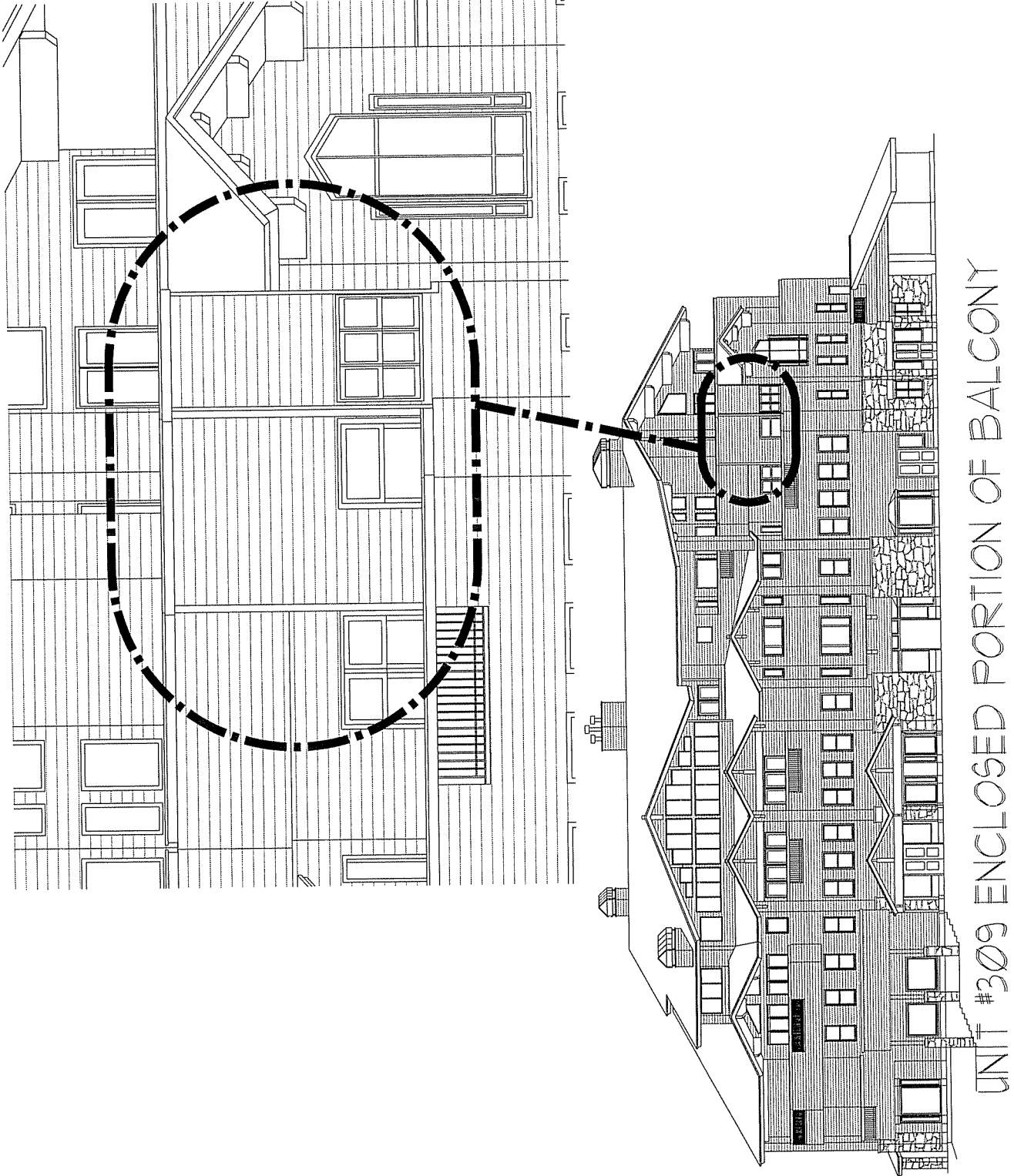
Royal Plaza Unit 402

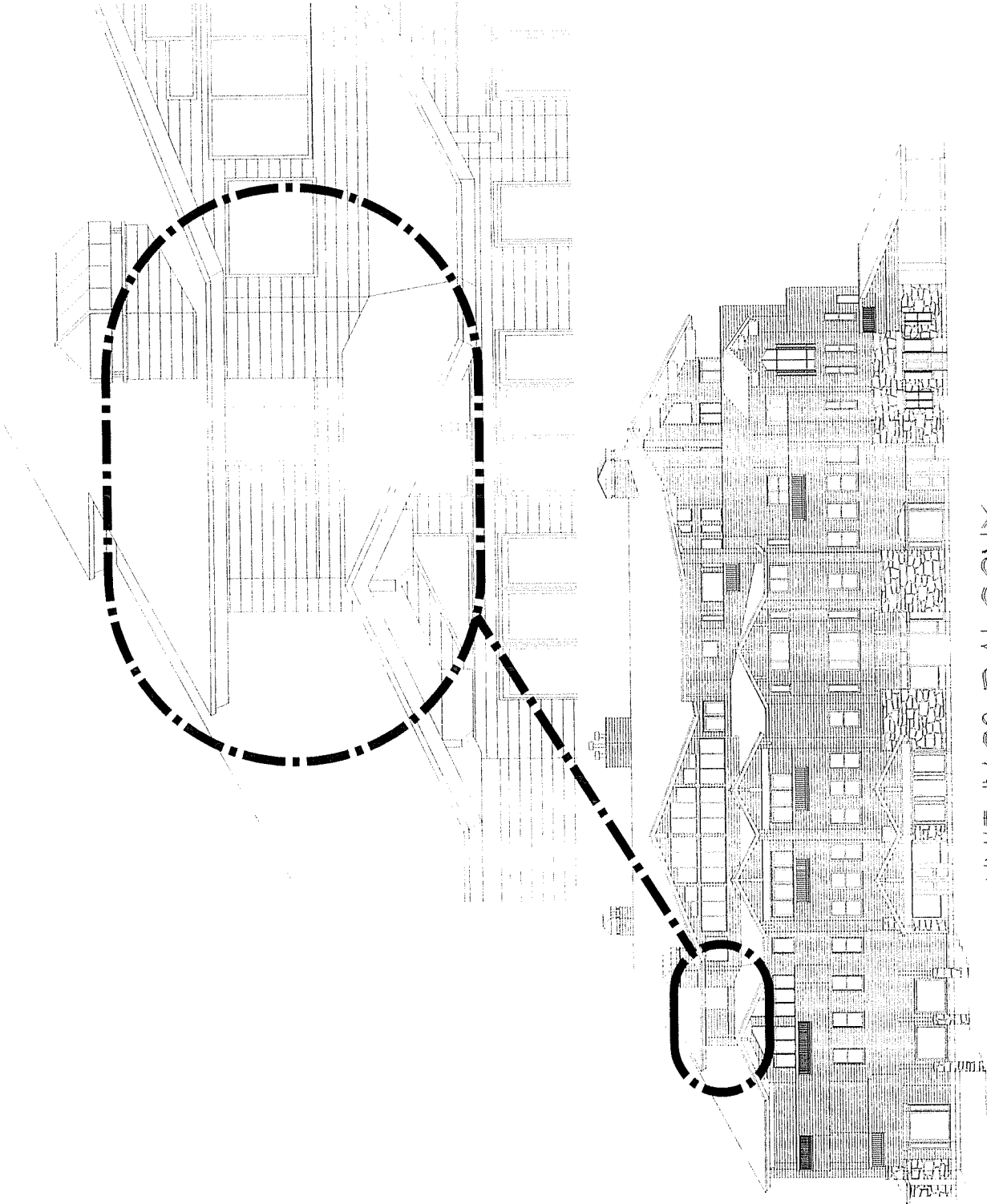


EXISTING UNIT

EXISTING UNIT		1994 SQ. FT.	
	ADDED FLOOR SPACE	555sf	721-60-61x
	REMOVED FLOOR SPACE		454-60-61x
NEW UNIT		2549sf	326-44-60x61x

