**PARK CITY COUNCIL MEETING**
**SUMMIT COUNTY, UTAH**
**AUGUST 26, 2004**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, August 26, 2004.

**AGENDA**
**Closed Session – Executive Conference Room**

2:30 p.m. Property

**Work Session – City Council Chambers**
3:30 p.m. Council questions/comments
3:45 p.m. Review of regular meeting:

- Annexation petition – Quinns Junction
- Inter-local agreement – ice facility
- Contracts – recreation complex, downtown project, bus advertising space
- Other meeting questions/comments

5:00 p.m. RAB Annual Visioning Session
5:45 p.m. Break

**Regular Meeting – City Council Chambers**
**6:00 p.m.**

**I ROLL CALL**

**II COMMUNICATIONS FROM COUNCIL AND STAFF**

Resolution extending the Mayor's and City Council's appreciation of the patriotic commitment of Captain Jason M. Dougherty honored to serve our country

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

**IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF AUGUST 5, 2005 AND AUGUST 12, 2004**

**V CONSENT AGENDA PUBLIC HEARINGS**

1. Proposal to rezone Lots 2 – 16, Block 5 Snyder's Addition (portion of Park Avenue) from HR-1 to HRM **(motion to continue to September 9, 2004)**

2. Ordinance approving a final subdivision plat for the Red Cloud Subdivision **(motion to continue to September 23, 2004)**

3. Ordinance amending the Arrowwood Condominium Record of Survey plat, located at 2409 Gilt Edge Circle, Park City, Utah

3. Ordinance amending Lots 15 and 16, Block 13 of the Park City Survey plat, located at 160 Park Avenue, Park City, Utah

**VI CONSENT AGENDA**

1. Resolution extending the Mayor's and City Council's appreciation of the patriotic commitment of Captain Jason M. Dougherty honored to serve our country

2. Ordinance amending the Arrowwood Condominium Record of Survey plat, located at 2409 Gilt Edge Circle, Park City, Utah

3. Ordinance amending Lots 15 and 16, Block 13 of the Park City Survey plat, located at 160 Park Avenue, Park City, Utah

4. Authorize staff to execute a three-year professional services agreement with Utah Outdoor Advertising, in a form approved by City Attorney, for sales and placement services for the interior advertising space on the Park City Transit bus fleet

5. Acceptance of annexation petition for the Quinn's Junction Recreation Complex and National Ability Center

**VII OLD BUSINESS**

Resolution adopting an inter-local agreement with the Snyderville Basin Special Recreation District for a regional ice facility

**VIII NEW BUSINESS**

1. Authorize staff to enter into a service provider contract, in a form approved by the City Attorney, for Phase 1 Quinn's Junction Recreation Complex programming and schematic design services in an amount not to exceed $140,000

2. Authorize staff to enter into a service provider contract, in a form approved by the City Attorney, for Phase 1 Downtown Projects programming and schematic design services in an amount not to exceed $188,786

**IX ADJOURNMENT**

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

**PARK CITY COUNCIL MEETING**
**SUMMIT COUNTY, UTAH**
**SEPTEMBER 2, 2004**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will not hold its regularly scheduled meeting on Thursday, September 2, 2004.

Posted: 08/23/04
See: parkcity.org

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

**September 2004**

2 **No meeting**
*6 Labor Day*
*8 Windpower tour to Evanston – 11:30 a.m. or 1:30 p.m.*
9 Ordinance – 52 King Road plat amendment
Amendment to the 1999 Flagstaff Development Agreement relating to access, parking and modification to Pod D Empire Day Lodge, located at 9200 Marsac Avenue - Ray
Award of contract for skate park expansion
White Pine Touring cross-county lease
Ordinance – snow removal amendments
Triple Crown Sports Festival License and service agreement
Boothill Tank pipe line contract – new business
Spiro – construction contract upgrade Phase 2
16 **No meeting – City tour**
23 1412 and 1416 Park Avenue condominium record of survey final plat – Jonathan
Red Cloud Subdivision – Brooks
64 Ontario final subdivision plat - Brooks
30 Conservation easements - Brooks

**October 2004**

7 **No meeting**
14 **Kay gone**
Sign Code amendments - Ray
21
28 **No meeting**

**November 2004**

4
11
18
25 **Thanksgiving**
**26 Thanksgiving holiday**

**December 2004**

2
9
16
23
30

**Pending Items:**
Hoffman annexation - Kirsten

Water Service District – Grant of easement from Iron Mountain Associates
Transit Center Land Match Resolution – Gary
City-owned buildings – Pat
January – update on temporary liquor and beer licenses – Alison
Ordinance - 2409 Gilt Edge Circle – Arrowwood Subdivision plat amendment
Ordinance – final subdivision plat for the Red Cloud Subdivision

**PARK CITY WORK SESSION NOTES**
**SUMMIT COUNTY, UTAH**
**AUGUST 5, 2004**

**Present:** **Mayor Dana Williams; Council members, Kay Calvert; Marianne Cone, Candace Erickson; Jim Hier and Joe Kernan**

**Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jerry Gibbs. Public Works Director; Colin Hilton, Economic Development Director; Alison Butz, Special Events and Facilities Manager; and Lloyd Evans, Chief of Police**

Council questions/comments – Mayor Dana Williams and Marianne Cone discussed the reintroduction of the Columbia spotted frog, which was held at the Swaner Nature Conservancy today. The Mayor relayed that he had a good conversation with a state conservationist interested in visiting Park City to explore our open space strategies. He also met with Iron Canyon residents and members of the Mountain Trails Foundation during the week about trail parking.

**Quarterly goal update – In response to a question from Candace Erickson, Jerry Gibbs indicated that the current water rates are meeting the City's needs. She then asked about the timing for the Judge Tunnel project. The Public Works Director explained that the environmental assessment has not yet been signed-off by EPA. After two months of working with EPA, it appears that the document will be available within two weeks, which triggers a public comment period. Mr. Gibbs advised that the project might be delayed one year to Spring 2006.**

Marianne Cone pointed out the goal under Old Town Improvements relating to business enhancements and felt that adding neighborhood enhancements would be a proactive approach for the City. These improvements can be small. Jim Hier expressed that in his opinion; the homeowners or neighborhood associations should be responsible for their properties. The Council has discussed meeting with HOAs throughout the City. Colin Hilton identified a number of neighborhood groups who have participated in a process for addressing local issues with staff. Ms. Cone cited Sampson Avenue as an example of needing street patching and not waiting until the street is reconstructed. There are small things the City can do to improve the appearance of some areas, which will look better for tourists who are interested in touring Old Town. Mayor Williams felt it incumbent on citizens to take responsibility for their properties. They should be encouraged to organize with other members of the neighborhood because it is more effective when petitioning the City. Candace Erickson pointed out that property owners in her neighborhood bought and installed park benches and repaired their entrance pillars. City services should focus on health, safety and welfare.

In response to a question from Ms. Erickson about the timing of the Farm parking project, Ms. Butz explained that once a determination is made about the scope of the area requiring ADA access, construction would begin. The Mayor requested an update on Windpower. Ms. Butz reported that there a wind farm tour to Evanston is planned on September 8. There will be two buses; one leaving at 11:30 a.m. and one at 1:30 p.m. The tour is expected to take four hours. There are seats reserved for government officials, but the tour is open to the public at a cost of $10. Park City's purchase of power has grown to 10% and the Leadership Class has set a goal of 15% participation by the end of the year. Leadership is planning a Windpower Week in September with a variety of events to promote the effort.

The City Manager advised that the Friends of the Farm have requested support of creating exhibit space in the shed. Trailhead parking is underway, the outbuildings have been improved, and there is not a lot more planned. Candace Erickson explained that the Friends are collecting historic tools and farm implements from that period to display in the shed. There are also photographs donated by the McPolins and Osguthorpes, which could be displayed in the farmhouse along with period furniture. Marianne Cone discussed her support of the Friends' project and expressed her preference to keep the Farm property as is, because preserving the open space is an important statement about Park City. In response to a question from Mayor Williams, Tom Bakaly explained that there is no budget for the restoration of the barn structure at this time. Marianne Cone suggested putting an old tractor in the shed on the east side of SR224. The City Manager added that a discussion on the barn could occur at work session when City owned buildings are addressed.

Jim Hier requested an update on the Air Force. Tom Bakaly advised that the Air Force received four proposals for a recreation facility in the Park City area, including the Imperial Hotel. It is anticipated that a decision will be made in September. Mr. Hier reported on the progress on conservation easements for Flagstaff, Round Valley and the Richards Parcels, which will be before Council consistent with the target date of September.

Joe Kernan brought up a suggestion from a constituent about providing trash receptacles at bus stops and trails. Jerry Gibbs explained that expanding pick-up becomes a resource problem. Staff carefully looks at areas generating trash rather than creating areas for trash collection.

Chief Lloyd Evans referred to the Manager's Report where the police facility project is covered. Staff is recommending including the police facility in the downtown core to maintain the synergy between the police department and City Hall. He is pleased with the outcome of the study produced by the consultants. In response to a question from Kay Calvert about setting a budget for the downtown location prior to the design work, Mr. Hilton explained that the selection of the design team for the downtown area is in the process of being selected. The team staff prefers has knowledge of police facilities as well as overall land use planning, including parking and plazas. Staff believes that going through the process over the next three to four months with the selected design team will determine if a police facility is feasible downtown. There are good elements from the study and some points that staff questioned and Mr. Hilton felt this next stage will pinpoint the costs of construction and the location; i.e., within the parking structure, an annexed building, within the City Hall Building. If it is not possible to locate the police facility here because of space limitations, then staff will come back to Council with a recommendation for another location. Ms. Cone asked if there is potential for staff to grow in the Marsac Building. Tom Bakaly stated that a space needs plan for the whole organization has not been conducted. In his opinion, it is likely that Public Works departments like water, transit and parks will grow. It would be desirable to move Tech Services back to the Marsac Building. There was discussion about meeting standards like separating offenders from the general public, secured parking and access by police, designated separate parking for public, and secured evidence areas and entrances. Colin Hilton requested Council input.

Jim Hier stated that he is not convinced that the police facility needs to be downtown, given a variety complexities. The parking structure may be compromised with non-parking uses and the City owns a parcel of land, which would lend itself nicely to a police station. Additionally, no use has been identified for the Snow Creek Parcel. Before a lot of design money is spent, Mr. Hier preferred holding another work session discussion on the pros and cons of the downtown location. Candace Erickson stated that originally she was against the Snow Creek site, because of its value. There was discussion about the increased cost of building a police facility downtown, which is estimated at $800,000. Kay Calvert added that it might not be possible to provide all of these functions at one location, no matter how much money is spent. Mr. Hilton explained that staff is interested in exploring costs through the conceptual design phase, which will not be expensive. After this process, staff can finalize a recommendation. There was discussion about the Snow Creek Parcel being owned by the RDA, which would have to be reimbursed for this use. Ms. Cone asked if the Snow Creek site is too visible. Chief Evans responded that Council will need to make a decision about a prominent police building on the entry corridor, but from a law enforcement perspective, it's ideal because people can find it easily. There was discussion about setbacks and good design elements.

Colin Hilton clarified that staff will promote good ideas from the study and not limit the design team from considering options not recommended by the consultants. Tom Bakaly stated that there would be future work sessions on this issue. Jim Hier believes that the preliminary study needs to be completed in order for Council to reach consensus about the location. Mr. Hilton expressed that including the police facility as a component in the downtown project study will not add much expense.

The Council then convened in closed session. See closed session memorandum. The meeting opened at 6 p.m.

<u>Public Input</u>

None.

With no further business, the regular meeting of the City Council was adjourned.

**MEMORANDUM OF CLOSED SESSION**

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Craig Sanchez, Director of Golf; and Linda Galindo, consultant. Kay Calvert, "<u>I move to close the meeting to discuss property and personnel</u>". Marianne Cone seconded. <u>Motion carried unanimously</u>.

The meeting opened at approximately 6 p.m.

The meeting for which these work session notes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

**PARK CITY WORK SESSION NOTES**
**SUMMIT COUNTY, UTAH**
**AUGUST 12, 2004**

**Present:** **Mayor Dana Williams; Council members, Kay Calvert; Marianne Cone, Candace Erickson; Jim Hier and Joe Kernan**

**Tom Bakaly, City Manager; Mark Harrington, City Attorney; Eric DeHaan, City Attorney; Myles Rademan, Public Affairs Director; Pace Erickson, Parks and Streets Superintendent; Jonathan Weidenhamer, Planner; and Kent Cashel, Transportation Director; and Patrick Putt, Planning and Zoning Administrator**

**Mike Sweeney, HMBA President**

**1. Council questions/comments** – Joe Kernan relayed that he received a complaint from Dick Berg about the noxious emissions from Burger King. Tom Bakaly stated that he would pass this along to code enforcement to investigate. Kay Calvert felt that the second home owners' reception during Arts Festival was a great outreach effort and hoped to do this again. She continued that she liked the booths in the center of the street, but is strongly in favor of holding this event on a grassy area like City Park. Marianne Cone was pleased to observe Festival patrons in Main Street stores and felt the art was high quality. Ms. Cone reported on the progress of the public art board, which is very qualified. Candace Erickson thanked Myles Rademan for organizing the second home owners reception, which meant a lot to the people she met over the weekend. She agreed that it appeared that the Main Street merchants profited over the Art Festival weekend and she thanked staff for the extra work and hours during the event.

Jim Hier commented that the last two Planning Commission meetings have been extremely lengthy and he encouraged staff to examine upcoming schedules. He felt some information covered at Commission meetings could be more appropriately introduced to the public through separate community meetings. Patrick Putt acknowledged the full work load before the Commission at this time and will work to better manage meetings while balancing accommodating applicants during the construction season. There were two major public hearings on the agenda last night, and staff aired on the side of providing as much information as possible.

Jim Hier pointed out damage to a portion of the Main Street sidewalk which should be repaired to avoid injuries to pedestrians. Mayor Dana Williams discussed a video recently released to promote wind power and understood there are 30 applications submitted to the state for wind farms over the last eight months. He pointed out citizen requests for additional speed limits signs on the eastern end of Prospector on SR248 because of speeding motorists leaving town. Eric DeHaan indicated that the would follow-up with UDOT. Myles Rademan discussed a visit from Dr. Terry Stephens, British Minister of Tourism, who is surveying resort communities throughout the states.

**2. Proposed amendments to snow removal ordinance -** Pace Erickson explained that one proposed change is to allow overnight parking in Swede Alley with a "parking services permit". This is not currently provided for residents in the downtown core. There are also draft provisions addressing violations relating to interference with snow removal services. It is contemplated that the City Manager is empowered to declare a snow emergency, which is currently under the authority of the Police Department. Private snow removal contractors removing snow from private property are not allowed to push snow on the City's right-of-way or other private property. This language will be stronger for enforcement purposes. Mr. Erickson pointed out that the current ordinance states that the City will not be liable for damage resulting from snow removal operations. There are several mail boxes that are damaged during the season, and staff would like direction from Council on compensating owners. With regard to plowing sidewalks, the ordinance states that adjacent property owners or business owners are responsible. In the late 1970s, the City decided to plow sidewalks on Main Street because of the large number of vacant lots. Since that time, the City has taken on more sidewalks and it is proposed that the ordinance clearly outline snow removal operations on pedestrian ways, which he described through illustration of a map.

Pace Erickson stated that staff is working with the Prospector Square Association who has requested extended snow removal services. The group has been very cooperative but there are very unique challenges in plowing snow there because the sidewalks are narrow. Originally, using the sidewalks in the winter was not contemplated but over time, the business atmosphere in Prospector Square has changed. Using the City's existing equipment is far less expensive than using snow blowers. He felt that the Association is willing to upgrade their area over time to accommodate snow plowing with the City's equipment and recommends this request to go through the budget process. Mayor Williams understood that the development agreement for the commercial area relegated snow removal responsibilities to the owners. If this is the case, he felt there should be an assessment and reimbursement to the City. Pace Erickson added that more snow will have to be hauled if sidewalks area plowed and some parking may be lost for snow storage. He added that staff has extensively researched equipment but nothing has been found.

In response to a question from Jim Hier, Pace Erickson explained that staff is recommending setting priorities, which would be based on linking pedestrian areas. He repeated the reason for plowing Main Street in the past which was the number of vacant lots. Mr. Hier feels that Main Street is more of a "neighborhood" than a link. Joe Kernan interjected that the amount of pedestrian traffic in Prospector Square is significant and he s supportive of providing the same level of service in all commercial areas. Jim Hier continued that Prospector Square is no where as dense as the store fronts on Main Street; there is a lot of distance between businesses and parking areas. It seems prudent to develop criteria to define priorities, i.e., fist priority linking neighborhoods, etc. He acknowledged the benefits the business community brings to the City and perhaps the density of commercial units could justify the service. Mr. Hier emphasized that responding to requests should be based on established criteria. As a prior tenant on Main Street, Marianne Cone believes that it is appropriate for the City to make a sweep after a big storm, but business owners should be responsible for continuing to keep their store fronts clear of snow and ice. Pace Erickson clarified that the ordinance still requires adjacent business owners to remove snow and ice. Ms. Cone continued that some owners clear snow and others don't which makes walking Main Street difficult. In response to a question from Kay Calvert, the City Attorney advised that claims for injuries are the adjacent property owner's liability. However, some sidewalks are located on private property, some within the public right-of-way or shared in varying degrees.

Joe Kernan asked if the areas contemplated for increased enforcement will be identified. Pace Erickson suggested delineating a map with serviced areas and criteria. With regard to the mail boxes, Mr. Hier suggested establishing a standard mail box value and offer that to owners. If owners want to invest more in a mail box, it shouldn't be the City's responsibility to accept that liability.

With regard to the prohibition of throwing snow in the street, Mr. Erickson explained that this is mainly intended for commercial snow removal operators. In fact, on sunny days, the snow melts quickly in the street. He emphasized that there are on average only five to ten damaged mail boxes a year and the cost is insignificant. Marianne Cone was pleased with the new provision of special parking permits for downtown residents. Joe Kernan felt it appropriate to compensate property owners for damage occurring when the City is removing snow. He feels that the City efficiently removes snow and should be responsible for sidewalks throughout town. Kay Calvert disagreed; it is every property owners' responsibility to keep snow off their sidewalks and the cost of providing the service would be astronomical. Mr. Kernan understood there are three types of snow removal; one that the City performs, one that is required of property owners, and a third that the City doesn't care about. There should just be two; either the City does it, or the property is not required to be plowed. He doesn't support increasing enforcement. Pace Erickson acknowledged that the City isn't concerned with removing snow from trails or sidewalks that don't go anywhere or service anything, especially if it is a short section. He agreed that it is inconsistent to require one property owner to plow and not require it of another owner living five blocks away, for instance. He felt that it will be helpful to have an opportunity to take a methodical look at preparing a map and prioritizing pedestrian ways. It is likely that Prospector Square and the Deer Valley area would be designated to remove snow and Deer Valley already removes snow from walkways. Joe Kernan expressed that this plan makes sense. Candace Erickson agreed and encouraged staff to continue to work with Prospector on solutions, especially with the goal of getting people to use the transit system. She added that the service should not be the City's entire responsibility and supports partnerships. Dana Williams stated that he is supportive of amendments and discussed the unique problems in Old Town because of cars parked overnight. Plows are forced around vehicles and then the City is criticized for doing a lousy job.

The City Manager advised that staff had planned on returning with amendments on August 26 which may be moved back. He understood Council direction for staff to develop criteria and produce a map which identifies areas for City plowing and areas that are enforced. It is staff's recommendation that Prospector Square is not plowed this year.

**3. Main Street vitalization -** Jonathan Weidenhamer explained that the City received a request on July 22 to relax some regulations, specifically relating to noise and outdoor display of merchandise. The staff report is not a comprehensive review and an in-depth discussion is not contemplated this afternoon, but staff is asking for general direction to pursue ordinance changes. There is concern about opening up the outdoor display of merchandise for aesthetic and enforcement reasons and staff is not recommending changes to these provisions. Noise and merchandise were reviewed by the HMBA and on July 27 it rendered a recommendation not to change regulations on the display of merchandise. However, after receiving additional input from its membership, it decided to reopen the issue. Noise relates to extending the 10 p.m. cut-off for outdoor dining and closing doors and windows at bars. He discussed the inherent conflicts with neighborhood and commercial uses. Staff is recommending exploring this request and holding a community meeting with all stakeholders, which the HMBA supports.

Mike Sweeney, HMBA, stated that he spent a lot of time during Arts Festival talking with merchants and he felt that the executive officers "jumped the gun" before getting enough input from the street. This will be brought up at next Tuesday's meeting. In response to a question from Kay Calvert, Jonathan Weidenhamer clarified that staff believes that the existing ordinance on display of merchandise should not be amended. Candace Erickson suggested that other commercial areas, like Prospector Square and NOMA, be included in discussions and Mike Sweeney agreed. Jim Hier supported reviewing both topics and felt the City should help facilitate discussions, and perhaps involve the Chamber. Dana Williams pointed out that there are business owners who blatantly violate the display of merchandise ordinance. He would either like the to give the ordinance "teeth" with regard to enforcement or arrive at a consistent plan throughout all commercial areas. There are businesses that can accommodate outdoor displays without impeding sidewalks and he is open to discussing both topics. Marianne Cone felt that a general discussion on noise is appropriate, and Mike Sweeney shared his sound measurements over Arts Festival. Mark Harrington pointed out that master festival licenses are exempt from the noise ordinance, i.e., 4th of July parade. There is a standard for noise at the property line, special legislation regulating the outdoor concert series, and MFLs. Joe Kernan stated that he supports efforts to bring vitality to Main Street. Tom Bakaly understood Council direction to be to hold a community meeting before a draft ordinance is introduced. This process may take a couple of months.

**4. Review of regular meeting:**

**Insurance renewal** – The City Attorney explained that an RFP process was conducted. The valuation was structured on record of performance, services provided, quality of personnel, etc. and based on that analysis staff is recommending that the City stay with Marsh USA, as recommended in the staff report.

**Environmental assessment contract** – Kent Cashel stated that staff is recommending an award of contract with Montgomery, Watson and Harza to conduct an environmental assessment on the old sewer plant site. This is required by the government before funding is appropriated. The Park Meadows treatment plant is estimated at $1 million and Senator Bennett's office relayed that there is about $10 million that will become available in October 2005. Staff believes that by conducting this study, Park City will be in a good position to qualify for appropriations.

**Revised personnel policies and procedures** – Tom Bakaly explained that over the past two years, there has been an effort to streamline operations and functionally align self-directed teams. When there is an opening for a position, especially at the supervisory level, filling the vacancy with employees might be a preferred option. Increasing the salary to assume these responsibilities is not allowed in the personnel policy and procedures. Rather than amending the budget mid-year or waiting until the budget process, staff would like the ability to make those changes. Per the resolution, the City Manager would advise Council of the proposal, proceed accordingly, and make changes in the upcoming budget. This policy allows for a trial period. He relayed that Jim Hier suggested adding a sentence under criteria to state, "The financial impact of the interim reorganization will result in a net expenditure reduction." Joe Kernan felt that there are benefits of providing staff with autonomy and the City Manager added that this allows departments flexibility without a formal process. He relayed that he met with non-supervisors, mainly at the analyst level, about whether they want to be included in the policy. The group decided to look at career development opportunities separate from a reorganization policy and will be making recommendations to you as a part of the budget process. Marianne Cone stated she liked this non-bureaucratic approach.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING**
**SUMMIT COUNTY, UTAH**
**AUGUST 12, 2004**

## I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 12, 2004. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Lloyd Evans, Chief of Police; Patrick Putt, Planning and Zoning Administrator; Max Paap, Special Events and Facilities Coordinator; Kent Cashel, Transportation Director; Ken Fisher, Recreation Manager; and Patrick Putt, Planning and Zoning Administrator.

## II COMMUNICATIONS FROM COUNCIL AND STAFF

1. Swearing-in of Police Officers Kris Phillips and Daniel Holdaway – Chief Lloyd Evans introduced Officers Phillips and Holdaway and the Mayor administered the oath of office.

2. Planning Commission actions – Patrick Putt reported that last night the Planning Commission formally adopted the conclusions, representing the areas of consensus among both jurisdictions. The Red Cloud (aka Pod D) MPD was approved as well as forwarding a positive recommendation on two proposed amendments to the Flagstaff Development Agreement. These amendments will be before Council for consideration in a couple of weeks.

## III PUBLIC INPUT (any matter of City business not scheduled on agenda)

The Mayor invited the public to comment:

1. Upper Park Avenue reconstruction - Ramona Meyer, 416 Park Avenue, expressed her appreciation in reconstructing Park Avenue but feels that she and her husband were not adequately represented in the planning of the project. In the future, they feel they should be provided an opportunity for input through proper channels.

Jack Meyer stated that UPAPA has not communicated information very well and they feel they were left out of the process. They had no idea what was going on until they were noticed about commencement of the work. The west side received all of the “goodies” while the east side nothing. The Mayor replied that this project has been planned for at least two years and a half years and the City noticed and held a half dozen neighborhood meetings. Mr. Meyer indicated that too much effort has been devoted to aesthetics and not good street design.

2. Police appeals board, outdoor display of merchandise, closing Main Street for the Arts Festival, and snow removal – Dave Shaffner, Main Street merchant, asked if there has been an oversight committee established for the Police Department. Kay Calvert advised that there is an appeals board not an oversight board. There was discussion about the process for filing an appeal and the City Manager offered to provide him with a copy of the policy. He asked how many Council members walked the street on Friday and pointed out that there were only a few businesses displaying merchandise, which in his opinion, is an indication that allowing outdoor display will be manageable. He complained about Main Street being closed at any time, and stated that Kimball Art Center gets whatever it asks for when in fact, they are in competition with many businesses on Main Street. The artists took the whole street setting up on Friday, then it was the sidewalk, then it was driving on the sidewalk, and then it was selling "crap" on the sidewalk. When he finally found and talked to "Butz", it never changed. Marianne Cone thought that perhaps there was some confusion because the booths were being set up in the middle of the street for the first time and she urged him to talk to the KAC. He compared this situation to being in an occupied country. He asked Marianne Cone where the merchants should put the snow from the sidewalks (see work session notes). She responded that the snow should go in the gutter; snow is hauled off Main Street. He asked Council members if they have been to other resorts around the world and asked if they have outdoor displays.

Mayor Williams reminded Mr. Shaffner, who attended the earlier work session that Council has already decided to move ahead with meetings on display of merchandise, so there will be an opportunity for him to express his views as part of that process. He stated that Mr. Shaffner "bucks" the law more than anybody in the City and drilling the Council about vacations is not productive. Dave Shaffner asked what members thought about the length of time it takes to process anything when they were running for office. Candace Erickson responded that the process will never move quickly and added that she visits Durango, Boulder, Vail, Aspen, Steamboat, Breckenridge and Sun Valley where outdoor display is not allowed. She stated that staff can't find any legislation on this topic. He complained that this affects merchants every day. There's a lot of turn-over on Main Street. Mayor Williams emphasized that this discussion is not going anywhere. Council gave direction to staff to proceed with public dialog. The Mayor noted that Mr. Shaffner is the only one who has approached him about outdoor display, the only one who continues to break the law on a daily basis, and is rude to City employees. The Council gave direction earlier and he doesn't know what he wants tonight. Mr. Shaffner asked if the delay is due to the way he approaches the City. The Mayor stated that he didn't think so, but admitted that he is offended when he learns about a rude confrontation with a City employees. He stated that always responds to Mr. Shaffner requests and believes the City has been sympathetic. For a year, staff has been advising him to get other support for outdoor display, but no one else has contacted the City. The Mayor believes that Mr. Shaffner has been treated fairly. This public input session is not the appropriate forum for this discussion. The Mayor reiterated that Mr. Shaffner was sitting here during work session when Council went against the staff's recommendation and decided to proceed with exploring an amendment to the code. Mr. Shaffner left the Council Chambers.

With no further public input, the session was closed.

**IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JULY 22, 2004 AND JULY 29, 2004**

Candace Erickson, "I move we approve the work session notes and minutes of meetings of July 22 and July 29". Marianne Cone seconded. Motion carried unanimously.

**V RESIGNATIONS AND APPOINTMENTS**

1. Appointment of two members to the Recreation Advisory Board for terms expiring June 30, 2007 – The Mayor requested a motion to reappoint Rich Miller and appoint Mailer Buker. Kay Calvert, "I move to approve the appointments for terms expiring June 30, 2007". Candace Erickson seconded. Motion carried unanimously.

2. Appointment of two members to the Historic Preservation Board for terms expiring April 30, 2007 – The Mayor recommended the reappointment of David White and appointment of Roger Durst. Candace Erickson, "I so move". Kay Calvert seconded. Motion unanimously carried.

