PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH,
JUNE 27, 2013

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, June 27, 2013.

Closed Session
2:00 p.m. Property and litigation

Work Session

3:45 p.m.	Council questions and comments and Manager's Report	Pg. 5-6
3:55 p.m.	Old Town Curb Recycling	Pg. 7-15
4:25 p.m.	COSAC Criteria	Pg. 6-23
4:50 p.m.	Recreation Advisory Board Interviews	

Closed Session
5:50 p.m. Personnel

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV MINUTES OF MEETING OF MAY 30, 2013 **Pg. 24-43**

V CONSENT AGENDA (*Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon)*

1. Consideration of an Amended Lease with the Park City Co-Op for space located at the Library and Education Building, 1255 Park Avenue, Park City, Utah, in a form approved by the City Attorney Pg. 44-59

2. Consideration of an Amended Lease with the Park City Film Series for space located at Miners Hospital, 1354 Park Avenue, Park City, Utah, , in a form approved by the City Attorney Pg. 60-79

VI RESIGNATIONS AND APPOINTMENTS

1. Consideration of appointing Bobbie Pyron and Faye Malnar to the Library Board for terms expiring July 2016 Pg. 80-87

2. Consideration of resignation of Janet M. Scott as City Recorder

VII NEW BUSINESS

1. Consideration of Addendum #2 to the Construction Contract for Miller Paving for Main Street Improvements, in a form approved by the City Attorney Pg. 88-92

2. Consideration of an Ordinance amending Title 4, Licensing, Chapter 2, Sections 4, 8 and 10 regarding inspections and creating a process for pre-inspections Pg. 93-103
   (a) Public hearing
   (b) Action

3. Consideration of approval of the City/County Cooperative Agreement with the Utah Department of Transportation associated with the Highway 40 Underpass Project in the amount of $250,000, in a form approved by the City Attorney Pg. 104-120

4. Consideration of approval of the amended supplemental plan that includes the removal of the expanded Farmers Market in the Swede Alley Surface Lot during the Park Silly Sunday Market, in a form approved by the City Attorney Pg. 121-145

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VIII ADJOURNMENT

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

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 4, 2013

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, July 4, 2013.

Posted: 06/24/13
See: www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.

July 2013

4 **No meeting**

11 Convention license ordinance amendments – work
Chamber/Bureau Marketing Initiatives – work 15 minutes
Swearing-in of Officer Art Boxall
Library Relocation Lease – Work, JW
Disposable bags with lodging community – work, Tyler
Risner Ridge conservation easement – Work (?) HD
Appoint election judges - SB
Ordinance, amending the Land Management Code, Chapter 6 MPD, Chapter 2.16 General Commercial
Dealer Camp – Work, TY
RMP

18 *Diane at ICMA training*
Conservation easements
Library Update – Work, JW
Recreation Master Plan – Work, KF

25 *Diane at ICMA training*
PAAB Interviews
Presentation to Courchevel students
Convention license ordinance amendments - work
RMP public hearing/possible action

August 2013

1 PAAB Appointments

8

15 Affordable Housing Study Session - Rhoda

22 **No meeting**

29 **No meeting**

September 2013

5

12

19 **No meeting – City Tour**

26 Ordinance accepting the public improvements for the Echo Spur Subdivision
Ordinance renaming the section of McHenry Avenue extending from Rossi Hill Drive north to the name of Echo Spur Drive, Park City, Utah – old business

October 2013

3

10 **No meeting**

17

24 Special Service Contract Criteria and Extraordinary Grant Criteria

31 **No meeting**

November 2013

7

14

21
28 **No meeting - Thanksgiving**

December 2013
5
12
19
26 **No meeting**

January 2014
2
9 Swearing in new members
16 **No meeting – Sundance**
23
30

Pending Items:
Canvass for Primary and for General Elections
Construction Contract for 10th and 11th Streets
Special Event overhaul
Regional recreation strategic plan
Ice operations - study
Water leak adjustment policy - work
Amendment to Municipal Code - pre-inspections for business licenses
Latino Community outreach and engagement – study
Meeting Management Software

MEMO

PARK CITY 1884

Recreation & Library

1200 Little Kate RD
P.O. Box 1480
Park City, UT 84060
Tel 435.615.5411
Fax 435.615.4908
www.parkcityrecreation.org

To: Diane Foster, for City Council
From: Ken Fisher, Recreation Manager
Subject: Update on RAB Projects
Date: June 27, 2013

On February 14, 2013 The Recreation Advisory Board (RAB) met with City Council to discuss various projects for the upcoming year. Council was supportive of many of the projects with the caveat that they inform Council of their plans before moving forward.

RAB has been focusing on two areas this spring, additional shade for the dog park and the construction of a practice wall that can be used to throw and hit balls against. In the staff report in February we were looking at building a free standing practice wall and estimated the cost at $70,000. After looking at various locations RAB recommends utilizing the large cement wall on the north west corner of the Park City Ice Arena. The benefit of this location is that it is much less expensive to construct and will also give us a good barometer to measure the usage before recommending the potential construction of other practice walls. We have received a bid of $14,800. RAB and staff are planning on moving forward with this project unless Council directs us not to so.

RAB and staff have also been looking into placing a 16 ft. x 16 ft. permanent pavilion inside the dog park. Currently there are two small shade sails that provide shade outside of the winter months when they are removed. The pavilion would provide shelter year round as it is a pavilion that is permanently installed. The location proposed is just to the south inside the main entrance. The cost for the pavilion will be $10,556 and installation will be another $4,400. As outlined in the February staff report additional shade was identified in a survey of facility users to be the most important improvement that could be made at the dog park. RAB and staff are planning on moving forward with this project unless Council directs us not to.

There is currently funding available through Park Impact Fees to fund both projects.

Ski Town Showdown
Park City Defeats Aspen in Green Employee Challenge

Submitted by Tyler Poulson (Sustainability)

Park City has defeated Aspen in the Ski Town Showdown, a challenge that encouraged municipal employees to adopt green behaviors in their daily lives. The showdown occurred from May 1-31, 2013 and included 21 action items across the categories of home energy use, water consumption, transportation, waste & recycling, and dietary choices. A total of 149 Park City Municipal employees participated and completed new actions with the potential to prevent nearly one million pounds of carbon dioxide emissions annually.