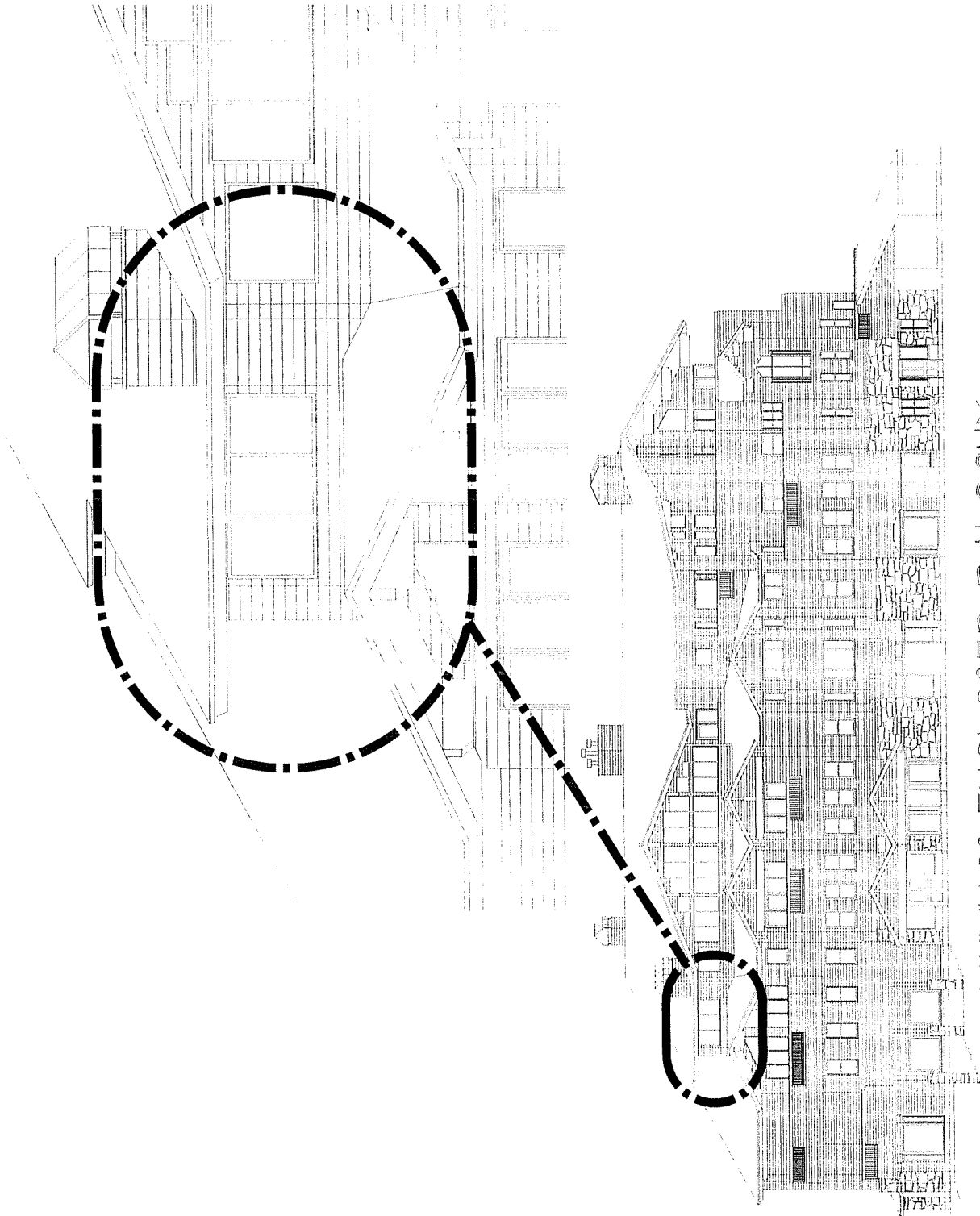






UNIT #402 BALCONY

A0.1



UNIT #402 ENCLOSED BALCONY



DEER VALLEY

July 7, 2009

Kirsten Whetstone
Park City Municipal Corporation
P. O. Box 1480
Park City, Utah 84060

Re: Second Amendment to Royal Plaza Record of Survey and 10th Amendment to Deer Valley Resort Large Scale MPD Permit

Dear Kirsten:

The proponents for the subject two actions desire to amend the applications as follows:

Second Amendment to Royal Plaza Record of Survey:

- The request for modification of Units 301 and 309 (enclosure of 150sf of deck for Unit 309) would remain the same. The enclosure would shift window area from one plane to another and would not modify the exterior appearance of the building. The 150 sf increase of private area of Unit 309 equates to .075 ERU.
- The request for modification of Unit 402 would be amended to eliminate the proposed enclosure of the longer west side deck (216 sf) and the creation of the new southwest deck (151 sf). These two eliminations from the request mean that there is no exterior modification of the building elevations. What would remain is (a) the conversion of the north attic (425 sf) from common area to private area of Unit 402 (no exterior elevation is affected) and (b) the conversion of the small northwest corner deck (130 sf) from limited common area to private area of Unit 402 (this deck is already under roof of the building and the only exterior modification is moving the windows from the back wall of the deck to the exterior wall of the deck; the exterior appearance would not change).
- The affect on Unit 402 is that the private area would increase by 555 sf and the common and limited common area adjacent to the unit would decrease by a like amount. The 555 sf increase equates to .2775 ERUs.





DEER VALLEY

- Staff findings would be modified as attached to reflect the above and to recognize the immateriality of the modifications.

10th Amendment to Deer Valley Resort Large Scale MPD:

- Exhibits 1 and 2 would be modified as attached to reflect the transfer of commercial density in Silver Lake to offset the excess ERUs of .269 in the existing Royal Plaza project and the .3525 ERUs relating to the proposed modifications of Units 309 and 402.
- Staff findings would be modified as attached to reflect the above and to recognize the immateriality of the modifications.

Please let me know if any questions.

Sincerely,

Bob Wells

Royal Plaza Condominiums
Statement Attached to Application for Amendment to Record of Survey Plat

The owners of Units 309 and 402 in the Royal Plaza Condominiums propose to remodel those units in a manner affecting the Common Areas and Limited Common Areas of the Royal Plaza Condominiums but not affecting other units in the project.

(1) Residential Unit 402 is owned by Lessing S. Stern. Mr. Stern desires to remodel and improve the unit pursuant to plans that would (a) add to the unit 425 sf of existing common area adjacent to the north end of the existing unit, (b) enclose the existing decks on the west side of the unit which would add to the unit 346 sf ($130 + 216$) of existing limited common area, and (c) convert 151 sf of present interior space to limited common area deck space. The existing unit size is 1994 sf. The proposed remodeled unit size would be 2614 sf ($1994 + 425 + 346 - 151$). The unit would remain a three bedroom apartment. The 425 sf of existing common area proposed to be added to the unit is enclosed space in the building not accessible from other units. The proposal does not affect other units in the building.

(2) Residential Units 301 and 309 are owned by Royal Street Corporation. Royal Street desires to enclose 150 sf of existing outdoor deck space appurtenant to Units 301 and 309 and incorporate that space into Unit 309. The existing unit size of Unit 309 is 1108 sf. The proposed addition would increase the unit size to 1258 sf. The unit would remain a one bedroom apartment. The proposal does not affect other units in the building.

Attached are copies of the level three and four floor plan pages of the Record of Survey map of the project, the proposed revised unit floor plans and the existing and proposed revised elevations of the building. All exterior materials and trim details of the remodels would match the existing building.

Disclosure of Related Parties:

Mr. Stern is the Chairman of the Board of the Royal Street Corporation group and the owner of Unit 402. He is also a Trustee of the Royal Plaza Owners Association. The other two Trustees of the Owners Association are Robert W. Wells, Vice President of Deer Valley Resort Company and of other entities in the Royal Street group and Gil Williams, President of the Royal Street group. The Royal Street group is the majority owner of Deer Valley Resort Company. In addition to owning Units 301 and 309, the Royal Street group also owns Units 201 – 203 inclusive, Units 205 – 208 inclusive and Units 304 and 305. Deer Valley Resort Company owns Units 102 -105 inclusive and Unit 204. The total undivided interest percentage in the Royal Plaza project of Mr. Stern, Royal Street and Deer Valley combined is 59.637%. Said percentage would increase to 60.605% if the proposed modifications are approved.

Discussion:

Common Area is defined in the Declaration of Condominium as all physical portions of the Project, except all Units. Each Unit in the Project carries with it the ownership of that Unit's appurtenant undivided interest in the Common Area. Each Unit's undivided interest in the Common Area is expressed as a percentage determined by the relationship of that Unit's square footage to the total square footage of all Units in the Project. Assessments made to Unit owners

for annual operating expenses as well as any special assessments provided for in the condominium governing documents are based on these percentages. The above proposals would increase the square footages of Units 402 and 309 by 620 sf and 150 sf respectively. It is not expected that there would be any change of significance in the annual operating expenses of the Project as a result of the remodels of the two units. The financial effect is that Units 402 and 309 would pay a larger percentage of the annual operating expenses of the Project and the remaining Units would pay a slightly smaller amount. Attached hereto a schedule reflecting the square footages and undivided percentage interest of all Units in the Project at present compared to after the proposed change.

Limited Common Area is defined in the Declaration of Condominium as any Common Areas designated for exclusive use by the Owner of a particular Unit. Common areas designated on the Record of Survey Map for the project by the same number or other designation by which a Unit is identified shall be Limited Common Areas for the exclusive use of the Owner of the Unit bearing the same number or identification, e.g., balconies, porches, storage areas, etc.

In 2002, Gary E. Cole, Inc., the owner of Unit 101 in the project ("Cole Sport") made a somewhat similar proposal to those that are the subject hereof, which proposal was approved by the Royal Plaza Unit owners and implemented. The Cole Sport proposal was to add to Unit 101 approximately 1048 square feet of common area that existed on the west side of the building. For the privilege of adding the 1048 sf of common area to Unit 101, Cole Sport contributed to the reserve funds of the Royal Plaza Condominium Association the sum of \$50000 or approximately \$48 per sf for the space involved. Mr. Stern and Royal Street Corporation propose to contribute the sums of \$30000 and \$7000 respectively to the reserve funds of the Royal Plaza Condominium Association if their proposals are approved and the plans therefore are approved for a building permit by Park City Municipal Corporation. The \$37000 represents approximately \$48 per sf for the net increases in the size of Units 402 and 309. The sum would be paid upon recording of the amendments to the Declaration and Condominium and the Map. As a prerequisite to application for a building permit, the proposed amendment to the Map is required to be approved by the Park City Planning Commission and the Park City Council. The proposal has not yet gone before these bodies but applications requesting approvals subject to the approval of the Royal Plaza unit owners will be filed shortly. If the necessary governmental approvals have not been obtained by June 1, 2010 the proposals herein will be withdrawn.

This proposal requires a total positive vote of the Units in the Project since it would effect a change in each Unit's appurtenant undivided interest in Common Area. Related parties own Units in the project representing 59.637% and recommend your approval on the basis that the proposed remodels do not have a detrimental effect on the project or the surrounds, the contributions of \$37,000 proposed are a significant addition to the reserve funds of the Association and therefore will reduce future costs to all Unit owners, and likewise the adjustment to percentage interest in Common Areas for all Units will reduce other owner's costs and increase the proposing owners' costs.

A special meeting of the owners of units in the Royal Plaza Condominiums has been called for April 2, 2009 for consideration of this proposal which is required to be approved by the Unit owners. Written approval of the unit owners will be submitted following that meeting.

An amended record of survey plat will be submitted for review and approval of the City Engineer and the City Attorney following approval by the unit owners and the Park City Council.

