

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 13, 2006**

Present: Mayor Dana Williams; Council members, Marianne Cone; Candace Erickson; Roger Harlan; Jim Hier; and Joe Kernan

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Lloyd Evans, Chief of Police; Dave Gustafsen, Contractor; Brooks Robinson, Planner

1. Police Complaint Review Committee interviews. The Mayor and City Council interviewed candidates Donald Feagan (by phone), and Jerry Bush. At 4:15 p.m. the Council convened in closed session; see Memorandum of Closed Session in regular meeting minutes.

2. Council questions/comments. Roger Harlan reported that Mountainlands is expecting to receive occupancy permits for eight units next week and he extended his appreciation of the wildflowers planted at the neighborhood park at Sidewinder and Comstock. He relayed positive feedback from Triple Crown participants. Marianne Cone reported on the Library's one-book reading program and developing a bicycle route to Salt Lake. She explained a new event, *Share the Road Rally* that she and Carol Potter are organizing to be held at Miners Hospital, August 8 from 4 p.m. to 6 p.m. There was discussion about allowing fireworks for Pioneer Day.

Ms. Cone stated that Aspen and Ketchum prohibit construction on Sundays and asked if Council is willing to consider the same limitations. She felt that the *short construction season* is not a convincing argument since construction now occurs year-round and asked if there is interest in exploring amending the ordinance. Ms. Erickson asked if this is for commercial or private projects; she typically works on her house on the weekends like many residents who work during the week. Tom Bakaly interjected that this topic can be added to LMC amendments which the Planning Commission and City Council will be reviewing.

Joe Kernan noted that he brought this up earlier with staff and asked about the status of eliminating the Priority 3 snow removal designation and Jerry Gibbs explained that this can be discussed late fall. Jim Hier commented on the employee golf tournament and Park City Heights' task force meeting business. The Chamber held its annual meeting where the budget was adopted and former Mayor Brad Olch was recognized.

Mayor Williams stated that he received correspondence from an attorney proposing that the City regulate the use of cell phones. He also received an irate call from a resident complaining that an item on the Planning Commission agenda was worded in a manner that was not intuitively clear. Mark Harrington stated that staff is re-evaluating the notice process. Brooks Robinson recalled that the notice identified the topic as an HR-

1 discussion on footprints, so there was some description and not just the code section number.

The Mayor stated that he welcomed participants of the Rocky Mountain Trucking Rendezvous and asked that staff explore expanding the membership of the Historic Preservation Board to seven members. Several business owners have contacted him about the use of decks and patios and there are five City ordinances regulating noise, alcohol, and the 10 p.m. closure of outside areas. Jim Hier stated that the HMBA will form a subcommittee to discuss outdoor dining, noise and related activities and is willing to participate in the process. Marianne Cone agreed to review concerns and couldn't recall why the City adopted stricter provisions. Chief Lloyd Evans explained that there was a time when Main Street buildings didn't have outside balconies, decks or patios; it wasn't until businesses began to renovate and expand. Many decks were then used as an extension of the business and used as part of the establishment. At the same time, more people were moving into the surrounding Main Street neighborhoods and the ordinances were intended to control noise and other impacts from creeping into residential areas. There was discussion about the Planning Commission first reviewing these modifications and then the City Council.

Dave Gustafson publicly thanked Maria Bardnt for her exceptional landscaping efforts at the parking structure project.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 13, 2006**

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, July 13, 2006. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Brooks Robinson, Planner; Kathy Dunks, Water Manager, Dave Gustafson, Project Manager; Jonathan Weidenhamer; and Gary Hill, Budget Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. School drop-off – Lucky John Drive – The City Manager described this joint project with the Park City School District. It is hoped to design and construct it by October.

2. Bio-diesel program – The Mayor reported that he interviewed with the *Salt Lake Tribune* today on the bio-diesel program. It is estimated that green house gases will be reduced by 580 tons a year and aside from the bus fleet, street sweepers, backhoes, etc. will also be retro-fitted for bio-diesel fuel.

3. Gambel Oak Park – Mayor Williams publicly acknowledged Congressman Bishop's and staff's efforts on the passing of federal legislation relating to this property.