The winning municipality was determined based on three categories, all of which were weighted based on the number of employees at each city. The categories were: 1) Total # of Employees Submitting a Reporting Form; 2) Total # of Action Items Completed; 3) Total Pounds of CO_2 Emissions Reduced. Park City swept all three categories as a result of tremendous efforts and participation among employees. Detailed results from the Showdown are included below:

Ski Town Showdown – Final Results		
Category	**City of Aspen**	**Park City Municipal**
# of Employees Participating	95	149
# of Action Items Completed	599	1,148
# of Actions per Participant	6.3	7.7
Pounds of CO_2 Reduced	430,442	936,442
Aspen has 2.4% more employees than Park City and results will be adjusted for head-to-head scoring		

In addition to adopting new behaviors and efficiency measures during May, the hope is that these choices will become green habits that continue for participants. Sustainability staff is planning a follow-up survey for later this year that will gauge whether the showdown is delivering ongoing results and also poll whether there were positive qualitative outcomes from the showdown. If Park City employees continued the new actions they committed to during the showdown for one year it would be equivalent to the following:

- Removing 88 vehicles from the road
- Saving $103,947, equal to $698 /year per participating employee

The results from the showdown more than tripled the total amount of CO_2 reduced from the City's *Low Carbon Diet* behavior change efforts to-date. These figures will be added to the *Low Carbon Diet* totals and staff intends on using lessons learned from the showdown to re-engage community partners and assist with their next steps in reducing carbon emissions.

Aspen is creating a framed certificate to acknowledge the showdown results and Park City's victory in the competition. Staff is also working on a recycled glass plaque and potentially some t-shirts to commemorate our achievement. It's TBD whether another challenge between cities is on the horizon.

Additional information on the Ski Town Showdown, including the employee reporting form and details on how the showdown was set-up, will remain available at ParkCity.org/BeatAspen. The weblink also includes a list a department-by-department "Green Liaisons" who were instrumental in encouraging participation and collecting reporting forms from their colleagues.

City Council
Staff Report

Subject:	**Old Town Curbside Recycling**
Author:	**Matt Abbott and Tyler Poulson**
Department:	**Sustainability**
Date:	**June 27, 2013**
Type of Item:	**Informational**

Summary Recommendations:
Staff recommends that City Council review this report and provide feedback on residential curbside recycling efforts in Old Town. Staff has been working with County staff, along with the recycling hauler, to integrate improvements into the current recycling program.

Topic/Description:
This report examines some issues encountered with the residential curbside recycling service in Old Town. These issues include recycling bin overflow, product cross contamination, information disconnects, and general complaints regarding curbside recycling services in Old Town.

Background:
On July 1, 2012 a new residential curbside waste and recycling contract took effect for Summit County residents. The impacts of the new contract are summarized in the table on the next page. Prior to program launch, Park City staff worked with Summit County to refine goals and ultimate outcomes of the program. These details were previously presented to City Council in a June 2012 work session that reviewed outcomes of Summit County's new contract with Republic Services (formally known as Allied Waste).

Staff feels that the new services represent a service level increase, when considered on a County-wide basis, and provide enhanced environmental value relative to the recycling pilot program that ran from 2000 to mid-2012. However, there were modifications to the Old Town recycling services, which were part of the pilot program, that have drawn complaints from homeowners in that area. These changes include:

- Change from **weekly to bi-weekly** recycling pick-up: this is consistent with the every other week recycling pick-up now offered County-wide

- Change from glass accepted to **no glass accepted**: this is consistent with the policy set forth for residences County-wide

- **Larger bins offered**: along with bi-weekly recycling, Old Town residents are now offered an array of bins to choose from ranging from 18-gallon to 95-gallon bins

The impacts of these changes will be evaluated, alongside potential improvements, in the Analysis section of this staff report.

<table>
<tr><th colspan="3">Residential Curbside Waste & Recycling
Summit County, UT</th></tr>
<tr><th></th><th>PREVIOUS SERVICES
2000 – June 2012</th><th>NEW SERVICES
Effective July 2012</th></tr>
<tr><td>Waste</td><td>95-gallon bin
Weekly pick-up
14,500 participants</td><td>65-gallon bin
Weekly pick-up
14,500 participants
$12 / month for 2nd bin</td></tr>
<tr><td>Recycling</td><td>65-gallon bin for most areas outside of Old Town & Prospector
18-gallon bin for Old Town & Prospector
Bins accept plastics #1 - #7, aluminum cans, tin cans, and all paper
18-gallon bins accept glass (2,500 current residents)
Weekly pick-up
5,750 participants</td><td>95-gallon bin for all residents
Old Town residents are able to use smaller bins
Bins accept plastics #1 - #7, aluminum cans, tin cans, and all paper
No glass accepted
Pick-up every other week
14,500 participants</td></tr>
</table>

Analysis:
Park City staff met with Summit County and the residential waste and recycling hauler (Republic Services) to discuss the issues encountered in Old Town. Curb-It Recycling, a sub-contractor for Republic Services that provides recycling services Old Town, submitted a report that detailed issues encountered during the past winter and through spring 2013.

There are four primary issues and three basic solutions to improve the current level of recycling services in the Old Town area. The issues are summarized below and are followed by solutions proposed by City staff in partnership with Summit County and the curbside waste and recycling hauler.

Old Town Recycling Issues
There are four interrelated problems that need to be addressed in order to improve Old Town curbside recycling collection: Material Overflow, Cross Contamination, Collection Schedule, and Container Confusion.

Material Overflow
According to Curb-It Recycling, at least 95% of Old Town customers are utilizing the bins provided by Republic Services for recycling and over 80% of these bins are 95-gallons, the largest bins offered. The recycling hauler offers an additional

95-gallon bin for $1.50/month for residents looking for more recycling capacity, although storage space is an oft-cited issue in Old Town.

Cross Contamination
Curb-It Recycling reports that upwards of 70% of Old Town customers were including glass in their recycling bins during the past winter and spring. Though glass is highly recyclable, it is not an acceptable material in the current curbside contract. Glass was excluded from the current County-wide contract due to the need to provide completely separate bins and associated additional costs. Furthermore, glass has less environmental value on a pound-per-pound basis than other recyclables. A secondary contamination issue is garbage and organic matter, particularly in the spring and summer. Curb-It Recycling reports that roughly 30% of Old Town customers have these non-recyclable materials in their bins.

Collection Schedule
Curbside recycling is currently collected every other Tuesday and waste is collected every Thursday in Old Town. Having two separate pick-up days and recycling on an every other week schedule has been confusing to customers, particularly nightly visitors. Every other week recycling pick-up is an issue that has been cited by curbside customers County-wide, not just in Old Town.

Container Confusion
Inconsistent containers, unclear labeling, and ineffective stickers have all contributed to confusion for Old Town residents. What used to be the 95-gallon waste container became the recycling container under the new contract. The first attempt to re-label these containers involved an informational sticker that did not adhere to the bins. There are also a variety of bin colors, shapes, and collection locations that create a lack of consistency in the Old Town area. Allowing inconsistency in bin sizes and types was something that was originally advocated for in Old Town due to space constraints and other circumstances that limit the amount of space for placing bins on the road.

Old Town Recycling Solutions
Staff has been working with Summit County and the recycling hauler to implement the below solutions. The status and timing of each solution is indicated below. Apart from the solutions, there is an Outstanding Issues section of this report that indicates areas where policy direction and/or funding may be needed if Council decides to take action.

Contamination Reduction / Material Overflow
Product contamination results from a combination of bin design, shortcomings in information provided, and user behavior. In order to improve system design some potential solutions are container consistency, label consistency, and user behavior improvements through enhanced education efforts.