City Council Staff Report



Subject: Stein Eriksen Lodge Common Area
Amendment to Condominium
Record of survey
Author: Brooks T. Robinson
Date: August 27, 2009
Type of Item: Administrative – Amendment to Condominium Record of
Survey

PLANNING DEPARTMENT

Summary Recommendations

Staff recommends the City Council hold a public hearing for the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat and consider approval based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: Stein Eriksen Lodge Owners Association, Inc. represented
by Russ Olsen, General Manager
Location: 7700 Stein Way
Zoning: Residential Development as part of the Deer Valley Master
Planned Development (RD-MPD)
Adjacent Land Uses: Residential to the east, south and west, commercial to the
north
Reason for Review: Amendments to records of survey require Planning
Commission review and City Council approval

Background

The Stein Eriksen Lodge is located at 7700 Stein Way in the Silver Lake area of Deer Valley as part of the Deer Valley Master Planned Development. The existing spa within the project is approximately 7,200 square feet and is platted as Common Area. An expansion to the spa was approved by the Planning Commission on May 27, 2009. One of the Conditions of Approval for the spa expansion is that an amendment to the condominium record of survey is required to reflect the improvements to the Common Area.

The original Lodge was constructed in 1981. Expansion to the Lodge has occurred in 1996, 1999, and is currently underway with the spa expansion.

The Planning Commission heard this item at its regular meeting of August 12, 2009, and forwards a positive recommendation.

Analysis

The proposed Supplemental sheet for all phases of the Stein Eriksen Lodge reflects the

improvements to the Common Area with the spa expansion. No changes in ownership are reflected and the amendment simply reflects the as built structural improvements within the common area as required by the Utah Condominium state code provisions.

Staff finds good cause for this record of survey as this condominium record of survey amendment is consistent with the CUP approval of the Stein's spa expansion. This approval was consistent with the DV MPD as amended and because the spa and existing restaurant fall within the 5% resort support commercial and maintained 60% open space.

Department Review

This project has gone through an interdepartmental staff review meeting held on June 23, 2009. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report and no public input was received at the Planning Commission hearing.

Future Process

The approval of this condominium record of survey application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 15-1-18.

Alternatives

- The City Council may approve the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat as conditioned or amended; or
- The City Council may deny the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The condominium record of survey would not reflect the approved spa expansion.

Recommendation

Staff recommends the City Council hold a public hearing for the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat and consider approval based on the findings of fact, conclusions of law and conditions of approval as

found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance and Supplemental Record of Survey

Ordinance No. 09-

**AN ORDINANCE APPROVING STEIN ERIKSEN LODGE COMMON AREA
AMENDMENT TO THE CONDOMINIUM RECORD OF SURVEY PLAT LOCATED AT
7700 STEIN WAY, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Stein Eriksen Lodge, located at 7700 Stein Way have petitioned the City Council for approval of the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on August 12, 2009, to receive input on the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat;

WHEREAS, the Planning Commission, on August 12, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Stein Eriksen Lodge Common Area amendment to the condominium record of survey plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 7700 Stein Way.
2. The Stein Eriksen Lodge is located in the RD-MPD zoning district.
3. On May 27, 2009, the Planning Commission approved an amendment to the Conditional Use Permit for the Stein Eriksen Lodge for the expansion of the support commercial spa. The spa is platted Common area.
4. A condition of approval for the CUP amendment is to record an amendment to the condominium record of survey to reflect the spa expansion.
5. The proposed amended record of survey is consistent with the approved Conditional Use Permit for the Stein Eriksen Lodge and the Deer Valley Master Planned Development.

Conclusions of Law:

1. There is good cause for this amended record of survey.
2. The amended record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed amended record of survey.
4. Approval of the amended record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the amended record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. All conditions of approval of the Deer Valley Master Planned Development and the Stein Eriksen Lodge Conditional Use Permit, as amended, shall continue to apply.
4. As common area, the spa is not a separate commercial unit and as such may not be separately sold or deeded.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 3rd day of September, 2009.

Exhibits

Exhibit A – Record of Survey plat

City Council Staff Report



Subject: Silver Strike Lodge Condominium Conversion
Author: Brooks T. Robinson
Date: August 27, 2009
Type of Item: Administrative – Condominium Record of Survey

PLANNING DEPARTMENT

Summary Recommendations

Staff recommends the City Council hold a public hearing for the First Amended Silver Strike Lodge condominium record of survey plat and consider approval based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: Ironwood CPI Empire Pass
Location: 8902 Empire Club Drive, Pod A, Village at Empire Pass
Zoning: Residential Development (RD) as part of the Flagstaff Master Planned Development (MPD)
Adjacent Land Uses: Other development parcels of the Village at Empire Pass and Open Space.

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as development conditions and amenities for each parcel.

On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A. Silver Strike Lodge is Building 6.

On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Pass, Phase I. The City Council approved the Village West Side plat on May 26, 2005. The Silver Strike project is located on Lot 14.

On January 25, 2006, the Planning Commission approved a Conditional Use Permit for the Silver Strike Lodge. The Conditional Use Permit approved 34 units totaling approximately 71,200 square feet for approximately 35.6 Unit Equivalents. In addition, 2 ADA units, one Employee Housing Unit, and 1,106 square feet of retail commercial space were proposed within the building.

The City received a completed application on June 12, 2006, for a condominium

conversion of the Silver Strike Lodge, which was under construction at the time. The condominium created 34 residential units ranging in size from 1,647 square feet to 3,386 square feet. The proposed retail space was eliminated. The City Council approved the condominium of Silver Strike Lodge on August 24, 2006.

On May 21, 2009, the City received a completed application for the First Amended Silver Strike Lodge condominium record of survey. The proposed amendment is for Sheet 3 of 11 only and changes Employee Housing Unit #201 from Common to Private ownership for the purpose of selling the unit under the City's deed restrictions.

The Planning Commission heard this application at its regular meeting of August 12, 2009, and forwards a positive recommendation.

Analysis

The platted record of survey shows Employee Housing Unit #201 as Common ownership. However, the submitted application documents from 2006 and the marked-up "redlines" for the plat all showed the unit as Private. At some point between receiving the redlines and creating the official mylar for signatures, the cross-hatching for this unit on the plat was changed and neither the owner, their engineer or the City saw this inadvertent change. A deed restriction for the unit was recorded with the original plat and is not affected by this proposal. However, an amended deed restriction is being recorded with some minor language changes.

All other elements of the condominium record of survey remain in place and are compliant with the Master Planned Development and Land Management Code.

Staff finds good cause for this record of survey as this condominium is consistent with the original approval contemplated with the Silver Strike Lodge condominium record of survey application and review.

Department Review

This project has gone through an interdepartmental staff review meeting held on June 23, 2009. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report, and no public input was received at the Planning Commission hearing.

Future Process

The approval of this condominium record of survey application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 15-1-18.

Alternatives

- The City Council may approve the First Amended Silver Strike Lodge condominium record of survey as conditioned or amended, or
- The City Council may deny the First Amended Silver Strike Lodge condominium record of survey and direct staff to make Findings for this decision, or
- The City Council may continue the discussion on the First Amended Silver Strike Lodge condominium record of survey.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The unit could not be separately sold.

Recommendation

Staff recommends the City Council hold a public hearing for the First Amended Silver Strike Lodge condominium record of survey plat and consider approval based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Ordinance No. 09-

**AN ORDINANCE APPROVING THE FIRST AMENDED SILVER STRIKE LODGE
CONDOMINIUM RECORD OF SURVEY PLAT LOCATED AT 8902 EMPIRE CLUB
DRIVE, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Silver Strike Lodge, located at 8902 Empire Club Drive, Lot 14 of the Village at Empire Pass West Side Subdivision, have petitioned the City Council for approval of the First Amended Silver Strike Lodge record of survey; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on August 12, 2009, to receive input on the First Amended Silver Strike Lodge record of survey;

WHEREAS, the Planning Commission, on August 12, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Silver Strike Lodge record of survey.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The First Amended Silver Strike Lodge record of survey as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 8902 Empire Club Drive.
2. The Silver Strike Lodge is located in the RD-MPD zoning district.
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.
4. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A. Silver Strike Lodge is Building 6.

5. On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Pass, Phase I. The City Council approved the Village West Side plat on May 26, 2005. The Silver Strike project is located on Lot 14.
6. On January 25, 2006, the Planning Commission approved a Conditional Use Permit for the Silver Strike Lodge. The Conditional Use Permit approved 34 units totaling approximately 71,200 square feet for approximately 35.6 Unit Equivalents. In addition, 2 ADA units, one Employee Housing Unit, and 1,106 square feet of retail commercial space were proposed within the building.
7. On August 24, 2006, the City Council approved the Silver Strike Lodge condominium record of survey for 34 residential units ranging in size from 1,647 square feet to 3,386 square feet. The previously proposed retail space was eliminated.
8. An Employee Housing Unit (EHU) of 1,364 square feet (Unit #203) is provided. In the submitted documents reviewed by the City Council in 2006, the EHU unit is platted as private space.
9. The recorded page 3 of 11 shows Employee Housing Unit 203 as Common, contrary to what was reviewed and approved by the City or intended by the applicant.
10. A deed restriction for the Employee Housing Unit has already been recorded.
11. No change in the total residential square footage is 69,941 square feet or 35 Unit Equivalents occurs with this amendment.
12. The Silver Strike Lodge meets the minimum setback requirements.
13. A height exception has been granted for this building for a total height of 92 feet above existing grade.
14. Parking is provided at 75% of the Code requirement consistent with the Development Agreement.
15. The proposed amended record of survey is consistent with the approved Master Planned Development for the Village at Empire Pass.