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

1. Regulation of commercial balconies, decks and patios – Mike Wong, HMBA member, requested that the City Council consider amending the required 10 p.m. closure for outside uses. Jim Hier advised Mr. Wong to formulate recommendations for Code changes and to work with the HMBA. The City Attorney explained that this provision is found in the Municipal Code and not the LMC and technically does not have to go through the Planning Commission process (as discussed in work session). However, there are overlapping provisions with the LMC that may have to be revised, and although noise and business licensing are addressed in the Municipal Code, it may make sense to review everything comprehensively. Jonathan Weidenhamer added that staff will work with the HMBA and adjacent neighborhoods. Mark Harrington continued that as a citizen, Mr. Wong has the right to petition the Council for a Code change.

2. Affordable housing project – 555 Deer Valley Drive – Harvey LaPointe, Deer Valley Drive resident, detailed unmet promised deadlines and loan extensions associated with this Mountainlands Community Housing Trust's affordable housing project. The original price was \$2.1 million and now totals \$3.1 million. The City

granted \$150,000 worth of fee waivers, and provided loans in the amounts of \$100,000 and \$250,000. He referred to the interview with the City Manager yesterday on *KPCW* where he felt the City wrongfully accepted responsibility for delays in the project which is misleading and inaccurate. Mr. LaPointe commented on neighborhood objections to the color scheme which he personally likes, and concluded with a remark about MCHT not allowing buyers on the property until after closing.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 29, 2006

Roger Harlan, "I move approval of the work session notes and minutes of the meeting of June 29, 2006". Marianne Cone seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

1. Two appointments to the Planning Commission for terms expiring July 1, 2010 – The Mayor recommended the appointment of Evan Russack and Julia Petit. Candace Erickson, "I so move". Marianne Cone seconded. Motion unanimously carried.

2. Three appointments to the Historic Preservation Board for terms expiring July 1, 2009 – The Mayor referred to Council direction to amend the LMC to expand the membership to seven members, but in the meantime recommended re-appointing incumbents, Mark Huber, Puggy Holmgren, and Gary Kimball. Marianne Cone, "I so move". Candace Erickson seconded. Motion unanimously carried.

3. Three appointments to the Recreation Advisory Board for terms expiring July 1, 2009 – Mayor Williams recommended the appointment of Moe Hickey, Jennifer Franklin and Liza Simpson. Roger Harlan, "I so move". Marianne Cone seconded. Motion unanimously carried.

VI NEW BUSINESS

1. Ordinance amending Title 13, Water Code, of the Municipal Code of Park City, Utah by adding Section 13-1-28, Water Source Protection Plan – See staff report. Kathy Dunks explained that the ordinance formalizes practices already followed. The Plan itself needs to be reviewed every six years, and the adoption of an ordinance is part of the Plan. The Mayor opened the public hearing, and with no comments, closed the hearing. Jim Hier, "I move we adopt the Water Source Protection Ordinance as presented in the staff report". Roger Harlan seconded. Motion unanimously carried.

2. Authorization to the City Manager to execute a Second Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, for the design and construction management of the Judge Water Treatment

Plant, in an amount not to exceed \$234,020 – Ms. Dunks explained that staff considered issuing RFPs but decided against that direction. Because this is a professional services agreement, there is a focus on qualifications over price. Carollo is one of the most qualified firms in the industry, offers continuity because of its experience on this project, and there is no guarantee that another qualified firm would respond at a better price. She discussed the increase in costs for civil engineering services, because there's so much available work and salaries have increased significantly which translates into increased hourly rates. She added that state grant monies must be spent within a certain period and this recommendation is compliant with the City's procurement policies. Roger Harlan disclosed his conversations with Ms. Dunks on this project. Candace Erickson expressed her understanding of increased salaries but brought up concerns of assigning a higher paid employee to our project. Ms. Dunks didn't believe that will be a problem. In response to a question from Marianne Cone about the approval process for the treatment plant structure, Brooks Robinson explained that the property is in Empire Pass and zoned ROS and the process may be detailed in the Development Agreement. Mark Harrington commented that the Development Agreement provides for some administrative approvals but without a defined location, staff will have to report back on the review process. Tom Bakaly pointed out that this contract is for design and the construction contract will be reviewed by Council after approvals are granted. Joe Kernan asked if there is an inflation rate for hourly rates in the contract and Ms. Dunks replied no; this action amends the contract. Candace Erickson, "I move we authorize the City Manager to execute a Second Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, for the design and construction management of the Judge Water Treatment Plant, in an amount not to exceed \$234,020". Joe Kernan seconded. Motion carried unanimously.