**VI CONSENT AGENDA PUBLIC HEARINGS**

1. Addendum to Sundance Film Festival license and service agreement – Max Paap introduced Sara Pierce from Sundance Institute who has requested the use of the Racquet Club gym for screenings. The screenings are proposed from 9 a.m. to 9:30 p.m. Ms. Pierce stated that they are sensitive to potential impacts to the neighborhood. Typically, there are six screenings a day but only five are contemplated here; five is the number required to make the Racquet Club a viable venue. Sundance is also working on accommodating recreation programs. The Mayor referred to an email the City received from resident Roy Crandall and Ms. Pierce indicated that she has addressed all of his concerns and invited further input. Mr. Paap advised that the wait list and entrance will be located on the east side of the building with a tent enclosure to minimize noise and there will be no generators. Programming has been addressed so that impacts to Racquet Club users are minimized. The Racquet Club Home Owners Association voiced concerns about disruptions relating to loading and unloading patrons, late activities, the location of porta-potties, and parking. He relayed that there will be no parking for film patrons at the Racquet Club and Ampco has been hired by Sundance to monitor the lot. Barricades and signs will be placed on Monitor Drive, Little Kate Road, and the entrance to the condos to discourage street parking. The City is proposing a rental fee of $1,400 per day, which will be allocated toward improvements to the facility. The Mayor opened the public hearing.

Roy Crandall, resident, emphasized that five screenings a day could translate to $3,500 people a day for ten days which is a big deal in a residential neighborhood. With no further comments, the pubic hearing was closed.

Kay Calvert referred to Mr. Crandall's email, where his comments are valid, but felt that all of his issues can be addressed. She supported Mr. Crandall's suggestion of providing a contact number for residents in the area and the City Manager and Ms. Pierce stated that this will be arranged. Ms. Calvert asked that an announcement be made before films about respecting the neighborhood and keeping noise to a minimum. Marianne Cone asked if five screenings a day are necessary and Sara Pierce explained that they are needed to break even financially and Ms. Cone expressed her concerns about a 500 to 700 people leaving the lot as late as midnight. Ms. Pierce advised that it is their intent to get them on a City shuttle as soon as possible so there won't be idling motor coaches. Candace Erickson also expressed concern about noise disturbances late at night.

Kent Cashel stated that the City does not have the equipment to provide transportation for Racquet Club screenings and he acknowledged that a number of buses will be needed to move this volume of people. In response to a question from Council Member Cone, Ken Fisher explained that this proposal was presented to the Friends of the Racquet Club who was supportive of raising funds for improvements to the Racquet Club. There hasn't been any formal surveying of patrons of the facility and most of the programs have been moved to the School District gyms. Ms. Pierce explained that Sundance activities are concentrated on the east side of the building, and the Mayor pointed out that this area directly faces the condos. As a resident across the street from the Eccles Center, Joe Kernan added that there are minimal noise impacts from the screenings, but acknowledged that monitoring parking might be a challenge. Jim Hier suggested that Sundance explore opportunities to eliminate the 9:30 p.m. screening on any night and that the buses use the bus stop on Little Kate, rather than the lot area. He referred to the email from Mr. Crandall and both Mr. Paap and Ms. Pierce indicated that all issues have been addressed. Mr. Hier pointed out that many of the Racquet Club condos are in a rental pool and there are many economic benefits associated with this event.

2. <u>Notre Dame Club of Utah Pep Rally Master Festival License to be held in City Park on September 3, 2004</u> – Max Paap introduced applicant Joe Connelly. The event would run from 6:30 p.m. to 7:30 p.m. If there is a band, it will not be amplified. Hearing no further comments or questions, the pubic hearing was closed.

3. <u>Ordinance approving a subdivision plat for Marsac Avenue and Chambers Street, Park City, Utah</u> – Patrick Putt explained that approval of the subdivision will formally create Marsac Avenue from Sandridge to the Guardsman Pass connector. This is a 50 foot right-of-way required under the Flagstaff Development Agreement. The Planning Commission forwarded a positive recommendation. Hearing no comments or questions from the Mayor or the public, the public hearing was closed.

4. Ordinance amending Ordinance No. 03-37 approving a single lot subdivision at 445 King Road, Park City, Utah with an extended date of expiration – The Planning and Zoning Administrator explained that this single lot was part of the Sweeney Master Plan approved in 1986. On July 31, 2004, the approval expired because the plat wasn't recorded. There were delays associated with negotiating utility service. The applicant is requesting a six month extension to January 31, 2005 and the Planning Commission forwarded a positive recommendation. The Mayor opened the public hearing and hearing no input, closed the hearing.

**VII CONSENT AGENDA**

Jim Hier, "I move we approve Consent Agenda Items 1 through 7". In response to a question from Marianne Cone, Jim Hier explained that his motion contemplates approval of the Sundance addendum as requested. Motion unanimously carried.

1. Addendum to Sundance Film Festival license and service agreement – See staff report and public hearing.

2. Notre Dame Club of Utah Pep Rally Master Festival License to be held in City Park on September 3, 2004 – See staff report and public hearing.

3. Ordinance approving a subdivision plat for Marsac Avenue and Chambers Street, Park City, Utah - See staff report and public hearing.

4. Ordinance amending Ordinance No. 03-37 approving a single lot subdivision at 445 King Road, Park City, Utah with an extended date of expiration - See staff report and public hearing.

5. Insurance services:

- Authorize contract with Marsh USA Inc. for standard commissions broker services contract for a three year period, September 1, 2004 through August 31, 2007 – and
- Authorize contract with Olympus Insurance Agency in the amount of $2,500 for performance of a cost study on workers compensation - See staff report and work session notes.

6. Authorization to staff to execute a professional services contract, in a form approved by the City Attorney, with Montgomery, Watson and Harza in the amount of $41,430 for the preparation and submittal of an environmental assessment - See staff report and work session notes.

7. Resolution adopting revised Personnel Policies and Procedures for Park City Municipal Corporation - See staff report and work session notes.

## VIII NEW BUSINESS

Annexation and zoning of property known as the Spiro Tunnel Parcel – Paladin – See staff report. Patrick Putt explained that this is a 12.32 acre annexation located west of the Spiro Tunnel water treatment facility on Three Kings Drive and Crescent Road. Applicant Rory Murphy is present to answer any questions. Approval of the annexation ordinance would designate the zoning RDM and approve an annexation agreement. A recent amendment to the agreement would include the property in the soils management area which Paladin has agreed to. There is a comprehensive analysis of the project's compliance with all annexation requirements. The project has gone through many public hearings and the public will have further opportunities to comment on specifics through public hearings associated with the MPD application pending before the Planning Commission.

- Continuation of public hearing – The Mayor invited the audience to comment. Hearing no input, the public hearing was closed.

- Ordinance annexing approximately 12.32 acres of property located on Three Kings Drive in the southeast quarter of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, into the corporate limits of Park City, Utah and amending the Official Zoning Map of Park City to include the annexed area – Marianne Cone asked the potential of the soils contaminating the Spiro Tunnel water source. Rory Murphy explained that the water from the Spiro is piped from almost a half mile away and does not travel through the soil on the property. He emphasized that there are no tailings stored there and the soil has been tested and will be capped to comply with the ordinance, where necessary. Jim Hier asked if there have been any other changes. Patrick Putt responded that any modifications are very minor and there no substantive changes. There was discussion about the possibility of features of the plan, like the artists residence, being modified or eliminated through the MPD process. Joe Kernan, "I move we approve the annexation and annex the Spiro Tunnel parcel into Park City and amend the Official Zoning Map to include the annexed area". Marianne Cone seconded. Motion carried unanimously.

## IX ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

## MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; and Colin Hilton, Economic Development Director. Joe Kernan, "I move to close the meeting to discuss property". Jim Hier seconded. Motion carried unanimously.

The meeting opened at approximately 4:15 p.m.

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

# City Council
# Staff Report

| | |
|---|---|
| **Author:** | **Ken Fisher, Recreation Manager** |
| **Subject:** | **RAB Visioning** |
| **Date:** | **August 23, 2004** |
| **Type of Item:** | **Work Session** |

Recreation & Library
Department

**Summary Recommendations:**
Provide direction to the Recreation Advisory Board and staff on City Park, Neighborhood Parks and the development of unsanctioned dirt jumps for bikes.

**Description:**
**Topic:**
Provide direction to staff and the Recreation Advisory Board on recreational items for the next year.

**Background:**
As outlined in the Recreation Advisory Boards Policy & Procedure (attachment 1) the Board shall meet annually with the City Council to receive updated city goals and direction from City Council. The RAB met with City Council in July 2003 for this purpose and at that time the following committees were formed; City Park, Neighborhood Parks, BMX and Youth Issues. Task Forces were formed for the Gilmore Recreation Complex, Ice Rink & Farm Trailhead parking. Staff subsequently recommended and Council approved forming friends groups for the Racquet Club, Golf and Trails. The Council approved policy regarding friends groups is attachment #2.

***City Park Subcommittee:*** The following project priority list was outlined by the RAB in September 2003:

1. **Expand and replace playground equipment in City Park:** Project Complete

2. **Expand the current skate park:** The RFP for the skate park expansion closed on July 30. The design selection committee has chosen Naylor, Wentworth & Lund with Site Design Group to design the expansion. A contract for design will be brought before Council on September 9 for approval. The project will be completed in the spring of 2005.

3. **Curb & Gutter the north end of City Park:** The RAB recommended completing the curb and gutter along the west side of the north end of the park per the 1999 City Park Master Plan. After the sub committee met with Eric DeHaan to review the project it was discovered that the road was center draining and that curb & gutter

was not the proper solution without a complete road reconstruction. No further work has been done to date on this project and direction is needed from City Council.

**Analysis:**
The RAB is looking for Council feedback and direction on the following City Park project priority list that has been identified by staff and the RAB:

**1. Basketball Court:** Staff and the RAB recommend building a full size basketball court to the west on the current tennis courts. A regulation-sized court would fit between the tennis courts and Sullivan Road. While building a basketball court has been a controversial issue in the past at other proposed locations this is the preferred site for the following reasons:

- Noise for nearby residents should not be a problem as there is a sidewalk, a parking area, a bermed area, road and fence, and a swimming pool between this site and the housing units.
- The court could share lighting with the tennis courts (with some additional lights).
- This would provide an adult basketball area away from the current site at the Recreation Building,
- Consolidating adult active sports in one area away from activities that are more child/toddler oriented.
- Already active areas with tennis and volleyball courts.

**Projected Cost: $225,000**

**2. Bathrooms at the North end of the Park:** In conjunction with the basketball court the RAB and staff recommend building restrooms for the north end of the park. When the park was originally constructed sewer and water were stubbed to the south of the tennis courts for the future construction of restrooms.

Currently there are no restroom facilities on this end of the park requiring tennis and volleyball players to walk a long distance to use the facilities in the Recreation Building.

Staff and the RAB consider the basketball court and restrooms a first priority, since it will meet an identified need for more basketball as well as allow for future planning of the Recreation building site and the existing basketball court to the east of the building.

If Council is in favor of developing a full size basketball court and bathrooms in this area, staff will issue an RFP for design and construction documents so that the project can be completed next summer.
**Projected Cost: $100,000 for bathrooms**

**3. City Park Irrigation:**
The current irrigation system for the athletic field in City Park dates to 1985. Over the years several improvements have been made to the irrigation system but the system remains inefficient due to inconsistent spacing between sprinkler heads and inadequate pipe size resulting in poor water distribution.

The Parks Department staff has conducted several irrigation audits dating back to1992. Before improvements were made the water distribution efficiency was 48%. After improvements were made the efficiency was raised to 55%. Today, a minimum efficiency of 80% is considered low with an optimal efficiency of 90%.

The City Park athletic field consumes 4,016,250 gallons of water annually. By raising the efficiency to 85% we will save 1,205,000 gallons of water annually and improve the field quality.

To raise the efficiency to 85% a new irrigation system with correct head spacing, correct pipe sizing and head assignment will need to be installed. This will be achieved by installing a looped main line around the athletic field perimeter. This provides equal pressure from all points of the system. A valve-in-head type system similar to a golf course will be installed. This gives the water manager the ability to irrigate single heads at different run times. This reduces the consumption of water, by not irrigating heads on a circuit that don't require water. (Example, our current system has five heads per station, if one area needs additional water we are forced to over irrigate other areas on that same station.) The proposed system will eliminate this problem.

By upgrading the irrigation system future improvements at the north end of the park that may require irrigation will be accommodated with the new irrigation system.
**Projected Cost: $90,000**

**4. North end of City Park:** Completing the north end of the park with curb & gutter was one of the projects that City Council was interested in completing last year. The City Park Subcommittee reviewed the potential project with Eric DeHaan and discovered that to complete curb & gutter would entail the scope of the project growing considerably. The road is currently a center-draining road and installing curb and gutter would require a complete redesign of the drainage plan. The City Park Subcommittee understood the goal was also to "finish" that end of the park with additional parking and landscaping. Currently the bermed area along Sullivan Road from the 7-11 to Deer Valley Drive is unfinished and needs to be improved. Additionally, Sullivan Road from the Tot Playground north to the 7-11 could be cleaned up and beautified with small amounts of landscaping, and public parking should have clearer signage.

Before any work can be done on this project Council would need to give direction to staff to explore the history of certain developments along Sullivan Road that share city rights-a -way. Currently many of these developments have posted "No Parking" or "Resident Parking Only" signs. Staff is unsure of the legality of these signs since they maybe posted on city rights-a-way. Park user's vehicles have been towed for parking in these areas.

Staff and the RAB recommend using the City Park CIP Fund to landscape the area along Sullivan Road from the 7-11 to Deer Valley Drive as well as to create parking places behind the 7-11. After the legality of parking spaces on the west side of Sullivan Road has been determined, appropriate signage and landscaping could be done. If

Council desires to reconstruct Sullivan Road, the City Park CIP Fund **could not** cover the cost of this project.
**Projected Cost: $225,000**

**5. Recreation Building:** The Recreation Building located next to the playground in City Park is in need of an “extreme makeover”. The building was originally constructed in the mid 80’s when the park was built. The building currently houses the Recreation Department’s Summer Day Camp and the lower level acts as equipment storage for the Parks Department. In past years, the facility has been rented to various community groups and Sundance throughout the year. The city recently entered into a lease agreement with the Boys & Girls Club, allowing them to use the facility during the school year.

The current building needs to be evaluated so that it can better meet the needs of the community and the Recreation Department. Staff and the RAB recommend that an internal task force consisting of staff assess the building and needs so that the building can become a community asset. Once this is complete a recommendation can be made to the RAB and Council as to the scope of the project.
**Projected Cost: $50,000 to $1.5 million**

- Staff & the RAB need direction from Council on the priority of the North end of City Park and redeveloping the Recreation Building.

Currently there is $1,033,264 in the City Park CIP Fund with $100,000 increases in 2006 & 2007 bring a total fund balance of $1,133,264 (see Table 1).

**Table 1 – City Park Funds (CIP #48)**

| **Revenue Source** | **2005*** | **2006** | **2007** | **2008** | **2009** |
|---|---|---|---|---|---|
| Property tax Increment - RDA | | $100,000 | $100,000 | $ - | $- |
| Parks and Ice bond Proceeds | $ 300,000 | | | | |
| Impact Fees | $ 447,204 | | | | |
| Municipal Building Authority | $ 270,551 | | | | |
| Lower Park RDA Bond Proceeds | $ 15,509 | | | | |
| **Yearly Total** | $1,033,264 | $ 100,000 | $ 100,000 | | |
| **Cumulative Total** | $1,033,264 | $1,133,264 | $1,233,264 | $1,233,264 | $1,233,264 |

*Funds available as of 7/1/04

**Table 2 – Estimated Project Costs**

| | |
|---|---|
| Skate Park Expansion | $ 275,000 |
| Basketball Court | $ 225,000 |
| Bathrooms | $ 100,000 |
| Irrigation System | $ 90,000 |
| North End Improvements | $ 225,000 |

| | |
|---|---|
| Recreation Building* | $   250,000 |
| **Total Cost of all Projects** | **$ 1,165,000** |
| Available CIP Funds | $(1,233,264) |
| Fund Balance | $     (68,264) |

*Assumes moderate refurbishing costs

These funds will cover all the projects recommended for the next year. Depending on the recommendation from the task force on the Recreation Building and direction from Council, additional funding sources would need to be identified if a more expensive solution is recommended. It is staff's intent that any task force recommendation that is not contemplated in the current budget be considered as a part of the CIP prioritization process to be conducted this winter/spring.

***Neighborhood Parks Subcommittee***

An RFP has been issued for design and the development of construction documents for two parks in the Prospector neighborhood as well as for the park next to the Racquet Club. Construction for the park at the corner of Comstock & Sidewinder will take place this fall while the other two parks will begin in the spring of 2005.

The budget for neighborhood parks is a $1.2 million dollars. The estimate for design and construction of the three parks is $750,000 which leaves $450,000 available to develop additional neighborhood park facilities.

The RAB is looking for Council feedback and direction on the following Neighborhood Park project priority list that has been identified by staff and the RAB:

**1. Wisnewski Parcel:** The city purchased this parcel located at the top of Main Street in 2003. This site could be developed into a neighborhood park with an historical component. Due to the unique nature of this site, staff and the RAB recommend creating a task force with representatives from various interest groups to look into the possible development of this parcel. This project could potentially require funding outside of the neighborhood park bond proceeds depending on the scope.

**2. Rotary Park:** An existing park located in Thaynes Canyon is currently rented out to residents and visitors for various functions. The park currently consists of a pavilion, restrooms and open grass. Staff and the RAB do not recommend changing the use of this facility but instead looking at the current amenities to see if they can be upgraded.

**3. Deer Valley Neighborhood:** Currently there are no public parks in the Deer Valley area. The RAB would like to explore the possible creation of a public/private partnership with private landowners so that a park could be developed in lower Deer Valley. Bond proceeds can not be used to purchase land.

***BMX Subcommittee*:**

In April the RAB was directed by the City Council to gather more information about the interest for a BMX facility in Park City. Council was interested in knowing what kind of facility was desired, as well as more specific demographic information on the Park City's BMX/bike community. Surveys were distributed at all the area schools, at the Racquet Club, and were available on-line. The response was very good with 140 surveys completed.

The survey asked respondents to *Rank their preference if Park City were to build a bike facility.* The percentages of #1 ranking are the following:

51% ranked unsanctioned dirt jumps #1
20% ranked Mountain Bike skills #1
18% ranked BMX track #1
3% ranked Cement Park #1

Given that a skills course and dirt jumps are not compatible, the RAB recommends filling these needs with two separate facilities. It is envisioned that a freestyle track (unsanctioned dirt jumps) of this type would consist of 3 lanes (beginner, intermediate and expert) with table top jumps ranging from two to six feet. These jumps would be similar to those located in the ski area terrain parks but on a smaller scale.

A skills course would be a series of progressively more difficult trails that would have elements a rider might encounter on any of our existing trails. The jump park would need to be fenced, have proper signage and be maintained regularly while the skills course could be open all the time and would require only minor maintenance. Either park would be suitable for both BMX and mountain bikes.

The BMX Sub-committee has focused initial efforts on the unsanctioned dirt jumps and recommends that the city consider building a temporary park to gauge the interest in this type of amenity. There were 3 sites that were considered for the temporary park:

**1. The Gilmore Parcel by the NAC:** The Gilmore Task Force had looked at the BMX facility on that parcel and determined that it was not a good location for a BMX park. The RAB along with the Gilmore Task Force have recommended Gilmore as an appropriate site for the mountain bike skills course.

**2. The Bango-Wortley Parcel:** This site was the original preferred site for the BMX facility but has been eliminated because of soil contamination issues.

Jeff Schoenbacher from the Building Department writes: " This parcel is situated within the Silver Creek Watershed and is down gradient from the Silver Maple CERCLIS site UTD980951396. Situated within the stream corridor are mine tailings accumulation areas identified from USEPA and UDEQ CERCLIS assessments. As a result, a substantial amount of investigations and clean-up (lead, arsenic) are likely to be needed before using this property for public recreational purposes. Lastly, the site is located within the Soils Ordinance District; therefore the generation, management, and transportation of soils will have to comply with the ordinance depending on the hazardous or non-hazardous characteristics of the material. The remaining regulatory issue is the establishment of Silver Creek Total Maximum Daily Load (TMDL) will result in PCMC controlling sediment run-off from this facility, which is in close proximity to Silver Creek (~125'). A dirt track will need continuous maintenance and storm water controls for minimizing water quality impacts within Silver Creek (TMDL limit zinc .39 mg/L and cadmium .00075 mg/L). Before construction, most likely PCMC will need to comply with the Army Corp of Engineers 404 permit requirements. This is due to regulated wetlands being within close proximity (58') to this site."

There is a portion of this site on the north side of Hwy 248 that could be used, but it would require improved access, parking and extensive site work.

**3. The Old Sewer Treatment site on Holiday Ranch Loop:** The RAB recommends the Sewer Treatment site for the construction of temporary unsanctioned dirt jumps. This site has become the preferred location because it is on the existing bus route, bike path access, has existing fencing, land that is already disturbed and natural topography that lends itself to this type of facility.

Soil contamination issues will also need to be addressed at this location. According to Jeff Schoenbacher: "Due to the previous industrial use of this site, it is recommended that a Phase II Environmental Assessment be done to determine if the site is acceptable for this type of public recreational activity. Similar to the Bango-Wortley Parcel this site does have Clean Water Act regulatory issues because of the establishment of the East Canyon Creek Total Maximum Daily Load (TMDL) therefore requiring PCMC to control sediment run-off from this facility, which is in close proximity to McLeod Creek tributary (~70'). A dirt track will need continuous maintenance and storm water controls for minimizing water quality impacts within the East Canyon Creek watershed. Lastly, before construction PCMC will also need to inquire into the jurisdiction of the Army Corp of Engineers 404 permit. Navigable waters are situated within close proximity to the proposed site.

The proposal is to use this site as a temporary location for the park. By setting up the park on a temporary basis the City will be able to gauge the interest similar to what was done with the skate park. It is estimated to cost $35,000 to clean up the site (non environmental), build the jumps, fence, sign and generally make safe for public use. The development of dirt jumps would require a Conditional Use Permit.

The RAB needs further direction from City Council on the development of the unsanctioned dirt jumps.

- Is Council comfortable exploring the Sewer treatment Site as a temporary location for this facility? Although there are competing interests for this site, the temporary nature of the facility makes it the recommended site by the RAB and staff.
- There have been no funds budgeted for the development, operation or maintenance of dirt jumps. If Council is in favor of pursuing a dirt jump facility, staff would return with a recommendation for funding as part of the budget process next spring per City policy.

- Public Works currently utilizes this site for storage of sand, gravel, mulch, and for the Christmas tree chipping program. If the design and construction of temporary jumps requires relocation of this storage to another site the impact to Golf Maintenance operations could be significant depending on the location and availability of alternative storage sites.

**Youth Update:** This sub committee was disbanded after the Youth Advisory grants became part of the Public Service Contracts.

**Department Review:** This report has been reviewed by the City Manager, Public Works, City Engineer, Capital Projects & Economic Development, Building, Budget & Grants and Recreation & Library.

**Alternatives:**

**Approve the Request:**

Provide direction to the Recreation Advisory Board and staff on City Park, Neighborhood Parks and the development of unsanctioned dirt jumps for bikes. The RAB recommends the following:

- Develop a full size basketball court to the west of the existing tennis courts; Construct a restroom facility to the south of the tennis courts. If Council agrees with the above staff will issue an RFP for design and construction documents so that the project can be completed next summer.
- Replace the current irrigation system for the City Park field resulting in a more efficient use of our natural resources.
- Landscape and create additional parking spaces along the north end of the park.
- Put an internal task force together to make recommendations on the Recreation Building in City Park
- Create a task force of interested parties to explore the possible development of the Wisnewski parcel.
- Explore possible upgrades to Rotary Park without changing the current use.
- Explore possible development of a neighborhood park in Deer Valley.
- Develop a temporary free ride (dirt jumps) park at the old Sewer Treatment site.

**Modify the Request:**

Provide direction to RAB and staff that are different from the recommendations.

**Continue the Item:**

Ask for more information from staff and the RAB before giving direction.

**Do Nothing:**

**Significant Impacts:**

As mentioned in the Analysis section of the staff report, there is sufficient funding budgeted for several of the projects listed. If Council directs staff to pursue projects that are currently unfunded, staff would work through the CIP prioritization committee to present Council with funding options during the budget process.

By providing direction to staff and the RAB on the items outlined, continued improvements will be made to the park system and recreational amenities which will enable Park City to continue being a world class resort.

**Consequences of not taking the Recommended Action:** No action is required only direction to the RAB and staff with regard to the items outlined in this staff report.

**RECREATION ADVISORY BOARD**
Policies and Procedures

1 The RECREATION ADVISORY BOARD (BOARD) is created by Municipal Code of Park City ("Code") Section 2-4-17, attached as Exhibit A and incorporated herein. Nothing in these policies shall overrule any requirement in Section 2-4-17, as amended

2. The Board will advise City Council and staff on parks and recreation policy as requested by the City Council and consistent with the Code. The City Council will refer particular matters to the Board for discussion, public input and recommendations. The Mayor or Council liaison member will communicate the Council's referral of a matter to the Board.

3. The Board shall meet annually with the City Council as part of the Council's visioning workshop, or as otherwise directed by the Council, to receive updated city goals and direction from the City Council.

4. The Chair of the Board shall communicate regularly with the City Council Board liaison member regarding priorities of the Board as they relate to City Council goals. The City Council liaison member will typically report Board progress on matters to the City Council at least once a month. The Board will provide a quarterly progress report to the City Council during work session of a regular meeting.

5. The role of the City Council liaison will be to:

   Attend regularly scheduled meetings.
   Communicate back to the Board recreation issues brought to Councils attention, or acted on by City Council.
   Notify Council of recreation issues brought to the Board by citizens.
   Align Board priorities with Council goals.
   Be a non-voting member of the Board.

6. The Board may request background information from the recreation staff, but such requests shall typically occur at meetings and information shall be requested by the Board as a whole, and all members of the Board shall receive a copy of the information. Board members will use reasonable efforts to communicate independent research material and ex parte information received from the public to the other Board members.

7. Closed meetings may only be held for purposes authorized by U.C.A. 54-4-5, as amended. A quorum for the transaction of business shall be a simple majority of the Board members. Minutes shall be kept at all meetings.

8. Special Task Forces for the study of particular issues may be created by the Mayor and Council. Task Forces may include members of the Board. They will typically serve for 6 months, or until they have completed the work for which they were appointed. Each Task Force shall meet goals and objectives as outlined by the Mayor and Council. The Task Force will elect a Chair to communicate with the Mayor and City Council. City Manager will approve any staff involvement in these Task Forces.

9. Special committees may be appointed by the Chair, with the advice and consent of the Mayor and City Council. These committees will deal with operational, and capital project issues. City Manager will approve any staff involvement in these committees.

10. Special "Friends" groups may be formed by Staff, with the advice and consent of the Mayor, City Council, and City Manager. These groups may include members of the Board. Staff will communicate directly with Council any Council issues brought to the group. These groups will deal with user specific programming, operational, and capital issues.

11. At its first meeting, and annually thereafter, the Board shall elect a Chair, Vice-Chair and any additional officers as necessary. The Chair shall preside at all meetings, appoint all committees with the concurrence of the Board, call special meetings, and generally perform the duties of a presiding officer. The Vice-Chair or a Board member designated by the Chair shall preside when the Chair is absent. The agenda for meetings shall be prepared and noticed by the Recreation Manager and the Chair.

12. The Board shall also act as a sounding board for new recreation policies and programs. The Board will hear initial proposals by the public for new programs and ideas, unless otherwise decided by the City Council. Prior to initiating staff time or resources on a new program or policy, the Board shall inform the City Council of the matter and request direction on how to proceed and the timing priority of the new matter.

13. The Board may provide annual policy recommendations in conjunction with the City's review of the General Plan with regard to use of City facilities and property for recreation purposes, and recommendations on recreation policies generally.

Administrative Policy
Friends Groups

“Special” Friends groups may be formed by Staff, with the advice and consent of the City Manager. These groups will deal with user specific programming, operational and capital issues. Friends groups shall acts as advisory/advocacy groups to City staff. Members for the groups are appointed by Staff and typically meet once a month. Friends groups shall contain 5 – 9 members.

Friends groups that are established include:
Friends of the Farm
Friends of Golf
Friends of the Racquet Club
Trail Friends
Friends of Parking

From time to time, Staff and Council may appoint temporary taskforces, committees and focus groups which are advisory in nature and are formed to address a specific topic. These organizations typically dissolve once input is received.