Conclusions of Law:

1. There is good cause for this amended record of survey.
2. The amended record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed amended record of survey.
4. Approval of the amended record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

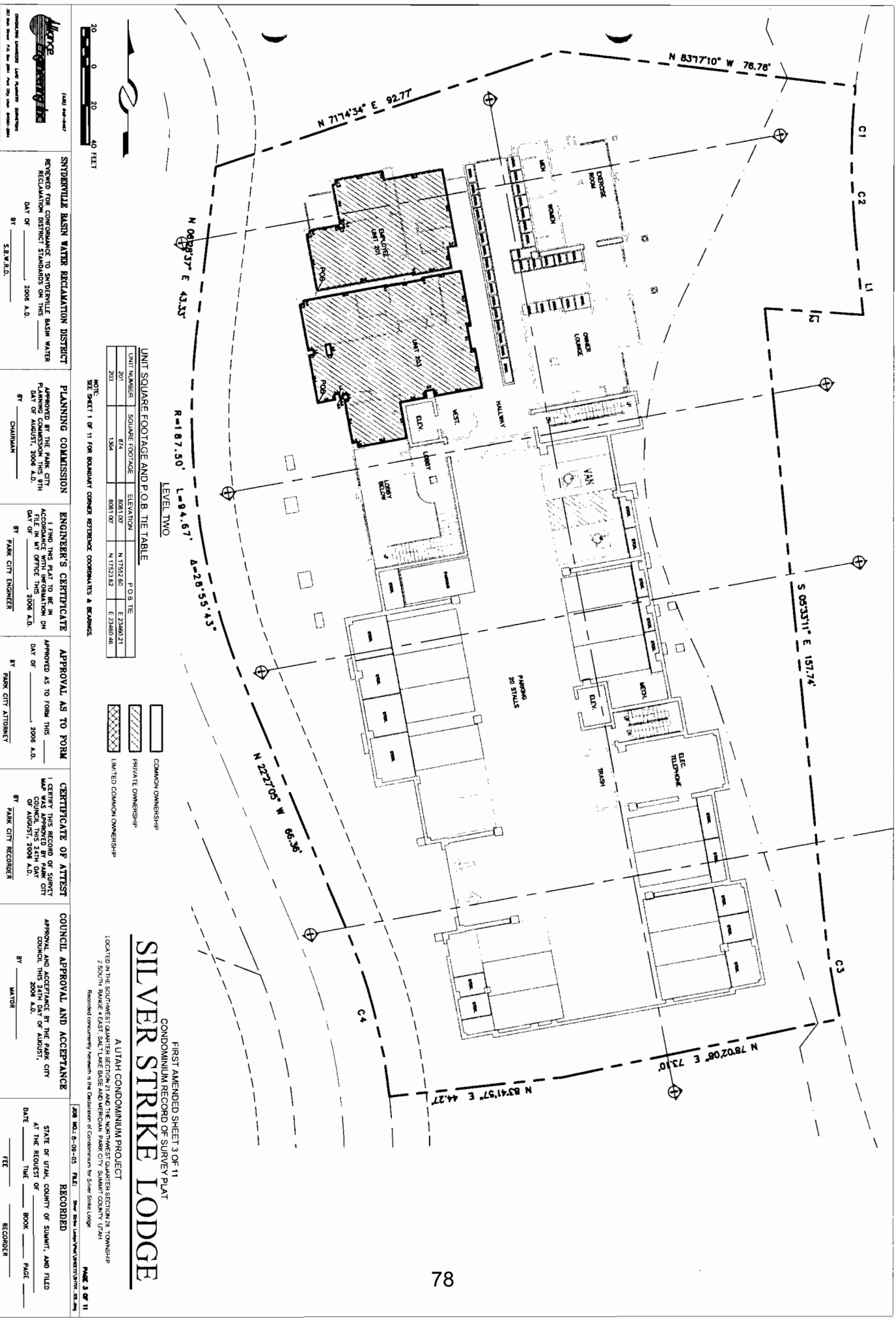
1. The City Attorney and City Engineer will review and approve the final form and content of the amended record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. All conditions of approval of the Village at Empire Pass Master Planned Development, the Village at Empire Pass West Side subdivision plat, and the Silver Strike Conditional Use Permit shall continue to apply.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 3rd day of September, 2009.

Exhibits

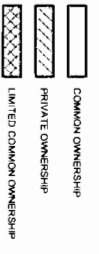
Exhibit A – Record of Survey plat



UNIT SQUARE FOOTAGE AND P.O.B. TIE TABLE

LEVEL TWO

UNIT NUMBER	SQUARE FOOTAGE	ELEVATION	P.O.B. TIE
201	608.07	6081.07'	N 1752.62' E 2340.21'
202	1364	6081.07'	N 1752.62' E 2340.46'



FIRST AMENDED SHEET 3 OF 11
 CONDOMINIUM RECORD OF SURVEY PLAT
SILVER STRIKE LODGE
 A UTAH CONDOMINIUM PROJECT
 LOCATED IN THE SOUTHWEST QUARTER SECTION 19, TOWNSHIP
 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, SALT LAKE COUNTY, UTAH
 Recorded concurrently herewith is the Declaration of Condominium for Silver Strike Lodge

10 0 20 40 FEET

NOTES:
 SEE SHEET 1 OF 11 FOR BOUNDARY CORNER REFERENCE CORNERS & BEARINGS.

SHRIVERVILLE BASIN WATER RECLAMATION DISTRICT
 REVIEWED FOR CONFORMANCE TO SHRIVERVILLE BASIN WATER
 RECLAMATION DISTRICT STANDARDS ON THIS
 DAY OF _____ 2006 A.D.
 BY _____ S.E.W.R.O.

PLANNING COMMISSION
 APPROVED BY THE PARK CITY
 PLANNING COMMISSION THIS 31TH
 DAY OF AUGUST, 2006 A.D.
 BY _____ CHAIRMAN

ENGINEER'S CERTIFICATE
 I FIND THIS PLAT TO BE IN
 ACCORDANCE WITH INFORMATION ON
 DAY OF _____ 2006 A.D.
 BY _____ PARK CITY ENGINEER

APPROVAL AS TO FORM
 APPROVED AS TO FORM THIS
 DAY OF _____ 2006 A.D.
 BY _____ PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
 I CERTIFY THIS RECORD OF SURVEY
 WAS APPROVED BY THE PARK CITY
 ENGINEER AND RECORDED BY THE
 DAY OF AUGUST, 2006 A.D.
 BY _____ PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
 APPROVAL AND ACCEPTANCE BY THE PARK CITY
 COUNCIL THIS 24TH DAY OF AUGUST,
 2006 A.D.
 BY _____ MAYOR

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
 AT THE REQUEST OF _____
 DATE _____ TIME _____ BOOK _____ PAGE _____
 FEE _____ RECORDER

DOB NO. 5-09-05 FILE: _____



City Council Staff Report

Subject: Purchase of Open Space
Author: Diane Foster
Department: Sustainability
Date: September 3, 2009
Type of Item: Administrative

Summary Recommendations:

Review the proposal to purchase approximately 136 acres, parcel PP-25-C, from Herb and Mel Armstrong. Staff recommends City Council hold a public hearing and consider approving the Real Estate Purchase Agreement and the License Agreement.

Description:

The purchase agreement describes the potential acquisition of a parcel, PP-25-C, that total approximately 136 acres. This land will be protected as open space and will be encumbered by a conservation easement

Background:

Park City Municipal and the Armstrong brothers have been in discussions regarding the potential purchase of this canyon parcel for a number of years.

COSAC, the Citizens Open Space Advisory Committee, has voted to recommend the purchase of this parcel to City Council for a price of \$5 million.

Prior to the close, the owners will grant a conservation easement to Utah Open Lands to protect its conservation values. This conservation easement will allow public access to the parcel, as is required by the open space bond language. Should Council vote to acquire this property, Park City Municipal will succeed the Armstrong's as "Grantor" and will own the property subject to the conservation easement.

The sellers of the property would like to maintain access to the property, which staff has memorialized in the License Agreement found in Exhibit C. This License Agreement also addresses several other issues, including a spring protection zone, and fencing and signage to protect the sellers from trespassers.

Analysis:

This parcel, located with Summit County, is adjacent to Park City. Importantly, the property meets COSAC Level 1 and Level 2 criteria. Additionally, the price per acre is generally in alignment with historical prices paid by Park City for Open Space.

The table below shows the four most recent open space purchases, along with the proposed purchased of the Armstrong parcel.

Historical Open Space Purchases

<u>Date</u>	<u>Property</u>	<u>Acreage</u>	<u>Total Price</u>	<u>Price Per Acre</u>
TBD	Armstrong Property	approx. 136 acres	\$ 5,000,000	\$ 36,765
Dec-08	PRI/Kimball Junction	330 acres	\$ 16,000,000	\$ 48,485
Dec-08	PRI/Round Valley	377 acres	\$ 8,725,000	\$ 23,143
Dec-07	Clissold/Quarry Mountain	184 acres	\$ 4,000,000	\$ 21,739
Mar-05	Sanchez Lot	1 acre	\$ 120,000	\$ 120,000
<u>Since 1999: Historical Average Price Per Acre</u>				\$ 27,000

COSAC and City Council purchased, in conjunction with Summit County, the Kimball Junction and Round Valley parcels for \$12,275,000 million. Should Council decide to purchase this property, and recognizing other COSAC commitments, the open space fund would have a remaining balance of approximately \$425,000.

Because one of the seller's long-time attorneys was out of town and not able to review the final version of the REPC, he asked that we add a section to the REPC that would provide him the ability to review and subsequently approve the final documents. While this is not normal, in consideration of the length of time and the specific role this attorney has played in the process, staff believed it to be in the best interest of the City as well as the sellers. The following paragraph was added to section 9b.

MR. R. FELTON APPROVAL: It shall be a material condition precedent to Sellers' obligations hereunder that Mr. R. Felton approve the executed REPC. Mr. Felton shall either approve the executed REPC or notify the Buyer of non-approval on or before September 16, 2009.