4. Authorization to the City Manager to execute a contract with Jacobsen Construction Inc., in a form approved by the City Attorney, in an amount not to exceed \$6,035,085 for the construction of the police facility – Dave Gustafson reported that the dollar amount dropped to \$5,749,570 since the agenda was published. He explained that staff is requesting approval of Contract Amendment #2 to the existing Jacobsen construction agreement for construction of the police facility located at 2060 Park Avenue. In February 2006, staff received an estimate of \$4.4 from Jacobsen but once the construction documents were completed in early June, Jacobsen began receiving hard bids for the construction. Unfortunately, those bids came in higher than expected even though historical data was used to forecast costs. The architectural firm then conducted value engineering to decrease the price from \$6 to \$5.75 million without jeopardizing green building elements.

In response to a question from Mayor Williams, Jonathan Weidenhamer explained that the original budget called for 4% of the \$4.4 million or \$176,000 and with the increase in

the costs, will translate to \$230,000. Green building elements probably total \$330,000 because some standards are intrinsic to commercial buildings. Mr. Weidenhamer added that in February, Council directed staff to explore technologies to reduce long-term operational costs. Jim Hier emphasized the importance of following a defined policy, either committing to allocate 4% to green building elements, including commercial applications, or spending 4% over and beyond the standard. Discussion ensued on the increased costs of using concrete rather than asphalt, installing thermal heat and potential energy cost savings in the long term. Jon Weidenhamer pointed out that the City is expected to save 30% annually on operating costs with high efficiency systems. Council members asked that the value of green elements be broken down to better understand the commitment. It was pointed out that solar energy is not currently included in the plan. Tom Bakaly understood that Council is looking for an accounting of the green building elements so that members agree on the methodology before expending funds.

Roger Harlan brought up the 1% commitment to public art on projects and suggested that it be capped at \$44,000. Although he is supportive of art in public buildings, increasing the allocation is an issue for him. Jim Hier stated that if the scope of the project changes because costs increased on materials, it is difficult for him to cap one feature and not all of them. It's important to be consistent. Council member Erickson expressed the difficulty she is having justifying additional expenditures when the project is so over-budget. The underground parking was rejected because of expense, which she personally felt is an important component. She is having a hard time spending \$67,000, which could have used toward constructing a garage or purchasing equipment for officers for art. Costs are incrementally being added. Jim Hier explained that he could support funding art and green building at the initial estimate of construction, but Council needs to examine the policy discussed. She added what happens if change orders are necessary; are art and green building allocations bumped again? Jim Hier explained that members are okay with approving the contract, but would like to reserve a decision on art and green building. Dave Gustafson added that those are considered soft costs and can be discussed at a later date.

In response to a question from Joe Kernan on the CIP Fund, Gary Hill explained that the recommended funding source for the shortfall is from the CIP Fund balance which is not budgeted for specific projects. The balance has been carried over for many years now and accrues interest. He emphasized that the shortfall is not being carried by taking money from other projects.

Jim Hier, "I move we approve Contract Amendment #2 to the existing Jacobsen Construction Inc. in the amount of \$5,749,570 as revised, with a further note that prior to spending any of the additional incremental monies of 4% for green building and 1% for art, that we review that policy as to whether or not cost increase should be considered

increases the green fund and the art fund". Joe Kernan seconded and added that long-term financial planning is a helpful tool. Jon Weidenhamer interjected that the cost of construction from 2004 to 2006 has increased approximately 50% and from January 2006 to now has increased another 20%. Motion unanimously carried. Marianne Cone thanked Mr. Gustafson for bringing down the cost.

VII 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 4:15 p.m. Members in attendance were Mayor Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss property and personnel". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 6 p.m. Roger Harlan, "I move to open the meeting". Jim Hier seconded. Motion unanimously carried.