Improving the labeling of bins is the first step in reducing contamination. The recycling hauler has already taken steps in this regard by spray-painting the word "Recycle" on the bins. This should particularly help in Old Town where a diverse group of bins shapes and sizes led to confusion on the part of residents, visitors, and cleaning service employees. City staff also recommends using English and Spanish on all labels and communications.

Mandating the use of consistent containers is a potential next step to reducing contamination. Uniformity would provide an obvious visual cue to residents, maintenance workers, visitors, and haulers alike. However, this was not the path previously chosen for Old Town. Due to space constraints, residents in Old Town were allowed to reuse previously serviced recycling bins for the current service. An estimated 95% of Old Town residents are now using Republic Services bins for their recycling and 80% of households are utilizing the largest bin available (95-gallons). All parties will continue to track the concept of 100% standardized bins as a potential option, but are hopeful that the new spray-painted messaging will resolve issues.

Above and beyond the spray-painted recycling label, it would be ideal to communicate the exact types of materials accepted in the recycling bins. Given the limited amount of space on bins, and the need to communicate information that is subject to change (e.g., pick-up dates), a web-based solution might offer the best promise for communicating additional details. The recycling hauler is adding a short URL to a refrigerator magnet that will direct users to a website with complete information on materials accepted, recycling and waste pick-up schedules, and what to do with other materials (e.g., household hazardous waste, atypical recycling items). Staff is asking that the website include information in both English and Spanish. The refrigerator magnet is in progress. Depending on the success of upcoming changes, staff may also advocate for increased labeling directly on the bins including a "No Glass" message.

Apart from reducing material contamination, increasing the total amount of recyclables collected is one way to mitigate bin overflow. Residents have the option of receiving a second recycling bin from Republic Services for $1.50 / month that will be serviced bi-weekly. Republic Services has also offered to provide and service 15-yard roll-off containers as a glass recycling option. Republic Services quoted a price of $350 per roll-off haul and City staff would be responsible for siting these containers. In addition to space limitations in certain areas, roll-off containers are sometimes targeted for dumping non-recyclable materials. Staff will seek direction from Council on this matter. Moving to weekly recycling pick-up is another way to specifically address material overflow and this option is discussed later in the "Ongoing Issues" section of the staff report.

TIMING: A portion of bins in Old Town were spray-painted by Curb-It with a "Recycle" message in 2012. This effort will continue in Old Town this summer and extend County-wide subsequently. Republic Services is in the process of creating and distributing refrigerator magnets that includes a short URL. Staff will encourage the County and recycling hauler to add a short URL to the bins that would direct customers to a webpage with complete recycling details. City Staff will also advocate for messaging and communications in both English and Spanish. Residents already have the option to purchase a second recycling bin for bi-weekly service at the cost of $1.50 / month.

Collection Consistency

A consistent collection schedule in Old Town is another approach to reducing confusion and clutter. Waste is currently collected every Thursday and recycling is collected every other Tuesday in Old Town. Moving the collection to occur on the same day of the week would be a step towards reducing confusion and making the waste and recycling process more efficient for customers. Same day collection occurs throughout the rest of Summit County.

TIMING: Republic Services is in the process of moving recycling pickup to Thursdays, the same day as waste collection. Republic Services and City staff will be working together to ensure the necessary communication and customer education for a successful schedule change.

Education

Education is an integral part of any successful waste reduction program. In addition to bin labeling improvements, Republic Services is investigating new ways to enhance the amount and quality of recycling education provided County-wide. Improved and more visible website content, durable informational reminders, and more frequent customer interactions are areas where the recycling hauler is planning to enhance service levels while staying within current budgetary constraints.

TIMING: The County encourages education to occur sooner rather-than later and will work with Park City and Republic Services to ensure this. Under the current contract, Republic Services is expected to provide a “waste reduction public education program” and the education suggested herein fits this requirement. Republic Services and Curb-It are prioritizing communication and refrigerator magnets for Old Town Customers.

The below table summarizes issues identified and solutions currently being implemented or investigated for deployment in the near-term. The next section, Ongoing Issues, highlights areas where issues persist and permanent solutions are not imminent due to budgetary and/or logistical limitations.

Summary Table Old Town Recycling Issues & Solutions	
Issues	**Solutions (Implemented / Investigated)**

Cross Contamination & Material Overflow	• Contamination Reduction
	  o Label Improvements
	  o Education
	  o Container Consistency
	• Education
	• Collection Consistency

Collection Schedule	• Education • Collection Consistency
Container Confusion	• Container Consistency • Label Consistency • Education

Ongoing Issues

Below are two ongoing issues and potential ideas for the residential curbside recycling program. Summit County is ultimately contracting for the current waste and recycling services so any modifications would need to be made in partnership and/or with consent from their staff and Council.

Weekly Recycling Collection

The new residential recycling contract included growth in the total number of households serviced from 5,750 to 14,500, a 152% increase. In order to facilitate this expansion and still stay within budget, Summit County opted for every other week pick-up. However, recycling bin size increased from 65-gallon bins to 95-gallon bins in order to hold more recyclables.

Since the service level change in summer 2012 staff from the City, County, and recycling hauler have all received some complaints about every other week recycling. Ideally, recycling pick-up would occur weekly in order to mirror the frequency of waste pick-up and also divert a greater number of materials from the landfill. Weekly recycling collection is something that has been requested from residents in many areas of Summit County, not just Old Town. Staff is hesitant to recommend moving just Old Town to weekly recycling pick-up while leaving other customers on a bi-weekly schedule. It was originally thought that large numbers of Old Town customers would retain small recycling bins, but roughly 80% are observed to be using the largest bin available (95-gallons).

Adding weekly recycling collection is a possibility, although there is a financial cost associated with this service level increase. The hauler estimates an additional cost of $39,476 per year to provide weekly pick-up for the 1,028 residential customers in Old Town.

Due to economies of scale and system efficiencies it does not make sense to move individual customers to weekly service on an opt-in basis. As such, any move to weekly service should be made on a service territory or County-wide level. Summit County has indicated an inability to cover the extra cost of providing weekly recycling to Old Town or any other area in the current service district.

Glass Recycling

Glass is readily recyclable, but from a business perspective glass typically represents a net loss for haulers. A decision was made with the current curbside recycling contract to exclude glass recycling from the materials collected because this product requires a second bin to prevent product contamination and the costs were beyond what the County had budgeted for with the curbside recycling program. Furthermore, glass is not a toxic substance and provides less environmental savings than most other recycled materials on a pound-per-pound basis. Recycle Utah is currently a local glass recycling option for residents able to drop off product at the recycling center.