Department Review:

This proposal and exhibits has been reviewed by the Legal and City Manager's and Sustainability departments.

Alternatives:

- A. Approve:** The City would purchase PP-25-C for \$5 million.
- B. Deny:** The City will not purchase PP-25-C.
- C. Modify:** Council may request modifications, however some modifications would require development and negotiation of a new Real Estate Purchase contract.
- D. Do Nothing:** This will have the same impact as denying the request.

Significant Impacts:

- Purchasing this property, along with the aforementioned obligations, will nearly exhaust the remaining open space funds. Given the current economic environment, it is unlikely a new open space bond would be approved within the next few year.

Recommendation:

Review the proposal to purchase approximately 135 acres, parcel PP-25-C, from Herb and Mel Armstrong. Staff recommends City Council hold a public hearing and consider approving the Real Estate Purchase Agreement and the License Agreement.

Attachments:

Exhibit A – Map of Armstrong parcel PP-25-C

Exhibit B - Real Estate Purchase Contract and Addendum

Exhibit C – License Agreement

Exhibit A: Map

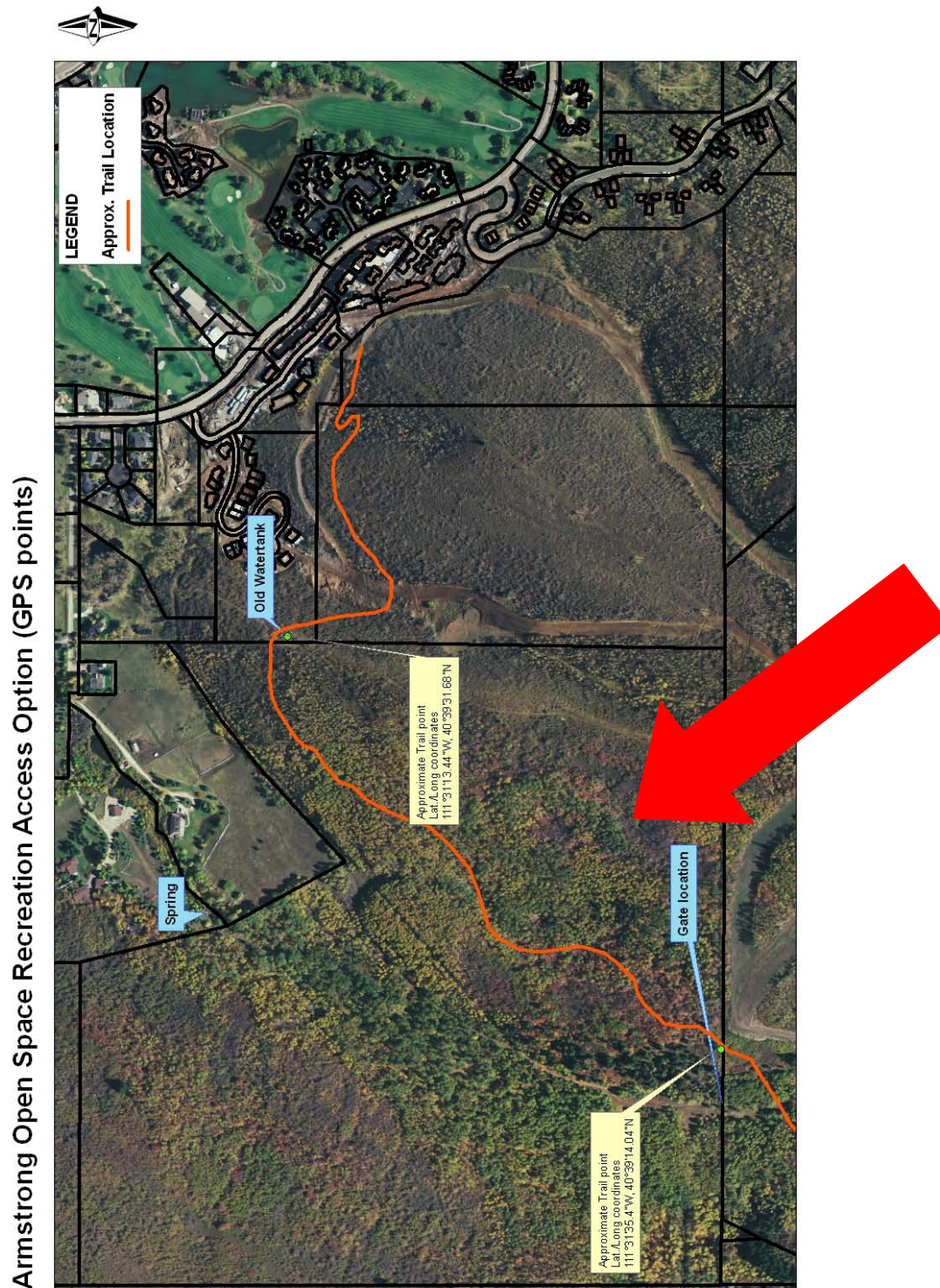


Exhibit B: REPC

REAL ESTATE PURCHASE CONTRACT

This is a legally binding contract. Utah law regulates real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete the provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

BUYER: **PARK CITY MUNICIPAL CORPORATION**, a municipal corporation and political subdivision of the State of Utah (the "City" or "Buyer").

SELLER: **HERBERT S. ARMSTRONG, TRUSTEE OF THE HERBERT ARMSTRONG FAMILY TRUST DATED MARCH 15, 2006**, as to an undivided one-half (1/2) in Parcel 1 of the "Property" defined below, and **WILLIAM M. ARMSTRONG**, as to an undivided one-half (1/2) interest in Parcel 1 of the Property, and as the sole owner of Parcel 2 of the Property (collectively, as to their respective interests, "Sellers")

OFFER TO PURCHASE

1. **PROPERTY:** The subject property (the "**Property**") is located in the County of Summit, State of Utah, and is more particularly described as follows:

See Addendum No. 1 and Legal Description attached as Exhibit A, which is incorporated herein

- 1.1 **Included Items.** Unless excluded herein, this sale includes the following items if presently attached to the Property: plumbing, heating, air conditioning fixtures and equipment; ceiling fans; water heater; built-in appliances; light fixtures and bulbs; bedroom fixtures; curtains, draperies and rods; window and door screens; storm doors and windows; window blinds; awnings; installed television antenna; satellite dishes and system; permanently affixed carpets; automatic garage door opener and accompanying transmitter(s); fencing; and trees and shrubs. The following items shall also be included in this sale and conveyed under separate Bill of Sale with warranties as to title:

- 1.2 **Excluded Items.** The following items are excluded from this sale:

- 1.3 **Water Rights.** The following water rights are included in this sale:
None.

- 1.4 **Survey.** (Check applicable boxes):

A survey ☒ WILL ☐ WILL NOT be prepared by a licensed surveyor.

The Survey Work will ☒ be ☐ not be performed by ☐ Property corners staked ☒ Boundary Survey ☐ Boundary & Improvements survey ☐ Other (specify) _____.

Responsibility for payment ☒ Buyer ☐ Seller ☐ Buyer and Seller share equally.

Buyer's obligation to purchase under this Contract ☒ IS ☐ IS NOT conditioned upon Buyer's approval of the Survey Work. If yes, the terms of the attached Survey Addendum apply.

2. **PURCHASE PRICE.** The Purchase Price for the Property is \$5,000,000.

- 2.1 **Method of Payment.** The Purchase Price will be paid as follows:

\$ _____ (a) Earnest Money Deposit. Under certain conditions described in this Contract. **THIS DEPOSIT MAY BECOME TOTALLY NON-REFUNDABLE.**

\$ _____ (b) New Loan, Buyer agrees to apply for a new loan as provided in Section 2.3. Buyer will apply for one or more of the following loans:

☒ CONVENTIONAL ☐ FHA ☐ VA ☐ OTHER (specify):

If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.
If the loan is to include any particular terms, then check below and give details:

SPECIFIC LOAN TERMS:

\$ _____	(c) Loan Assumption (see attached Assumption Addendum if applicable)
\$ _____	(d) Seller Financing (see attached Seller Financing Addendum if applicable)
\$ _____	(e) Other (specify) _____
\$ _____	(f) Balance of Purchase Price In Cash at Settlement
\$ <u>5,000,000.00</u>	PURCHASE PRICE (total of (a) through (f))

2.2 Financing Condition. (check applicable box)

(a) ☐ Buyer's obligation to purchase the Property IS conditioned upon Buyer qualifying for the applicable loan(s) referenced in Section 2.1 (b) or (c) "the Loan". This condition is referred to as the "Financing Condition".

(b) ☒ Buyer's obligation to purchase the Property IS NOT conditioned upon Buyer qualifying for a loan.

2.3 Application for Loan. Intentionally Omitted.

2.4 Appraisal of Property. Buyer's obligation to purchase the Property **IS** ☒ **IS NOT** conditioned upon the Property appraising for not less than the Purchase Price. If the appraisal condition applies and the Property appraises for less than the Purchase Price, Buyer may cancel this Contract by providing written notice to Seller no later than three (3) calendar days after Buyers receipt of notice of the appraised value. In the event of such cancellation, the Earnest Money Deposit shall be released to Buyer. A failure to cancel as provided in this Section 2.4 shall be deemed a waiver of the appraisal condition by Buyer.

3. SETTLEMENT AND CLOSING. Settlement shall take place on the Settlement Deadline referenced in Section 24(d), or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when all of the following have been completed:

a. Buyer and Seller have signed and delivered to each other or to the escrow closing office all documents required by this Contract, by the Lender, by written escrow Instructions or by applicable law;

b. any monies required to be paid by Buyer under these documents, except for the proceeds of any new loan, have been delivered by Buyer to Seller or to the escrow closing office in the form of collected or cleared funds; and

c. any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rent, and interest on assumed obligations shall be prorated at settlement as set forth in this Section. Tenant deposits, including, but not limited to, security deposits, cleaning deposits, and prepaid rents, shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when all of the following have been completed:

(i) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and

(ii) the applicable Closing documents have been recorded in the office of the county recorder.