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

Janet M. Scott, City Recorder

City Council Staff Report



Author: Kathy Dunks

Subject: SOURCE PROTECTION ORDINANCE

Date: JULY 13, 2006

PUBLIC WORKS

Type of Item: Legislative

Summary Recommendations:

Staff recommends Council adopt the Source Protection Ordinance as part of the City's Water Code.

Description:

Adoption of an ordinance protecting water sources from contamination.

Topic:

Source Protection Ordinance

Background:

Utah Division of Drinking Water regulations require all public water systems to prepare source protection plans to help prevent contamination of public drinking water sources. Rule R309-600 Drinking Water Source Protection for Groundwater Sources provides the rules for preparing the Source Protection Plan.

The first Drinking Water Source Protection (DWSP) Plan for Park City Municipal Corporation was prepared in 2000. It was then updated in 2004. The Rule requires the DWSP Plan to be updated every six years. Part of the DWSP Plan addresses Management Program for Future Potential Contamination Sources. Park City's plan called for adopting a Source Protection Ordinance to assist in future management.

Analysis:

The attached Source Protection Ordinance allows Park City to control future potential contamination sources within the source protection zones of the City's water sources. The ordinance was taken from the Utah Division of Drinking Water publication, *Groundwater Source Protection Users Guide*, and was modified in format to fit the City's standards.

The ordinance allows the City to control future contamination sources yet is flexible enough to allow the City to consider design controls in certain circumstances.

Department Review:

This staff report has been reviewed by Public Works, Building, Legal, and City Manager.

Alternatives:

A. Approve the Request:

Staff recommends Council adopt the Source Protection Ordinance as part of the City's Water Code.

B. Deny the Request:

Council could deny Staff's request. Denying the request would not allow the City to control future potential contaminant sources within the City's drinking water source protection zones.

C. Continue the Item:

Council could continue the request. Continuing the request would delay allowing the City to control future potential contaminant sources within the City's drinking water source protection zones.

D. Do Nothing:

Staff does not recommend this alternative. Denying the request would not allow the City to control future potential contaminant sources within the City's drinking water source protection zones.

Significant Impacts:

Staff does not foresee any funding implications from using this ordinance to control future potential contamination sources within drinking water source protection zones.

Adoption of the Source Protection Ordinance will provide the City with the tools to control future potential contamination sources within drinking water source protection zones.

Recommendation:

Staff recommends Council adopt the Source Protection Ordinance as part of the City's Water Code.

**ORDINANCE AMENDING TITLE 13, WATER CODE, OF THE MUNICIPAL CODE
OF PARK CITY, UTAH BY ADDING SECTION 13-1-28 WATER SOURCE
PROTECTION PLAN**

WHEREAS, Park City Municipal Corporation is a political subdivision of the state of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the City has created a Water Source Protection Plan, this Ordinance shall be known as the "Drinking Water Source Protection Ordinance."

WHEREAS, the purpose of this Ordinance is to insure the provision of a safe and sanitary drinking water supply for Park City by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for the Park City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

WHEREAS, after holding a public hearing on July 13, 2006, the Mayor and City Council of Park City, Utah deem it in the best interests of its citizens to adopt a Drinking Water Source Protection Ordinance;

NOW THEREFORE BE IT ORDAINED:

Section 1. Amendment. Title 13, Water Code, of the Municipal Code of Park City, Utah is hereby amended to add Section 13-1-28, Drinking Water Source Protection, as follows:

(A) Definitions. When used in this Ordinance, the following words and phrases shall have the meanings given in this Section:

(1) Design Standard - means a control that is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of a design standard.

(2) Land Management Strategies - means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

(3) Pollution Source - means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells,

landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution source:

(a) Animal feeding operation - means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(b) Animal unit - means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(c) Extremely hazardous substances - means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 560/4-91-011).

(4) Potential contamination source - means any facility or site which employs an activity or procedure, which may potentially contaminate ground water. A pollution source is also a potential contamination source.

(5) Regulatory agency - means any governmental agency with jurisdiction over hazardous waste as defined herein.