**The Friends of the Library does not fall under these guidelines. They are a separate entity with their own 501c3 status. The Friends of the Library do not work with programming, operational or capital issues. The Friends of the Library solely raise funds.**

**RESOLUTION EXTENDING THE MAYOR'S AND CITY COUNCIL'S APPRECIATION OF THE PATRIOTIC COMMITMENT OF CAPTAIN JASON M. DOUGHERTY HONORED TO SERVE OUR COUNTRY**

WHEREAS, it is appropriate to acknowledge residents of the past and present who proudly and willingly volunteer for military service to ensure a sound national defense, to provide a strong deterrent to attacks from hostile sources, and to maintain the security of our country and free people everywhere; and

WHEREAS, we gratefully acknowledge that we live in freedom today because of the many sacrifices that have been made and are being made today, by the valiant servicemen and women in the Armed Forces and their families; and

WHEREAS, we extend continuing support of these men and women and their families in this time of uncertainty and devote our thoughts and best wishes to all military service members and their families; and

WHEREAS, the Park City community extends its hope for a prompt end to the military actions facing our nation, and a safe and speedy return of our citizens serving in the military and all U S Armed Forces members.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council urge citizens to also pay tribute to our military men and women and their families, and to extend our heartfelt appreciation for their courageous service in the preservation of the heritage of freedom of our great nation.

PASSED AND ADOPTED this 30th day of January, 2003.

PRESENTED to the Family of Captain Jason M. Dougherty this 26th day of August, 2004.

City Council
Staff Report

PLANNING DEPARTMENT

**DATE:** **August 26, 2004**
**AUTHOR:** **Jonathan Weidenhamer**
**TITLE:** **Amendment to Record of Survey – Arrowood, Unit 2**
**TYPE OF ITEM:** **Administrative**

**SUMMARY RECOMMENDATION:** Conduct a public hearing and consider approving as conditioned.

**Topic**

| | |
|---|---|
| Applicant: | Richard Salowey forTodd Kirshner |
| Project Address: | 2409 Gilt Edge Circle - Arrowood Condominiums #2 |
| Zoning: | Residential Development w/Master Planned Development (RD-MPD) |
| Adjacent Land Uses | Residential, Solamere Subdivision, Chaparral, Glenfiddich, & Queen Esther Condominiums |
| Reason for Review | Amendments to Records of Survey require Planning Commission review and City Council approval. |

**Background**

The Planning Commission reviewed this application at their August 25, 2004 meeting. A public hearing was held, and a vote was forwarded to the Council to approve the application.

Arrowood Condominiums is a 3-unit project. The owner of Unit 2 proposes to amend the existing condominium Record of Survey to allow an expansion of the unit. The applicant intents to convert approximately 375 square feet of Limited Common Area located on the main floor level into private area. The applicant has received written permission from the Owners Association to pursue this application. The proposed amendment has received consent from two of the three unit owners, meeting the 2/3 majority required under state law.

During discussions with the applicant, staff has encouraged the Arrowood Condominium Owners Association to amend the entire record of survey to allow future expansions without having to return for formal approval from the City. The owners association was not able to reach that consensus.

Staff has received public opposition to this expansion from Keith and Donna Golan, unit owners in Queen Esther. They object to potential traffic, noise, and parking demand increases that will result from the unit expansion. Their opposition also states that this expansion is not consistent with a private settlement agreement that was reached during the initial Arrowood development process.

This application was presented to the Planning Commission at the August 11, 2004 regular meeting. Staff requested direction. A public hearing was held. Public input was voiced both in support for and against the project (see minutes - Exhibit F). Support focused on the addition being very minor and having limited visibility to adjacent neighbors. Concern was raised of potential traffic, noise, and parking demand increases that may result from the unit expansion. The opposition also stated that this expansion is not consistent with a private settlement agreement that was reached during the initial Arrowood development process.

Staff requested Planning Commission discussion and direction as to whether good cause existed to move forward with the amendment. Direction from the Planning Commission was to return at the August 25, 2004 meeting with a recommendation to forward a positive recommendation to City Council to adopt the amended record of survey.

**Analysis**

The area being considered for conversion will include adding square feet to a living room, as well as adding area to an existing bedroom and splitting it into two bedrooms. The new overall size of the unit will increase approximately 375 square feet and will be a total of 4115 square feet. The unit is currently required to provide 3 parking spaces. The increased square footage does not increase the parking requirement. At this time, the unit provides 4 parking spaces. With the expansion, the entire condominium record of survey will still contain approximately 89% open space.

The City cannot enforce private settlement agreements (the city was not a party). The proposed addition of approximately 375 square feet is located underneath an existing deck and its visibility is limited from the public right of way (exhibit A – existing conditions). Staff finds that this proposed expansion is immaterial in terms of the overall size and massing of the building as well as its limited visibility.

**Department Review**

This project has gone through an interdepartmental review. At such time as a final record of survey plat is required, the City Engineer and City Attorney will review the plat as to form and compliance with State law and the Land Management Code prior to recordation.

**Notice**

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also placed in the Park Record. No public input has been received by the time of this report.

**ALTERNATIVES**

- **A.** The Planning Commission may forward a positive recommendation to the City Council with the conditions stated, or modify the conditions, or

- **B.** The Planning Commission may forward a negative recommendation and direct staff to prepare findings supporting this recommendation, or

- **C.** The Planning Commission may continue the discussion to a later date.

**SIGNIFICANT IMPACTS**

There are no significant fiscal or environmental impacts from this amended Record of Survey.

**CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION**

Failure to amend the Record of Survey will prohibit the unit owner from adding private area to their condominium unit.

**RECOMMENDATION**

The staff recommends that City Council conduct a public hearing, consider any public input, and consider approving the amended record of survey based on the findings of fact, conclusions of law and conditions of approval as found in the attached ordinance:

**EXHIBITS**

Ordinance
Exhibit A – Existing Photograph
Exhibit B - Location Map
Exhibit C – Proposed Condominium modifications (Elevations & Floor Plan)
Exhibit D - Amended Record of Survey
Exhibit E – Written opposition from Keith Golan
Exhibit F – Minutes from 8/11/04 Plng. Comm. Mtg.

**Ordinance No. 04-**

**AN ORDINANCE APPROVING THE ARROWOOD CONDOMINIUM AT DEER VALLEY AMENDED UNIT 2**

**WHEREAS**, the owner of the property known as 2409 Gilt Edge Circle – Unit 2 Arrowood Condominiums, has petitioned the City Council for an amended record of survey; and

**WHEREAS**, proper notice was sent and the property posted according to requirements of the Land Management Code and State Law; and

**WHEREAS**, on August 11, 2004 the Planning Commission held a public hearing to receive public input on the proposed record of survey and on August 25, 2004 the Planning Commission held a public hearing and forwarded a positive recommendation of approval to the City Council; and

**WHEREAS**, the proposed record of survey amendment will allow the conversion of limited common area into private area; and

**WHEREAS**, it is in the best interest of Park City Utah to approve the amended record of survey.

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

**SECTION 1. FINDINGS OF FACT.** The above recitals are hereby incorporated as findings of fact. The following are also adopted by City Council as findings of fact:

The Planning Commission reviewed this application at their August 25, 2004 meeting. A public hearing was held, and a vote was forwarded to the Council to approve the application.

This application was presented to the Planning Commission at the August 11, 2004 regular meeting. A public hearing was held. Public input was voiced both in support for and against the project.

At the August 11, 2004 Planning Commission Meeting, staff requested direction as to whether good cause existed to move forward with the amendment. Direction from the Planning Commission was to return at this meeting with a recommendation to forward a positive recommendation to City Council to adopt the amended record of survey.

The condominium project known as Arrowood Condominiums is located at 2409 Gilt Edge Circle. It is zoned Residential Development (RD).

Arrowood Condominiums is a 3-unit project. The owner of Unit 2 proposes to amend the existing condominium Record of Survey to allow an expansion of the unit.

The applicant intents to convert approximately 375 square feet of Limited Common Area located on the main floor level into Private area.

The consent of 66.66% or more of the Unit Owners is required and has been obtained.

If the record of survey is amended as requested the condominium record of survey will still consist of approximately 89% open space.

If the record of survey is amended as requested, the new overall size of the unit will increase approximately 375 square feet and will be a total of 4115 square feet. The unit is currently required to provide 3 parking spaces. The increased square footage does not increase the parking requirement. At this time, the unit provides 4 on-site parking spaces.

The proposed addition of approximately 375 square feet is located underneath an existing deck and its visibility is limited from the public right of way (exhibit A – existing conditions). Staff finds that this proposed expansion is immaterial in terms of the overall size and massing of the building as well as its limited visibility.

**SECTION 2. CONCLUSIONS OF LAW**. The City Council hereby adopts the following Conclusions of Law:

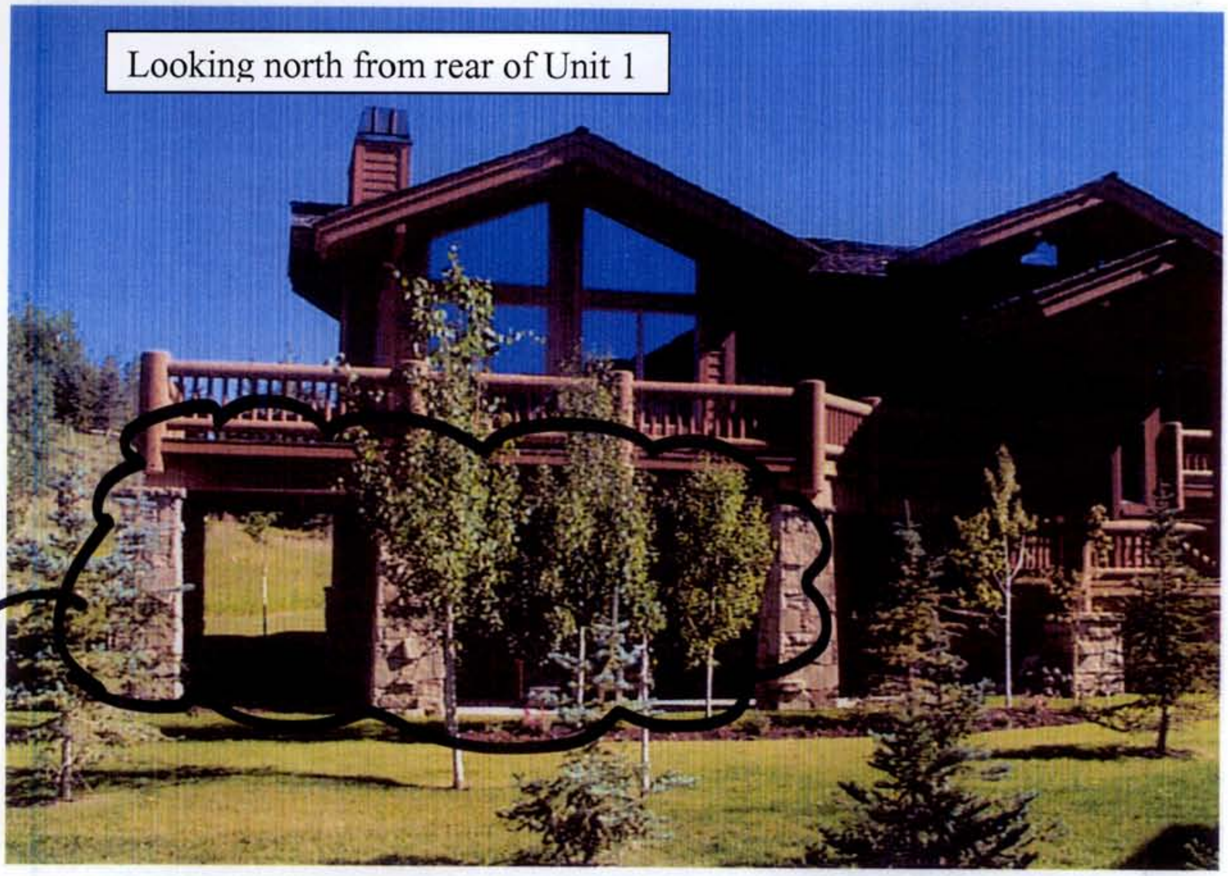
1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

**SECTION 3. CONDITIONS OF APPROVAL**. The City Council hereby adopts the following Conditions of Approval:

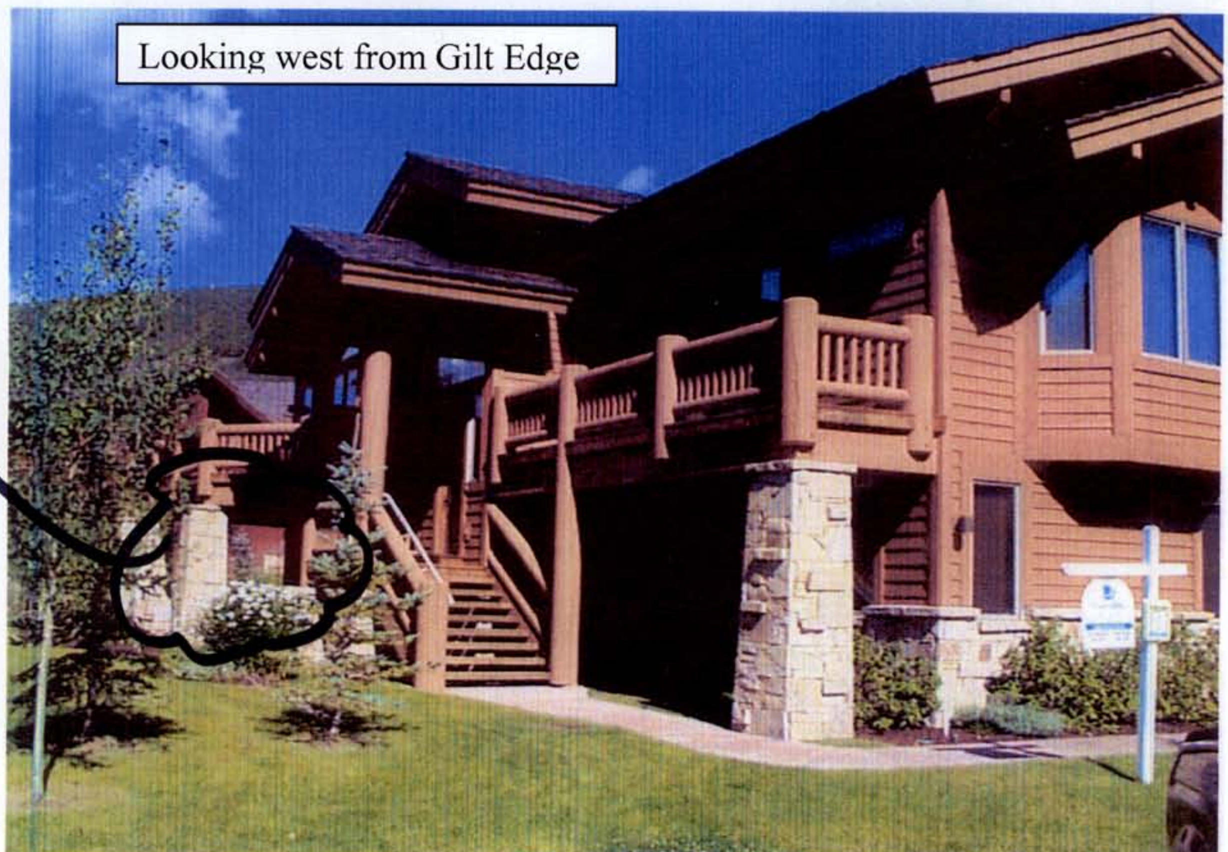
1. The City Attorney and City Engineer will review and approve the final form and content of the Amended Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the Amended Record of Survey 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 amendment will be void.

**SECTION 4. EFFECTIVE DATE**. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 26th day of August, 2004.



Looking north from rear of Unit 1

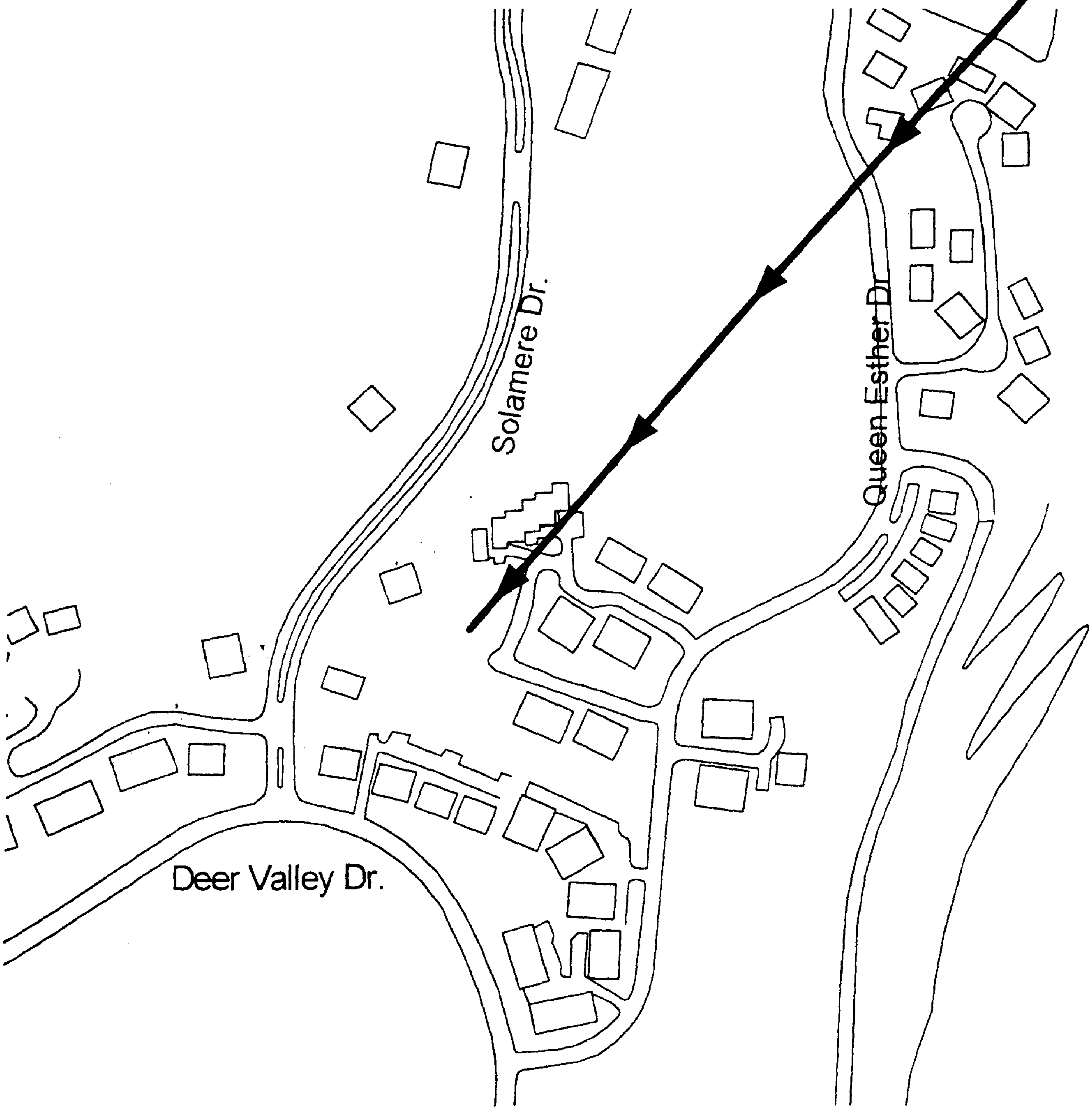


Looking west from Gilt Edge

AREA TO BE ENCLOSED

**Exhibit A**

# Gilt Edge Circle




PARK CITY 1884

Exhibit B
Vicinity Map

N

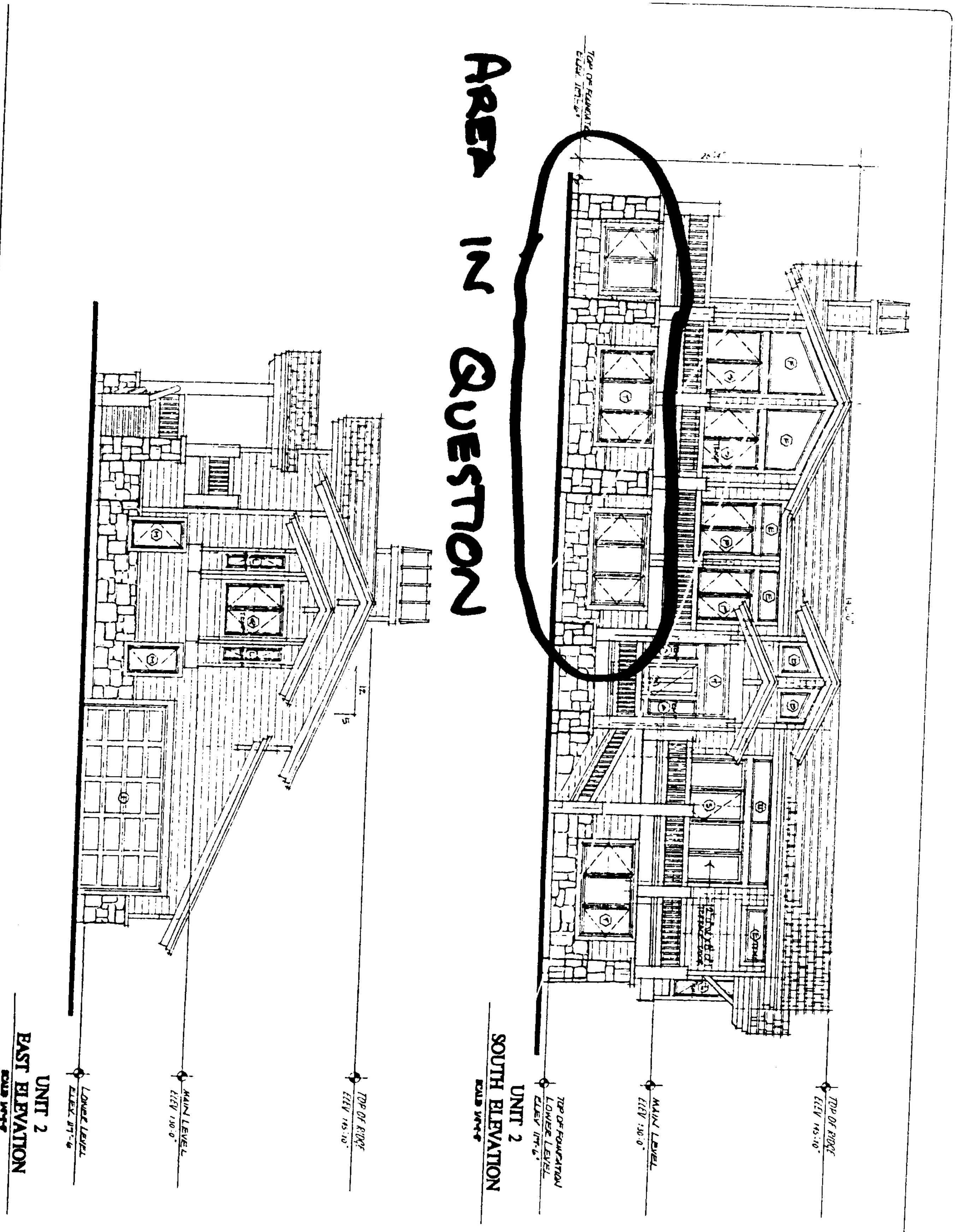



EXHIBIT C

ARROWOOD CONDOMINIUMS AT
DEER VALLEY - AMENDED, UNIT 2
SOUTH & EAST EL[illegible]ATIONS

Evergreen
Engineering, Inc.

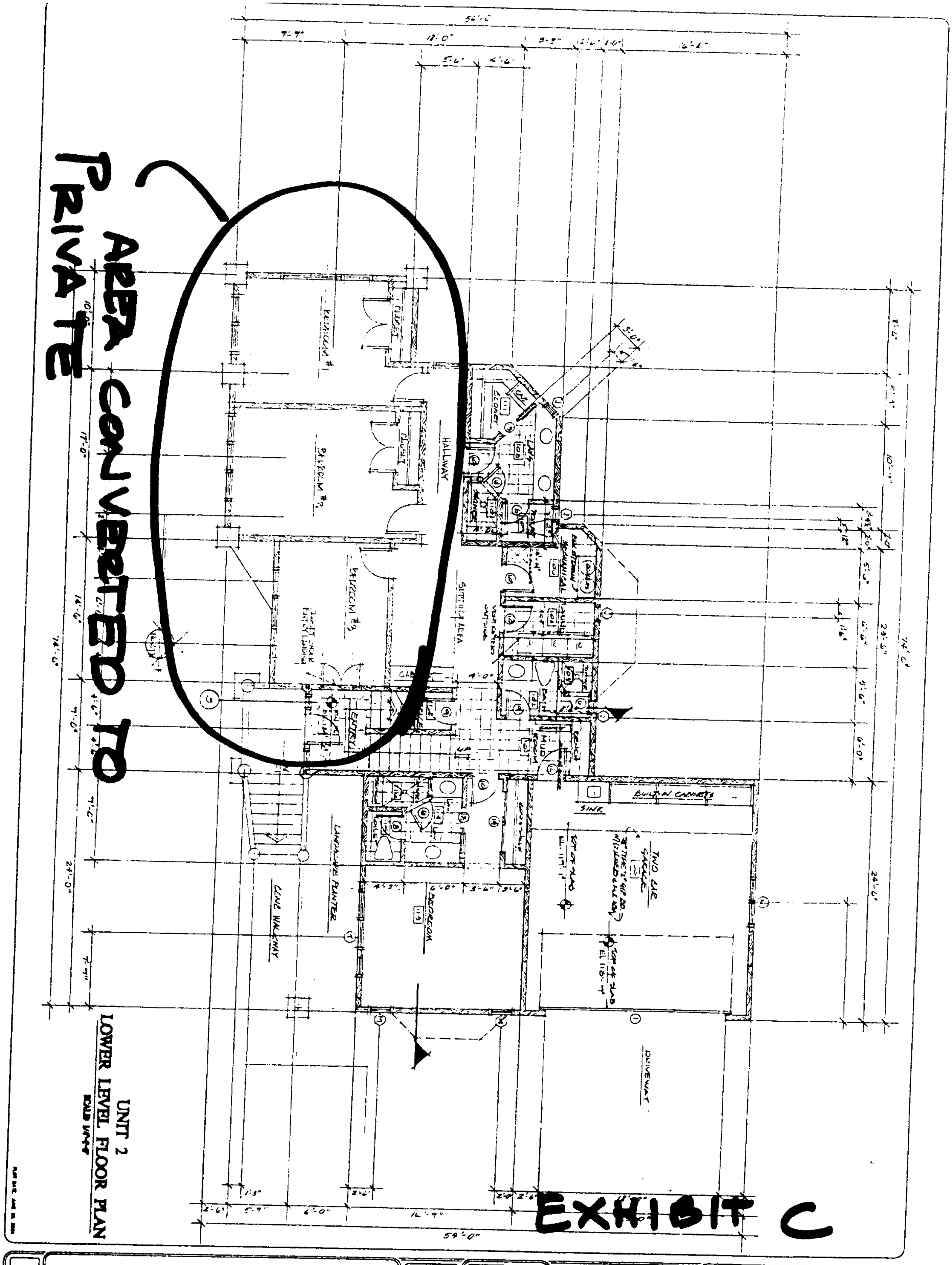



EXHIBIT C

ARROWOOD CONDOMINIUMS AT
DEER VALLEY - AMENDED, UNIT 2
LOWER LEVEL FL[illegible] PLAN

A-LOWG

Evergreen
Engineering, Inc.