Glass represents 4.6%[1] of the typical waste stream which equates to almost 2,700 tons of glass disposed by Park City community-wide annually. With a high visitor population, this annual tonnage is likely to be higher. If we were to recycle 2,700 tons of glass annually instead of disposing of it, our community carbon footprint would be reduced by 850.5 tons[2], or the carbon equivalent of taking 177 cars off of the road[3]. Republic Services is willing to retrofit and service 15-yard roll-off containers for $350 per haul if the City were able to identify suitable locations for the roll-offs. Business locations are responsible for coordinating their own recycling efforts, glass or otherwise.

Summit County has indicated an inability to cover the extra cost of providing glass recycling to Old Town residents or any other area in the current service district. The current contract with Republic Services is relatively new and the County has not budgeted for service level changes. Furthermore, staff would recommend an enhanced level of service with weekly recycling pick-up rather than curbside glass recycling if choosing between the two options.

Department Review:

Sustainability, Public Works, Legal, and the City Manager reviewed this Staff Report. Summit County and their residential curbside waste and recycling haulers also provided commentary and figures used in the report.

[1] US EPA

[2] http://green.wikia.com/wiki/Glass_recycling

[3] http://www.epa.gov/cleanenergy/energy-resources/refs.html

Alternatives:

A. Approve:

City Council will review the report and comment on the latest efforts by City staff, County staff, and the haulers to improve curbside recycling in Old Town and elsewhere. Council agrees that pursuing either weekly recycling pick-up or curbside glass recycling are options that should only be considered on a City-wide, if not County-wide, basis to ensure consistency in service. **(STAFF RECOMMENDATION)**

B. Deny:

City Council may direct staff to not assist in the planning or implementation of any of the recommended improvements to Old Town or other areas for residential curbside recycling.

C. Modify:

City Council may approve the staff recommendation, but with some modifications outlined by Council during Work Session. This may include directing staff to pursue weekly and/or curbside glass recycling for certain areas of the City / County. Summit County is ultimately contracting for the current waste and recycling services so any modifications would need to be made in partnership and with consent from their staff and/or Council.

D. Continue the Item:

City Council may request that staff return with more information to help inform their decision and priorities.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination **(Economic Impact)**	**Preserving & Enhancing the Natural Environment** **(Environmental Impact)**	**An Inclusive Community of Diverse Economic & Cultural Opportunities** **(Social Equity Impact)**	**Responsive, Cutting-Edge & Effective Government**
Which Desired Outcomes might the Recommended Action Impact?	+ Balance between tourism and local quality of life ~ Internationally recognized & respected brand	+ Managed natural resources balancing ecosystem needs + Reduced municipal, business and community carbon footprints	+ Part-time residents that invest and engage in the community + Entire population utilizes community amenities ~ Primarily locally owned businesses	+ Engaged and informed citizenry + Ease of access to desired information for citizens and visitors
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*	Positive ⇧	Positive ⇧	Positive ⇧	Positive ⇧

Comments: Staff believes that an effective and accessible waste and materials diversions program is a core piece of a sustainable community and economy. The system improvements detailed in this staff report should improve service levels and resdient satisfcation while not impacting budgets.

Funding Source:
Staff is not requesting any additional funding for the recommendations put forth in this report. Pursuing an alternative path may require funds that are currently unbudgeted for in Park City's FY2014 budget. Summit County has indicated an inability to provide any additional financial support to enhance curbside recycling services above and beyond their current levels. Pursuing additional service level enhancements beyond those detailed in this staff report may have budget implications.

Consequences of not taking the recommended action:
The curbside recycling hauler has already begun implementing a multitude of measures that should improve services and customer experience. Pursuing alternative pathways such as weekly recycling and/or glass recycling will have varying budgetary impacts and environmental improvements. Council should remain cognizant of potential complaints if service levels are significantly enhanced in one area such as Old Town without implementing system-wide improvements.

Recommendation:
Staff recommends that City Council review this report and provide feedback on residential curbside recycling efforts in Old Town. Staff has been working with County staff, along with the recycling hauler, to integrate improvements into the current recycling program.

Attachments:
None

City Council Staff Report

Subject: COSAC IV Property Acquisition Criteria
Author: Heinrich Deters
Department: Sustainability Department
Date: June 27, 2013
Type of Item: Informational

Summary Recommendations:
Council should review and approve the attached Citizens Open Space Advisory Committee (COSAC) IV acquisition criteria and provide feedback to the committee. (Exhibit A)

Topic/Description:
Advisory Committee Update

Background:
Council has the ability to create and appoint board members to help Council reach specific goals. Examples of these committees include the Recreation Advisory Board (RAB), the Public Art Advisory Board (PAAB) and the Citizen's Open Space Advisory Committee (COSAC).

COSAC's role is purely advisory to City Council and is not in any way mandated by law or ordinance. COSAC IV's currently adopted mission is to make timely recommendations and provide input to the Park City Council on acquiring, managing and/or preserving open spaces in the greater Park City area by wisely leveraging the public's monies, by using other resources as available and by entering into appropriate partnerships. The Citizens' Open Space Advisory Committee will employ a variety of innovative strategies and tools to accomplish this goal in an expeditious manner.

In addition to a mission statement, COSAC has recently established a criteria matrix for evaluating individual parcels, as well as, prioritize those parcels to provide a final acquisition recommendation to City Council.

Funding for acquisition recommendations provided by COSAC IV will come primarily from the one half of one percent Resort City Sales Tax increase approved in November, 2012.

Analysis:
COSAC IV discussed the criteria matrix on several occasions and adopted the final document on June 18th. Review and discussion of the matrix included previous COSAC criteria and a discussion led by Dr. Nancy McLaughlin, one of the nation's leading legal academics in the field of conservation easements, regarding the appropriate preservation tools, to be utilized for properties representing certain values or criteria. At a high level, the Committee created a broad based document with the goal of tying the

recommendations to Council goals, in addition to clearly stating the 'purpose' and 'intent' of the recommendation. Furthermore, the document provides the ability to address possible funding questions and the type of preservation covenant to properly ensure the values associated with a purchase can be upheld. Finally, the criteria address 'other considerations' that may be representative of a parcel but outside of the purpose and intent tiers.

In the end, COSAC intends to use the matrix in a manner that both frames their recommendation regarding priority of acquisition and defined conservation values, which will then determine an appropriate long term protection tool (deed restriction, conservation easement, recreation easement, etc) on a case-by-case basis.

Department Review:
This report has been reviewed by members of the Sustainability, Legal and Executive Departments.

Alternatives:

A. Approve:
Council should review and approve the attached COSAC IV criteria.

B. Deny:
Council could choose to ask COSAC to resubmit a different criteria matrix.

C. Modify:
Council could choose to modify the matrix.

D. Continue the Item:
Council could continue the item

E. Do Nothing:
Same as continuance

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	+ Accessible and world-class recreational facilities, parks and programs + Balance between tourism and local quality of life + Multi-seasonal destination for recreational opportunities + Internationally recognized & respected brand	+ Abundant preserved and publicly-accessible open space + Managed natural resources balancing ecosystem needs	+ Community gathering spaces and places	+ Engaged and informed citizenry
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*	Very Positive	Very Positive	Positive	Positive
Comments:				

Funding Source:
No funding is required for this item

Consequences of not taking the recommended action:
Council may choose not to accept the criteria and instead evaluate and designate open space acquisitions without a public committee.