(6) Sanitary landfill - means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

(7) Septic tank/drain-field systems - means a system that is comprised of a septic tank and a drain-field that accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain-field system discharges cannot be controlled with design standards.

(8) Wellhead - means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

(B) Establishment of drinking water source protection zones. There are hereby established use districts to be known as zones one, two, three, and four of the drinking water source protection area identified and described as follows:

(1) **Zone one** is the area within a 100-foot radius from the wellhead.

(2) **Zone two** is the area within a 250-day ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

(3) **Zone three** (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

(4) **Zone four** is the area within a 15-year ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

(C) **Permitted uses.** The following uses shall be permitted within drinking water source protection zones:

(1) Any use permitted within existing agricultural, single family residential, multi-family residential, and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies.

(2) Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

(D) **Prohibited uses.** The following uses or conditions shall be and are hereby prohibited within drinking water sources protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 4 of the ordinance.

(1) **Zone one** - The location of potential contamination sources as defined herein, unless they are controlled with design standards.

(2) **Zone two** - The location of pollution sources as defined herein, unless their contaminated discharges are controlled with design standards.

(3) **Zones three and four** - The location of potential contamination sources unless they are controlled through land management strategies.

(E) **Administration.** The policies and procedures for administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Park City, as the same is presently enacted or may from time to time be amended.

(F) Effective Date. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 13th day of July, 2006.

City Council Staff Report

PARK CITY

1884

Author: Kathy Dunks

Subject: JUDGE WATER TREATMENT PLANT
DESIGN CONTRACT ADDENDUM #2

Date: JULY 13, 2006

PUBLIC WORKS

Type of Item: Administrative

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute a Second Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, for the design and construction management of the Judge Water Treatment Plant, in an amount of \$234,020.

Description:

Topic:

Judge Water Treatment Plant Design & Construction Management.

Background:

A Professional Services Agreement was originally signed with Carollo Engineers in December of 2002. Since that time, an Addendum has been added for the Environmental Assessment (EA) work in October of 2003 and other additional scope items have been negotiated into the contract. The design was delayed due to property issues at the proposed location of the water treatment plant. Alternate sites have been evaluated, but we have now proceeded with the design at the original location that was approved with the EA process. The summary below shows the changes to the contract to date:

	Amount	New Amt	Term Date
• Original Contract amount:	\$462,517		12/31/04
• 10/30/03 First Addendum (EA):	<u>\$ 84,500</u>		02/01/06
• Resulting Amended Contract:		\$547,017	02/01/06
• 04/26/05 Auth for Pilot Testing Add'l Work	<u>\$ 47,876</u>	\$594,893	
• 04/26/05 Extension of Contract			12/31/05
• Existing JT Structural Assessment	\$ 4,664		
• Site Geotechnical Evaluation	<u>\$ 9,050</u>	\$608,607	
• 7/13/05 Extension of Contract			12/31/07

Now that multiple solutions to the property issue have been identified for the original site and the design is being started, an additional addendum to the original contract is needed to adjust for increases in hourly rates over the 3.5 years since the original contract was signed.

Additional scope is also being added to cover changes needed in the design components (renegotiations with the membrane supplier, design of solids processing, and time spent on site evaluations.)

Analysis:

Carollo explained that the increase in their rates is not due to inflation alone. Each of their offices set their own hourly rates based on their employee's salary which takes into account the employee's years of experience, cost of benefits, local trends, etc. Salaries have increased over the 3.5 years of delay, benefit costs have increased, and the individuals assigned to the project have changed.

The original scope for the Final Design included a fee estimate based on hourly rates and estimated hours per task. The fee in 2002 was \$200,435. The updated fee using current hourly rates and the original hour estimate is \$241,337 (\$40,902 increase or 20.4%). The additional scope adds another \$54,504 for a new total of \$295,841. This is a total increase of \$95,406 or 47.6%.

The original scope for the Construction Management Phase included a fee estimate of \$225,044. The updated fee using current hourly rates and the original hour estimate is \$302,068 (\$77,024 increase or 34.2%).