RECORD OF SURVEY MAP

# ARROWOOD CONDOMINIUMS AT DEER VALLEY AMENDED - UNIT 2

*A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH*

LEGAL DESCRIPTION

NOTES

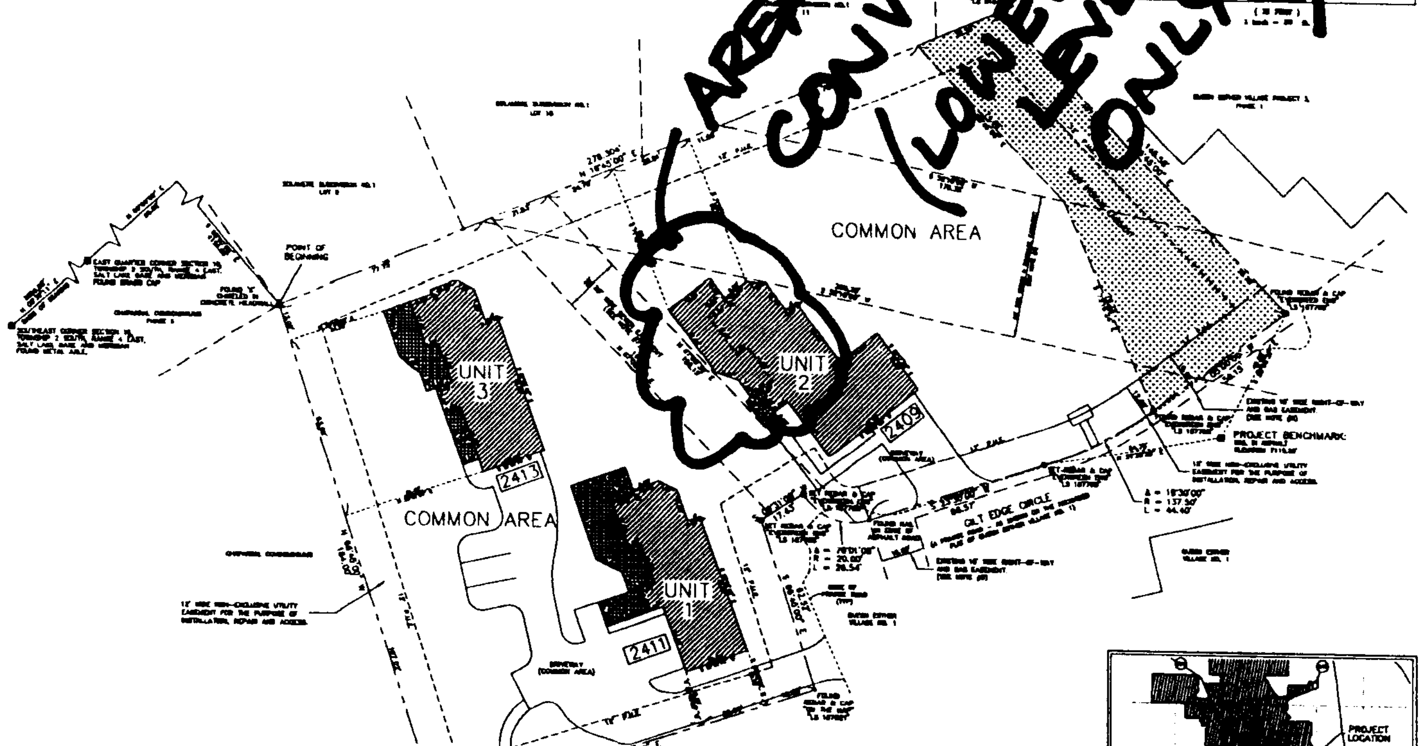
SURVEYOR'S CERTIFICATE

OWNERS DEDICATION AND CONSENT TO RECORD - OWNERS ASSOCIATION

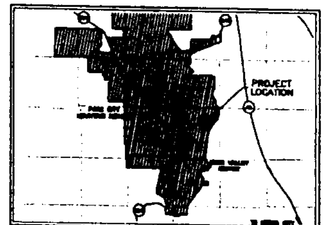
ACKNOWLEDGMENT(S)

OWNERS DEDICATION AND CONSENT TO RECORD - "UNIT 2"

ACKNOWLEDGMENT(S)




2409




VICINITY MAP
N.T.S.

SHEET 1 OF 7

**CITY PLANNING COMMISSION**
APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS ______ DAY OF ________ A.D. 200__
CHAIRMAN

**CITY ENGINEER**
THIS PLAT IS IN CONFORMANCE WITH INFORMATION ON FILE IN THE OFFICE OF THE PARK CITY ENGINEERING DEPARTMENT ON THIS ______ DAY OF ________ A.D. 200__
CITY ENGINEER

**CITY COUNCIL APPROVAL**
PRESENTED TO THE BOARD OF ________ CITY COUNCIL THIS ______ DAY OF ________ A.D. 200__ AT WHICH TIME THIS RECORD OF SURVEY WAS APPROVED.
MAYOR
CITY RECORDER

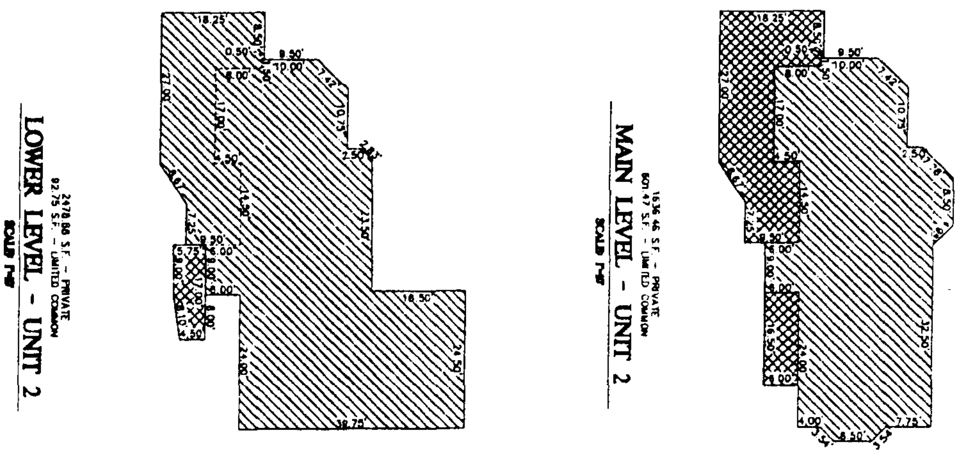
**APPROVAL AS TO FORM**
APPROVED AS TO FORM ON THIS ______ DAY OF ________ A.D. 200__
CITY ATTORNEY

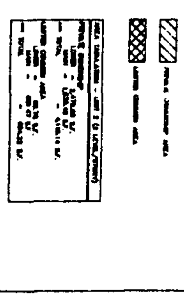
**RECORDED**
Nº ________
STATE OF ________
COUNTY OF ________
RECORDED AND FILED AT THE REQUEST OF:
COUNTY RECORDER

**SNYDERVILLE BASIN W.R.D.**
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ______ DAY OF ________ AD 200__
BY: SNYDERVILLE BASIN WATER RECLAMATION DISTRICT

**Evergreen Engineering, Inc.**
Civil Engineering • Land Surveying • Land Planning

EX. D



ARROWOOD CONDOMINIUMS AT
DEER VALLEY AMENDED UNIT 2
AREA TABULATION

Evergreen
Engineering, Inc.

Donna and Keith Golan
Key West Beach Club, 1500 Atlantic Blvd. #409
Key West, Florida 33040
Home: (305) 294-7870 Office: (305) 292-3000 Fax: (305) 294-0909

Jonathan Weidenhamer, City Planner
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480

August 5, 2004

RE: Notice of Public Hearing – 2409-Gilt Edge Circle

Dear Mr. Weidenhamer,

I am in receipt of the above notice. I object to any alteration of the property located at 2409 Gilt Edge Circle.

My objection is based on the settlement agreement filed in the Third Judicial District Court, Summit County, and Case No. 960300168 PR effective September 30, 1998. I am providing you with a copy of the part of the settlement agreement that I feel that applies.

None of the units in the Arrowood Project were to be larger than the largest QE III unit. As you can see from "Amended Exhibit "A", Units 35 – 40 are the original units in QE III. As stated in this exhibit, clearly Units 41-43 are larger. To add an additional 385 square feet would change the Undivided Ownership and change the number of occupants.

I object to the increase in traffic on Gilt Edge Circle that may be generated by this increased square footage. I am also concerned about the lack of sufficient parking should this unit square footage be increased. In addition, the extra number of occupants of this unit may create an undesirable noise factor.

The settlement agreement was made in good faith and both sides settled to the terms of the Settlement Agreement. Most of the units located on Gilt Edge Circle are smaller than those in QE III to begin with, and I believe this addition will not be in keeping with the small neighborhood atmosphere. These buildings already "dwarf" the surrounding buildings.

If you have any questions or need any additional information, please do not hesitate to give me a call at (305) 292-3000 during business hours and (305) 294-7870 after hours.

Keith Golan

Keith Golan,
Owner of Unit 2434 Gilt Edge Circle

**EXHIBIT E**

that he would be anxious to see that as well as the grading impacts relative to the seven story building and impacts of adjacent vegetation, etc. Mr. Sweeney noted that much of that information is on the website, and he will bolster it with further drawings. Commissioner Thomas stated that the concerns about building mass and relationship with the adjacent community are an important component, and they need to be satisfied in terms of the relationship of the massive structures with the height of the community. He understood that height is factored into the project, but he was curious to see how they would step into it.

Chair Barth asked when the traffic study would be revisited. Director Putt replied that it is not scheduled soon, but it will be seen again. He noted that reviewing this project in small pieces does not preclude the Planning Commission from returning to specific elements of the plan. At the end of the process, the entire package will come back for a global review. Chair Barth requested that the Planning Commission receive their review packets earlier when this item is scheduled on the agenda.

8. <u>2409 Gilt Edge Circle, Arrowood - Plat amendment</u>

Planner Jonathan Weidenhamer reviewed the request for a record of survey amendment for Arrowood Condominiums, Unit 2, at 2409 Gilt Edge Circle. The purpose of the application is to convert 375 square feet of existing limited common area into private area. Two-thirds majority approval for this plat amendment has been received, which meets State statute. The amendment will not change the open space in the project nor increase the parking requirement. The existing unit contains approximately 2,700 square feet and requires three parking spots. Planner Weidenhamer reported that he received a fax from the third unit owner at Arrowood who is concerned that the addition of three small bedrooms may increase the noise level behind their house because the house will sleep more people. They do not oppose the request but only want to express their concern

 EX. F

about noise. They also wanted the City to know that they were not involved in any discussions about this proposal. Planner Weidenhamer reported that he received written opposition from adjacent property owners Donna and Keith Golan who objected to the potential traffic, noise, and parking demand increases they believed would result from this expansion. They did not believe the expansion was consistent with the private settlement agreement reached during the initial development of this project. Planner Weidenhamer noted that the City cannot enforce private agreements. However, the settlement agreement was reached concurrently during a public approval process for this project, and the Staff finds it appropriate for the Planning Commission to consider public input prior to the Staff recommending a formal direction. The Staff requested that the Planning Commission conduct a public hearing, consider public input, and provide Staff with direction as to whether there is good cause to move forward. A technical response from Staff would be that this 375-square-foot expansion is under an existing deck and not visible from Gilt Edge. It is visible from the other two Arrowood units, and the Staff has not received opposition from those unit owners. The Staff would find that there is cause to move forward.
Chair Barth asked if the Legal Department had given an opinion regarding the settlement agreement. Planner Weidenhamer noted that the Analysis section of the staff report states that the Planning Commission is limited to review criteria in the Land Management Code and the State Code for condominium plat amendments.

Chair Barth opened the public hearing.

Joe Tesch, representing Donna and Keith Golan, asked Planner Weidenhamer for the name of the owners who sent the fax. Planner Weidenhamer replied that Frank and Joyce Houser are the third unit owners who did not vote on the original ballot. Mr. Tesch stated that his clients object on two bases, and one is that this is a neighborhood. Queen Esther 3 was developed by one developer and has one maintenance association. Nine condos are affected by what happens on Gilt Edge Drive. Mr. Tesch noted that three units of the development decided to separate and called themselves Arrowood. However, he believes the Planning Commission should look at the entire neighborhood when considering the impacts. Adding 375 square feet for bedrooms is not the same as closing in a limited common area to make a living room. When considering how Queen Esther was master planned and the concept of density, the joint thinking of the Planning Commission and City Council when they approved this density should be addressed. Mr. Tesch commented that there have been neighborhood disputes, and when the developer decided to build Arrowood, there were lawsuits concerning density and unit size. He acknowledged that the Planning Commission cannot consider the settlement of a lawsuit in terms of enforcement, but he felt they could consider those matters when it comes to the intent of the neighborhood and what should happen there. Violating or changing the earlier plats has a negative effect on everyone who buys in the neighborhood and everyone who relies on the CC&R's. He noted that State law recently changed, and a plat can be amended with only two-thirds approval of the condominium owners association. In this case, the two-thirds majority includes the developer and the owner. The third owner was not informed of the request nor asked to vote. Mr. Tesch urged the Planning Commission to consider this in their decision, because this is one neighborhood with one MPD. He felt the Commissioners should look at the intent of the neighborhood and that the two-thirds approval should be based on nine units, because all nine will be affected. Mr. Tesch noted that 13' x 30' is a big piece of ground and a large increase in the width of the building. The settlement agreement reads, "Once constructed, no material alteration in the structure appearance may be made without approval of 51% of the homeowners and two-thirds of the first mortgages of the Queen Esther 3 project." Mr. Tesch stated that 13' x 30' is material alteration and adding bedrooms is material. He noted that the signatory to the settlement agreement is John Tracy in his individual capacity and as manager for the developer, and one of the two votes approving this amendment is John Tracy. Mr. Tesch noted that Queen Esther 3 is a small neighborhood, and this should not be looked at as a three-unit development. He suggested that the Planning Commission gather more evidence for approval than an agreement from the owner and the developer. That is not enough and does not meet the intent of the law. He requested that the Planning Commission look at the intent and consider all the people who will be affected.

Ann MacQuoid stated that the proposed buyer of the unit contacted Paul Colton, an attorney, but did not feel it was necessary to be represented by counsel. Ms. MacQuoid stated that she is a real estate agent who represents the seller of the unit and the buyer. She explained that the seller of this unit purchased this single-family home long after the lawsuit was settled and does not have a personal relationship with John Tracy. Since there are only three home owners in the Arrowood project, most of their business is conducted by phone. No one lives there full time, and homeowners association meetings are conducted by phone. In this particular instance, they attempted to reach the third owner by phone, but the owners were out of town, so they proceeded with the vote. In April of this year she contacted Balsam Property Management, which represents all of the Queen Esther Homeowner Associations. As a result of her conversations with Balsam, she contacted the new president of the Queen Esther master association, which includes Queen Esther 1, 2, and 3. Separately from that, she contacted Doug Frey, president of Queen Esther 3. She stated that she contacted these people after reading the CC&R's and the lawsuit. She disputed Mr. Tesch's reference to the size of the proposed amendment and noted that it is under an existing deck of the house that extends from the upper level. Ms. MacQuoid stated that she sent the plans to the homeowners associations and asked that their association members be polled for a consensus. Ms. Soectig with the master homeowners association responded by phone confirming that the board voted to approve the proposed addition, which does not extend outside the existing footprint of the home and in no way affects the views of neighboring condominiums of any of the Queen Esther units. This addition cannot be seen from any of the Queen Esther units, and particularly not from Phase 3 as Phase 3 is to the north, and this addition is to the south of the building. Ms. MacQuoid clarified that the addition will not add three new bedrooms but will divide an existing bedroom and add one more bedroom. She noted that four- and five-bedroom units already exist in Queen Esther. She agreed that this is a neighborhood but did not agree that closing in an area under an existing deck is creating a monolith. Because this was properly noticed and because the adjacent owners were notified, she requested that the Planning Commission forward this with a positive recommendation as this request is a simple application that requires a plat amendment. Chair Barth clarified that the Staff is only looking for direction this evening and that the Planning Commission will not be forwarding a recommendation this evening.

Richard Salowey, a general contractor, stated that the additional footage is under an existing deck and is within the existing envelope. The plat amendment would only change the space from limited common area to private area. The expansion is for a one-bedroom addition which expands one bedroom and divides it in half. The parking is adequate, and the addition will not be viewed by any neighbors.

Chair Barth continued the public hearing.

Commissioner O'Hara asked for clarification on the number of bedrooms. Planner Weidenhamer stated that, based on the input heard during the public hearing, it appears that there are two existing bedrooms in the basement, and a wall will be moved to make three bedrooms. Commissioner O'Hara verified with Planner Weidenhamer that this area is approved for nightly rentals.

Commissioner Erickson stated that he believed the proposal was in compliance with the regulations and the Code. He did not see any negative attributes and suggested that the Planning Commission direct the Staff to prepare a positive recommendation.

Commissioner O'Hara stated that he was still on the fence regarding the increase in density and setting a precedent, and he needed to give this more consideration.

Chair Barth referred to a comment in the staff report that there may have been reliance on the public hearing having to do with the settlement agreement and asked for an opinion from the Legal Department. Commissioner Erickson stated that this item was legally noticed, and anyone with concerns had the opportunity to complain by attending this public hearing or by sending letters. That is why he believed this request conforms with the Code. Tim Twardowski, Assistant City Attorney, stated that the City, specifically the Planning Commission, does not have the authority to interpret and/or enforce exact terms of the settlement agreement relative to this application. Enforcing the spirit of the settlement agreement or the exact terms of the settlement agreement is beyond the Planning Commission's jurisdiction. If there is to be an interpretation, the Third District Court is the proper body to do that. Other issues such as traffic, density, square footage, etc., are within the Planning Commission's jurisdiction in terms of underlying Land Management Code approvals in the form of a CUP, MPD, specific conditions of approval, etc. As directed by the Planning Commission, the Staff will continue to look at those issues and bring them back at a later date. With respect to the application to amend the record of survey, criteria include whether there is material harm to any persons or to the general public and/or separate criteria for good cause to make the amendment. It is within the Planning Commission's jurisdiction to request an analysis and make findings on Land Management Code issues. He recommended against taking that direction with respect to the settlement agreement.

Chair Barth directed the Staff to move forward with a positive recommendation and noted that the public hearing was continued.

9. Acceptance of Quinn's Junction joint study findings

City Council
Staff Report

PLANNING DEPARTMENT

**Planner:** **Grayson Thompson**
**Subject:** **160 Park Avenue**
**Date:** **August 26, 2004**
**Type of Item:** **Administrative**

**RECOMMENDATION**: Staff recommends that the City Council review the proposed plat amendment, conduct a public hearing, and consider approving the Plat Amendment according to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

**DESCRIPTION**

| | |
|---|---|
| Project Name: | 160 Park Avenue |
| Project Planner: | Grayson Thompson |
| Applicant: | Paul de Groot |
| Location: | 160 Park Avenue |
| Zone: | Historic Residential Sub-Zone B (HR-2B) |

**BACKGROUND**

The Planning Commission reviewed this at their August 11, 2004 meeting. A public hearing was held, and a unanimous vote was forwarded to the Council to approve the application.

The applicant, Paul de Groot, proposes to combine the remaining 50’ of Lot 15 with the westerly 50’ of Lot 16 of Block 13 of the amended Park City Survey to create a single lot for construction of a single-family residence. The lots are located at 160 Park Avenue and are currently vacant (see Exhibit A).

The east (rear) 25’ of Lots 15 and 16 are separately owned and utilized by the owner of Lots 13 and 14 (151 Main Street, The Grappa Restaurant).

The proposed dimensions of the new lot are approximately 50’ deep by 50’ wide for a total area of 2,500 square feet. This application was previously approved by City Council on November 30, 1995. Recordation did not occur within one year, and expired.

**ANALYSIS**

The Planning Commission reviewed this at their August 11, 2004 meeting. A public hearing was held, and a unanimous vote was forwarded to the Council to approve the application.

If this plat amendment is approved, one single-family dwelling could be constructed on the newly created lot. The lot dimensions meet the LMC requirements for a single-family dwelling which are 1,875 minimum for a single-family home with 10-foot front and rear yard setbacks and five feet on the sides. The property is located in the HR-2B zone. Access to the newly created lot would come from Park Avenue.

**NOTICE**

Notice of this hearing was sent to property owners within 300' on July 28, 2004. Staff has received no comments from the public at the time of this writing.

**DEPARTMENT REVIEW**

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at a Staff Review Meeting on July 20, 2004, where representatives from local utilities and City Staff were in attendance. No additional issues or concerns were identified.

**RECOMMENDATION**

Staff recommends that the City Council review the proposed plat amendment, conduct a public hearing, and consider approving the Plat Amendment according to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

**Findings of Fact**:

1. The Planning Commission reviewed this at their August 11, 2004 meeting. A public hearing was held, and a unanimous vote was forwarded to the Council to approve the application
2. The property is located in the Historic Residential Sub-Zone B (HR-2B) zone.
3. The HR-2B zone is a residential zone characterized by a mix of contemporary residences and smaller historic homes.
4. The amendment will combine the westerly 50 feet of lots 15 and 16 of Block 13 of the Park City Survey to create one lot of record.
5. The proposed lot would consist of approximately 2,500 square feet. The max footprint is 1,086 square feet.
6. The applicant submitted a historic district design guideline review application for a single-family home on the newly created lot on July 8, 2004.
7. Access to the property will come from Park Avenue.
8. The minimum lot size for a single-family home in the HR-2B zone is 1,875 square feet.
9. The easterly 25’ feet of lots 15 and 16 Block 13 of the Park City Survey are separately owned and were approved by the City Council as a lot combination into the 151 Main Plat on June 7, 2002.
10. No remnant lots will be created as a result of this application.

**Conclusions of Law**:

1. There is good cause for this plat amendment.

2. The plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

**Conditions of Approval**:
1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Prior to the receipt of a building permit, the applicant shall submit an application for review for compliance with the Historic District Design Guidelines.
3. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
4. The applicant will record the plat amendment 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 and the plat will be void.

**EXHIBITS**
Exhibit A – Proposed Plat Amendment
Exhibit B - Ordinance

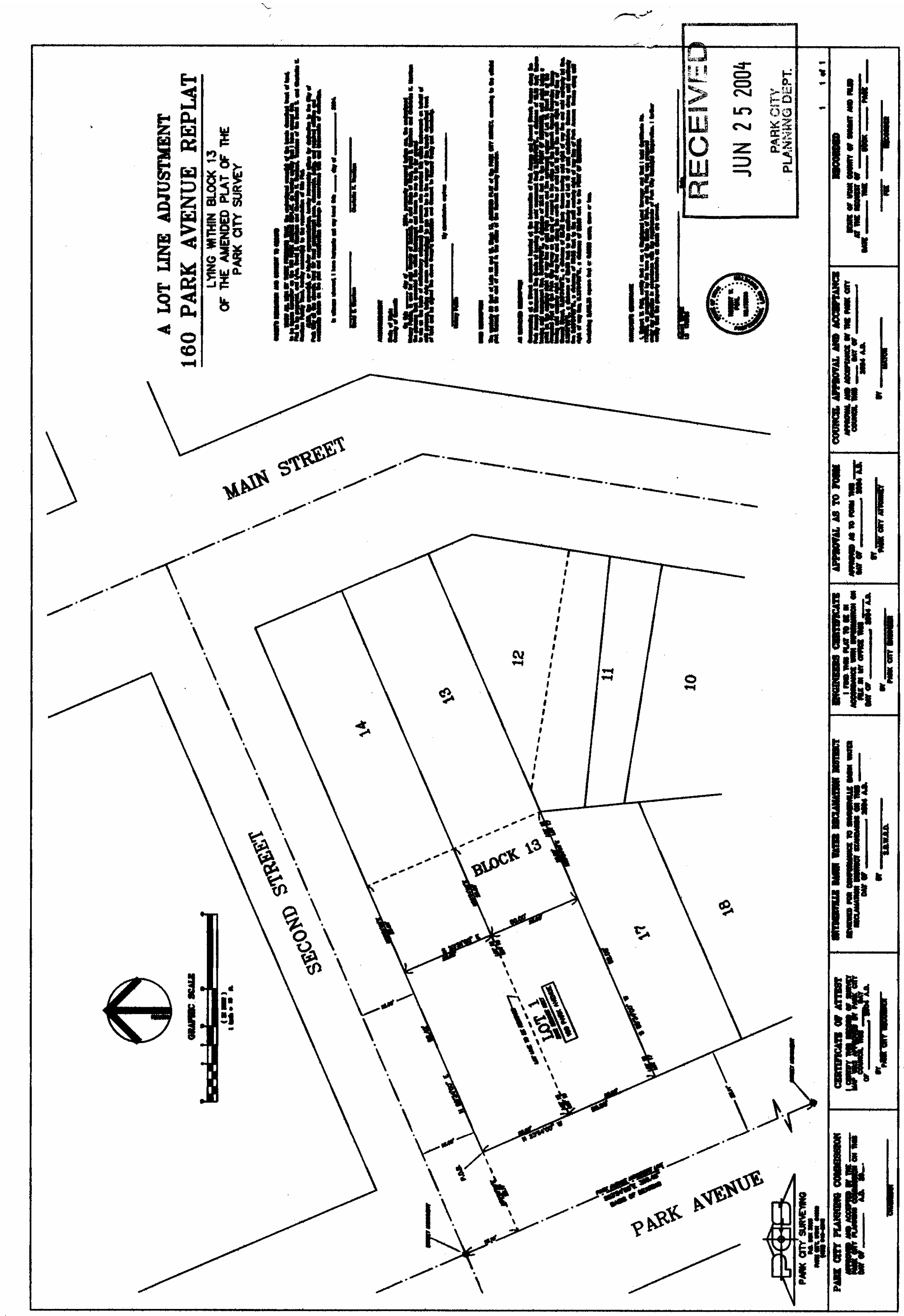

A LOT LINE ADJUSTMENT
160 PARK AVENUE REPLAT
LYING WITHIN BLOCK 13
OF THE AMENDED PLAT OF THE
PARK CITY SURVEY
RECEIVED
JUN 2 5 2004
PARK CITY
PLANNING DEPT.
MAIN STREET
SECOND STREET
PARK AVENUE
BLOCK 13
LOT 1
14
13
12
11
10
17
18
PARK CITY SURVEYING
PARK CITY PLANNING COMMISSION
CERTIFICATE OF ATTEST
SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
ENGINEERS CERTIFICATE
APPROVAL AS TO FORM
COUNCIL APPROVAL AND ACCEPTANCE
RECORDED

Exhibit B – Ordinance
**Ordinance No. 04-**

**AN ORDINANCE APPROVING THE 160 PARK AVENUE SUBDIVISION WHICH WILL COMBINE LOTS FIFTEEN AND SIXTEEN OF BLOCK 13 OF THE PARK CITY SURVERY.**

**WHEREAS**, proper notice was sent and the property posted according to requirements of the Land Management Code and State Law; and

**WHEREAS**, on August 11, 2004 the Planning Commission held a public hearing to receive public input on the proposed plat amendment and forwarded a positive recommendation of approval to the City Council; and

**WHEREAS**, it is in the best interest of Park City Utah to approve the plat amendment.

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

**<u>SECTION 1. FINDINGS OF FACT.</u>** The above recitals are hereby incorporated as findings of fact. The following are also adopted by City Council as findings of fact:

1. The Planning Commission reviewed this at their August 11, 2004 meeting. A public hearing was held, and a unanimous vote was forwarded to the Council to approve the application
2. The property is located in the Historic Residential Sub-Zone B (HR-2B) zone.
3. The HR-2B zone is a residential zone characterized by a mix of contemporary residences and smaller historic homes.
4. The amendment will combine the westerly 50 feet of lots 15 and 16 of Block 13 of the Park City Survey to create one lot of record.
5. The proposed lot would consist of approximately 2,500 square feet. The max footprint is 1,085 square feet.
6. The applicant submitted a historic district design guideline review application for a single-family home on the newly created lot on July 8, 2004.
7. Access to the property will come from Park Avenue.
8. The minimum lot size for a single-family home in the HR-2B zone is 1,875 square feet.
9. The easterly 25’ feet of lots 15 and 16 Block 13 of the Park City Survey are separately owned and were approved by the City Council as a lot combination into the 151 Main Plat on June 7, 2002.
10. No remnant lots will be created as a result of this application.

**<u>SECTION 2. CONCLUSIONS OF LAW</u>**. The City Council hereby adopts the following Conclusions of Law:

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code

and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

**SECTION 3. CONDITIONS OF APPROVAL**. The City Council hereby adopts the following Conditions of Approval:
1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Prior to the receipt of a building permit, the applicant shall submit an application for review for compliance with the Historic District Design Guidelines.
3. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
4. The applicant will record the plat amendment 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 and the plat will be void

**SECTION 4. EFFECTIVE DATE**. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 11th day of August 2004.

City Council
Staff Report

**Author:** Eric Nesset, Transit-Parking M

**Subject:** Transit Advertising Space Sales

**Date:** August 26, 2004

**Type of Item:** Administrative

Public Works

**Summary Recommendations:**

Authorize staff to execute a three-year professional services agreement with Utah Outdoor Advertising, in a form approved by City Attorney, for sales and placement services for the interior advertising space on the Park City Transit bus fleet.

**Description:**
**Background:**

Park City Municipal Corporation's existing Commercial Advertising Services Agreement, dated September 7, 2000, was a one-year contract that had been extended by amendment, as allowed in the agreement, for three additional one year terms. At the time proposals had been requested in July 2000, only one proposal was received. Park City Transit's passengers have increased by approximately 25% since 2000, and the service area expanded into the Snyderville Basin area. However, during that time revenues from advertising under the existing contract had not seemed to have kept pace with passenger increases and revenues were approximately 63% of revenues, on average, being charged in comparable ski resort towns. Therefore it was timely to evaluate the interest advertising firms may have in providing sales and placement services for the interior advertising spaces on the City's bus fleet.

Federal Transit Administration policies prohibit public transit agencies from including geographic preferences in their Request for Proposals or procurement decisions. In that context, Park City Transit is sensitive to the value of the buses' interior advertising spaces in providing a medium for local businesses, to communicate to passengers. While advertisers may not be arbitrarily excluded or limited to a certain quota, marketing efforts can be focused to the local market. Bus passengers are likely to be interested in information about local businesses that can be reached on the bus routes. Providing this information, to the extent local businesses are interested, enhances Park City Transit's customer service while generating some revenue to support transit.

In accordance with federal, state and city policies and regulations, Park City Transit issued a Request for Proposals from firms that are qualified to provide sales and placement services for the interior advertising space on its bus system, on June 3, 2004. The request for proposals was advertised in the Park Record and Salt Lake City Tribune newspapers.