Recommendation:
Council should review and approve the attached Citizens Open Space Advisory Committee (COSAC) IV acquisition criteria and provide feedback to the committee.

Exhibit A- COSAC IV Criteria Matrix

Council Goals

1. World Class Multi-Seasonal Resort Destination
2. Preserving &Enhancing Natural Environment
3. An Inclusive Community of Economic & Cultural Opportunities, Responsive
4. Cutting Edge and Effective Government

	Categories (Purpose) ***Will the open space purchase advance and/or protect stated goals in the Park City General Plan and specifically add/or enhance one or more of the following four primary purposes?***	***Recreational***	***Aesthetics***	***Critical Conservation***	***Community Character***
Tier I					
Tier II	**Values and Priorities (Intent/Unweighted)** ***The following sections are intended to narrow the prioritization of allowed uses and preserved values which may further enable COSAC to identify funding sources and the appropriate protection tool.***	• Improves trail connectivity and new trail development. • Acquisition needed for public access; • Passive recreation higher priority (Passive/Non-motorized activities on established trails; related trail infrastructure, parking); • Active recreation (includes improved fields, parks, facilities, group camping, restrooms); • multiple public uses permitted	• Protect resort and open view sheds; • Greater Park City Area entry corridor; • preserves open space buffers against new development encroachment • Prevention of new residential or commercial construction- land may or may not have specific additional conservation values	• Protection of the natural habitat of fish, wildlife or plants; • Enhances stream corridor or watershed; • Protects wetlands; • Existing natural characteristics and conservation values essentially preserved as is and primary over other uses	• The preservation of open space in conjunction with agriculture, farmland and forestland, or the preservation of historically important land or a historic structure. Appropriate support related infrastructure. • Preservation is for the scenic enjoyment of the general public, which will yield a significant public benefit; may include mines, mine structures or repositories provided open character of land is maintained and environmental issues mitigated; secondary uses partitioned

Funding

Do the acquisitions leverage public monies, provide significant benefits compared to costs incurred and/or involve donations from private lands to the public?	Open Space; Possibly Shared for Active recreation	Open Space	Open Space	Open Space; Possibly Shared
Other Considerations	• Location: Outside City Boundaries or Internal • Contiguous to existing Open Space • Consideration of Parcel/Purchase Acreage • Soils Issues • Water Rights • Partition of more intensive use parcels • Adaptability/Sustainability [unknown future uses]			

Preservation Tool

Preservation Purpose/Intent ***Does the preservation tool meet the purpose and intent of the committee and Council at time of acquisition?*** ***More than one tool may be implemented within a parcel to better meet COSAC/Council Goals.***	**Perpetual "Recreational/OS" Easement** Primary purpose is recreation; subsidiary purpose is protection of natural and habitat values OR **Deed Restriction/Right of Reverter**	**Perpetual Multi-Purpose Easement** Establish different use zones OR **Deed Restriction/Right of Reverter**	**Perpetual "Conservation" Easement** "Forever Wild" easement or Primary purpose is protection of natural and habitat values; subsidiary purpose is recreation	**Non-perpetual (§ 57-18-1) Easement** OR **Conservation Contracts** OR **Deed Restriction/Right of Reverter**

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Council Goals

1. World Class Multi-Seasonal Resort Destination
2. Preserving &Enhancing Natural Environment
3. An Inclusive Community of Economic & Cultural Opportunities, Responsive
4. Cutting Edge and Effective Government

	Categories (Purpose)	Recreational	Aesthetics	Critical Conservation	Community Character
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PARK CITY COUNCIL STUDY SESSION DRAFT
SUMMIT COUNTY, UTAH
MAY 30, 2013

Present: Mayor Dana Williams; Council members Andy Beerman; Alex Butwinski; Cindy Matsumoto; and Dick Peek

Diane Foster, City Manager; Joan Card, Environmental and Regulatory Manager; Matt Cassel, City Engineer; and Jim Blankenau, Environmental and Regulatory Program Manager

Soils Commissioners Chris Cherniak, Bran Suhadolc, Rory Murphy, Chuck Klingenstein, Hans Fuegi, Katie Wright, and Tom Ward

1. Soils Commission. Mayor Williams thanked the group for taking the time to serve on the panel and providing a fresh look at soil issues. Joan Card stated that the Mayor and City Council appointed the Blue Ribbon Soils Commission because contaminated soil in town has no repository access. During 2005 to 2010 all contaminated soil that required excavation and disposal was sent to the Richardson's Flat Repository but in May 2010 it was no longer an option based on an EPA directive. The City worked on this problem with the EPA and the mine company for a couple of years which did not result in a solution. The Commission discussed Park City's mining history, EPA's history in Prospector, today's environmental impact, the purpose of the Soil Ordinance, human health effects, and what EPA's plans seem to be. Ms. Card stated that eight Monday morning meetings were held with almost 100% attendance demonstrating the members' commitment. They spent 16 hours of training on one topic making the group even more helpful for Council and all related information is on-line. She reviewed acronyms common in the industry. The final recommendations are as follows:

1. <u>Develop a segregation program in the Soil Ordinance that EPA and UDEQ can support</u>. Joan Card pointed out that in Park City there are non-contaminated soil and two classifications of contaminated soil, hazardous and non-hazardous and the first recommendation of the Commission reflects that fact. Liza Simpson, as liaison, commented that through all of these meetings, it became very clear to members that one of the basic flaws in our current Soil Ordinance is that perfectly good clean soil is being disposed of. Regardless of the end solution for the contaminated soil, there is no sense in disposing good soil with bad. In response to a comment from Cindy Matsumoto, Ms. Card explained the three classifications of soil. Clean soil has no disposal requirements, contaminated non-hazardous soil must be disposed of properly in a typical landfill, and contaminated hazardous soil can't be disposed of in a landfill and has to go to a repository. Dick Peek understood that contaminated soil can be reused in a trench on a job site but hazardous couldn't. She stated that within the Soil Ordinance Boundary, that is correct and Rory Murphy added that hazardous soil can be hazardous stay on site. He believed the point Ms. Simpson is making is that there may be contaminated soil on the top but good soil underneath it but the way the Soil

Ordinance is written now, all of that soil has to be transported to Tooele. This is an example of the benefits of separating the soil.

Andy Beerman asked about the mechanics and where soils are segregated. Ms. Card explained that an environmental engineer would be hired to develop a plan to be conducted on-site and to manage it. Segregation is a significant effort and this kind of program would benefit big projects. Chris Cherniak explained that soils are examined and compared for the concentration of lead and the project is managed based on those concentrations. The testing can be out in the field or in a lab but the money spent on testing and management may be beneficial instead of trucking soil to Tooele. Rory Murphy added that in most cases soil types are very distinct. Mr. Cherniak explained that a property owner may not have to bring anything to Tooele because if the the soil is excavated and separated, the good soil can go to High Star Ranch and the bad soil can be disposed of in a hole and filled with concrete.