Previous additions to the contract total \$61,590, or 11.3% of the amended contract value of \$547,017. Changes up to 20% of the contract value are allowed under City purchasing policies without City Council authorization. The changes described above exceed the 20% threshold. The total additional contract value = \$95,406 + \$77,024 + \$61,590 = \$234,020. This will give an amended contract value of \$547,017 + \$234,020 = \$781,037.

The proposed contract changes are summarized below:

Scope Item	Original Fee	Increase Due to Scope Change	Increase Due to Hourly Rates	New Fee
Final Design	\$ 200,435	\$ -	\$ 40,902	\$ 241,337
Additional Final Design Scope	\$ -	\$ 54,504	\$ -	\$ 54,504
Total Final Design Increase	\$ 200,435	\$ 54,504	\$ 40,902	\$ 295,841
Construction Management	\$ 225,044	\$ -	\$ 77,024	\$ 302,068
Previous Additions		\$ 47,876		\$ 47,876
(see previous table)		\$ 4,664		\$ 4,664
		\$ 9,050		\$ 9,050
Total Previous Additions		\$ 61,590		\$ 61,590
Totals	\$ 547,017	\$ 116,094	\$ 117,926	\$ 781,037

The most recent estimate for the treatment plant construction is \$4M. The design portion of the contract is roughly 8.7% when not including the environmental and pilot testing work. The Construction management is about 7.6%. Staff feels for the complexity of this project, these are acceptable numbers and are close to industry standards.

Department Review:

This staff report has been reviewed by Public Works, Budget, Legal, and City Manager.

Alternatives:

Approve the Request:

Staff recommends Council authorize the City Manager to execute a Second Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, for the design and construction management of the Judge Water Treatment Plant, in an amount of \$234,020.

Deny the Request:

Council could direct Staff to conduct another procurement. This would involve additional commitment of time and Staff resources. Staff does not believe significant cost savings would be realized. Denying the request would delay the design of the project which could jeopardize federal funding.

Continue the Item:

Council could continue the request. Continuing the request would delay the design of the project which could jeopardize federal funding.

Do Nothing:

Staff does not recommend this alternative. Doing nothing would delay the design of the project which could jeopardize federal funding.

Significant Impacts:

The design and construction of this project is being funded with U.S. Environmental Protection Agency STAG Grant funds and matching City funds at a 55% (federal share) / 45% (local share) split. \$1.7 million in federal funds awarded to the City have sat idle for 3.5 years while property issues with the project site were resolved. It is imperative the City begin to expend these funds immediately or the risk of losing federal funding is high.

Recommendation:

Staff recommends Council authorize the City Manager to execute a Second Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, for the design and construction management of the Judge Water Treatment Plant, in an amount of \$234,020.

SECOND ADDENDUM TO PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS SECOND ADDENDUM is made and entered into in duplicate this ____ day of July, 2006, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah (ACity@), and Carollo Engineers, a Service Provider to amend the Service Provider Agreement signed and executed by the Parties on December 31, 2002.

WITNESSETH:

WHEREAS, the parties entered into a Professional Services Agreement on December 31, 2002 (hereinafter AOriginal Agreement@) for design of the Judge Tunnel water Treatment Plant (hereinafter "project"); and

WHEREAS, both parties Amended the Original Agreement on October 30, 2003, increasing the Original Agreement by \$84,500 ("Amended Agreement"); and

WHEREAS, both parties to the Original Agreement recognize the increase in engineering fees over a three and a half year period delay which will increase the engineering fees charged to the project to complete performance of the Service Provider obligations thereunder; and

WHEREAS, both parties to the Original Agreement recognize the requirement for additional engineering services to complete the project; and

WHEREAS, the parties desire to amend the Original Agreement to include additional funding as approved by City Council July 13, 2006; and

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. **INCREASE of \$234,020.** Park City shall pay Service Provider for the engineering services in an amount not to exceed \$781,037, which is an increase to the Amended Agreement of \$234,020.
2. **EXTENSION OF TERM.** The term of the Original Agreement shall be extended to a termination date of December 31, 2007, or upon such later date as performance by both parties of all obligations pursuant the Original Agreement is completed.
3. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue to apply.

3. **ENTIRE AGREEMENT.** This Second Addendum is a written instrument pursuant to Paragraph 23 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by both parties.