**Analysis:**

Proposals were received from two Salt Lake City advertising firms. A selection committee consisting of Kent Cashel, Darren Davis and myself reviewed the proposals. A proposal was received from the firm that had provided advertising services in the past, Douglas Page Advertising (DPA) and a new proposer, Utah Outdoor Advertising (UOA).

The selection criteria listed in the RFP were:

- Understanding and approach toward PCMC's needs, proposed work program and how the firm will manage our account.
- Firm qualifications and experience.
- Compensation to PCMC

<u>Understanding and approach to PCMC's needs and proposed work program.</u>

- Both firms understand the importance PCMC places on focusing marketing efforts to the local market.
- DPA's proposed marketing program seems to be based on a low advertising rate; by promoting the first (4.6%) increase in three years and having one of the lowest rates for Resort Transit Advertising in North America.
- UOA's proposed marketing plan emphasizes a cautious approach by not proposing to raise rates initially. However, their proposed work program includes making personal sales calls to local businesses and could include sales of some short-term or seasonal advertisements. They seem eager to pursue methods of increasing future revenues to be more in line with rates being achieved in other resort towns and other advertising medium presently utilized by local businesses.

<u>Firm qualifications and experience</u>

- DPA is a Salt Lake City firm involved in travel industry publishing, photography and Park City Transit advertising. DPA has provided bus advertising placement services to Park City Transit for the past 18 years.
- UOA is a Salt Lake City advertising company that has been in business for 15 years. In addition to management, their staff includes four sales representatives and full-time graphics, accounting and service departments. Their current customer base lists a 45 company mix of Utah and National accounts. They are affiliated with a parent company with large property ownership in Utah, including 6,000 acres in Summit County.

<u>Compensation to PCMC</u>

- Following is a comparison of revenue sharing proposals from the two firms; forecasting that all advertising spaces are sold:

<u>Douglas Page Advertising (DPA):</u>

DPA share - $37, 912.50

PCMC share - $23,512.50

Utah Outdoor Advertising (UOA):

UOA share - $34,241.25
PCMC share - $27,183.75

- The comparison of compensation to PCMC is not based on projections of an initial revenue increase, but in lower fees and a greater percentage of revenue to PCMC, by UOA.

Utilizing the selection criteria stated in the RFP and the considerations outlined above, staff's recommendation to Council is to accept UOA's proposal. Although the potential increase in compensation may be marginal initially; there appears to be potential for increases in revenue during subsequent years of the contract that UOA seems eager to pursue, in a field in which they have extensive experience.

It has come to staff's attention that Council has been contacted regarding the fairness of the bidding process. Staff would like to emphasize that City policies were followed and the criteria outlined above utilized, in arriving at its recommendation to Council. However, any vendor has rights under the City's procurement appeals procedure to pursue their claim.

The City's Contracting and Purchasing Policy states:

> Any supplier, vendor, or contractor who determines that a decision has been made adversely to him, by the City, in violation of these regulations, may appeal that decision to the City council.

The complainant contractor shall promptly file a written appeal letter with the manager, within five working days from the time the alleged incident occurred. The letter of appeal shall state all relevant facts of the matter and the remedy sought. Upon receipt of the notice of appeal, the manager shall forward the appeal notice, his investigation of the matter, and any relevant information to the City Council.

The City Council shall conduct a hearing on the matter and provide the complainant an opportunity to be heard. A written decision shall be sent to the complainant.

**Department Review:**

The City Manager's Office, the City Attorney's Office, Budget\Debt and Grants and Public Works have reviewed this Staff report.

**Alternatives:**

A. **Approve the Request:** Authorize staff to execute a three-year professional services agreement with Utah Outdoor Advertising, in a form approved by City Attorney, for sales and placement services for the interior advertising space on the Park City Transit bus fleet. A draft agreement is attached.

B. **Deny the Request:** Delaying action may jeopardize the sale of all of the advertising spaces available on the bus fleet for the winter season.
C. **Continue the Item:** This alternative will have the same impact of Alternative B.
D. **Do Nothing:** This alternative will have the same impact of Alternative B.

**Significant Impacts:**

Interior bus advertising is a revenue source for Park City Transit.

**Consequences of not taking the recommended action:**

Delaying action may jeopardize the sale of all of the advertising spaces available on the bus fleet for the winter season.

**Recommendation:**

Authorize staff to execute a three-year professional services agreement with Utah Outdoor Advertising, in a form approved by City Attorney, for sales and placement services for the interior advertising space on the Park City Transit bus fleet.

DRAFT – 8/26/04

**PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into in duplicate this ____ day of August, 2004, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (ACity@), and UTAH OUTDOOR ADVERTISING, INC., a Utah corporation (AService Provider@).

WITNESSETH:

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

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

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

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

**1. SCOPE OF SERVICES**.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the AScope of Services@ attached hereto as AEXHIBIT A@ and incorporated herein (the AProject@). The total fee for the Project shall not exceed **One Thousand Dollars ($1,000) per month**.

**2. TERM**.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate thirty-six (36) months after date of execution of this Agreement, or earlier, unless extended by mutual written agreement of the Parties.

**3. COMPENSATION AND METHOD OF PAYMENT**.

A. Payments for services provided hereunder shall be made quarterly following the performance of such services.

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

C. In addition to the fee, the City and Service Provider shall share revenues according "EXHIBIT B", the proposed compensation included in Service Provider proposal, dated June 30, 2004, or as subsequently agreed to by both parties in writing.

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

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

**4. <u>REPORTS AND INSPECTIONS</u>.**

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

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

**5. <u>INDEPENDENT CONTRACTOR RELATIONSHIP</u>.**

A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the

Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

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

## 6. SERVICE PROVIDER EMPLOYEE/AGENTS.

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

## 7. HOLD HARMLESS INDEMNIFICATION.

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider=s defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider 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 Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider=s limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

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

**8. <u>INSURANCE</u>.**

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

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

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

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

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

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

F. The Service Provider’s insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

**9. TREATMENT OF ASSETS.**

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

**10. COMPLIANCE WITH LAWS.**

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

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

**11. NONDISCRIMINATION.**

A. The City is an equal opportunity employer.

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

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

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

**12. ASSIGNMENTS/SUBCONTRACTING.**

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

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

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

**13. CHANGES.**

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

**14. MAINTENANCE AND INSPECTION OF RECORDS.**

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

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

**15. POLITICAL ACTIVITY PROHIBITED.**

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

**16. PROHIBITED INTEREST.**

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

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

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

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

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

**18. TERMINATION.**

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

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

**19. <u>NOTICE</u>.**

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

**20. <u>ATTORNEYS FEES AND COSTS</u>.**

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

**21. <u>JURISDICTION AND VENUE</u>.**

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

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

**22. <u>SEVERABILITY</u>.**

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

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

**23. <u>ENTIRE AGREEMENT</u>.**

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

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

**EXHIBIT A**
**SCOPE OF SERVICES**

**TRANSIT ADVERTISING SPACE SALES AND PLACEMENT SERVICES**

Annually, Utah Outdoor Advertising, Inc. (UOA) shall provide a proposed work program and plan for managing transit advertising and placement services for the upcoming year. This shall include, but is not necessarily limited to:

1. Advertising rates and charges.
2. Marketing plan, including focused market.
3. Seasonal or short-term ad placements.

Upon approval of the annual plan, by PCMC, UOA will be authorized to proceed as follows:

**Rights Granted to UOA -**

- PCMC will license to the UOA, advertising spaces inside of transit vehicles owned, operated and/or controlled by PCMC to provide public transportation.
- UOA shall have the exclusive advertising rights inside of PCMC's transit vehicles, in the spaces designated by PCMC, except as noted in the Exclusions section below.
- UOA must make every effort to sell the maximum amount of space that is available. Space that is not sold will be made available to PCMC for self-promotion.
- To assist in promoting sales, PCMC shall provide UOA with monthly passenger figures, copies of timetables, transit maps and other relevant materials that it may have.

**Exclusions –**

- PCMC reserves the right to up to two advertising spaces on each bus for self or co-op promotion purposes. If this right is exercised, the cost to PCMC shall be actual production costs only.
- Only display medium/materials that fit into the existing overhead display areas in PCMC's bus fleet shall be used. Electronic or audio advertising is not allowed.

**Restrictions on Advertisers –**

- PCMC will not allow advertising of tobacco products or alcoholic beverages. UOA must use discretion when accepting materials for display or soliciting potential advertisers to ensure that no materials are displayed that are obscene, libelous, may be offensive to the general public, or represents people, groups, issues or offices in a degrading or demeaning way.
- Any advertising material that does not meet the above criteria, in the sole discretion of PCMC, shall be immediately removed from PCMC's buses by the proposer at the proposer's expense.

**Responsibility of UOA –**

- Advertising rates and charges shall be published and a schedule of those rates will be furnished to PCMC.
- All advertising shall be displayed in a neat and workmanlike manner and periodic maintenance shall be performed to maintain this appearance. PCMC reserves the right to require the removal of unsightly or dated material.

## EXHIBIT B

## COMPENSATION AND REVENUE SHARING

Compensation to Utah Outdoor Advertising, Inc. shall be fixed payment fee of One Thousand Dollars ($1,000.00) per month payable quarterly or semiannually plus revenue sharing of 45% to Service Provider and 55% City, after deducting fixed payment fee.

City Council
Staff Report

PARK CITY 1884

Planning Department

**Author:** **Patrick Putt**
**Subject:** **Municipal Recreation Complex and National Ability Center Annexation Petition**
**Date:** **August 26, 2004**
**Type of Item:** **Legislative**

**Summary Recommendations**:
Review and accept the submitted annexation petition.

**Description**
**Topic**

| | |
|---|---|
| Project Name: | Municipal Recreation Complex and National Ability Center Annexation Petition |
| Applicant: | Park City Municipal Corporation;<br>Meeche White, Executive Director, National Ability Center |
| Location: | Quinn's Junction |
| Zoning: | Summit County- DL (Developable Lands @ 1 unit per 20 acres- base density); and SL (Sensitive Land @ 1 unit per 40 acres (over 30% slope, or wetlands) |
| Proposed Zoning: | ROS-MPD (Recreation Open Space subject to the Master Planned Development) |
| Adjacent Land Uses: | COSAC purchased open space; private, undeveloped property, Fairway Hills Estates (residential) |
| Proposed Use: | Protected Open Space, Existing National Ability Center, Master Planned Development for a Municipal Recreation Complex |

**Background**

Park City Municipal Corporation (PCMC), and the National Ability Center NAC filed a completed annexation petition on August 11, 2004. The parcels are located in the Quinn's Junction area (about ¼ south of Hwy 40, west of SR 248, and east of Fairway Hills Estates - see Exhibit A - vicinity map). The property considered is approximately 136 acres, and consists of City-purchased open space (COSAC), the NAC parcel, and a City-owned parcel deeded to PCMC by Florence Gillmor (Exhibit B annexation plat).

The City intends to develop a recreation complex on the 70-acre Gillmor parcel, as defined as Lot 1 in the attached subdivision map (Exhibit C). The underlying zoning being requested is Recreation Open Space, with an underlying Master Planned Development (ROS-MPD). The uses, both existing on the NAC parcel and proposed at the recreation complex, are consistent with the requested zoning. The Master Planned Development process will allow flexibility in the site planning.

Staff has ensured that all materials required to form a complete annexation petition according to provisions of the City's Annexation Policy Plan have been filed. A signed annexation plat, prepared by a licensed surveyor, has been filed. The applicant also has provided necessary notification of the intent to file the petition to the required affected entities.

Information regarding ownership, slopes, geology, vegetation, soils, sensitive lands, roads, utilities, water rights, fiscal impact information, traffic and parking, trails, and proposed uses/site planning has also been submitted as part of the annexation and MPD, and is on file at the Planning Department.

**Analysis**

The property is located within the boundaries of the recently completed Summit County/Park City Joint Planning Study for Quinn's Junction. The Planning Commissions from both jurisdictions have approved the attached planning principles, and the study is now complete. Both Staffs and the Joint Planning Commission sub-committees agreed the attached map, land use principles, and development patterns best represent a consensus of ideas for land use potentials for consideration in the Study area. These findings will be used as a basis for future General Plan updates and changes to Development Codes, and initial guidelines for evaluating future annexation requests. Annexations located within the Study area shall be found to be consistent with these findings and principles (Exhibit D). This application is consistent with the Study's Land Use Principles as they support a recreations/sports training facility, and promote Park City's resort and recreation values and tourism-based economy.

The property consists of three metes and bounds parcels that are contiguous to the Park City Municipal boundary. The parcel is within the City's Annexation Expansion Area, as described by the adopted Annexation Policy Plan. After determining that the annexation petition application is complete pursuant to the City's Annexation Policy Plan, staff scheduled the petition for City Council acceptance or rejection at its first regularly scheduled meeting that is at least 14 days after the date the petition was filed, as required by state law.

Municipal annexation is a legislative act governed procedurally by Utah state law. Once the annexation petition is filed with the City Recorder, the petition is presented to the municipal legislative body for acceptance or rejection. Because annexation is a legislative act, the Council's decision to accept or reject the petition is not governed by statutory criteria: subject to constitutional restraints, acceptance or rejection is at the Council's discretion. It is important to note that a decision to reject the petition ends the annexation process, while a decision to accept the petition is not final, but only allows the process to continue for further consideration via the certification and subsequent public hearing process.

If the Council accepts the petition, then a 30-day certification review process will commence wherein Staff will determine whether the petition meets all requirements of Utah State Code Sections 10-2-403(2), (3), and (4). If staff determines that the petition meets these requirements, then the City Recorder will certify the petition and commence the public notification and hearing process. If staff determines that the petition fails to meet any of the statutory requirements, then the City Recorder will reject the petition and deliver written notification of rejection to the applicant and other parties required by state law. The applicant then will have the opportunity to modify the petition to correct the deficiencies for which it was rejected and re-file the petition with the City Recorder.

**Alternatives**: It is important to note that pursuant to Utah State Code Section 10-2-405(1)(a)(i)(B), if the Council does not take action on this annexation petition at its first regularly scheduled meeting that is at least 14 days after the date the petition was filed (this meeting, August 26, 2004), then the annexation petition shall be considered accepted for further consideration. Accordingly, taking no action and/or continuing this item are not options available to the Council; either action represents acceptance of the petition.

A. Accept the annexation petition for further consideration, thereby triggering the 30-day certification review process;

B. Reject the annexation petition, thereby ending the annexation process; or

C. Do nothing or continue the item. Pursuant to state law, the annexation petition is considered accepted for further consideration, thereby triggering the 30-day certification review process.

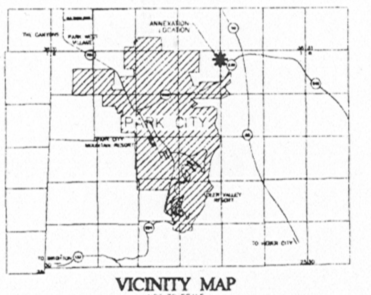
**Recommendation**
Staff recommends the Council review the petition for annexation of the 136 acre parcel and take action to accept the petition.

**Exhibits**
Exhibit A – Vicinity Map
Exhibit B - Annexation plat
Exhibit C – Subdivision Plat – Lot 1 = Municipal Recreation Complex
Exhibit D – Quinn’s Junctions Study Joint Planning Commission Development Patterns


HWY 40
BURBS LLC
BURTON ROBERT A ETAL
(BURBIDGE
NANCY A TRUSTEE ETAL
NATIONAL ABILITY CENTER
UNITED PARK CITY MINES CO
QUINN'S JUNCTION PARTNERSHIP
UNITED PARK CITY MINES CO
ERICKSEN
UNITED PARK CITY MINES CO
BARNES BANKING COMPANY
UNITED PARK CITY MINES CO
OSGUTHORPE D A TRUSTEE
248
BARNES BANKING COMPANY
GILLMOR FLORENCE J
Legend
- ANNEXATION AREA
Park City Limits
State of Utah - UDOT/Parks
Adjacent Parcels
City Parcels
BARNES BANKING COMPANY
GILLMOR FLORENCE J
GILLMOR FLORENCE
HWY 40
GILLMOR FLORENCE J
GILLMOR FLORENCE J
PARK CITY
Round Valley/Quinn's Junction
Miles
EX. A VICINITY MAP

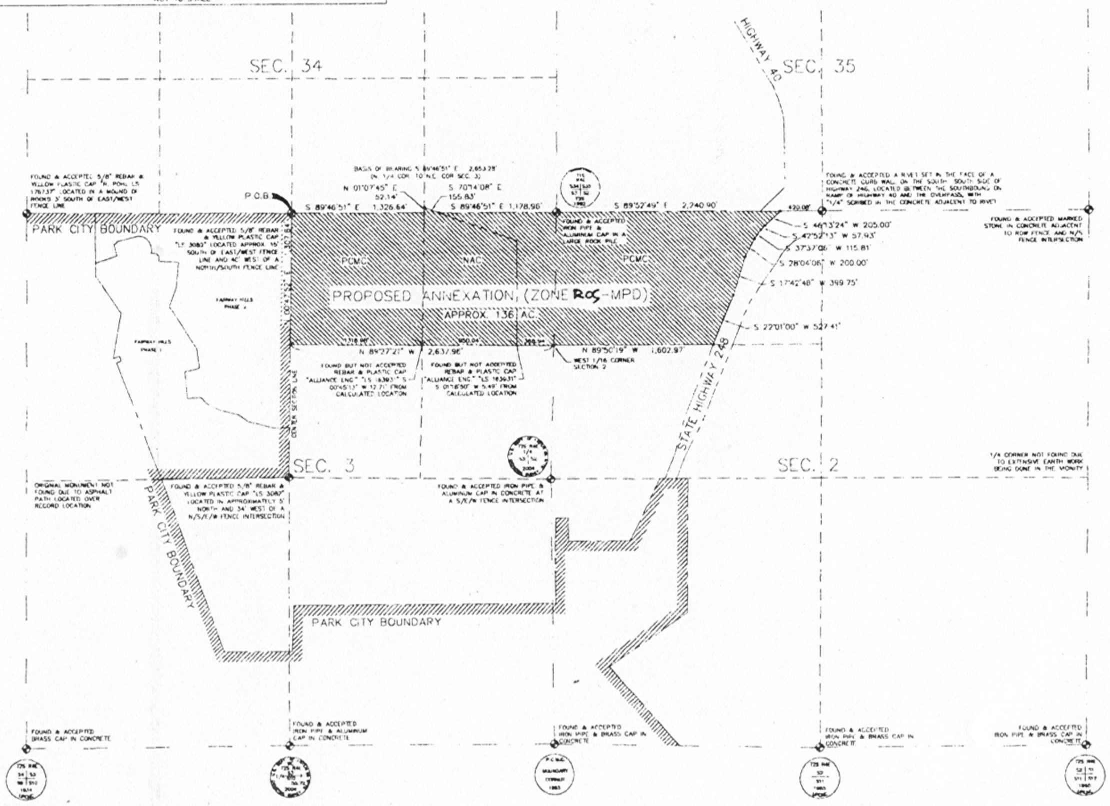
# PARK CITY ANNEXATION PLAT

**LOCATED IN THE NORTHWEST QUARTER OF SECTION 2, THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 4 EAST, AND THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, SUMMIT COUNTY, UTAH**




VICINITY MAP

NOT TO SCALE




GRAPHIC SCALE

( IN FEET )

1 inch = 600 ft.

BOUNDARY DESCRIPTION

THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, SUMMIT COUNTY, UTAH, INCLUDING THAT PORTION OF THE NATIONAL ABILITY CENTER PARCEL LYING WITHIN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, TOGETHER WITH THAT PORTION OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, SUMMIT COUNTY, UTAH, LYING WEST OF THE STATE HIGHWAY 248 RIGHT OF WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN SUMMIT COUNTY, UTAH, (BASIS OF BEARING SOUTH 89°46'51" EAST A DISTANCE OF 2,652.28 FEET BETWEEN THE NORTH QUARTER CORNER OF SAID SECTION 3 (A FOUND REBAR AND YELLOW CAP – LS #3082) AND THE NORTHEAST CORNER OF SAID SECTION 3, (A FOUND ALUMINUM CAP IN A ROCK PILE); SAID POINT OF BEGINNING ALSO BEING THE NORTHEAST BOUNDARY CORNER OF FAIRWAY HILLS PHASE 2 SUBDIVISION; THENCE ALONG SAID NORTHERLY SECTION LINE SOUTH 89°46'51" EAST A DISTANCE OF 1,326.64 FEET TO THE WESTERLY BOUNDARY OF THE NATIONAL ABILITY CENTER, THENCE LEAVING SAID SECTION LINE AND CONTINUING ALONG SAID NATIONAL ABILITY CENTER BOUNDARY THE FOLLOWING TWO CALLS: 1) NORTH 01°07'45" EAST A DISTANCE OF 52.14 FEET; 2) SOUTH 70°14'08" EAST A DISTANCE OF 155.83 FEET TO A POINT ON THE NORTHERLY SECTION LINE OF SAID SECTION 3, THENCE ALONG SAID NORTHERLY SECTION LINE SOUTH 89°46'51" EAST A DISTANCE OF 1,178.96 FEET TO THE NORTHEAST CORNER OF SAID SECTION 3, THENCE ALONG THE NORTHERLY SECTION LINE OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN SOUTH 89°52'49" EAST A DISTANCE OF 2,240.90 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF STATE HIGHWAY 248, THENCE LEAVING SAID NORTHERLY SECTION LINE, CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING SIX CALLS: 1) SOUTH 46°13'24" WEST A DISTANCE OF 205.00 FEET; 2) SOUTH 42°52'13" WEST A DISTANCE OF 57.93 FEET; 3) SOUTH 37°37'06" WEST A DISTANCE OF 115.81 FEET; 4) SOUTH 28°04'06" WEST A DISTANCE OF 200.00 FEET; 5) SOUTH 17°42'48" WEST A DISTANCE OF 399.75 FEET; 6) SOUTH 22°01'00" WEST A DISTANCE OF 527.41 FEET TO A POINT ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 2; THENCE LEAVING SAID RIGHT-OF-WAY, CONTINUING ALONG SAID SOUTHERLY LINE NORTH 89°50'19" WEST A DISTANCE OF 1,602.97 FEET TO THE WESTERLY 1/16 CORNER OF SAID SECTION 2, THENCE ALONG THE SOUTHERLY LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 3 THE FOLLOWING THREE CALLS: 1) NORTH 89°27'21" WEST A DISTANCE OF 368.94 FEET TO THE SOUTHEAST CORNER OF THE NATIONAL ABILITY CENTER BOUNDARY, 2) NORTH 89°27'21" WEST A DISTANCE OF 950.04 FEET TO THE SOUTHWEST CORNER OF THE NATIONAL ABILITY CENTER BOUNDARY, 3) NORTH 89°27'21" WEST A DISTANCE OF 1,318.98 FEET TO A POINT ON THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 3, SAID POINT ALSO BEING ON THE EASTERLY BOUNDARY OF FAIRWAY HILLS PHASE 2 SUBDIVISION; THENCE ALONG SAID CENTER SECTION LINE AND EASTERLY BOUNDARY LINE NORTH 00°47'52" EAST A DISTANCE OF 1,307.64 FEET TO THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 136 ACRES.

SURVEYOR'S CERTIFICATE

I, GREGORY R. WOLBACH, OF PARK CITY, UTAH, CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD LICENSE NO. 187788 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT I HAVE PREPARED THIS PLAT BASED UPON OWNERSHIP INFORMATION ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER. I FURTHER CERTIFY THAT THIS PLAT ACCURATELY REPRESENTS THE AREA OF WHICH PARK CITY MUNICIPAL CORPORATION HAS PETITIONED TO ANNEX TO ITS CORPORATE LIMITS. THIS PLAT AND THE DESCRIPTION HEREON HAVE BEEN PREPARED FOR ANNEXATION PURPOSES ONLY AND DO NOT PURPORT TO REPRESENT OR ESTABLISH ACTUAL PROPERTY BOUNDARY LINES. I FURTHER CERTIFY THAT THIS ANNEXATION PLAT HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REGULATIONS OF THE LAW.

Gregory R. W

GREGORY R. WOLBACH

STATE OF UTAH — GREGORY R. WOLBACH — NO. 187788 — PROFESSIONAL LAND SURVEYOR

8-5-04

DATE

OWNER'S CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT THAT THE UNDERSIGNED ARE THE OWNERS OF THE HEREON DESCRIBED TRACT OF LAND, AND, BEING ________ OF THE PARK CITY MUNICIPAL CORPORATION, HAVE CAUSED THIS ANNEXATION PLAT TO BE PREPARED. I/WE DO HEREBY CONSENT TO THE RECORDATION OF THIS ANNEXATION PLAT.

NAME TITLE

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH )
COUNTY OF SUMMIT )

ON THE ______ DAY OF ________, 200__, PERSONALLY APPEARED BEFORE ME ________ WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS ________ OF PARK CITY MUNICIPAL CORPORATION, AND DULY ACKNOWLEDGED TO ME THAT HE IS AUTHORIZED TO SIGN THE FOREGOING INSTRUMENT ON BEHALF OF SAID CORPORATION AND FURTHER ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

NOTARY PUBLIC

MY COMMISSION EXPIRES: ________
RESIDING IN ________ COUNTY, STATE

OWNER'S CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT THAT THE UNDERSIGNED ARE THE OWNERS OF THE HEREON DESCRIBED TRACT OF LAND, AND, BEING ________ OF THE NATIONAL ABILITY CENTER, A NONPROFIT CORPORATION, HAVE CAUSED THIS ANNEXATION PLAT TO BE PREPARED. I/WE DO HEREBY CONSENT TO THE RECORDATION OF THIS ANNEXATION PLAT.

NAME TITLE

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH )
COUNTY OF SUMMIT )

ON THE ______ DAY OF ________, 200__, PERSONALLY APPEARED BEFORE ME ________ WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS ________ OF THE NATIONAL ABILITY CENTER, A NONPROFIT CORPORATION, AND DULY ACKNOWLEDGED TO ME THAT HE IS AUTHORIZED TO SIGN THE FOREGOING INSTRUMENT ON BEHALF OF SAID CORPORATION AND FURTHER ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

NOTARY PUBLIC

MY COMMISSION EXPIRES: ________
RESIDING IN ________ COUNTY, STATE

CITY PLANNING COMMISSION

APPROVED BY THE PARK CITY PLANNING COMMISSION ON THIS ______ DAY OF ________ 2004

CHAIRMAN

CITY COUNCIL

APPROVED BY THE PARK CITY COUNCIL ON THIS ______ DAY OF ________ 2004

MAYOR CITY RECORDER

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THIS ______ DAY OF ________ 2004

CITY ATTORNEY

CITY ENGINEER

THIS PLAT IS IN CONFORMANCE WITH INFORMATION ON FILE IN THE OFFICE OF THE PARK CITY ENGINEERING DEPARTMENT ON THIS ______ DAY OF ________ 2004.

CITY ENGINEER

PLOTTED: AUGUST 5, 2004

RECEIVED
AUG 06 2004
PARK CITY PLANNING DEPT.