2. Rename the Soil Ordinance to better reflect the nature and purpose of the Ordinance. The Mayor didn't feel Council would have a problem changing the name and noted that he was on the committee who wrote the disclosure for the Board of Realtors in the 80s. Perhaps the Soils Commission could review the language and the name and he spoke about the boundary changing over the years. Ms. Simpson added that the disclosure tends to get lost with all of the other paper work when property is being acquired. The idea is to highlight its importance so people will remember it. The Mayor stated that this is not something people should be afraid of because there is no history of high levels of lead in testing. Rory Murphy emphasized the level of lead is not harmful unless ingested and no matter what is done today, it has to be ratified by EPA and DEQ. This issue is not really confined necessarily to the soils district in Prospector and there are probably similar soils in places that are considered very pristine. Mr. Murphy stated that this is a community-wide issue.

3. Revisit the Soil Ordinance Boundary. The Mayor pointed out the discovery of soil issues at PC Heights which stopped the project and Liza Simpson identified the base at PCMR as another site. Joan Card agreed that it may expand but it may contract in some places where there are voluntary clean-up programs on-site. Alex Butwinski asked about the exclusion of open space and Katie Wright explained that open space is intended not be disturbed so it is not necessary to include it. The Mayor spoke about a collapsed mine near the pond areas where readings varied and Ms. Card explained that may be more appropriate as a voluntary clean-up program situation and there are ways to address these locations which are not in the Soil Ordinance per se. Tom Ward stated that there is some historic data that should be included as an island within the boundary.

4. Do not change the clean cover head (Pb) standard for occupied property of 200 parts per million at this time. The Mayor stated that when Prospector was archived, it was not 200 ppb. It was 500 or 1,000 when Prospector was tested but when it was archived and turned over to the City he didn't think it was 200 ppb at that point. Joan

Card explained that it was in the Ordinance but it may have not been the basis for EPA's decision to archive Prospector but she would have to research this. The Mayor asked if the read is over 200 ppb, would the property be out of compliance. Ms. Card clarified that that is technically true under the Ordinance but another recommendation points out that the Ordinance is not very enforceable in certain aspects. It is fair to say that the Ordinance has been administered differently over time which happens based on policy approaches.

The Mayor expressed concerns about those who have addressed their properties. Mr. Ward interjected that the Commission didn't consider lowering the level from 200 ppb; it's at 200 and the CDC is now proposing 150 which could be problematic. Katie Wright added that the CDC recently made a recommendation that the EPA should lower its standard. The CDC is looking at health and science and the EPA is falling behind in regulation.

Mayor Williams expressed that residents have paid hundreds of thousands of dollars to come into compliance and now there may be an ordinance that may put people who were in compliance, out of compliance. There has been no lead testing or any science and it's a changing number. In the 80s, it was 1,000 ppb and it's a moving target and the problem is the City keeping residents informed with the best information at certain times which changes. The EPA archived us because so many people had come into compliance which he believed was set at a level of 500 ppb. Tom Ward emphasized that the intent is to maintain it at 200 ppb, not to raise it, and the Commission is not considering lowering it at this time. The Mayor asked if people will be grandfathered and Mr. Ward and Ms. Wright indicated that this question was not something the Commission explored. Joan Card interjected that it would require a lot of review with EPA about why they archived Prospector. She was not aware that the EPA archived it based on a certain number and she believed that EPA archived it on a general policy basis.

Andy Beerman understood that 200 ppb is our standard and Park City has decided not to change it and the group indicated yes and Chuck Klingenstein further explained because the ppb level is a moving target. If it is 500 ppb that the Mayor remembers and 400 ppb is the current EPA threshold, and the CDC wants to go to 150 ppb, the Commission felt that having an Ordinance specifying 200 ppb was appropriate. Members did not address the question the Mayor is asking and it may be a legal matter. Mr. Klingenstein stated that he is less than clear what happens if the EPA drops its number.

Rory Murphy stated that it might get lowered whether we like it or not and shared the Mayor's concern. Dick Peek understood the Ordinance to provide that once a lot is compliant, it can't be determined non-compliant. Jim Blankenau agreed that it is written in that sense. If an owner were to be tested above the 200 ppb, the property is considered non-compliant according to the current Ordinance. Mr. Peek interjected that there are no triggers for testing. Mr. Blankenau agreed that there is no trigger to return and test the property; it is up to the property owner to maintain the cap.

Dana Williams felt that the problem occurs when an owner sells a house and if the property tests high at that point. He believed this discussion can occur at another time, but it seems like the City spent a lot of time and effort eight years ago to get people in compliance by offering $500 grants to property owners. This resulted in 79 properties coming into compliance within two years. Most of those people today might not be in compliance at 200 ppb.

Joan Card reiterated that in fairness to the Soils Commission, this was not discussed. Tom Ward believed that buyers would be satisfied with a certificate. Kate Wright didn't feel the Commission's purview should include real estate transactions. The Mayor countered that this is a big deal for owners in Prospector. Joan Card stated that if there needs to be a separate conversation on this, the Commission has agreed to reconvene if necessary and this issue can be addressed. Rory Murphy felt that it is more a matter of the quality of the cap material because if it was clean, it should be clean; if not, it may come back and bite the home owner. Chris Cherniak stated that there is plenty of historical information to help settle the Mayor's issue.

5. <u>The City should consider permitting and operating a temporary staging facility or transfer station for the consolidation of contaminated soil from small residential projects</u>. Joan Card commented that the Commission talked about segregation on being a *bone* to big projects but also wanted to help small residential projects. Rory Murphy explained that the group considered what happens when somebody does a small landscaping project which only results in three yards of contaminated soil. Rather than making someone in this situation spend $3,000 to haul three yards of material to Tooele, it seemed reasonable to provide a consolidation station where for example, eight landowners consolidate, use it, and pay considerably less. Mr. Murphy understood consolidation stations are not supported by EPA. Ms. Card clarified that it would require a permit from the state. Discussion ensued that if there is no incentive for small jobs like fences or planting a tree, people will just try to bury contaminated soil or try to dispose of it improperly. Mr. Murphy stated that people will do the wrong thing is there isn't an alternative. Dick Peek asked if other communities provide transfer stations and Ms. Card advised that they are very common in the municipal solid waste field and could be a subcontracted business.

6. <u>The Soil Ordinance should be enforceable and include appropriate permitting requirements for the spectrum of projects involving soil management in the Soil Ordinance Boundary</u>. The Mayor asked if the landscaping booklet needs to be updated. Ms. Card stated that the main thing in the context of this recommendation is that there are several projects that involve soil excavation that don't require a building permit so the City doesn't know about them. It is possible that a home owner conducting a huge landscaping project can have soil testing higher after the landscaping project than

before. A permitting program would involve the City to assist in making sure projects are compliant.