The actions described in parts (i) and (ii) of the preceding sentence shall be completed within four (4) calendar days of Settlement.

4. **POSSESSION.** Seller shall deliver physical possession to Buyer within: ☒ 1 hour
☐ _____ days after Closing; ☐ Other (specify).

5. **CONFIRMATION OF AGENCY DISCLOSURE.** At the signing of this Contract:

_____ Seller's Initials _____ Buyer's Initials

- a. The Listing Agent, _____ N/A _____, represents ☐ Seller ☐ Buyer ☐ both
Buyer and Seller as a Limited Agent; or
- b. The Selling Agent, _____ N/A _____, represents ☐ Seller ☐ Buyer ☐ both
Buyer and Seller as a Limited Agent; or
- c. The Listing Broker, _____ N/A _____, represents ☐ Seller ☐ Buyer ☐ both
Buyer and Seller as a Limited Agent; or
- d. The Selling Broker, _____ N/A _____, represents ☐ Seller ☐ Buyer ☐ both
Buyer and Seller as a Limited Agent.
6. **TITLE INSURANCE.** At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price.
7. **SELLER DISCLOSURES.** No later than the Seller Disclosure Deadline referenced in Section 24(b), Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":
- a. a Seller property condition disclosure for the Property, signed and dated by Seller;
 - b. a commitment for the policy of title insurance;
 - c. a copy of any leases affecting the Property not expiring prior to Closing;
 - d. written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
 - e. Other (specify)
8. **BUYER'S RIGHT TO CANCEL BASED ON EVALUATIONS AND INSPECTIONS.** Buyer's obligation to purchase under this Contract (check applicable boxes):
- ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 7;
- ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of a physical condition inspection of the Property;
- ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of the following tests and evaluations of the Property (specify): approval of survey of the "Spring Protection Zone" (as such term is defined in Addendum No. 1)
- If any of the above items are checked in the affirmative, then Sections 8.1, 8.2, 8.3, and 8.4 apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as the "Evaluations & Inspections". Unless otherwise provided in this Contract, the Evaluations & Inspections shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with the Evaluations and Inspections and with the walk-through Inspection under Section 11.
- 8.1 **Evaluations & Inspections Deadline.** No later than the Evaluations & Inspections Deadline referenced in Section 24(c) Buyer shall: (a) complete all Evaluations & Inspections; and (b) determine if the Evaluations & Inspections are acceptable to Buyer.
- 8.2 **Right to Cancel or Object.** If Buyer determines that the Evaluations and Inspections are unacceptable, Buyer may no later than the Evaluations & Inspection Deadline, either:

- a. cancel this Contract by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer; or
- b. provide Seller with written notice of objections.

8.3 Failure to Respond. If by the expiration of the Evaluations & Inspections Deadline, Buyer does not:

- a. cancel this Contract as provided in Section 8.2; or
- b. deliver a written objection to Seller regarding the Evaluations & Inspections, the Evaluations & Inspections shall be deemed approved by Buyer.

8.4 Response by Seller. If Buyer provides written objections to Seller, Buyer and Seller shall have seven (7) calendar days after Seller's receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Seller may, but shall not be required to, resolve Buyer's objections. If Buyer and Seller have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may cancel this Contract by providing written notice to Seller no later than three (3) calendar days after expiration of the Response Period, whereupon the Earnest Money Deposit shall be released to Buyer, if this Contract is not canceled by Buyer under this Section 8.4. Buyer's objections shall be deemed waived by Buyer. This waiver shall not affect those items warranted in Section 10.

9. ADDITIONAL TERMS. There ~~X ARE~~ **† ARE NOT** addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference:

X Addendum No. 1 Initials

X Survey Addendum

† Seller Financing Addendum

† FHA/VA Loan Addendum

† Assumption Addendum

† Lead-Based Paint Addendum (in some transactions this addendum is required by law)

† Other (specify):

10. SELLER WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Seller represents that Seller has fee title to the Property and will convey good and marketable title to Buyer as Closing by special warranty deed, unless the sale is being made pursuant to a real estate contract which provides for title to pass at a later date. In that case, title will be conveyed in accordance with the provisions of that contract. Buyer agrees, however, to accept title to the Property subject to the following matters of record: easements, deed restrictions, CC&R's, meaning covenants, conditions and restrictions, and rights-of-way; and subject to the contents of the Commitment for Title Insurance as agreed to by Buyer under Section 8. Buyer also agrees to take the Property subject to existing leases affecting the Property and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, homeowners association dues, utilities, and other services provided to the Property after Closing. Except for any loan(s) specifically assumed by Buyer under Section 2.1(c), Seller will cause to be paid off by closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause to be paid current by Closing all assessments and homeowners association dues.

10.2 Condition of Property. Seller warrants that the Property will be in the following condition **ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER:**

- a. any private well or septic tank serving the Property shall have applicable permits and shall be in working order and fit for its intended purpose; and
- b. the Property, including the landscaping, will be in the same general condition as it was on the date of Acceptance.

11. **WALK-THROUGH INSPECTION.** Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a “walk-through” inspection of the Property to determine only that the Property is “as represented”, meaning that the terms referenced in Sections 1.1, 8.4 and 10.2 (“the items”) are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at Settlement to provide for the same. The failure to conduct a walk-through inspection, or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.
12. **CHANGES DURING TRANSACTION.** Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer:
- (a) no changes in an existing lease shall be made;
 - (b) no new leases shall be entered into;
 - (c) no substantial alterations or improvements to the Property shall be made or undertaken; and
 - (d) no further financial encumbrances to the Property shall be made.
13. **AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company, or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller.
14. **COMPLETE CONTRACT.** This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties.
15. **DISPUTE RESOLUTION.** The parties agree that any dispute, arising prior to or after Closing, related to this Contract X shall [†] may, upon mutual agreement of the parties, first be submitted to mediation. If the parties agree to mediation, the dispute shall be submitted to mediation through a mediation provider mutually agreed upon by the parties. Each party agrees to bear its own costs of mediation. If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 15 shall prohibit any party from seeking emergency equitable relief pending mediation.
16. **DEFAULT.** If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand. It is agreed that denial of a Loan Application made by the Buyer is not a default and is governed by Section 2.3(b).
17. **ATTORNEY FEES AND COSTS.** In the vent of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be rewarded for participation in mediation under Section 15.
18. **NOTICES.** Except as provided in Section 23, all notices required under this Contract must be:
- (a) in writing;
 - (b) signed by the party giving notice; and
 - (c) received by the other party or the other party’s agent no later than the applicable date referenced in this Contract.
19. **ABROGATION.** Except of the provisions of Sections 10.1, 10.2, 15 and 17 and express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. **RISK OF LOSS.** All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the transaction is closed.
21. **TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract:
- (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 P.M. Mountain Time on the stated date; and
 - (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement, i.e., Acceptance, receipt of the Seller Disclosures, etc. Performance dates and times reference herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as so otherwise agreed to in writing by such non-party.
22. **FAX TRANSMISSION AND COUNTERPARTS.** Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This contract and any addenda and counteroffers may be executed in counterparts.
23. **ACCEPTANCE.** "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other:
- (a) signs the offer or counteroffer where noted to indicated acceptance; and
 - (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.
24. **CONTRACT DEADLINES.** Buyer and Seller agree that the following deadlines shall apply to this Contract:
- (a) Application Deadline _____ N/A _____ (Date)
 - (b) Seller Disclosure Deadline September 16, 2009 (Date)
 - (c) Evaluations & Inspections Deadline September 21, 2009 (Date)
 - (d) Settlement Deadline September 30, 2009 (Date)
25. **OFFER AND TIME FOR ACCEPTANCE.** Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: _____ 9A.M. 9P.M. Mountain Time on _____ (Date) this offer shall lapse, and the Brokerage shall return the Earnest Money Deposit to Buyer.

BUYER'S SIGNATURE _____ Date _____ Time _____

(Buyers Names) - Please Print

(Notice Address)

(Phone)

THE LATER OF THE ABOVE OFFER DATES SHALL BE REFERRED TO
AS THE "OFFER REFERENCE DATE."

ACCEPTANCE / COUNTEROFFER / REJECTION

CHECK ONE:

☐ **ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on terms and conditions specified above.

☒ **COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached **Addendum No. 1**.

SELLER'S SIGNATURE _____ Date _____ Time _____

(Sellers' Names) - Please Print (Notice Address) (Phone)

☐ **REJECTION:** Seller Rejects the foregoing offer.