**Evergreen Engineering, Inc.**

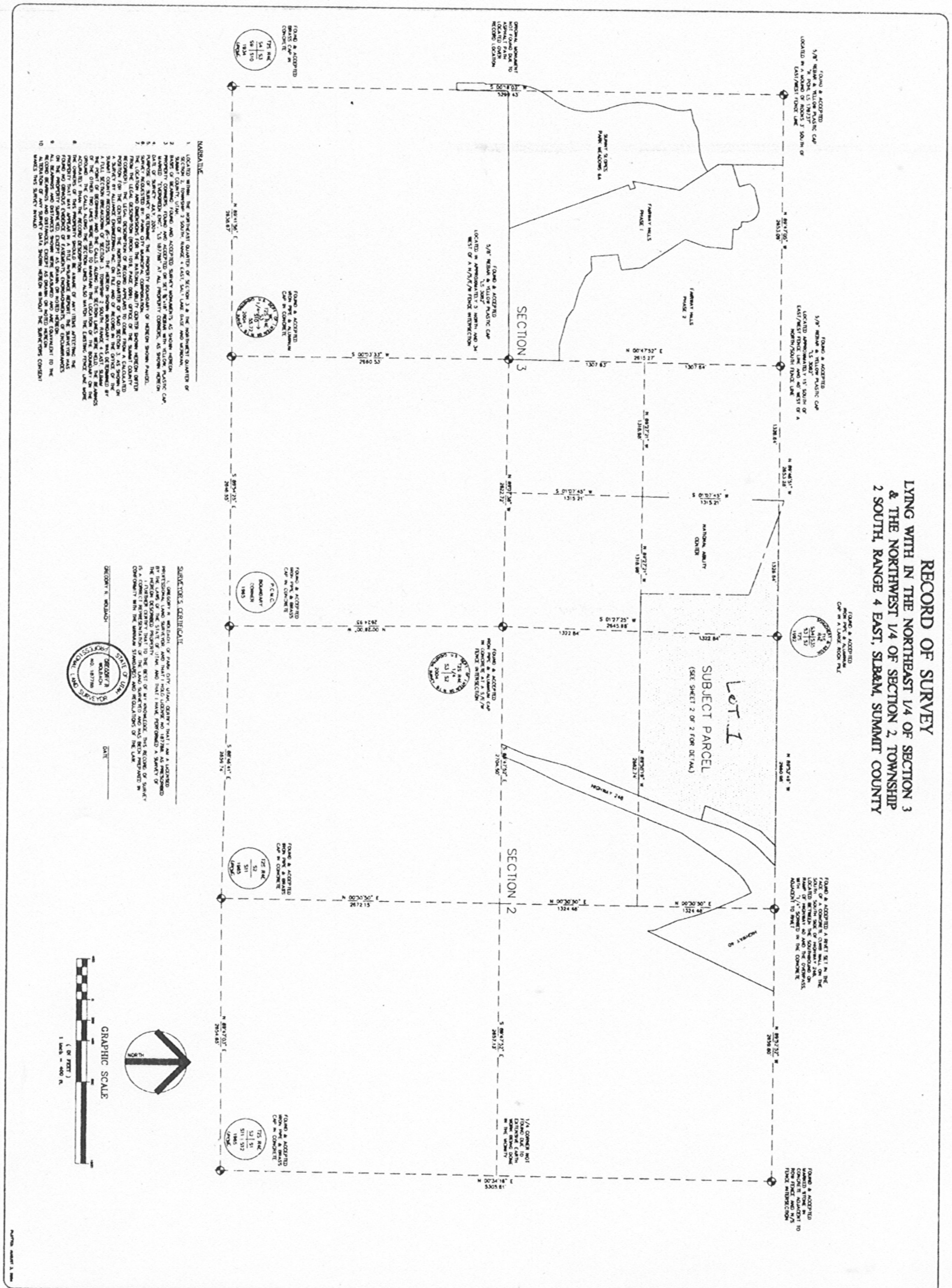
DESIGNED BY: CRB
DRAWN BY: CRB/ADM
CHECKED BY: GRW/ADM

PARK CITY MUNICIPAL CORPORATION
NATIONAL ABILITY CENTER
ANNEXATION PLAT

PARK CITY MUNICIPAL CORPORATION | PCANXADWG | 0424

SHEET 1 OF 1

EX B. ANNEX PLAT




RECORD OF SURVEY
PARK CITY MUNICIPAL CORPORATION
PROPOSED RECREATION COMPLEX

PARK CITY MUNICIPAL CORPORATION | RBC-RORDWG

SURVEYED BY: CRB/CB
DRAWN BY: CRB
CHECKED BY: GRW/ADM

REVISIONS

| DATE | BY | COMMENTS |
| --- | --- | --- |

Evergreen Engineering, Inc.

Civil Engineering • Land Surveying • Land Planning



SHEET 1 OF 2

EX. C SUBDIVISION

**Exhibit D**

**Quinn's Junction Study**
**Joint Planning Commission Development Principles**

**Development Densities and Land Uses**

1. Initial project analysis should commence with a review of property's base density, wetlands, slopes, wildlife areas, flood plain, etc.)

2. Consider density bonuses for preservation of key open spaces identified in the study area.

3. Density should result in significant public benefits that promote Park City's resort, recreation, tourism and resort-based, second home economy.

4. Highway service commercial / convenience retail and regional/big-box retail commercial will not be considered in/along the Highway 40/SR 248 corridor.

5. A site for institutional development will be considered in the study area with the potential institutional uses limited to: a hospital, educational facility, recreation / sports training facility, or an arts / cultural heritage / history based institution.

6. A limited expansion of the existing light industrial/incubator service commercial uses along the east side of Highway 40 should be considered. Said expansion should be clustered to the greatest degree possible to minimize sprawl and should include re-development / clean up of existing businesses, land use patterns, circulation, etc, that have been detrimental to the environment, aesthetics, or function of the area. Density incentives would be considered for preservation of key open space areas within the boundaries of the study, particularly those advancing the goals of the study for preservation of the 248 entry corridor. It should be noted that many of the above principles will be further specified by forthcoming amendments to the Snyderville Basin Development Code, which will more serve as the actual governing document for proposals including these types of uses in the study area.

7. Neighborhood Commercial uses will be considered in the Silver Summit area east of Highway 40 and a more limited (in use and overall density) neighborhood commercial node could be considered on the west side of Highway 40. Potential for expansion of these uses may be through density receiving mechanisms to be identified in forthcoming Development Code changes.

8. Recreation and Open Space will be the encouraged use in the Richardson’s Flat area. The majority of this area is governed by and must be reviewed for

consistency with the 1999 Flagstaff Mountain Development Agreement, which stipulates golf course, active recreation, equestrian and preserved open space as allowed uses.

9. Clustered residential development may be considered in areas indicated on the accompanying map of the study area and specified for base density. Initial evaluation of density for projects in the study area shall be based on Summit County Base Density allowances as specified in the Code in effect at the time of application. The maximum density that will be considered in Base Density areas for projects complying with all preferred development patterns and principles will be limited to the densities specified for rural areas in the Summit County Development Code or where applicable the Estate Zoning provisions of the Park City Land Management Code. Code provisions in effect at the time of application will apply. Only potential receiving areas or the parcel identified for potential employee housing in the existing Flagstaff Mountain Development Agreement will be considered at higher densities.

**Development Patterns**

1. Cluster in identified receiving areas and around existing development maintaining consistency among uses.

2. Public preserved open space and recreation is the predominant existing land use in the study area. Clustered development should be designed to: enhance public access through interconnection of trails, preserve public use and enjoyment of these areas, and continue to advance these goals along with the preservation of identified view sheds and passive open space areas.

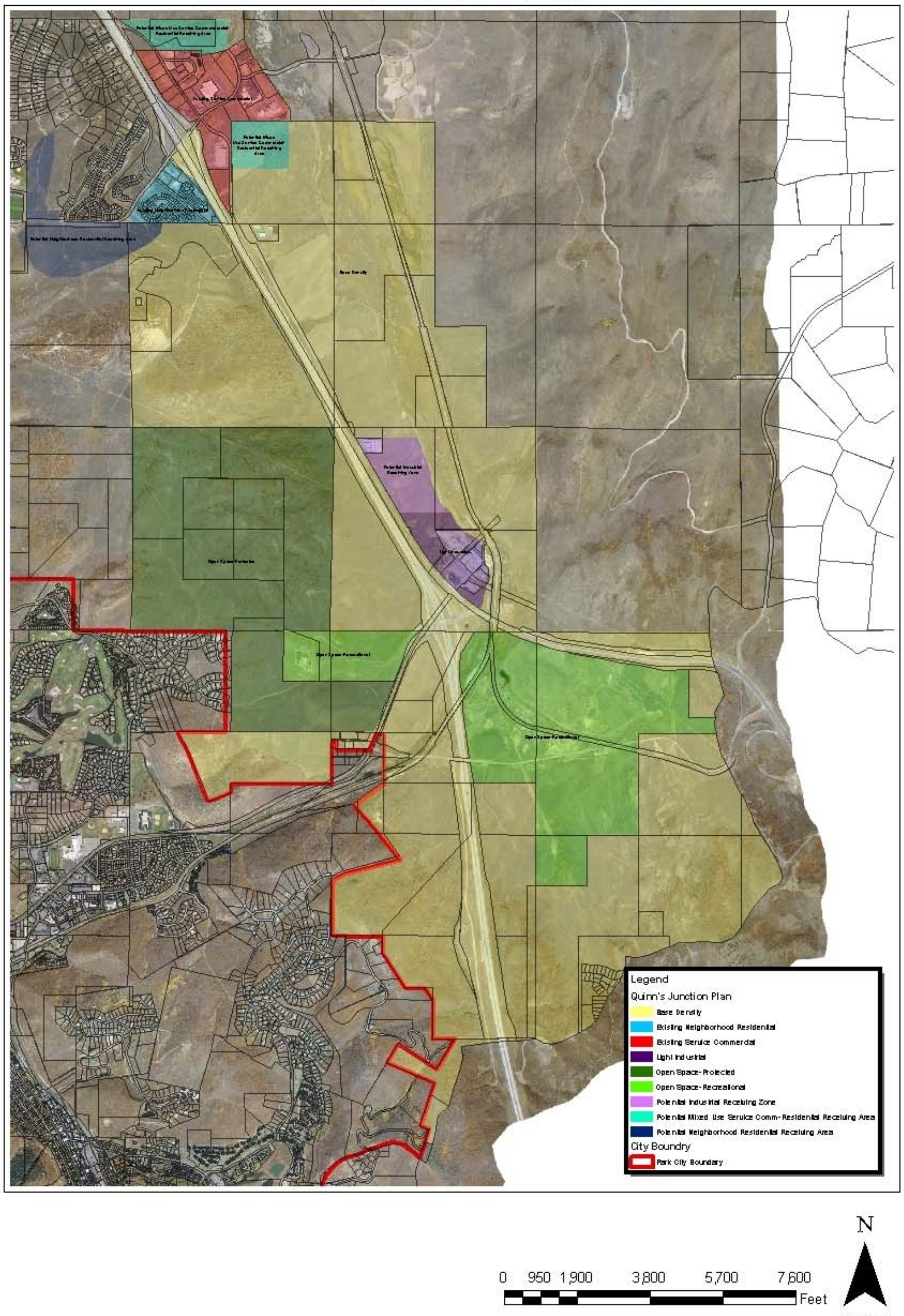
3. Apply Sensitive Land standards from City and County ordinances for all development design. This includes recreational and institutional development, which should incorporate and preserve important topographical features, natural areas and view sheds, and be of a scale and scope consistent with the primary goal of preserving the function and aesthetics of an important resort entry corridor. Planning efforts for projects in this corridor should continue to involve both City and County staff for input.

4. Large expanses of surface parking areas with high visibility from the entry corridor will not be allowed. Surface parking shall be buffered from the entry corridor and utilize existing topography for screening purposes whenever possible. Sub-surface and well designed structured parking will be encouraged whenever possible.

5. Preserve a substantial open space corridor through the study area.

6. New Development (including institutional and recreational) should be transit-oriented and linked to broader community open space and trail networks.

# Quinn's Junction Area Plan



City Council
Staff Report

**Author:** **Colin Hilton**
**Subject:** **Quinn's Ice - Inter-Local Agreement**
**Date:** **8-26-04**
**Type of Item:** **Administrative**

**SUMMARY RECOMMENDATION:**
Review and approve the attached Inter-local Agreement (ILA) with SBSRD, in a form approved by the City Attorney's Office, for the purposes of outlining roles and responsibilities of planning, constructing, and operating a regional ice facility at Quinn's Junction.

**DESCRIPTION:**
**Topic:** **Quinn's Ice - Inter-Local Agreement**

**Background**: In August of 2001, Park City and the Snyderville Basin Special Recreation District (SBSRD) adopted a four (4) year Memorandum of Understanding (MOU) on cooperative youth sports programming and facility operations and maintenance. Section 8 of the MOU states that the City and the SBSRD acknowledge that combined planning efforts for large capital improvement projects may better serve long term constituent needs. Both the City and the Basin have identified the construction of an ice facility as a priority.

The City and SBSRD both passed bonds in November of 2001. Prior to the bonds passing, the City and SBSRD informed the public that it was their intent to jointly develop a large regional ice facility that would serve both communities. Since the passage of the voter approved bonds, both Parties have been working to jointly develop an ice facility.

On January 17, 2002, the City and SBSRD approved a letter of intent for the joint development of an indoor ice facility and the possible phased construction of an adjoining outdoor ice rink. On June 6, 2002, the City Council and the Snyderville Basin Special Recreation District extended the letter of intent until December 31, 2002 so that an inter-local agreement governing the management, construction and operation of the ice facility could be adopted. The letter of intent narrowed the focus of the project to just an indoor ice facility. The letter of intent also identified the SR 224 corridor as the possible location for the ice rink.

On December 17, 2002, the City Council and SBSRD updated the Letter Of Intent (LOI) and extended its life to May 1, 2003. It was hoped that an Inter-local Agreement would be adopted prior to that date. The LOI updated the Regional Ice Committee's recommendation to phase in the development of the ice rink to ensure that the capital budget did not exceed the $4 million in bond proceeds. The LOI also reflected the desire of the SBSRD and the City to have the rink located along the Highway 224 transit corridor. This language did not preclude other sites, but did indicate a preference for the Highway 224 corridor.

In April of 2003, the City and SBSRD extended an LOI until January of 2004. Through the Summer of 2003, the RIC Committee completed a first draft of an Inter-local Agreement (ILA) under the plan of having a new Regional Ice Authority serve as the managing entity. The preferred Canyons site was targeted and all efforts were made to plan for a possible rink in the Specially Planned Area within the Lower Canyons Village. After a year of focus on this site, challenges of land acquisition continued and led to the RIC Committee being concerned over whether this site could be developed for ice anytime soon and whether the site was actually the preferred site, given new developments in other areas of the region.

The Regional Ice Committee (RIC) met on April 27, 2004 and unanimously recommended that the much discussed ice rink facility be considered as a component of the proposed recreation complex at Quinn's Junction. The Committee reviewed a series of pro's & con's of the four sites under consideration. The Quinn's site was considered the most attractive due to:

1. Lower forecasted construction and operating costs in light of shared infrastructure and operating expenses with the proposed playing fields project.
2. Comparably lower design & construction costs that would allow for "better interior building components" to be realized.
3. A proposed management structure that would have an existing organization (City) taking the lead on seeing through the design, construction, and operation of the facility. There would not be a creation of a new organization (Regional Ice Authority) to oversee those elements.
4. The easier access of Quinn's Junction verses the growing traffic concerns in the Hwy 224 corridor.
5. The lack of movement on land issues surrounding the Canyons proposed site
6. Desire to have a site where the probability of moving into a design and construction process sooner rather than later.
7. Possibility of future facility expansion.

On May 10, 2004, the City held a public meeting to hear input about the proposed Recreation Complex – and how a proposed ice rink would be supported here. More than 70+ attendees overwhelmingly supported the concept of a Fields & Ice rink complex in the City-owned land at Quinn's Junction.

Over the subsequent weeks, the RIC Committee convened to streamline the previous draft of the ILA. Terms and conditions highlighted in previous Letters of Intent(s) served as the basis for drafting the new ILA language at a Quinn's Junction location.

On June 23, 2004 a joint planning meeting was held between the City Council and SBSRD. Positive discussions paved the way for a refinement of certain sections of the ILA, mainly pertaining to the use of the Parties annual payments towards forecasted operating deficits, capital replacement and expansion funds.

On July 29, 2004, Staff reviewed an updated version of the ILA – highlighting issues on:

1. General City & District responsibilities
2. Initial Capital Contributions
3. Annual subsidy payment amounts
4. Multiple reserve funds
    a. Ice Facility Reserve Fund (Operating Deficit balancing)
    b. Capital Replacement Reserve Fund (CRRF)
    c. Expansion Fund
5. Estimated Needs of the Capital Replacement Reserve Fund (CRRF)
6. District subsidy payment allocation
7. Every 3-year "Review Periods"
8. Use Guidelines
9. Term & Termination language – remaining language by legal teams
10. Seeking ratification of Agreement on August 11 & 12

Over the course of the past week, refinements to the ILA have been incorporated into the attached final version for adoption.

**Timeline of Past History**

| | |
|---|---|
| November 2001 | Bond Initiatives Passed voter approval |
| Jan 2002 | First LOI approved by PCMC & SBSRD – joint planning (RIC) |
| June 2002 | Second LOI created identifying the Rt 224 corridor as possible site areas and promoted that an ILA would be developed to address construction, operations, & management responsibilities |
| 2002-2003 | Sites Identified: Kimball Jct., Sewer Treatment site, Canyons |
| | Canyons Site selected as preferred site |
| December 2002 | Third LOI extension – hoping to see ILA completion by April |
| April 2003 | Fourth LOI created identifying language that both Parties wanted to see in the ILA. Also – pointed out acceptance of a possible "covered pavilion concept" to keep within budget forecasts. |
| June 2003 | Draft ILA language agreed to – 50-50 cost sharing process worked through to address forecasted operating deficits |
| December 2003 | RIC deadline to Canyons/RVMA for "recorded" land realignment |

| | |
|---|---|
| February 2004 | Extended RIC deadline to Canyons/RVMA before alternative sites would be explored. |
| March 1 | Feb 28th date came and went – discussion of alternative sites started |
| April 27, 2004 | RIC Committee makes decision to recommend Quinn's Junction as preferred site and proceed with public input. |
| May 10, 2004 | City holds public meeting to hear input about the proposed Recreation Complex – and how a proposed ice rink would be supported here – saw overwhelming support of the 70+ attendees. |
| June 8-28th | RIC Committee fine tunes proposed ILA language |
| June 28, 2004 | Joint Meeting between SBSRD Board & City Council to work through agreement points. |
| July 29, 2004 | Review of Draft Ice ILA |
| Aug 26, 2004 | Adoption of Ice ILA |

**Assessment of last changes/revision to the ILA:**

The major points addressed since the Joint meeting are:

1. Ownership & Party Interests
2. Termination language

Staff will review and discuss these items during this week's City Council's meeting.

**Department Review:** This agreement has been reviewed by the City Manager's Office and Legal Department.

**Alternatives**

1. Review and adopt the attached ILA as written
2. Review and edit the proposed language; and take action on 8-26-04.
3. Review and suggest any changes to the proposed language; return at a later date for action.
4. Provide a directional change in how the City would like to see the planning for the ice facility taken.

**Staff Recommendation:**

Review and approve the attached ILA with SBSRD as written for the purposes of outlining suggested roles and responsibilities of planning, constructing, and operating a regional ice facility at Quinn's Junction.

Attachments:
Inter-local Agreement (ILA) with SBSRD

# Interlocal Cooperative Agreement for Regional Ice Facility

**THIS INTERLOCAL COOPERATIVE AGREEMENT** (this "*Agreement*") is entered into effect August____, 2004 by **SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT** (the "*District*"), and by **PARK CITY MUNICIPAL CORPORATION** (the "*City*"), each political subdivisions of the State of Utah (collectively referred to herein as the "*Parties*"), for the purpose of outlining responsibilities associated with the cooperative construction and operation of a recreational ice facility.

**R E C I T A L S:**

A. UTAH CODE ANN. § 11-2-1 authorizes governmental entities such as the Parties to designate, acquire, equip, operate and maintain public recreational facilities.

B. The "Interlocal Cooperation Act," UTAH CODE ANN. §§ 11-13-101 to -313, as amended (the "*Act*"), enables governmental entities such as the Parties to cooperate with each other on the basis of mutual advantage to more efficiently provide governmental facilities, services and improvements to the general public, including, without limitation, public recreational facilities.

C. The Parties are each committed to promoting the health and welfare and enhancing the quality of life for their citizens.

D. In furtherance of those purposes, the Parties desire to jointly develop an ice skating facility available to the public (the "*Ice Facility*"), to enhance recreational opportunities within the geographical region where both are situated (the "*Region*"), thereby promoting the health, safety and welfare of their citizens.

E. The Parties have each determined that the Ice Facility will prove a valuable asset to their respective constituents and the development thereof is fully consistent with their respective institutional missions and the public interest.

F. Park City voters, via special bond election held November 6, 2001, authorized the City to issue general obligation bonds in an amount not to exceed Four Million Dollars ($4,000,000.00) to construct an ice facility and make park improvements (Two Million Dollars towards an Ice Facility and Two Million Dollars towards other park improvements). The City's use of such bond proceeds for the construction, maintenance, and operation of the Ice Facility pursuant to this Agreement is intended to fulfill the City's obligations to construct an ice facility pursuant to said bond election.

G. *(Insert - District bond recital)*

H. This Agreement shall not become effective until it is first approved by resolution of the District Administrative Control Board (the "*District Board*") and of the City's City Council, as evidenced by the execution hereof by the appropriate officers of the District and the City.

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## **A G R E E M E N T:**

**NOW, THEREFORE**, in consideration of the premises, the Parties' mutual covenants and undertakings, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows in compliance with and pursuant to the provisions of the Act:

## ARTICLE 1
## DEFINITIONS; INTERPRETATION

Section 1.1. **Definitions**. In this Agreement and any amendments hereto, the following terms shall have the meanings specified below:

"*Act*" shall mean the Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 to -313, as amended.

"*Agreement*" shall mean this "Interlocal Cooperative Agreement for Regional Ice Facility."

"*City*" shall mean Park City Municipal Corporation and its successors.

"*District*" shall mean Snyderville Basin Special Recreation District and its successors.

"*Parties*" shall mean both the City and the District collectively

"*Ice Facility*" shall mean the regional ice rink and associated required parking facility designed, constructed, and operated pursuant to this Agreement. As used herein, "Ice Facility" shall not include the City-owned real property upon which the regional ice rink will be located.

"*Lease*" shall mean any lease, sublease, operating, management or similar agreement affecting the Ice Facility.

"*Net Operating Deficit*" shall mean the negative difference between all revenues and all expenditures of the Ice Facility, with the exception of general obligation bond debt payments of the District and the City.

"*Net Operating Profit*" shall mean the positive difference between all revenues and all expenditures of the Ice Facility, with the exception of general obligation bond debt payments of the District and the City.

"*Ice Facility Reserve Fund*" shall mean the monies set aside to cover any operating budget deficits.

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*"Capital Replacement Reserve Fund" (CRRF)* shall mean the monies set aside to fund Capital Equipment Replacement and capital improvements as needed from time to time for long-term upkeep of the Ice Facility.

*"Expansion Fund"* shall mean the monies set aside to fund future Ice Facility expansion which may include but are not limited to contributions by the Parties, and/or grants and gifts.

"*Use Guidelines*" shall mean operating goals and objectives of the Ice Facility, as outlined by both Parties. They are intended to serve as advisory guidelines.

Section 1.2. **Interpretation**. This Agreement, except where the context by clear implication herein otherwise requires, shall be construed as follows:

(a) Definitions include both singular and plural;

(b) Pronouns include both singular and plural and cover both genders; and

(c) The captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, article or section of this Agreement.

## ARTICLE 2
## DESIGN, PLANNING AND CONSTRUCTION RESPONSIBILITIES

Section 2.1. **Intent:** The Parties recognize the value in combining financial resources to jointly construct, maintain, and operate the Ice Facility. The Parties also recognize the potential challenges of having multiple parties involved in the planning, design and construction. Therefore, given contribution of land by the City and the nature of the larger proposed recreation complex project and the City ownership, the Parties agree that the City shall solely own the Ice Facility and will take the lead in the design, planning and construction of the Ice Facility. The City will involve District representatives in all stages of the design and construction phase so that District recommendations can be taken into consideration by the City. The District recommendations will be considered advisory only and shall not be controlling.

Section 2.2. **City Responsibilities**. The City will:

(a) Complete all preliminary planning steps, to include site surveys, wetland studies, environmental reviews, and regulatory compliance coordination.

(b) Complete all action steps related to annexing the City-owned property into the City limits.

(c) Prepare and administer all RFP's, professional service contracts, and construction agreements necessary to complete the design and construction of the Ice Facility.

(d) Select and retain the services of an ice facility consultant who will be available for consultation during design and construction phases of the Ice Facility. The City will also actively seek to hire a General Manager of the overall recreation complex who has a background in ice facility management. It will be the City's desire to select and phase in the hiring schedule of the

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General Manager so as to allow involvement in the planning and construction phases.

(e) Prepare project and construction budgets that will define the anticipated costs associated with the Ice Facility.

(f) Contribute all necessary land and $2 million dollars towards the capital costs of designing, constructing and outfitting the Ice Facility.

(g) Invite the District to participate and add recommendations in each of the above steps in an advisory capacity.

(h) Budget annually and contribute a minimum of $50,000 a year to the Operating Subsidies outlined in Section 4.3.

(i) The City agrees to provide to the public reasonable access to the ice rink located at the Park City Recreation Complex, which it operates and maintains. The City will make best efforts to balance local programming with tourist related revenue producing events. Efforts will be made to track direct and indirect benefits of hosting events. As a guideline, the City will look to reduce the operating deficit by promoting and hosting events. Local programming should not be negatively interrupted for events that do not see a net profit through direct and indirect revenues.

Section 2.3. **District Responsibilities:** The District will:

(a) Appoint a representative(s) to assist the City in various design and construction stages outlined in Sections 2.1 and 2.2 herein.
(b) Contribute $2 million dollars towards the capital costs of designing, constructing and outfitting the Ice Facility.
(c) Budget annually and contribute a minimum of $50,000 a year to the Operating Subsidies outlined in Section 4.3.

Section 2.4. If after thirty (30) days written notice and opportunity to cure the City fails to budget and contribute the funds committed under the terms of this Agreement, then.the District shall have the right to terminate this Agreement pursuant to Article 6 herein.

Section 2.5 If after thirty (30) days written notice and opportunity to cure, the District fails to budget and contribute the funds committed under the terms of this Agreement, then this Agreement shall automatically terminate and the District shall forfeit all benefits and rights conferred upon the District and residents of the District by this Agreement, including but not limited to the balanced fee benefit provided at Section 5.3 and any claim or right to assets and/or remuneration pursuant to Article 6.

## ARTICLE 3
## FACILITY DESCRIPTION; FINANCIAL ISSUES

Section 3.1. **Description of the Facility**. The Ice Facility shall be owned solely by the City and will be located on City-owned land near the State Route 248 / Highway 40 interchange (Quinn's Junction). The facility area description and listing of minimum building components are described in greater detail in Exhibit"A" of this Agreement. No title or interest in the City-owned real property upon which the Ice Facility will be located shall transfer or otherwise vest in the District as a result of this Agreement.

Section 3.2. **Initial Capital Contributions**. In addition to City owned land, each Party agrees to fund $2 million dollars toward the design, planning, construction and initial outfitting of the Ice Facility. By December 1, 2004, each Party will secure and have available funds of no less than $2 million dollars to contribute towards the above outlined costs. The Parties agree that all work associated with Ice Facility improvements and outfitting of the Ice Facility will be paid for through use of the initial capital contributions and any monies raised through fundraising. Costs include, but are not limited to, surveys, legal descriptions, title reports, architectural design fees, construction costs, construction management fees, furniture, fixtures and equipment. Capital equipment shall include items defined in Exhibit "B". The CRRF will provide for Ice Facility repair and Ice Facility upgrades.

(a) **Breakdown of Initial Capital Allocations -** The Parties agree that with the known funds available, the initial capital contributions will be divided as follows:
1. Construction Costs = $3.5 million

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2. Design & Outfitting Costs = $.5 million
Total = $4 million

(b) **Review Period** – The City and District will meet upon completion of design development drawings to review cost estimates and options given the project budget of $4 million dollars. Discussions at this time will evaluate the ability to deliver the project within budget or whether an amendment to this Agreement is necessary.

(c) The Parties agree to address projected shortfalls prior to construction bid advertisement through reduction in scope and/or through capital campaign efforts. Amendments to this Agreement pursuant to Section 9.12 may be necessary.

(d) In the event cost estimates exceed available funds, the Parties agree to value engineer the project, which may include further reductions in scope.

## ARTICLE 4
## OPERATION OF THE ICE FACILITY

Section 4.1. **Management**. The City will oversee management and operation of the Ice Facility and overall Quinn's Junction Recreation Complex. A professional ice facility manager (the "*General Manager*") will be hired as required by Section 2.2.d. above, employed by the City and be responsible for managing the Ice Facility.

Section 4.2. **Annual Budget**. An annual budget breaking down the costs of operating the Ice Facility will be prepared by the General Manager and incorporated into the City's overall budgeting system, in accordance with Section 4.3, below.

Section 4.3. **Operating Contributions**.

(a) *Annual Net Operating Deficit/Profit*. The Parties acknowledge the expectation that the Ice Facility will not achieve 100% cost recovery on the operating costs through revenues generated by the Ice Facility. A long-range plan of minimizing the operating deficits and targeting a break-even or possibly a net operating profit will be a goal of the General Manager. In the event that there is a Net Operating Profit, the City will accumulate that profit into an undesignated fund balance to offset future net operating deficits. The Parties agree as follows:

(1) Funds. The City shall create three funds ("Funds") for the purpose of reducing the anticipated annual Net Operating Deficit (Ice Facility Reserve Fund), and accumulating monies for the Capital Replacement Reserve Fund (CRRF) and Expansion Fund. Said funds may be augmented through grant applications and other sources. The funds will be placed in an interest-bearing accounts managed by the City, in accordance with rules of the State Money Management Act, UTAH CODE ANN. §§ 51-7-1, *et seq*.

(2) Annual Operating Subsidies.