Liza Simpson emphasized that the group is very invested in making sure that the education is available for home owners so that they understand that if they are hiring a landscaper out of SLC, there are certain steps that have to be taken. Mr. Klingenstein added that it is hard for Park City businesses to compete with SLC contractors when home owners are uninformed and there needs to be an outreach program.

In response to a question from Cindy Matsumoto, Ms. Card explained that the group recommends a permitting process that is not onerous and is focused on people becoming more informed of the issues. Liza Simpson clarified that the permit is not intended to generate income but to make sure that landscape professionals receive the necessary information. Dick Peek suggested educational outreach for home owners, but more punitive standards for contractors. Mr. Beerman asked what *duty to comply* means. Ms. Card responded that it is a technical term but we need people to come to us in order to test and to issue certificates of compliance the way the Ordinance is drafted. There is no requirement, but owners come to the City voluntarily.

Alex Butwinski recommended that since SLC landscapers need a business license, information could be distributed when they apply. Ms. Card noted that other ordinances exempt one cubic yard of material or less from a permit or notification process. Mr. Murphy suggested letting people know in the Ordinance area that the fine grain sand is probably contaminated soil. The Mayor commented on Prospector yards being covered with rock as a cap but it is ugly and migrates making a mess. Joan Card stated that small projects can be reviewed and discussed in the future.

7. <u>When considering disposal options after implementing and evaluating changes to the Soil Ordinance, especially the segregation program, the City may consider a qualitative study on the feasibility of siting, permitting, operating and closing a landfill for the non-hazardous contaminated soil</u>. Ms. Card explained that this relates to operating a landfill. Rory Murphy added that the challenges of doing this are so overwhelming and it may take decades to get a disposal facility approved. A community may spend millions of dollars and end up exactly where it was. Chuck Klingenstein emphasized that a segregation program can be significantly efficient. Chris Cherniak expressed that a qualitative study can be a desktop exercise in evaluating pros and cons. It doesn't require intensive intrusive work. Ms. Simpson commented that the group discussed not knowing the level of volume and the segregation program may give the City a better idea of the amount of contaminated soils. Mr. Murphy added that the EPA may determine that the facility built is half the capacity needed and getting information may require an enormous amount of money.

The Mayor referred to the property from Richardson's Flats to I-80 that is going to be excavated when considering sites. Transportation costs would be significantly reduced if a facility existed there. Joan Card stated that the group discussed the difference between an EPA repository and a regular landfill. This recommendation is about landfills not CERCLA repositories.

Mr. Butwinski asked about the technique for segregating soil and Jim Blankenau responded that an area could be grid off and test holes sampled to profile the soil. The tricky part is determining the spacing. Another option is to excavate and sample.

8. The current Topsoil Assistance Grant Program should remain in place, especially if the Soil Ordinance Boundary is expanded. Jim Blankenau believed there is some funding left. Mr. Murphy believed this program is a good incentive for home owners and the group agreed that it should stay in place as long as there is funding.

The Mayor referred to the transfer station and discussion ensued on who would run the facility. Joan Card stated that there are options, including contracting, and those will be brought back to Council.

9. Communication, education and outreach on the Soil Ordinance and related issues should be a top priority. Chuck Klingenstein stated that members believe that the substation can't be a money maker or the purpose of creating an incentive for the property owner is defeated.

10. The recommendations of the Blue Ribbon Commission on the Soil Ordinance and Soil Disposal Options s should be shared with EPA and other partners at an appropriate point in the City's process. Rory Murphy believed that success is dependent upon a good and trusting relationship with the EPA. It is clear that things broke down at some point. UPCM is the Primary Responsible Party right now with the deepest pockets. The mining company was not the only one responsible and it is not necessarily fair. There were two mills at Deer Valley and the Marsac Mill. The Mayor stated that there is no point going after companies who have been out of business for over 50 years. The City has never heard from UPCM about the EPA being unfair.

Liza Simpson clarified that the Commission's recommendation is that there is no point in chasing down an illegal PRP chain because there is a communal obligation to involve all of the partners. Dana Williams believed that has been happening but EPA has changed its approach with different directors. More property has been archived and cleaned up under the first director than the City has with the second two directors combined. Ms. Simpson discussed the focus on maintaining a good relationship with the EPA regardless of the past.

Hans Fuegi felt strongly that we need to be careful of who ends up paying for clean-up and the cost of big projects should not be a taxpayers' burden. The Mayor believed that it depends on the elements of the project and Mr. Fuegi emphasized the benefit of making clean-up less costly for anyone. Katie Wright commented that there will always be a cost for programs and just education alone creates costs. Alex Butwinski felt that the City has a responsibility with regard to outreach and education but believed Mr.

Fuegi's concern is that the City not dispose soil for developers. The Mayor spoke about jeopardizing things like affordable housing because of the costs associated with contaminated soil at PC Heights.

11. The Blue Ribbon Commission on the Soil Ordinance and Soil Disposal Options ought to remain in place for the foreseeable future to meet from time to time as requested by the Mayor and City Council. Joan Card stated that staff will start working on the content for a work session so the Commission can receive specific direction from the City Council.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL WORK SESSION MINUTES DRAFT
SUMMIT COUNTY, UTAH
MAY 30, 2013

Present: **Mayor Dana Williams; Council members Andy Beerman; Alex Butwinski; Cindy Matsumoto; and Dick Peek**

Diane Foster, City Manager; Mark Harrington, City Attorney; Thomas Eddington, Planning Manager; Tommy Youngblood, Special Events Coordinator; Rick Ryan; Police Captain; Clint McAffee, Water Manager; Jed Briggs, Operating Budget Manager; Jennifer Danowski, Budget Analyst; Brian Anderson, Parking Manager; Heinrich Deters, Trails and Open Space Manager; and Chad Root, Chief Building Official

Planning Commissioners Nan Worel, Stew Gross, Charlie Wintzer, Brooke Hontz, and Adam Strachan

Joel Fine, Park City Ambassadors

1. Council questions and comments and Manager's Report. Alex Butwinski reported on participating on a conference call with the Governor regarding the loss of funding for the Utah Quality Growth Commission. Andy Beerman attended a COSAC meeting and members will have some information to share with Council soon. The group will be discussing conservation easements versus deed restrictions next. He attended the *Abundance of Hope* breakfast and a Regional Trails open house. He and Myles Rademan hosted a meeting on economic development which was good for networking. Mr. Beerman stated that he attended the Planning Commission meeting as an alternate which focused on the form-based code. Dick Peek also attended the Peace House luncheon and the HPCA meeting. Sixty national crew drivers are coming to Park City in September. Liza Simpson commented on the interagency task force meeting where dogs in public parks was the main agenda item. There was good representation of County agencies and it was a spirited discussion.