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

City Council Staff Report



Author: Lloyd Evans
Dave Gustafson
Subject: Police Facility contract with
Jacobsen Construction, Inc.
Contract Amendment #2

POLICE DEPARTMENT &
CAPITAL PROJECTS

Date: July 13, 2006

Summary Recommendation - Staff recommends approval of Contract Amendment #2 to the existing Jacobsen Construction, Inc. Agreement in the amount of \$5,750,000.

Description:

Topic: Downtown Improvements, Jacobsen Contract Amendment #2

Background:

At a December 2, 2004 meeting, City Council approved a Construction Manager – General contractor (CMGC) Construction Agreement with Jacobsen Construction, Inc. for work related to Municipal Downtown Improvements. Although the police facility phase has since been relocated to Snow Creek Drive, it was originally included in the Downtown Improvement projects RFP, and is part of the existing contract with Jacobsen.

The CMGC Construction Agreement with Jacobsen allowed the City to involve the Construction Manager/General Contractor (Jacobsen) in the design stage of the project that directly led to modifications to the design based on “constructability reviews, construction market knowledge, and value engineering efforts to get the most out the funds targeted for the project. This construction method has worked well on the parking structure project.

On February 16, 2006 a progress update on the Police Facility was presented to the City Council, and direction was provided that supported an overall project budget estimate of \$5.4 million (\$4.4 million for cost of construction, and approximately \$1 million for anticipated soft costs (design fees, specialty inspections, FF&E costs, project management services, geotechnical reports, site surveys, and utility costs)). This budget also included an additional 4% (\$176,000) of the project budget for green building systems, and 1% (\$44,000) for public art.

In addition to the public art, sustainable design, and functionality standards incorporated into the design, an additional essential highlight of the project was to build it to The Commission on Accreditation for Law Enforcement Agencies (CALEA) standards which

are the nationally recognized standards development agency for law enforcement agencies policies and facility design. Some of these accreditation costs include providing critical safety, communication, and dispatch equipment including closed circuit television surveillance system, proximity card readers for controlled access to the building, fiber optics connections, and the back up power generator, which by itself was approximately \$200,000.

On May 18th, staff discussed the recommended changes to the Police Facility budget with City Council as a part of the budget process. On June 15th, Council authorized adding an additional \$123,906 for contingency for a total amended budget of just over \$5.52 million.

Analysis

Over the course of the past several weeks, staff has continued to work with the architect and contractor to advance into final construction drawings. Last week, the final construction bids came in at \$2 million over the original estimates. Staff has been able to work with Jacobsen to reduce some of this cost (approximately \$600,000) through value engineering. However, the final guaranteed maximum price (GMP) provided by Jacobsen was \$5.75 million. With the rapid increase in the cost of construction (materials, labor, etc.) Staff also recommends increasing owner contingency to \$250,000. With soft costs included, the new total estimated project budget is \$7,047,500. This is approximately \$1.52 million above project budget estimates (see table 1).

Construction Costs Compared to Budget	
as of 7/7/06	
Current Project Budget	\$5,523,900
Updated Cost of Construction	\$5,750,000
Soft Costs*	\$1,047,500
Project Contingency	\$250,000
Subtotal	\$7,047,500
Difference from Budget	\$1,523,600
* Includes increased budget (\$67,500) for Green Building and Art	

With the increased cost of construction, staff also recommends increasing the project budget for art and green building. On February 16, 2005, Council directed staff to include an additional 4% of the cost of construction for Green Building initiatives and an additional 1% for art. Table 2 below shows the recommended budget change.

Budget for Green Building and Art			
	<u>Original</u>	<u>New</u>	<u>Difference</u>
Cost of Construction	\$4,400,000	\$5,750,000	\$1,350,000
Green Building (4%)	\$176,000	\$230,000	\$54,000
Art (1%)	\$44,000	\$57,500	\$13,500
Total	\$220,000	\$287,500	\$67,500

The direction was to prioritize green items that reduce long-term operating costs. Sustainable items in the design include, among others, a geo-thermal heating and cooling system, high efficiency glazing, lighting, and shading systems, and reducing the "heat island" effect by including materials that reflect sunlight like a white roof and use of cement instead of asphalt. The design team projects overall energy savings of up to 30%. With the increased green budget, staff will begin to explore inclusion of solar energy systems and other environmentally friendly options, consistent with Council's environmental strategic plan.