SELLER'S SIGNATURE _____ Date _____ Time _____

(Sellers' Names) - Please Print (Notice Address) (Phone)

Document Receipt

State law requires Broker to furnish Buyer and Seller copies of this Contract bearing all signatures. (*Fill in applicable section below.*)

A. I acknowledge receipt of a final copy of the foregoing Contract bearing all signatures:

BUYER'S SIGNATURE _____ Date _____ Time _____

SELLER'S SIGNATURE _____ Date _____ Time _____

B. I personally caused a final copy of the foregoing Contract bearing all signatures to be
mailed / hand-delivered on _____ (Date), postage prepaid, to the ~~Seller~~ Buyer.
Sent/Delivered by (specify) _____

ADDENDUM NO. 1
TO
REAL ESTATE PURCHASE CONTRACT

THIS IS AN [X] ADDENDUM [] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of August 26, 2009, including all prior addenda and counteroffers, between Park City Municipal Corporation, as Buyer, and HERBERT S. ARMSTRONG, TRUSTEE OF THE HERBERT ARMSTRONG FAMILY TRUST DATED MARCH 15, 2006, as to an undivided one-half (1/2) in Parcel 1 of the "Property" defined below, and WILLIAM M. ARMSTRONG, as to an undivided one-half (1/2) interest in Parcel 1 of the Property, and as the sole owner of Parcel 2 of the Property, collectively, as to their respective interests, as Sellers, regarding the "Property" defined below. The following terms are hereby incorporated as part of the REPC:

1. **Property; Spring Protection Zone:** The "Property," as such term is used in the REPC, shall mean that certain real property located in Summit County, Utah, commonly known as Tax Parcel No. PP-25-C, consisting of approximately 139 acres of land, as more particularly described in Exhibit A attached to the REPC. Notwithstanding anything to the contrary set forth herein, the Property shall expressly exclude an area consisting of approximately three (3) acres of land (the "**Spring Protection Zone**") including and surrounding the spring known as "Sullivan Springs," as such Spring Protection Zone is depicted and described in the Boundary Survey referred to in Section 1.4 of the REPC, and, further, shall expressly exclude any water rights associated with Sullivan Springs, all of which shall be expressly reserved to Sellers in the special warranty deed to be delivered to Buyer at the Closing.
2. **License Agreement:** It shall be a material condition precedent to Sellers' obligation to close the transactions contemplated by the REPC that, at the Closing, Buyer and Sellers shall enter into a License Agreement for the Property (the "**License Agreement**"), substantially in the form of Exhibit B attached hereto and incorporated herein, but in any event subject to Sellers' approval in their sole and absolute discretion, to be filed for record in the office of the County Recorder for Summit County, Utah (the "**Recorder's Office**"), pursuant to which Sellers (and their spouses, in the event either Seller shall become deceased) shall retain certain access and usage rights in the Property, and Buyer shall have certain obligations, all as more particularly set forth in the License Agreement.
3. **Conservation Easement:** Buyer acknowledges and agrees that, prior to the Closing, Sellers intend to and shall grant a conservation easement (the "**Conservation Easement**") in the Property to the Utah Open Lands Conservation Association ("**UOLCA**"), substantially in the form of Exhibit C attached hereto and incorporated herein, and Buyer agrees that the purchase of the Property contemplated herein shall be subject to such Conservation Easement. The Conservation Easement shall be filed for record in the Recorder's Office. In connection with the foregoing, Buyer further agrees to accept a restriction in the special warranty deed used to convey title to the Property to Buyer, or in some other instrument mutually agreed upon between the parties, including the following or substantially similar language:

All recreational uses of the property shall be effectuated in a manner that is consistent with Park City Municipal Corporation rules and regulations, guiding the management of these lands and the recreational use thereof, and not

inconsistent with the purpose of the Conservation Easement and that each such use or practice shall neither significantly impair the public view of and over the property nor in general result in a significant injury to or the destruction of a Conservation Value.

4. **Trail Access:** As part of the Conservation Easement, the parties acknowledge and agree that a public trail will be created over the Property, subject to the following general conditions:
 - a. **The following conditions shall apply at the Closing:**
 - i. Trail location
 1. The map attached hereto as Exhibit D, and incorporated herein, shows, in orange, the proposed location of a trail that would provide access to the public, but avoid Snow's Lane.
 - ii. Trail Signage
 1. Buyer, as successor to Sellers under the Conservation Easement, will post signage on this trail reminding trail users to keep to the trail.
 2. Buyer, as successor to Sellers under the Conservation Easement, will also post signage reminding trail users that dogs must be on leash.
 3. Buyer, as successor to Sellers under the Conservation Easement, shall periodically close the trail during moose and elk calving season (typically February – April).
 - b. **The following conditions shall apply only in the event neither of the Sellers (and/or their spouses, in the event either Seller shall become deceased) maintain a residence along Snow's Lane in the vicinity of the Property:**
 - i. Trail location
 1. The goal of future trail access is to minimize the risk of the public trespassing on private land in the area of Snow's Lane.
 2. Subject to the Conservation Easement that will include Snow's Lane, the Buyer, as successor to Sellers under the Conservation Easement, will establish a trail that utilizes the City's easement off Snow's lane, through the gate into Thaynes Canyon.
 3. Because the Conservation Easement will include Snow's Lane, the public will not be allowed to drive cars or park on Snow's Lane.
5. **Change of Conditions:** The parties acknowledge and agree that the Conservation Easement will provide that (a) the fact that any use of the Property expressly prohibited by the Conservation Easement or otherwise determined inconsistent with the purpose of the Conservation Easement may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with the Easement, has been considered by Sellers in granting the Conservation Easement; (b) it is the Sellers' belief that any such changes will increase the public's benefit and interest in the continuation of the Conservation Easement, and it is the intent of both the Sellers and the Buyer that any such changes not be considered circumstances sufficient to terminate the Conservation Easement, in whole or in part; and (c) in addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of the Conservation Easement or be considered grounds for its termination.
6. **Easements:** The special warranty deed to be delivered to Buyer in connection with the Closing shall make reference, using language mutually agreed upon by Sellers and Buyer, to the Conservation Easement and the following additional easements, some of which exist or will exist prior to the Closing, and some of which shall be created at Closing (it being acknowledged and agreed by the parties that the creation of each such easement shall be a material condition precedent to the obligation of the party benefited by such easement to close the transactions contemplated by the REPC):

- a. **Water Tank Easement (with the primary intent to benefit Seller Herb Armstrong):** The parties shall enter into a separate easement agreement, in form and content reasonably satisfactory to both parties and to be recorded at Closing in the Recorder's Office, granting to Sellers an easement for the purpose of accessing, using, maintaining, and/or replacing the water tank located on the Property.
 - b. **Park City Mountain Resort:** Buyer's purchase of the Property contemplated herein shall be subject to terms of that certain Grant of Easement in favor of Greater Park City Company, recorded in the Recorder's Office on December 28, 1988 as Entry No. 3025589 in Book 506 at Page 419.
 - c. **Utility Easement:** The special warranty deed delivered to Buyer shall refer to and take exception for any existing power line or other utility easements over the Property that are a matter of public record or could be discovered by a physical inspection of the Property.
 - d. **Snow's Lane Easements:** The special warranty deed delivered to Buyer shall refer to and take exception for all existing road easements and rights-of-way pertaining to Snow's Lane.
 - e. **Easement for Access to Spring Protection Zone:** The parties shall enter into a separate easement agreement, in form and content reasonably satisfactory to both parties and to be recorded at Closing in the Recorder's Office, granting to Sellers an easement for the purpose of accessing, using and maintaining the Spring Protection Zone.
7. **Insurance:** Park City Municipal Corporation covenants and warrants that it will maintain Public Liability Insurance insuring against the risks posed by the construction, maintenance, operation and repair, inspection and public trail use on the Conservation Easement area. Park City Municipal shall name the Sellers for the duration of the License Agreement as an additional insured on the liability insurance policy.
 8. **Non Merger Clause:** The Parties intend that the Fee Title, Reserved Easements, the License Agreement, and the Conservation Easement will not merge. The parties intend that the Conservation Easement will never be extinguished but will remain in full force and obligate Buyer, its successors-in-interest and/or any other future owner of the Property to comply with its terms and conditions.
9. **APPROVALS**
 - a. **COUNCIL APPROVAL.** It shall be a material condition precedent to Buyer's obligations hereunder that Buyer obtain formal approval of the City Council following public notice. If the City Council fails to approve this REPC and the transactions contemplated hereby, this REPC shall be null and void. Buyer agrees to present this REPC and the transactions contemplated hereby for consideration and approval by the City Council at the first available regular Council meeting following the execution of this REPC by the Parties.
 - b. **MR. R. FELTON APPROVAL:** It shall be a material condition precedent to Sellers' obligations hereunder that Mr. R. Felton approve the executed REPC. Mr. Felton shall either approve the executed REPC or notify the Buyer of non-approval on or before September 16, 2009.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): ☒ REMAIN UNCHANGED ☐ ARE CHANGED, AS FOLLOWS:

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. ☐ Seller ☐ Buyer shall have until _____ ☐ AM ☐ PM Mountain

Time on _____ (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

☐ Buyer ☐ Seller (Date) (Time)

☐ Buyer ☐ Seller (Date) (Time)

EXHIBIT A (of REPC)

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in Summit County, Utah, and more particularly described as follows:

Parcel 1:

All of the Southwest quarter of Section 8, Township 2 Range 4 East, Salt Lake Base and Meridian.

All of Summit County Tax Serial Number: PP-25-C.

Parcel 2:

Those portions of the following described property lying within Snow's Lane as presently existing on the ground:

BEGINNING at a point North 89°57'02" West along the center of Section line 1743.275 feet from the East quarter corner of Section 8, Township 2 South Range 4 East, Salt Lake Base and Meridian; and running thence North 89°57'02" West 366.35 feet; thence North 665.63 feet; thence South 28°03'20" East 68.58 feet to a point of a 275.00 foot radius curve to the left; thence Southeasterly along the arc of said curve 342.51 feet to a point of tangency; thence North 80°35' East 18.97 feet to a point of a 15.00 foot radius curve to the right; thence Southeasterly along the arc of said curve 25.69 feet to a point of tangency; thence South 1°18' East 452.22 feet to the point of BEGINNING.

also

BEGINNING at a point which is North 89°57'02" West along the Quarter Section Line 2098.59 feet from the East Quarter Corner of Section 8, Township 2 South Range 4 East, Salt Lake Base and Meridian; thence North 89°57'02" West along the Quarter Section Line 533.63 feet to the center of said Section 8; thence North 89°59'05" West along the Quarter Section Line 558.85 feet; thence North 3°33'39" West 551.46 feet; thence South 89°41'39" East 1092.83 feet; thence South 3°33'39" East 546.22 feet to the point of BEGINNING.

Portions of Summit County Tax Serial No's.: PCA-1001-1, 1001-7-A and SS-108-E.