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i. *City Responsibilities.* The City will annually budget for and contribute a minimum of $50,000 per fiscal year into the Funds in accordance with Subsection v. below. The City will track and report on the Ice Facility's budget performance.

ii. *District Responsibilities.* The District will budget for and contribute a minimum of $50,000 per fiscal year into the Funds, in accordance with Subsection v. below. It is understood by the Parties that the District intends to generate contributions through RAP tax grant applications by the SBSRD in the first two years of operation. In the event that RAP tax proceeds exceed $50,000 in the first two years of operation, the SBSRD will commit an additional 50% of any RAP receipts in excess of the $50,000 minimum. In subsequent years, the District's contribution will not be more or less than $50,000 per year even with fluctuations in the Ice Facility budget, unless amended pursuant to item v. set forth below. It is also understood by the Parties that should RAP tax grants be unavailable to the District, then the District will contribute their minimum $50,000 annual payment through other funding mechanisms.

iii. The allocation of the District contribution will be distributed based on the "District's Annual Payment Distribution Schedule" as outlined within Exhibit B pursuant to the following order of priority in the three basic categories of:

1. Ice Facility Reserve Fund
2. Capital Replacement Reserve Fund
3. Expansion Fund

iv. The District and City commit to making construction funding contributions under the following schedule, or as otherwise agreed to by the Parties with the intent that the contributions generally occur during the first two years of Ice Facility operations:

a. First Payment – December 15, 2005, or 6 months prior to scheduled facility completion date, whichever comes later.
b. Second payment – by December 15, 2006
c. Subsequent years – by December 15th of each subsequent year

v. The District and the City agree to review the amount of annual contributions and Use Guidelines every third year following the opening of the Ice Facility and to mutually agree upon allocations to the Ice Facility Reserve Fund, the CRRF and the Expansion Fund.

a. The review will include a specific evaluation of the allocation to the Ice Facility Reserve Fund, and the allocation to the CRRF to verify growth in

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the CRRF through an annual transfer to be specified as a line item in the Ice Facility budget. It is the long-term goal of the District for their annual contribution to go to the CRRF and Expansion fund.

b. Any withdrawal from the CRRF by the City will require notice to the District. Fund activity and balance will be reported annually as a part of the City's annual independent audit.

(3) Ongoing Maintenance. The Parties anticipate that the City will recover (to the extent possible) the Ice Facility's maintenance costs through user fees, as assisted by the Parties' annual contributions and the accumulated Ice Facility Reserve Fund. The Parties Agree that the CRRF may be used for Ice Facility replacement items that carry a useful life of more than one year and have a minimum cost of a $1,000.

(4) The City will set fees and program activities for the Ice Facility, utilizing Exhibit C – "Use Guidelines" as a tool to assist in determining the right mix and balance of operating fees and activity schedules.

(5) *Fundraising*. In addition to revenue generation through traditional user fees and concessions, the City & District shall endeavor to increase revenues through efforts to obtain sponsorships, individual donations, and various charitable contributions. Acceptable means of revenue generation include, but are not limited to, dasher board and program advertising, sponsorships and grant underwriting.

## ARTICLE 5
## REPRESENTATIONS AND WARRANTIES

Section 5.1. **Filing of Agreement**. The Parties each covenant that this Agreement shall be filed with its keeper of records as required by the Act.

Section 5.2. **No Litigation**. The Parties each represent and warrant that there is no litigation or legal or governmental action, proceeding, inquiry or investigation pending or threatened to which the District or the City, as applicable, is a party or to which any of its property is subject which, if determined adversely to such Party, would individually or in the aggregate (a) affect the validity or the enforceability of this Agreement, or (b) otherwise materially adversely affect such Party's ability to comply with its obligations hereunder.

Section 5.3. Residents of the District shall not be charged any cost for the use of the Ice Facility in excess of the cost paid by residents of the City for the use of the Ice Facility. City residents shall not be granted discounts for any other economic reduction in the cost of use not equally available to residents of the District for use of the Ice Facility.

**ARTICLE 6**
**TERM; TERMINATION**

Section 6.1. **Term**. This Agreement shall be in full force and effect and be legally binding upon the Parties only after its execution, following approval by resolution by the District's Board and the City's City Council and shall run for a term of fifty (50) years or the maximum duration allowed by Utah Code Ann. § 11-13-216, as amended, if such maximum duration exceeds fifty (50) years.

Section 6.2. **Termination**. (Language to be inserted)

Section 6.3. **Disposition of Assets Upon Termination**. Upon termination of this Agreement pursuant to Section 6.2 herein, the Parties hereby agree that the City shall retain all ownership, use, and control rights to the Ice Facility and that the City shall pay to the District a settlement amount equal to the depreciated value of the District's total capital contributions pursuant to this Agreement.

**ARTICLE 7**
**INDEMNIFICATION; INSURANCE**

Section 7.1. **Indemnification**. The Parties are governmental entities under the "Utah Governmental Immunity Act" (UTAH CODE ANN. § 63-30-1, *et seq.*) (the "*Immunity Act*") and shall enjoy all of the immunities, benefits and protections thereunder. Consistent with the terms of the Immunity Act, and as provided herein, the District, the City each are responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees.

Section 7.2. **Insurance**. The City shall maintain public liability and Building and Contents Insurance as required by approved City standards.

**ARTICLE 8**
**DEFAULT**

A Party shall be in default under this Agreement if it fails to perform any obligation hereunder within thirty (30) days after written demand by the other Party. Upon a Party's uncured default hereunder, the non-defaulting Party shall be entitled to pursue any and all remedies available at law or in equity

**ARTICLE 9**
**GENERAL PROVISIONS**

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The following provisions also are integral to this Agreement:

Section 9.1. **Applicable Law.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

Section 9.2. **Integration.** This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties relating to the subject matter hereof and constitutes the entire contract between the Parties.

Section 9.3. **Time.** Time is the essence hereof.

Section 9.4. **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

Section 9.5. **Waiver.** No failure by a Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any Party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

Section 9.6. **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

Section 9.7. **Severability.** In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

Section 9.8. **Litigation.** If any action, suit or proceeding is brought by a Party against the other Party with respect to a matter or matters covered by this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the nonprevailing party. Unless otherwise expressly provided in this Agreement, no breach of this Agreement shall entitle any party to unilaterally cancel, rescind or terminate this Agreement; but such limitations shall not affect in any manner any other rights or remedies which either party may have by reason of any such breach.

Section 9.9. **Exhibits.** All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in

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this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

Section 9.10. **Counterparts.** This Agreement may be executed in several counterparts, any one of which shall be regarded for all purposes as one original.

Section 9.11. **Further Acts**. The Parties agree that they will execute any and all deeds, instruments, documents and resolutions or ordinances necessary to give effect to the terms of this Agreement.

Section 9.12. **Amendment**. This Agreement shall not be modified or amended except in writing, which shall be signed by the duly authorized representative of each of the Parties after the adoption of a resolution by their respective governing bodies approving the modification or amendment, provided, however, that if the Parties have outstanding debt, no amendment to this Agreement may be made which would have a material adverse impact on the debtors without the prior consent of said debtors.

Section 9.13. **Assignment**. Neither Party may assign any interest herein without consent of the other Party and receipt by the City and the District of an opinion of counsel to the effect that such assignment is authorized under the Act. The terms of this Agreement shall inure to the benefit of and be binding upon the respective representatives and successors of the Parties.

Section 9.14 **Notices**. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within two days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the Parties as set forth below:

**If to the District:**
Snyderville Basin Special Recreation District
Attention: District Administrator
P.O. Box 980127
Park City, UT 84098

**If to the City:**
Park City Municipal Corporation
Attention: City Manager
P.O. Box 1480
Park City, UT 84060

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

| | |
|---|---|
| **ATTEST**: | **SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT** |
| ______________________________ | ______________________________ |
| **Scott Siemon,** Clerk | **Tim Douglas,** Board Chair |
| | **PARK CITY MUNICIPAL CORPORATION** |
| ______________________________ | ______________________________ |
| Janet M. Scott City Recorder | **Dana Williams**, Mayor |

**APPROVED AS TO FORM**:

______________________________

**Timothy C. Twardowski**,
Assistant Park City Attorney

PARSONS, DAVIES, KINGHORN & PETERS

______________________________

**Gerald H. Kinghorn**,
Attorney for the Snyderville Basin
Special Recreation District

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# Exhibit A

### Ice Facility Area Description, Components, Concept Drawing

**I. Area Description:**
The Ice Facility will be located on City-owned land near the State Route 248 / Highway 40 interchange (Quinn's Junction).

**II. Ice Facility Components:**

a) Initial construction is proposed to include a minimum:
  (1) 100' x 200' enclosed ice sheet
  (2) Bleacher seating (200-300, plus slab space to allow for temporary bleacher seating for an additional 300-400).
  (3) Four Team locker rooms, 1 ref/family,
  (4) restrooms for a minimum of 600,
  (5) concession area for skate rentals and sharpening
  (6) entry vestibule/ticket sales/warming area
  (7) food and pro shop "flex space,"
  (8) mechanical and zamboni storage
  (9) meeting/party room(s)
  (10) Office Space

b) Conceptual Drawing:

# Exhibit B

## Estimated Initial Furnishings, Fixtures & Equipment

| | | | |
|---|---|---|---|
| Ice Resurfacer (Zamboni) | 1 | $ | 90,000.00 |
| Edger for ice Maintenance | 1 | $ | 4,000.00 |
| Flooding hoses/ shovels/squeegees | | $ | 1,000.00 |
| Ice Painting Equipment | 1 | $ | 2,500.00 |
| Hockey Nets (pairs) | 2 | $ | 3,000.00 |
| Scoreboard | 1 | $ | 9,500.00 |
| Handtools and Hardware | | $ | 3,500.00 |
| Floor Scrubber | 1 | $ | 6,000.00 |
| Vacuum and Cleaning tools | | $ | 1,500.00 |
| Ladders | | $ | 1,500.00 |
| Concession Equipment | | $ | 45,000.00 |
| Chairs & tables | | $ | 25,000.00 |
| Smallwares | | $ | 25,000.00 |
| Phone system | 1 | $ | 20,000.00 |
| Computers | | $ | 10,000.00 |
| Office Furniture | | $ | 10,000.00 |
| Cash Registers | | $ | 2,500.00 |
| Specialty Audio / Video Equipment | | $ | - |
| Photocopiers/Fax machines | 1 | $ | 15,000.00 |
| Rental Skates / Helmets | 600 pair | $ | 45,000.00 |
| Skate Aides | 50 | $ | 2,500.00 |
| Skate Sharpening Machines | 2 | $ | 20,000.00 |
| **TOTAL** | | **$** | **342,500.00** |

## Estimated Capital Replacement Lifespans per Equipment Type

| Equipment | Life Expectancy/yrs | Cost | Comments | | 40 Year Life Cycle cost |
|---|---|---|---|---|---|
| | | | | | |
| Zamboni | 10 | $90,000.00 | Trade in Value ($25,000.00) | | $195,000.00 |
| Ice Edger | 5 | $4,000.00 | | | $28,000.00 |
| Hockey Nets | 5 | $1,500.00 | | | $10,500.00 |
| Scoreboard | 20 | $10,000.00 | Trade in Value ($2,000.00 | | $8,000.00 |
| Compressors | 3 | $4,000.00 | (2 compressors) Rebuilt on 3 year cycle | | $104,000.00 |
| Chiller | 20 | $50,000.00 | Total Replacement | | $50,000.00 |
| Condenser | 20 | $45,000.00 | Total Replacement | | $45,000.00 |
| Coolant Pumps | 15 | $5,000.00 | Replacement | | $12,500.00 |
| Dehumidifier | 10 | $20,000.00 | Desiccant Wheel Replacement | | $60,000.00 |
| HVAC Units | 20 | $15,000.00 | Estimate 4 Units | | $60,000.00 |
| Water Heaters | 10 | $10,000.00 | Estimate 2 Units | | $60,000.00 |
| | | | | | |
| Rubber Skaters Flooring | 10 | $50,000.00 | Replacement of flooring in High Traffic Areas | | $150,000.00 |
| | | | | | |
| Rental Skates | 10 | $75.00pr. | Replace 50% of inventory every 5 years | | $67,500.00 |
| Skate Sharpener | 10 | $10,000.00 | Trade In Value $1000.00 | | $54,000.00 |
| | | | | | |
| | | | | | |

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# Estimated Capital Replacement Costs by Year

*(based on 40-year life cycle)*

| Year | Equipment Needed | Notes | Individual Equip. Cost | TOTAL COST FOR YEAR |
|---|---|---|---|---|
| ***3*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***5*** | Ice Edger | | $4,000 | |
| | Hockey Nets | | $1,500 | $5,500 |
| ***6*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***9*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***10*** | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | |
| | Zamboni | | $90,000 | |
| | Dehumidifier | Desiccant Wheel Replacement | $20,000 | |
| | Water Heaters | Estimate 2 Units at $10,000 each | $20,000 | |
| | Rubber Skaters Flooring | Replacement of flooirng in high-traffic areas | $50,000 | |
| | Rental Skates | Three hundred skates at $75/pair (replace 50% of inventory every 5 years) | $22,500 | |
| | Skate Sharpener | Two sharpeners at $10,000 each | $20,000 | $228,000 |
| ***12*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***15*** | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | |
| | Compressors | Two compressors at $4,000 each | $8,000 | |
| | Coolant Pumps | Replacement | $5,000 | $18,500 |
| ***18*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***20*** | Skate Sharpener | Two sharpeners at $10,000 each | $20,000 | |
| | Rental Skates | Three hundred skates at $75/pair (replace 50% of inventory every 5 years) | $22,500 | |
| | Rubber Skaters Flooring | Replacement of flooirng in high-traffic areas | $50,000 | |
| | Water Heaters | Estimate 2 Units at $10,000 each | $20,000 | |
| | Dehumidifier | Desiccant Wheel Replacement | $20,000 | |
| | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | |
| | Zamboni | | $90,000 | |

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| | | | | |
|---|---|---|---|---|
| | Scoreboard | | $10,000 | |
| | Chiller | Total Replacement | $50,000 | |
| | Condenser | Total Replacement | $45,000 | |
| | HVAC Units | Estimate 4 Units at $15,000 each | $60,000 | $393,000 |
| ***21*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***24*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***25*** | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | $5,500 |
| ***27*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***30*** | Skate Sharpener | Two sharpeners at $10,000 each | $20,000 | |
| | Rental Skates | Three hundred skates at $75/pair (replace 50% of inventory every 5 years) | $22,500 | |
| | Rubber Skaters Flooring | Replacement of flooirng in high-traffic areas | $50,000 | |
| | Water Heaters | Estimate 2 Units at $10,000 each | $20,000 | |
| | Dehumidifier | Desiccant Wheel Replacement | $20,000 | |
| | Coolant Pumps | Replacement | $5,000 | |
| | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | |
| | Compressors | Two compressors at $4,000 each | $8,000 | |
| | Zamboni | | $90,000 | $241,000 |
| ***33*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***35*** | Hockey Nets | | $1,500 | |
| | Ice Edger | | $4,000 | $5,500 |
| ***36*** | Compressors | Two compressors at $4,000 each | $8,000 | $8,000 |
| ***39*** | Compressors | Two compressors at $8,000 each | $8,000 | $8,000 |
| ***40*** | Skate Sharpener | Two sharpeners at $10,000 each | $20,000 | |
| | Rental Skates | Three hundred skates at $75/pair (replace 50% of inventory every 5 years) | $22,500 | |
| | Rubber Skaters Flooring | Replacement of flooirng in high-traffic areas | $50,000 | |
| | Water Heaters | Estimate 2 Units at $10,000 each | $20,000 | |
| | HVAC Units | Estimate 4 Units at $15,000 each | $60,000 | |
| | Dehumidifier | Desiccant Wheel Replacement | $20,000 | |
| | Condenser | Total Replacement | $45,000 | |
| | Chiller | Total Replacement | $50,000 | |

Deleted: 6

| | | |
|---|---|---|
| Scoreboard | $10,000 | |
| Hockey Nets | $1,500 | |
| Ice Edger | $4,000 | |
| Zamboni | $90,000 | $393,000 |

***Grand Total of Costs for 40 years*** ***$1,378,000***

* Forecasted expenditures include costs in year 40 that would extend the itemized equipments respective lifespan one more cycle.

## District's Annual Payment Distribution Schedule

| Year | Operating Deficit Contrib. (%) | Estimated Op Deficit Dollar Contrib | District CRRF Contrib. (%) | Estimated CRRF Contribution In $ | Estimated CRRF $ need per above | District Expansion Fund (%) | Estimated Expansion Contribution In $ |
|---|---|---|---|---|---|---|---|
| 1 - 2 | 90% | $90,000 | 10% | $10,000 | $0 | 0% | $0 |
| 3 - 6 | 0% | $0 | 75% | $150,000 | $21,500 | 25% | $50,000 |
| 7 - 10 | 0% | $0 | 75% | $150,000 | $236,000 | 25% | $50,000 |
| 11-15 | 0% | $0 | 75% | $187,500 | $26,500 | 25% | $62,500 |
| 16-20 | 0% | $0 | 75% | $187,500 | $401,000 | 25% | $62,500 |
| 21-25 | 0% | $0 | 50% | $125,000 | $21,500 | 50% | $125,000 |
| 26-30 | 0% | $0 | 50% | $125,000 | $249,000 | 50% | $125,000 |
| 31-35 | 0% | $0 | 50% | $125,000 | $13,500 | 50% | $125,000 |
| 36-40 | 0% | $0 | 50% | $125,000 | $409,000 | 50% | $125,000 |
| | Totals | $90,000 | | $1,185,000 | $1,378,000 | | $725,000 |

* May be amended per Section 4.3.2.v.

Deleted: 6

# Exhibit C

Use Guidelines

The purpose of these Use Guidelines is to provide for the shared use of the Ice Facility for all Park City and Snyderville Basin residents, according to the parameters set forth herein, and to designate the rights and responsibilities of the Parties regarding the shared use of the Facilities.

1. User fees for City and District users shall be the same. At such time as it may occur that Summit County contributes capital and/or operational funding, the Parties will consider a similar County-wide User Fee.

2. The City agrees to provide to the public reasonable access to the ice rink located at the Park City Recreation Complex, which it operates and maintains. The City will make best efforts to balance local programming with tourist related revenue producing events. Efforts will be made to track direct and indirect benefits of hosting events. As a guideline, the City will look to reduce the operating deficit by promoting and hosting events. Local programming should not be negatively interrupted for events that do not see a net profit through direct and indirect revenues.

3. The Parties agree that it is acceptable for ice programming operations to commence on a seasonal schedule, October through April each year. At such time that the Facility's General Manager and City can project a net benefit to the budget for year-round ice operations, the decision will rest with the decision making authority of the City.

4. The Parties agree that prior to Ice Facility occupancy they will develop and adopt Ice Facility Use Policies that shall further define and refine the operational aspects of this Attachment C. The Ice Facility Use Policies shall govern the use of the Ice Facility by all persons and groups. The Parties may alter, change, and add any rules they deem necessary to protect the public and to operate and maintain the facility at a standard acceptable to the Parties.

5. Concessions and Pro-shop Revenues. The Parties agree that the General Manager will allocate concession and pro-shop revenues in a manner consistent with the activity driving the revenue collection. Additionally, the Parties understand that the capital improvement costs associated with any upgrades to the Ice Facility design for areas such as the pro shop and concessions area for the purposes of enhancing the use of the outside fields, will be funded from the associated Fields construction budget.

6. Event Revenues. Ticket prices, if any, for an event will be determined by the entity scheduling that event and all ticket revenues shall be the property of the scheduling entity, or as otherwise agreed to between the scheduling entity and the City. Upon consent of the City, concessions may be sold at the option of the entity scheduling the event. If the scheduling entity retains concession revenues received at its events, is responsible for payment of all applicable taxes.

7. Taxes. Taxes, if any, due on ticket sales will be paid by the entity scheduling the event for which tickets were sold.

8. Suitable Use. The parties will use the Ice Facility only in the manner for which they were constructed, and will not make any permanent or substantial physical change to the Ice Facility without first obtaining written approval of the City and District.

9. Maintenance, Repairs and Utilities. The City shall arrange and pay all costs for the janitorial, utilities, garbage collection, repairs and maintenance on the Ice Facility in consideration of the Annual Operating Subsidy guaranteed by the District.

10.Compliance with Applicable Law: The City and the District agree that Ice Facility Uses will comply with all applicable federal, state and local government laws, regulations, and orders. If a specific event or activity would violate any such law, regulation or order the Parties will take all steps necessary to comply therewith, including canceling the event if compliance is not possible.

City Council
Staff Report

Economic Development
& Capital Projects

**Author:** **Colin Hilton**
**Subject:** **Quinn's Junction Recreation Complex Design Contract – EMA**
**Date:** **8-26-04**
**Type of Item:** **Request for Award of Contract**

**Summary Recommendation:**
Staff is requesting authorization to enter into a service provider contract with Elliott Mahoney Architecture (EMA), in a form approved by the City Attorneys Office, for Phase 1 Quinn's Junction Recreation Complex Programming and Schematic Design services in the amount of $140,000.

**Description:**
**Topic:** Design Contract Services – Quinn's Junction Recreation Complex

**Background:**
Following City Council's budget approval for a proposed Quinn's Junction Recreation Complex (containing both outdoor playing fields and an ice rink component), staff created and published a comprehensive RFQ-RFP inviting design teams to propose on the project.

The basis of the identified scope of work for the RFQ-RFP came from the successful outline of recommendations of the Quinn's Junction Recreation Complex Task Force, which was endorsed by City Council and augmented by comments received through the Spring budget season review and public hearings. Additionally, the Regional Ice Committee (RIC) continued to hammer out the details of an Inter-local Agreement (ILA) which memorialized over 3 years of joint planning efforts for an ice facility to be placed at the Quinn's Complex.

The RFQ-RFP received enormous response with 14 design team proposals received by the published deadline of July 29th. From there, a selection committee made up of Bonnie Park (SBSRD), Ken Fisher (Recreation Dpt), Troy Daley (Parks Dpt), Jonathan Weidenhamer (Planning & ED Dpt), Grant Thomas (GTCI), Matt Twombly (Cap Projects and ED) and Colin Hilton (Cap Projects & ED) narrowed the 14 proposals to four (4) short-listed forms through use of selection criteria and an evaluation matrix. The criteria for selection included the following elements:

1. Architectural Design, Land Planning, and Landscape Design experience (evidence of design of similar projects; design of recreation and sports facilities, including ice venues; planning performed with programmatic considerations recognizing

requirements of budget, space limitations, and special sports use; this will be an important community facility with major scale, aesthetic, and site context consideration).

2. Civil engineering (evidence of capability for design of grading plans, drainage, utility service and distribution, roadways and other site civil improvements).

3. Structural engineering (evidence of experience in design and engineering of long span structures; evidence of engineering for ice facilities, and experience in structural elements of seating systems).

4. Mechanical engineering (evidence of design of heating, ventilating and air conditioning systems for large volume buildings considering elements of humidity, occupancy, and ice surfaces; evidence of engineering for refrigerated systems for ice sheets, and normal building mechanical and piping systems).

5. Electrical engineering (evidence of design of electrical distribution systems; lighting systems and life safety systems for large spaces, and recreation and sport field lighting).

6. Computer capabilities (experience in working with digital surveys, preparation of 3D models, utilization and administration of an internet FTP site; all drawings must be produced in hard copy and electronic copy, using AutoCAD 2000 or higher.

7. Team leadership (evidence of the ability to guide the project from programming through concept planning, design, construction documents, the construction administration phase, and close out of the project).

8. Team coordination (evidence of cohesiveness of team; history of working together).

9. Applicable only to Short-Listed Firms as part of final evaluation
   Work plan for Phase I with tasks, hours, and time lines; proposed fee structure and definition and estimate of reimbursables for Phase I

With the assistance of our City Engineer and PM Advisor Grant Thomas, weights were given to the individual selection criteria and decisions made to short list four firms who were ranked collectively highest by the committee.

On August 13th, the short-listed design teams (1.MHTN/Sink Combs Dethlefs, 2.Design Workshop/RDG, 3. GSBS, 4. EMA/EMA) were invited in for interviews that consisted of a presentation and Q&A segment. Each team was given 20 minutes for their presentation, 20 minutes for a Q&A, and 5 minutes for a closing statement.

After deliberation amongst the selection committee, a final selection was made and the joint partnership team of the firms EMA and EDA were identified as the top choice of the committee.

**Analysis:**

The partnering design team of EMA & EDA (contract through EMA) was chosen because of the following assessment made by the selection committee:

- ✓ EMA/EDA had the best combination of experience in both ice rink design and outdoor fields projects. Their experience, spearheaded by Craig Elliott & Burke Cartwright, includes design of the E-Center and Acord Ice Arena (West Valley), County Ice Center (Murray), Inn of the Seventh Mountain Ice Rink (Bend, Oregon), Peaks Arena (Provo), Phase I Olympic Oval (Kearns) in highlighting their ice rink experience. The BYU Sports Master Plan (Provo), Cody Recreation Center (Cody, Wyoming), Dimple Dell Recreation Center (Sandy, Utah), Franklin Covey Field (SLC), Harbor Park AAA Baseball Stadium (Norfolk, VA), Linguist Field (Ogden), Park City Ski Team Training Center (Park City), Taylorsville Recreation Center, Cottonwood Heights complex, proposed USSA Training Center (unbuilt) plus numerous other outdoor recreation facilities highlights their outdoor fields experience. The team also has other "in-town" local experience with the design of the Utah Olympic Park and recently completed SBSRD Field House.

- ✓ The EMA/EDA team truly brings "nationally known talent" at a local level. Firms who brought in highly regarded design teams from other parts of the country had excellent proposals, however the selection committee felt that we had that level of talent right here in Utah with the EMA/EDA team. The Committee also felt that the community would benefit from having a design team that would in the end be building something that they themselves would be using as a member and citizen of the community. For that, we expect that this design team would create something truly world class.

- ✓ The balance of their proposed design team has highly experienced specialized sub-consultants in the areas of planning and landscape architecture (G. Brown), Mechanical and Ice Engineering (Colvin Engineering), Structural (ARW), Electrical & Lighting (BNA), and Civil (Evergreen Engineering).

The recommended contract with EMA would be for Programming, Planning, and Schematic design services only (Phase 1). We have purposely crafted the process of design to allow us to have a decision point come November. At the end of Schematic design and a review of a developed cost estimate, we would return to City Council with an evaluation of whether our proposed design was within our budgeted amounts. Additionally, factors in play such as the annexation process of our property and possible other petitions in the works could be evaluated to address any unforeseen issues. Our intent and desired outcome would be to move into the next level of design (Design Development and the creation of Construction Documents – Phase 2 and Contract

Administration – Phase 3) given positive performance of the Phase 1 scope of work from SDA.

Given the current construction cost estimates, the total design fees as requested through the selection process would be as follows:

| | |
|---|---|
| Phase 1 – Programming, Planning, and Schematic Design …………….. | $140,000 |
| Phase 2 – DD & CD creation ………………………………………… | $412,500 |
| Phase 3 – Contract Admin (during construction) ………………………. | $ 97,500 |
| Total Estimated Design Fees = | $650,000 |

The total of $650,000 represents 6.5% of the estimated construction costs ($10 million) of the Recreation Complex. Staff would come to Council prior to issuing Phase 2 & Phase 3 design contracts.

Attached is the proposed contract and Exhibit "A" detailing the Scope of Services involved with Phase 1 work.

We envision a very busy September and October period utilizing numerous design workshops and public input sessions to achieve concepts and schematic design options. Tentatively, we have targeted September 13th & 14th, evenings 5:00-7:30pm for public input sessions to be held in Council Chambers.

**Department Review:** EMA/EDA was picked by a selection committee comprised of representatives of the Economic Development & Capital Projects department, Recreation & Library Department, Parks Department, Planning Department, and Snyderville Basin Special Recreation District.

This report was reviewed by the Recreation and Library Department and City Manager's Office.

**Alternatives:**

E. Approve the Request: (Staff recommendation)
F. Deny the Request:
G. Continue the Item:
H. Do Nothing:

**Significant Impacts / Consequences of not taking the recommended action:**
A delayed Project would impact the terms and timing of a Inter-local Agreement with the Snyderville Basin Recreation District regarding the construction of a regional ice facility as well as delay needed outdoor playing fields for meeting current demands of local use as well as an outlined tool for goals City Council has outlined for Economic Development.

**Recommendation:**

Staff is requesting authorization to enter into a service provider contract with Elliot Mahoney Architecture, in a form approved by the City Attorneys Office, for Phase 1 Quinn’s Junction Recreation Complex Programming and Schematic Design services in the amount of $140,000.

**Attachments:**
Service Provider Contract – EMA Architects

**PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____________, 2004, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (ACity@), and ELLIOTT MAHONEY ARCHITECTURE LLC, a Utah corporation (AService Provider@).

WITNESSETH:

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

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

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

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

**1. SCOPE OF SERVICES**.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the AScope of Services@ attached hereto as AExhibit A@ and incorporated herein (the AProject@). The total fee for the Project shall not exceed one hundred forty thousand dollars ($140,000).