Initial analysis of the 30 sustainable inclusions in the project design indicates the project's success from both a LEED and Built Green standard. Preliminary estimates from the design team estimate the project would reach approximately 23 points on a LEED rating scale (26 is certified). On a Built Green scale the project would receive approximately 242 points, over 3 times the 70 points necessary to be considered green.

The City Council also provided direction to incorporate 1% of the project budget in place to advance public art. The design at this time includes a commemorative public plaza located at the front of the building which will be the primary focus of this initiative.

Ultimately, the two main areas where construction costs far exceeded original estimates were in the electrical bids and the cost of the front entryway. The electrical bids came in at over \$825,000 and are approximately \$425,000 over original estimates. This is partially attributable to the high efficiency lighting package, emergency generator and back up power needs, as well as the special communication, safety, and security needs of a public safety facility.

The second area where major increases in cost have been introduced is at the front entryway. The cost of enhancing the entry to the building has consistently been discussed throughout the design and value engineering process. The Planning Commission and City Council have been consistent in their direction to have a building that enhances the City's entry corridor. This has resulted in incorporating some premium finish materials needed to accomplish desired architecture and design goals. The timber and glazing elements, although already budgeted at approximately \$180,000, came in at over \$550,000, \$375,000 above initial estimates. This is attributable to not only the materials, but labor costs as well.

In order to finance the projected \$1.52 million shortfall, staff recommends using reserve CIP funds. These resources are currently budgeted as fund balance in the CIP and are not allocated to specific projects. If these funds are used, staff recommends taking measures to "pay back" reserves by seeking additional grant opportunities. Use of these reserves will not impact the City's recently upgraded bond. By using CIP reserves, the City will be able to fund the construction of the police facility without removing specific project elements based on City goals (including green design, public art, CALEA Accreditation, and enhanced architecture in the entry corridor).

Should the Council agree to enter into the Contract with Jacobsen, construction would begin in approximately mid August, and would be scheduled to be completed in October of 2007.

Alternatives:

- A: Continue with the current design and address funding needs with reserve CIP funds (Staff Recommendation)
- B: Modify Staff's recommendation per discussion at City Council meeting
- C: Halt design – Change course
- D: Do Nothing.

Consequences of not taking the recommended action:

Further delays on the police facility will set up a domino effect with other planned and budgeted Capital projects including the Marsac remodel and town plaza; additionally we would incur significant additional construction costs if we push into the next building season. Construction costs have grown at an annual rate of over 10% over the last 2 years.

Recommendation:

Staff recommends approval of Contract Amendment #2 to the existing Jacobsen Construction, Inc. Agreement in the amount of \$5,750,000.

Exhibits

A – Amendment No. 2 to standard form of agreement between owner and construction manager

AMENDMENT NO. 2

TO STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

Pursuant to Paragraph 2.2 of the Standard Form of Agreement between Owner (Park City Municipal Corporation) and Construction Manager (Jacobsen Construction, Inc.), dated _____ April 5, 2005, for construction of the Police Facility, the Owner and the Construction Manager establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below:

ARTICLE I GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price for the Work, including the estimated Cost of the Work as defined in Article 5 of the Agreement and the Construction Manager's Fee as defined in Article 4 of the Agreement, is Five million seven hundred fifty thousand Dollars (\$5,750,000).

Included in the Guaranteed Maximum Price is the Construction Manager's fee of \$168,475.

This Price is for the performance of the Work in accordance with the "Guaranteed Maximum Price Proposal" dated July ____, 2006, from Jacobsen Construction, Inc., and incorporated herein by this reference (the "GMP"). A Contract Addendum, approved by City Council on April 7, 2005, is included in the GMP.

ARTICLE II CONTRACT TIME

The Construction Manager acknowledges that the Substantial Completion Date is September 15, 2007 and the Final Completion Date is October 15, 2007.

OWNER:
Park City Municipal Corporation

CONSTRUCTION MANAGER
Jacobsen Construction, Inc.