EXCEPTING FROM THE ABOVE DESCRIBED PARCELS 1 AND 2, ANY PORTIONS LYING WITHIN THE FOLLOWING:

Exception Parcel 1:

BEGINNING at a point South 2630.74 feet and West 2776.80 feet from the Northeast corner of Section 8, Township 2 South Range 4 East, Salt Lake Base and Meridian; and running thence South 4°03' East 421.40 feet; thence North 53°40' East 112.67 feet thence North 0°53' East 354.74 feet; thence South 89°30' West 126.00 feet to the point of BEGINNING.

Exception Parcel 2:

BEGINNING at a point South 2630.74 feet and West 2776.80 feet from the Northeast corner of Section 3, Township 2 South Range 4 East, Salt Lake Base and Meridian; and running thence South 4°03' East 421.40 feet; thence South 56°22' West 261.80 feet; thence South 50°52' West 278.0 feet; thence South 47°34' West 500.0 feet; thence North 28°34' West 538.0 feet to the center line of a ditch; thence North 53°10' East 36.0 feet along said ditch to an old spring; thence North 40° East 181.0 feet thence North 71° East 87.0 feet thence North 66°38' East 147.61 feet; thence North 30°35' East 43.50 feet; thence East 111.0 feet; thence North 45° East 86.0 feet; thence North 37°38' East 125.0 feet; thence North 59°50' East 207.0 feet; thence South 67°05' East 23.0 feet; thence North 37°55' East 55.0 feet; thence North 34°15' East 75.0 feet; thence East 43.82 feet; thence South 37.0 feet; thence South 88°25' East 77.0 feet to the point of BEGINNING.

Exception Parcel 3:

BEGINNING at a point which is North 89°57'02" West along the Quarter Section Line 2631.13 feet, and North 89°59'04" West 252.24 feet from the East Quarter Corner of Section 8, Township 2 South Range 4 East, Salt Lake Base and Meridian; thence South 34°15' West 75.08 feet; thence South 37°55' West 55.00 feet; thence North 67°05' West 23.00 feet; thence South 59°50' West 207.00 feet; thence South 37°38' West 125.00 feet; thence South 45° West 86.00 feet; thence West 111.00 feet; thence South 30°35' West 43.50 feet; thence South 66°38' West 147.61 feet; thence South 71° West 87.00 feet; thence South 40° West 181.00 feet; thence South 53°10' West 36.00 feet; thence North 13°23'56" West 663.21 feet; thence North 0°00'48" East 333.81 feet; thence South 89°58'18" East 735.63 feet; thence South 3°33'39" East 334.29 feet thence South 89°59'05" East 306.61 feet to the point of BEGINNING.

EXHIBIT B (of REPC)
FORM OF LICENSE AGREEMENT
[see attached]

EXHIBIT C (of REPC)

FORM OF CONSERVATION EASEMENT

**[see attached, subject to further minor revisions
acceptable to Buyer and Sellers in their reasonable discretion]**

EXHIBIT D (of REPC)

MAP OF PROPERTY, DEPICTION OF TRAIL LOCATION

[see attached]

Exhibit C: License Agreement

WHEN RECORDED, MAIL TO:

Michael W. Christopherson, Esq.
Stoel Rives LLP
201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111

License Agreement

This LICENSE AGREEMENT (this "Agreement") is entered into as of the _____ day of _____, 2009, by and between Park City Municipal Corporation ("Licensor") and Herbert S. Armstrong and William M. Armstrong (collectively, "Licensees").

WHEREAS, Licensor has acquired from Licensees (or, in the case of Herbert S. Armstrong, from The Herbert Armstrong Family Trust, of which Herbert S. Armstrong is the trustee), certain real property, located in Summit County, Utah, and more particularly described in Exhibit A attached hereto (the "Property");

WHEREAS, as a condition to the sale of the Property to Licensor, Licensees (or, in the case of Herbert S. Armstrong, from The Herbert Armstrong Family Trust, of which Herbert S. Armstrong is the trustee) required that Licensor grant to Licensees and establish certain continued rights of Licensees to use and access the Property, commensurate with Licensees' historic use of and access to the Property, so long as either of the Licensees or their spouses maintain a residence on Snow's Lane in the vicinity of the Property; and

WHEREAS, Licensor agreed to such condition Licensor and Licensees now desire to memorialize the agreement of Licensor to grant such rights to Licensees by entering into this License Agreement, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the recitals set forth above (which are incorporated into this Agreement) and the covenants, terms and conditions and restrictions contained herein, the Parties hereby agree as follows:

1. **Access:** Licensor hereby grants to Licensees a license and unrestricted right to access and use the Property consistent with Licensees' historic use of the Property and for the added purposes of maintaining any trails located on the Property. Licensees shall have the right to access and use the property on foot, on bicycle or using ATVs or equivalent recreational vehicles on established paths. The following is a non-exclusive list of activities that are considered consistent with

Licensees' historic use of the Property and, therefore, expressly included within the license and rights granted hereunder to Licensees:

[LIST TO BE INSERTED]

2. **Spring Protection Zone:** Licensees and Licensors hereby agree to install, and to share equally in the costs of installing, an approximately four-foot-high split rail fence around the area described in attached Exhibit B, which includes and surrounds the "Sullivan Springs" (the "Spring Protection Zone"). The split rail fence will not impede wildlife trying to access the Spring Protection Zone and will provide for access to the Spring Protection Zone by Licensees, but will provide a clear delineation of the Spring Protection Zone from the Property. Because the fence will be located either partially or entirely on the Property, Licensors shall retain all responsibility for the maintenance and repair of the fence, at Licensors' cost and expense.

3. **Snow's Lane Signage:** Licensors, at Licensors' sole cost and expense, will place signage at the entrance to Snow's Lane indicating it is a Private Road and that no trespassing is allowed.

4. **Maintenance of Property:** Licensors, as the owner of the Property, shall be responsible for all liability associated with the Property and for all maintenance of the Property, at Licensors' sole cost and expense.

5. **Duration of License Agreement:** This Agreement shall remain in effect for as long as either of the Licensees or their spouses maintain a residence on Snow's Lane in the vicinity of the Property.

6. **Miscellaneous Provisions.**

a. This Agreement may be amended only by duly recording an instrument executed and acknowledged by Licensors and Licensees or their respective successors-in-interest.

b. All restrictions, rights, conditions and covenants in this Agreement shall run with and bind the Property as covenants running with the land and shall inure with and burden the Property and shall be

binding on the Property and any persons having or acquiring any interest in the Property, for the benefit of the Property and other persons having or acquiring any interest in the Property. Further, this Agreement and the restrictions created hereby shall inure to and be binding upon all occupants, tenants, licensees and invitees of the Property, and upon any person acquiring the Property, or any part thereof or any interest therein, whether voluntarily, involuntarily, by operation of law or otherwise. The owner(s) of the Property, including, without limitation, any owner or lien holder, who acquires any interest in the Property, by foreclosure, trustee's sale or otherwise, shall be liable for all obligations arising under this Agreement with respect to the Property after the date of sale and conveyance of title.

c. In the event of any legal action or proceeding in any way connected with this Agreement, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

d. Failure to enforce any provision of this Agreement does not waive the right to enforce that provision, or any other provision of this Agreement.

e. All notices given pursuant to this Agreement shall be in writing and shall be given by personal service (receipted), by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, and shall be delivered to the parties at the following addresses (unless such party designates a different address by providing written notice to the other party consistent with this paragraph).

If to Licensor:

Park City Municipal Corporation
445 Marsac Avenue

P.O. Box 1480
Park City, Utah 84060-1480
Attn: Ms. Diane Foster

If to Licensees: William Melbourne Armstrong
P.O. Box 683452
Park City, Utah 84068

Herbert S. Armstrong, Trustee
P.O. Box 1510
Park City, Utah 84060

With a copy to:

Mary Kay Griffin
c/o CBIZ Accounting Tax and Advisory
175 W. South Temple #650
Salt Lake City, Utah 84101

f. The provisions of this Agreement are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Agreement by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Agreement.

g. This Agreement will be interpreted and construed in accordance with applicable Utah law.

h. The provisions of this Agreement shall be subject to no prior liens, restrictions or encumbrances, except for the following (collectively, the "Permitted Encumbrances"): (i) general real property taxes and assessments not yet due and payable as of the date hereof; (ii) that certain Conservation Easement dated as of _____, 2009, entered into by and between Licensees and the UTAH OPEN LANDS CONSERVATION ASSOCIATION, and recorded in the office of the Summit County Recorder on _____, 2009, as Entry No. _____; and (iii) **[LIST ANY OTHER PERMITTED ENCUMBRANCES]**. In the event that any liens or encumbrances other than the Permitted Encumbrances shall hereafter accrue against the Property, the lien or indebtedness evidenced by any such liens or encumbrances shall be subordinate to the terms and conditions of this Agreement.

[signatures and acknowledgments on following pages]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first written above.

LICENSOR:
PARK CITY MUNICIPAL CORPORATION

LICENSEES:

By: _____
Name: _____
Title: _____

Herbert S. Armstrong

William M. Armstrong

[acknowledgments on following page]

STATE OF UTAH)
 :SS
COUNTY OF _____)

On this ____ day of _____, 2009, personally appeared before me _____, known or satisfactorily proved to me to be the _____ of PARK CITY MUNICIPAL CORPORATION, who acknowledged before me that he/she signed the foregoing instrument in that capacity.

Notary Public for Utah

STATE OF UTAH)
 :SS
COUNTY OF _____)

On this ____ day of _____, 2009, personally appeared before me Herbert S. Armstrong, who acknowledged before me that he signed the foregoing instrument.

Notary Public for Utah

STATE OF UTAH)
 :SS
COUNTY OF _____)

On this ____ day of _____, 2009, personally appeared before me William M. Armstrong, who acknowledged before me that he signed the foregoing instrument.

Notary Public for Utah

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
[to be inserted prior to execution]

EXHIBIT B
LEGAL DESCRIPTION OF SPRING PROTECTION ZONE
[to be inserted prior to execution]