**2. TERM**.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on January 31, 2005 or earlier, unless extended by mutual written agreement of the Parties.

**3. COMPENSATION AND METHOD OF PAYMENT**.

A. Payments for services provided hereunder shall be made monthly following the performance of such services.

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

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

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

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

**4. <u>REPORTS AND INSPECTIONS</u>.**

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

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

**5. <u>INDEPENDENT CONTRACTOR RELATIONSHIP</u>.**

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

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

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

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

**7. HOLD HARMLESS INDEMNIFICATION.**

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider=s defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider 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 Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider=s limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

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

## 8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

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

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

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

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

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

F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 9. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City. Drawings and specifications, including those in electronic form, as instruments of service are and shall remain the property of Service Provider whether the project for which they are made is executed or not.

The City shall be permitted to make and to retain copies, including reproducible copies, of drawings and specifications for information and reference in connection with the City's use and occupancy of the project. Further, both parties agree that the City shall have non-exclusive perpetual license to use and copy the drawings and specifications upon payment of amounts due to Service Provider pursuant to this Agreement.

Reuse of the drawings without Service Provider's involvement will be at the City's sole risk and without liability to Service Provider. The City shall indemnify and hold harmless Service Provider, and Service Provider's consultants from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of unauthorized reuse of drawings, specifications, electronic data and other instruments that are part of the project.

**10. <u>COMPLIANCE WITH LAWS</u>.**

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

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

**11. <u>NONDISCRIMINATION</u>.**

A. The City is an equal opportunity employer.

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

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

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

**12. ASSIGNMENTS/SUBCONTRACTING.**

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

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

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

**13. CHANGES.**

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

**14. MAINTENANCE AND INSPECTION OF RECORDS.**

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

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

**15. POLITICAL ACTIVITY PROHIBITED.**

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

**16. PROHIBITED INTEREST.**

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

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

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

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

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

**18. TERMINATION.**

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

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

**19. <u>NOTICE</u>.**

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

**20. <u>ATTORNEYS FEES AND COSTS</u>.**

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

**21. <u>JURISDICTION AND VENUE</u>.**

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

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

**22. <u>SEVERABILITY</u>.**

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

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

**23. ENTIRE AGREEMENT.**

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

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

**Exhibit "A" – Scope of Services**

**I. Services & Deliverables** - The Service Provider will perform Phase 1 Planning and Schematic Design services for the City's Quinn's Junction Recreation Complex project. Services and deliverables will include:

1) Program and Master Planning through collaborative workshops producing a minimum of two concept plans.
2) Definition of the Scope of Work for the project
3) Schematic Design documents and a computer generated rendering of the selected concept plan
4) Contracting and management of all engineering disciplines

**II. Detailed checklist of tasks to be performed, design team members involved, and dates targeted for completion:**

Master Planning & Programming

Time: 242 Hours (3 Weeks)
Start August 20, 2004
Complete September 10, 2004

Team: Craig Elliott
Hans Hoffman
Gerald Brown
Burke Cartwright
Holli Adams

☐ Data Collection (aerial photos, site plats, site boundary survey, topography maps, geotechnical reports, proposed or existing utility plans including off site utility services, utility easements, wetland study, environmental reports)

- ☐ Vicinity/Location Map showing street traffic directions, highway ingress and egress and major surrounding developments and zoning
- ☐ Prepare site documentation inventory and analysis (Facts)
- ☐ Site use & circulation diagrams
- ☐ Site programming documents
- ☐ Two Site Master Plan concepts

- ☐ Site Analysis
  - ☐ Solar study
  - ☐ View orientation study
  - ☐ Wind study
  - ☐ Natural drainage paths
  - ☐ Topography analysis and review for design opportunities.
  - ☐ Circulation/access

- ☐ Review and analysis of owner provided programmatic needs
- ☐ On-site Programming Interactive Session
- ☐ Project goals from Owner
- ☐ Prepare and develop Cost Model, with construction cost and project costs
- ☐ Prepare space requirement sheets (Needs)
- ☐ Document space requirements and total building area
- ☐ Program development, space relationships and space adjacencies
- ☐ Quantitative data
- ☐ Building systems specific needs (Structural, HVAC, Elect, Plumb, Energy)
- ☐ Ice refrigeration system analysis
- ☐ Draft program document
- ☐ Incorporate site programming
- ☐ Owner review & modifications
- ☐ Design concept statement
- ☐ Final program document, Definition of Scope of Work

Owner Review, if necessary — September 10 to September 17, 2004

Schematic Design

| | | |
|---|---|---|
| Time: | 608 Hours | (5 Weeks) |
| | Start | September 10, 2004 |
| | Complete | October 13, 2004 |

| | | |
|---|---|---|
| Team: | Craig Elliott | Tom Colvin |
| | Hans Hoffman | Mark Bryant |
| | Gerald Brown | Brent White |
| | Burke Cartwright | Andrew Moran |
| | Holli Adams | |

- ☐ Design Alternatives Development

- ☐ Develop preferred concept plan for the complex
- ☐ Analysis of synthetic turf options
- ☐ Physical massing models, as necessary
- ☐ Computer generated rendering

☐ Site Design

- ☐ Diagrammatic power, water, sewer and gas line extensions
- ☐ Earthwork
- ☐ Trails integration concept
- ☐ Layout and surface grading and drainage concepts for site features to include:
  - ☐ Sports fields
  - ☐ Playgrounds
  - ☐ Walks
  - ☐ Roads
  - ☐ Parking Lots
  - ☐ Paving
  - ☐ Public Spaces
- ☐ Site furnishing image board
- ☐ Site lighting concepts
- ☐ Irrigation Concepts
- ☐ Rendered Master Plan

☐ Proposed Site Plan(s)

Minimum of one site plan

Minimum scale of 1"=100', 1"=60' desired for field, 1"=30' desired for building plans.

- ☐ Address
- ☐ Scale
- ☐ North arrow
- ☐ Existing zoning, adjacent zoning
- ☐ Required zoning
- ☐ Jurisdiction
- ☐ Site area
- ☐ Building area
- ☐ Landscape area
- ☐ Percentage landscape
- ☐ Parking count; required, provided wheelchair accessible, etc.
- ☐ Drives, parking stall dimensions including wheelchair accessible
- ☐ Accessible route
- ☐ Loading zones
- ☐ Service areas and access
- ☐ Trash
- ☐ Easements
- ☐ Setbacks – building, landscape, etc.
- ☐ Site dimensions

- ☐ Fields
- ☐ Light pole locations zones
- ☐ Support facilities & access
- ☐ Spectator areas
- ☐ Playground locations

☐ All floor plans, colored at 1/16”=1’0” minimum.
- ☐ Organizational principles for management plan
- ☐ Major dimensions
- ☐ Column grids
- ☐ Windows
- ☐ Doors
- ☐ Floor area, efficiency calculations

☐ Seating
- ☐ Seating configurations
- ☐ Seating sections

☐ Building Section at 1/16”=1’0” minimum scale
Indicating topography integration, indoor clear height, and systems zones.

☐ Exterior Elevations at minimum 1/16”=1’0” to include:
- ☐ Exterior materials
- ☐ Floor lines
- ☐ Overall height
- ☐ Proposed colors with locations
- ☐ Mechanical screening
- ☐ Signage / address
- ☐ Exterior lighting
- ☐ Specialty items / features

☐ Exterior materials color presentation board
- ☐ Glass
- ☐ Window frame
- ☐ Wall materials
- ☐ Roof material
- ☐ Exterior door material
- ☐ Paint color palette
- ☐ Keep list of all materials and make second board for files.
- ☐ Specialty fixtures
- ☐ Sun shading strategies
- ☐ Specialty feature(s)

☐ Exterior perspective sketches of key features, as necessary
☐ Brief written description of design concept, including assumptions on mechanical, structural,

electrical systems; including and landscape and fields narrative.

- ☐ Preliminary Code Analysis
- ☐ Preliminary Zoning Analysis
- ☐ Materials List
- ☐ Assist in preparing construction cost estimate
- ☐ Physical model(s), as necessary
- ☐ Presentation Boards, computer generated images for Public Hearing discussions.

**III. Estimated Breakdown of Fees**

1. Programming & Planning ……………………………………………….. $ 34,500
2. Schematic Design………….. ………………………………………….$103,500
3. Reimbursables ……………………………………………………… $ 2,000
4. Total Fees (Lump Sum)…..…………………………………………...$ 140,000

The outlined tasks, hours, personnel, and fee structure gives the City and Service Provider a necessary outline of tasks and activities involved in Phase 1 Planning and Schematic Design. Should adjustments be necessary to the outlined activities stated in “II. Detailed checklist of tasks to be performed, design team members involved, and dates targeted for completion” above, the two Parties will address through written correspondence.

Phase 2(Design Development and Construction Document Development) & Phase 3 (Contract Administration) services will be addressed with a separate contract given positive performance outcomes, as deemed appropriate by the City, of this contract.

Exhibit “B” – Hourly Rate for Added Work

| | |
|---|---|
| Principal | $120 hour |
| Managing Architect | $85 hour |
| Production Architect | $85 hour |
| Support Staff | $55 hour |
| Clerical | $35 hour |

City Council
Staff Report

Economic Development
& Capital Projects

**Author:** Colin Hilton
**Subject:** Downtown Projects
Design Contract – FFKR
**Date:** 8-26-04
**Type of Item:** Request for Award of Contract

**Summary Recommendation:**
Staff is requesting authorization to enter into a service provider contract with FFKR Architects, in a form approved by the City Attorneys Office, for Phase 1 Downtown Projects Programming and Schematic Design services in the amount of $188,786.

**Description:**

**Topic:** Design Contract Services – Downtown Area Projects

**Background:**
Following City Council's budget approval for the proposed Downtown Projects (containing four components of a new parking structure, Marsac Renovation, Police headquarters, and a Town Plaza), staff created and published a comprehensive RFQ-RFP inviting design teams to propose on the project.

The basis of the identified scope of work for the RFQ-RFP came from the successful outline of recommendations of the Downtown Enhancements Task Force, which was endorsed by City Council and augmented by comments received through the Spring budget season review and public hearings.

The RFQ-RFP received enormous response with 12 design team proposals received by the published deadline of July 27th. From there, a selection committee made up of Doug Stephans (Planning), Patrick Putt (Planning), Ron Ivie/Roger Evans (Building Dpt), Eric Nesset/Jerry Gibbs (Transit & Parking), Andrew Volkman (Planning Commission), Chief Lloyd Evans (Police), Jonathan Weidenhamer (Planning & ED Dpt), Grant Thomas (GTCI), and Colin Hilton (Cap Projects & ED) narrowed the 12 proposals to four (4) short-listed forms through use of selection criteria and an evaluation matrix. The criteria for selection included the following elements:

10. Architectural Design, Land Planning, and Landscape Design experience (evidence of design of similar projects; parking structures, civic buildings, public plazas, public safety facilities including; planning performed with programmatic considerations recognizing requirements of budget, space limitations, environmental concerns and

work within historic areas. This will be an important community facility with major scale, aesthetic, and site context consideration).

11. Civil engineering (evidence of capability for design of grading plans, drainage, utility service and distribution, roadways and other site civil improvements).

12. Structural engineering (evidence of experience in design and engineering of parking structures, civic buildings, seismic upgrades to historic buildings, and structural elements of public plazas, outdoor entertainment and special event facilities).

13. Mechanical engineering (evidence of experience in mechanical and piping systems for historic buildings, parking structures, public safety facilities, and mechanical elements of public plazas and special event facilities).

14. Electrical engineering (evidence of experience in power, lighting, and life safety systems for historic buildings, parking structures, public safety facilities, and electrical systems of public plazas and special event facilities).

15. Computer capabilities (experience in working with digital surveys, preparation of 3D models, utilization and administration of an internet FTP site; all drawings must be produced in hard copy and electronic copy, using AutoCAD 2000 or higher.

16. Team leadership (evidence of the ability to guide the project from programming through concept planning, design, construction documents, the construction administration phase, and close out of the project).

17. Team coordination (evidence of cohesiveness of team; history of working together).

18. Applicable only to Short-Listed Firms as part of final evaluation
    Work plan for Phase I with tasks, hours, and time lines; proposed fee structure and definition and estimate of reimbursables for Phase I

With the assistance of our City Engineer and PM Advisor Grant Thomas, weights were given to the individual selection criteria and decisions made to short list four firms who were ranked collectively highest by the committee.

On August 11th, the short-listed design teams (1. GSBS, 2. MHTN, 3. FFKR, 4. EDA Architects) were invited in for interviews that consisted of a presentation and Q&A segment. Each team was given 20 minutes for their presentation, 20 minutes for a Q&A, and 5 minutes for a closing statement.

After deliberation amongst the selection committee, a final selection was made and FFKR Architects were identified as the top choice of the committee.

**Analysis:**

The FFKR design team was chosen because of the following assessment made by the selection committee:

- ✓ FFKR had the best “vision” for integrating the proposed project components into our historic downtown area. Frank Ferguson, FFKR’s Lead Design Principal spoke during the interview with such inspiring and passionate thoughts on how this could all come together, it compelled the selection committee to place a much higher value on FFKR’s overall vision being greater than the sum of the individual projects components. FFKR’s prior project experience includes: Abravenel Hall, the Olympic Caldron Park, Rice Eccles Stadium & the Delta Center, the Snowbird Master Plan, Kimball Arts Center Remodel (unbuilt), Barking Frog Restaurant on Main Street (now Chimayo), Parking Garages for the Broadway Center (SLC) and River Rock Casino (CA), historic renovations of the Pierpont Building (SLC), Gardner Hall & Cowles Building (UofU Campus), plus numerous other public and civic projects.

- ✓ FFKR’s key Project Manager Rich Frerichs has a long history of taking very complex projects and facilitating / mediating very active and strong stakeholders and finding solutions that everybody likes. He recently completed an intricate project, The Moran Eye Center, positioned in the heart of the Health Campus within the University of Utah.

- ✓ The balance of their proposed design team has highly experienced specialized sub-consultants in the areas of Civil Engineering (Stantec), Mechanical (Van Boreum & Frank), Structural and Sesimic (Reaveley), and Electrical & Lighting (BNA).

An intensive and thorough Traffic Study would be performed by Fehr & Peers Traffic Consultants through our existing contractual arrangement.

The recommended contract with FFKR would be for Programming, Planning, and Schematic design services only (Phase 1). We have purposely crafted the process of design to allow us to have a decision point come November. At the end of Schematic design and a review of a developed cost estimate, we would return to City Council with an evaluation of whether our proposed design was within our budgeted amounts. Additionally, factors in play such as whether the Police headquarters can actually work into the project area could be evaluated along with other unforeseen issues. Our intent and desired outcome would be to move into the next level of design (Design Development and the creation of Construction Documents – Phase 2 and Contract Administration – Phase 3) given positive performance of the Phase 1 scope of work from FFKR.

Given our current construction cost estimates, the design fees as requested through the selection process would be as follows:

| | |
|---|---|
| Phase 1 – Programming, Planning, and Schematic Design …………….. | $188,786 |
| Phase 2 – DD & CD creation …………………………………………. | $532,500 |
| Phase 3 – Contract Admin (during construction) ………………………. | $232,500 |
| Total Estimated Design Fees = | $953,786 |

The estimated total design fee of $953,786 represents approximately 7.4% of the estimated construction costs ($13 million = $5.5 million for parking, + $2.5 million for plaza, + $2.5 for Marsac Renovation, + $2.5 million for Police) of the entire project. Staff would come to Council prior to issuing Phase 2 & Phase 3 design contracts.

Attached is the proposed contract and Exhibit "A" detailing the Scope of Services involved with Phase 1 work.

We envision a very busy September and October period utilizing numerous design workshops and public input sessions to achieve concepts and schematic design options. Tentatively, we have targeted September 27th & 28th, evenings 5:00-7:30pm for public input sessions to be held in Council Chambers.

**Department Review:** FFKR Architects was picked by a selection committee comprised of representatives of the Planning Department, Building Department, Police Department, Public Works Department, and Economic Development & Capital Projects Department.

This report was reviewed by the Planning, Police, and City Manager's Office.

**Alternatives:**

I. Approve the Request: (Staff recommendation)
J. Deny the Request:
K. Continue the Item:
L. Do Nothing:

**Significant Impacts / Consequences of not taking the recommended action:**
A delayed Project would impact the positive momentum building for a holistic project plan for the downtown area. The project meets numerous City Council goals outlined at City-Wide Goals or goals for Economic Development.

**Recommendation:**
Staff is requesting authorization to enter into a service provider contract with FFKR Architects, in a form approved by the City Attorneys Office, for Phase 1 Downtown Projects Programming and Schematic Design services in the amount of $188,786.

**Attachments:**
Service Provider Contract – FFKR Architects

**PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____________, 2004, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (ACity@), and FFKR ARCHITECTS, a Utah corporation (AService Provider@).

WITNESSETH:

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

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

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

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

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

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the AScope of Services@ attached hereto as AExhibit A@ and incorporated herein (the AProject@). The total fee for the Project shall not exceed one hundred eighty eight thousand dollars ($188,786).

**2.** **<u>TERM</u>**.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on January 31, 2005 or earlier, unless extended by mutual written agreement of the Parties.

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

A. Payments for services provided hereunder shall be made monthly following the performance of such services.

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

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

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

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

**4. <u>REPORTS AND INSPECTIONS</u>.**

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

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

**5. <u>INDEPENDENT CONTRACTOR RELATIONSHIP</u>.**

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

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

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

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

## 7. **HOLD HARMLESS INDEMNIFICATION**.

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider=s defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider 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 Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider=s limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

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

**8. <u>INSURANCE</u>.**

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

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

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

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

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

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

F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

## 10. COMPLIANCE WITH LAWS.

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

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

## 11. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

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

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

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

## 12. ASSIGNMENTS/SUBCONTRACTING.

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

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

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

**13. <u>CHANGES</u>.**

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

**14. <u>MAINTENANCE AND INSPECTION OF RECORDS</u>.**

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

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

**15. <u>POLITICAL ACTIVITY PROHIBITED</u>.**

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

**16. PROHIBITED INTEREST.**

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

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

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

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

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

**18. TERMINATION.**

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

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

**19. NOTICE.**

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

**20. ATTORNEYS FEES AND COSTS.**

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

**21. JURISDICTION AND VENUE.**

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

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

**22. SEVERABILITY.**

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

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

**23. ENTIRE AGREEMENT.**

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

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

Exhibit “A” – Scope of Services

I. **Services & Deliverables** - The Service Provider will perform Phase 1 Planning and Schematic Design services for the City’s Downtown Area Projects. Services and deliverables will include:

5) Program and schematic design development through collaborative workshops producing a minimum of three concept plans.
6) Definition of the Scope of Work for the project
7) Schematic Design documents and a computer generated rendering of the selected concept plan
8) Contracting and management of all engineering disciplines

**II. Detailed listing of tasks to be performed, design team members involved, and dates targeted for completion:**

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Architectural

| Activity | **TOTALS** | Senior Principal | Principal Architect | Associate Architect |
|---|---|---|---|---|
| Project Administration | **40** | 8 | 32 | |
| Collect Project Site Data, Site Visits | **12** | | | |
| Coordination of Owner Supplied Data | **12** | | | |
| Programming and Design Workshops | **76** | 16 | 20 | 20 |
| Develop Program Document | **132** | 8 | 20 | 24 |
| Coordinate Program Estimate with City Representative | **32** | 8 | 8 | 16 |
| Miscellaneous City Official Meetings | **52** | 12 | 16 | 12 |
| Develop Concepts for Project Area | **68** | 20 | 24 | |
| Develop Schemes for Parking Structure | **48** | 8 | 12 | 12 |
| Develop Schemes for Police HQ | **48** | 8 | 12 | 12 |
| Develop Schemes for City Hall Renovation | **48** | 8 | 12 | 12 |
| Develop Schemes for Town Plaza | **48** | 8 | 12 | 12 |
| Integration of Structural, Mechanical, Electrical | **32** | | | 16 |
| Code Analysis | **16** | | | 16 |
| Research City Design Standards | **16** | | | 16 |
| Schematic Design Technical Drawings | **500** | | | |
| Rendering of Selected Site Design Scheme | **100** | | | |
| Consultant Coordination | **16** | | | 16 |
| Specifications | **24** | | | |

| | | | | |
|---|---|---|---|---|
| Document Review/Quality Assurance | **16** | | | 1 |
| Coordinate Schematic Estimate with Owner's Representative | **28** | | 16 | |
| Meeting Notes and Distribution | **20** | | | |
| Miscellaneous Efforts | **88** | 16 | 24 | 1 |
| Hours | **1472** | 120 | 208 | 21 |
| Rate | | $185 | $125 | $8 |
| Total Architectural Costs | **$121,720** | $22,200 | $26,000 | $18,36 |

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Landscape Architectural

| Activity | **TOTAL** | Landscape Architect | Drafter |
|---|---|---|---|
| Project Administration | **4** | 4 | |
| Collect Project, Site Data, Site Visit | **2** | 2 | |
| Coordination of Owner Supplied Data | **0** | | |
| Programming and Design Workshops | **6** | 6 | |
| Develop Program Document | **4** | 4 | |
| Coordinate Program Estimate with City Representative | **2** | 2 | |
| Miscellaneous City Official Meetings | **4** | 4 | |
| Develop Concepts for Project Area | **4** | 4 | |
| Develop Schemes for Parking Structure | **0** | | |
| Develop Schemes for Police HQ | **0** | | |
| Develop Schemes for City Hall Renovation | **0** | | |
| Develop Schemes for Town Plaza | **16** | 16 | |
| Integration of Structural, Mechanical, Electrical | **0** | | |
| Code Analysis | **0** | | |
| Research City Design Standards | **2** | 2 | |
| Schematic Design Technical Drawings | **16** | | 16 |
| Rendering of Selected Site Design Scheme | **0** | | |
| Consultant Coordination | **0** | | |
| Specifications | **4** | 4 | |
| Document Review/Quality Assurance | **1** | 1 | |
| Coordinate Schematic Estimate with Owner's Representative | **2** | 2 | |
| Meeting Notes and Distribution | **0** | | |
| Miscellaneous Effort | **2** | 2 | |
| Sub-Total Hours | **69** | 53 | 16 |
| Rate | | $100 | $45 |
| Total Landscape Architectural Costs | **$6,020** | $5,300 | $720 |

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Structural Engineer

| Activity | **Total** | Senior Principal Engineer | Senior Engineer | Cadd Tec |
|---|---|---|---|---|
| Project Administration | **4** | 4 | | |
| Collect Project Site Data, Site Visit | **4** | | 4 | |
| Coordination of Owner Supplied Data | **4** | | 4 | |
| Programming and Design Workshops | **8** | 4 | 4 | |
| Develop Program Document | **12** | 4 | 8 | |
| Coordinate Program Estimate with City Representative | **8** | 4 | 4 | |
| Miscellaneous City Official Meetings | **8** | 4 | 4 | |
| Develop Concepts for Project Area | **4** | 4 | | |
| Develop Schemes for Parking Structure | **30** | 6 | 24 | |
| Develop Schemes for Police HQ | **18** | 6 | 12 | |
| Develop Schemes for City Hall Renovation | **30** | 6 | 24 | |
| Develop Schemes for Town Plaza | **10** | 2 | 8 | |
| Integration of Structural, Mechanical, Electrical | **4** | | 4 | |
| Code Analysis | **4** | | 4 | |
| Research City Design Standards | **4** | | 4 | |
| Schematic Design Technical Drawings | **80** | | | 8 |
| Consultant Coordination | **0** | | | |
| Specifications | **8** | | 8 | |
| Document Review/Quality Assurance | **4** | 4 | | |
| Coordinate Schematic Estimate with Owner's Representative | **4** | | 4 | |
| Miscellaneous Effort | **8** | 4 | 4 | |
| Sub-Total Hours | **256** | 52 | 124 | 8 |
| Rate | | $110 | $85 | $6 |
| Total Structural Engineer Costs | **$21,060** | $5,720 | $10,540 | $4,80 |

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Civil Engineer

| Activity | **TOTAL** | Sr Proj Manager | Project Manager | Senio Designe |
|---|---|---|---|---|
| Obtain Existing Plans | **5** | 1 | 1 | |
| Site Visit | **7** | 2 | 2 | |
| Prepare Report and Recommendations | **4** | 1 | 3 | |
| Review Utilities | **6** | 2 | 3 | |

| | | | | |
|---|---|---|---|---|
| Determine Tie In Points | **2** | | 2 | |
| Meet Utility Personnel for Utility Capacity | **3** | | 3 | |
| Utility Capacity Study | **5** | 1 | 2 | 2 |
| Review Soils Reports, Meet Park City Reps | **6** | 6 | | |
| Prepare Soils Remediation Report | **14** | 2 | | 12 |
| Project Meetings | **12** | 3 | 6 | 3 |
| Design Charette | **4** | | 4 | |
| Schematic Design Utilities | **13** | 1 | 2 | 10 |
| Schematic Design Drainage | **12** | | 2 | 10 |
| Sub-Total Hours | **93** | 19 | 30 | 44 |
| Rate | | $128 | $118 | $90 |
| Total Civil Engineer Costs | **$10,196** | $2,432 | $3,540 | $4,224 |

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Mechanical Engineer

| Activity | **Total** | Senior Engineer | Design Engineer | Cad Technica |
|---|---|---|---|---|
| Collect Project Site Data, Site Visit | **24** | 8 | 16 | |
| Coordination of Owner Supplied Data | **8** | 4 | 4 | |
| Programming and Design Workshops | **12** | 6 | 6 | |
| Develop Program Document | **16** | 12 | 4 | |
| Coordinate Program Estimate with City Representative | **4** | 4 | | |
| Miscellaneous City Official Meetings | **4** | | 4 | |
| Develop Schemes for Parking Structure | **6** | 2 | 4 | |
| Develop Schemes for Police HQ | **16** | 8 | 8 | |
| Develop Schemes for City Hall Renovation | **24** | 16 | 8 | |
| Research City Design Standards | **4** | | 4 | |
| Schematic Design Technical Drawings | **40** | | | 40 |
| Consultant Coordination | **6** | 2 | 4 | |
| Specifications | **12** | 12 | | |
| Document Review/Quality Assurance | **2** | 2 | | |
| Coordinate Schematic Estimate with Owner's Representative | **4** | 4 | | |
| Miscellaneous Effort | **8** | 4 | 4 | |
| Sub-Total Hours | **186** | 84 | 62 | 40 |
| Rate | | $125 | $85 | $60 |
| Total Mechanical Engineer Costs | **$18,170** | $10,500 | $5,270 | $2,400 |

Park City Downtown Projects
Phase I Planning and Schematic Design Work Plan
Electrical Engineer

| Activity | Total | Principal Engineer | Project Manager | Designe |
|---|---|---|---|---|
| Collect Project Site Data | **4** | | 4 | |
| Coordination of Owner Supplied Data | **4** | | 4 | |
| Programming and Design Workshops | **8** | 4 | 4 | |
| Develop Program Document | **8** | 4 | 4 | |
| Coordinate Program Estimate with City Representative | **4** | 2 | 2 | |
| Miscellaneous City Official Meetings | **8** | 4 | 4 | |
| Develop Schemes for Police HQ | **12** | 4 | 8 | |
| Develop Schemes for City Hall Renovation | **16** | 4 | 12 | |
| Develop Schemes for Town Plaza | **4** | | 4 | |
| Coordination Meetings | **6** | | 6 | |
| Code Analysis | **2** | | 2 | |
| Research City Design Standards | **2** | | 2 | |
| Schematic Design Technical Drawings | **32** | | | 3 |
| Specifications | **4** | | 4 | |
| Document Review/Quality Assurance | **2** | 2 | | |
| Coordinate Schematic Estimate with Owner's Representative | **4** | 4 | | |
| Miscellaneous Effort | **8** | 4 | 4 | |
| Sub-Total Hours | **120** | 28 | 60 | 3 |
| Rate | | $105 | $71 | $6 |
| Total Electrical Engineer Costs | **$9,120** | $2,940 | $4,260 | $1,92 |

Total Phase 1 **$186,286**

**III. Breakdown of Fees**

5. Basic Services to cover the outlined services and deliverables ………….. $186,286
6. Reimbursables ………………………………………………………… $ 2,500
7. Total Fees not to exceed ……………………………………………... $ 188,786

The outlined tasks, hours, personnel, and fee structure gives the City and Service Provider a necessary outline of tasks and activities involved in Phase 1 Planning and Schematic Design. Should adjustments be necessary to the outlined activities stated in "II. Detailed listing of tasks to be performed, design team members involved, and dates targeted for completion" above, the two Parties will address through written correspondence.

Phase 2 (Design Development and Construction Document Development) & Phase 3 (Contract Administration) services will be addressed with a separate contract given positive performance outcomes of this contract.

Exhibit "B" – Hourly Rates for added Work

**(insert rates here)**