Cindy Matsumoto spoke about Recycle Utah holding a Water Camp for 400 students; it is a big effort and they did a great job. The clean-up event is handled again by Recycle Utah on the last Friday and Saturday of every month. The landfill now sorts green waste. The Chamber Board met and the TRT revenue is up and members are looking to expand by hiring another sales person. She encouraged the public to tune into UEN TV PBS on June 1 at 8 p.m. as it will be airing a 30 minute marketing piece on Park City. The Chamber is holding some workshops on the Affordable Health Care Act.

The Mayor commented that he will debrief members on his trip to China next week. He spoke about visiting with three deans from China who work with filmmakers in the Shanghai area and he is setting up a meeting with them and Sundance. The Mayor discussed an article from the Smart Cities Council on the cities that would be hardest hit by climate change, listing Park City last. Diane Foster noted that it was the headline story on Utah Policy.com. There were no comments on the Manager's Report.

Heinrich Deters announced that tomorrow is Bike to Work and School Day and the Chamber and the City are sponsoring a breakfast at the Yarrow. The Police Department will be shepherding children from the MARC and Prospector Park to schools. National Trails Day is this Saturday and Mountain Trails Foundation will be working on City's trails. *Outside Magazine* has selected Park City as a finalist in the *Best Ever Town* and voting is open until June 10. It would be a great achievement.

Mayor Williams commented on the loss of Carol Rixey who was very generous to less fortunate people by making sure they had a place to live in her boarding house on Main Street. A memorial celebration will be held on June 8 at the Star Hotel.

2. General Plan Task Force scope and participation. Mark Harrington explained that at the joint work session on May 16 with the Planning Commission, he was asked to provide an alternative. He emphasized that this is not the ideal alternative but simply an option to take advantage of some dead time between receiving the draft to resuming review given other priorities. This is triage and he warned members not to take this route, if they want the ideal process. This is an alternative to make the best of a tough situation and he offered his services and his department to augment a lack of resource capability primarily in the Planning Department. He advised that having an attorney project manage anything is not ideal which will have its own nuances of consequences, but he is committed if that is Council's desire.

Council also requested that a schedule be proposed and both the Planning Commission members and Council members had different expectations and ideas of the end product. He intentionally didn't address them because with Thomas Eddington's leadership, a format of the Executive Summary that blends with the overall desire to keep the existing draft of the General Plan in tact but yet provides an efficiency for review, can expedite the meeting process and is outlined in the staff report. Also outlined in the staff report, is a process with a goal of a year-end decision by the City Council.

Mr. Harrington proposed that he be directed not to waive meetings or deadlines for individual schedules so that the project is moving ahead every week. The Planning Commission has a number of concerns with this as well and rightfully so, in terms of public participation and the responsibility to deliver a comprehensive recommendation on the General Plan to the City Council. However, this process is suggested to augment that responsibility and not supplant it and he believes it can be efficiently done to preserve the integrity of that role moving forward. He reiterated that the process is not ideal and it depends on the end goal of the process and he spoke about rotating membership participation. A smaller group is better and meetings can be held off-site or in the building. Meetings must be noticed but disturbances minimized because it is a technical working group, and members will not be making substantive changes unless directed to. The work is refining and editing to reduce the review in the fall. The second component is collating edits for the Planning Commission which may require staff management; few have access to the document because of software licensing. This will add to another problem at the time of formal review and the task force can get a head start on that process.

Mark Harrington understood some feel that a traditional review process should be used which is equally valid. But if members want to get it done and prioritization is the completion date as opposed to the process, he encouraged support of Option 1. If the priority is a more traditional review process and time doesn't matter, Option 2 or 3 may be more appropriate. He is only recommending Option 1. If Option 1 is selected, he asked that Council confirm the scope and the rotation of Council participants.

Chairman Nan Worel designated Commissioners Strachan and Gross to work with the group at the first meeting. Adam Strachan understood one of the discussion points at the last task force meeting was whether an Executive Summary should be created because it has the potential of adding pages to an already 500 page document. This is not refining the General Plan but enlarging it. He asked if this creates problems in and of itself. Secondly, doing that may just postpone the inevitable of going through the document substantively and conducting the traditional review but there is not enough time. Hence the task force was formed. He understood that the task force would *do the heavy lifting* and return to the City Council with a General Plan that had the Planning Commission's full buy-in and hopefully speed up the Council's review, especially with rotating members serving on the task force. Mr. Strachan asked for clear direction from the Council because every Planning Commissioner is willing to do whatever to achieve the goal. Other Commissioners in attendance indicated their support of his comments.

Mayor Williams asked if there is buy-in from the Commission on this process or should the General Plan not be expedited and traditionally reviewed. Mr. Strachan expressed that since there is no choice based on the realities, we should expedite it and conduct a task force review. While it is not ideal, it is what we have to do. Liza Simpson clarified that it seems that the Planning Commission supports Option 1b outlined in the staff report and Mark Harrington confirmed. He added that 1 and 1b have subtle differences relating to the process and asked for clarity on an Executive Summary. Consolidation forces members to clarify and helps the editing process but it is a different type of efficiency by editing the document first and then writing the summary at the end of the process.

Ms. Simpson recalled suggestions to move pieces of the General Plan to appendices because they may not be as germane as other information. Thomas Eddington explained that based on information from the Commission and the Council, about 220 pages were removed including the trends, some of the case studies and other information that was not goal or strategy oriented. About 100 pages cover the General

Plan document and 100 pages for the neighborhood piece which may be an easier portion to review.

Adam Strachan pointed out that Option 1b reflects the decision of the Planning Commission except for the Executive Summary. He envisioned the task force submitting substantive edits, review, and at the end there will probably be a cover letter detailing changes which will act as an Executive Summary to some degree, it just won't be the heart of the General Plan. Andy Beerman referred to a discussion on completing the summary first or after the group made its conclusions. By reducing the document to a more manageable size, there is probably less need to write a summary at this point because it is an easier form to review. It makes sense to do the Executive Summary at the end of the process.

Diane Foster pointed out that members will rotate meetings and asked if the Planning Commission is cohesive enough to support a recommendation because these will not be revisited. Adam Strachan believed this is the tough position Commissioners are placed in because of the timing issue. He trusts his fellow Commissioners but if members have a problem with some decisions, those will be discussed and resolved. So far, members have been unanimous in many of the issues and the statements in the General Plan which are rather amorphous and tend to please more people. The Mayor pointed out the work session and three public hearings scheduled before the Planning Commission and the City Council and if there are issues of concern, they can be addressed and resolved during those meetings. There will also be public input on individual elements. It was clarified that Planning Commission members will rotate in twos.

Andy Beerman pointed out, Executive Summary aside, that redlines be maintained so readers can track any changes. Mark Harrington advised that there will be check-ins along the way and a separate chart illustrates this. In response to a question from the Mayor about updates on the project, Mark Harrington did not feel it would be done incrementally and would be left up to the individual liaison participants to update their fellow members on issues of importance but will defer to group consensus. If everyone starts shifting drafts back and forth incrementally, it may disrupt efficiencies. Liza Simpson voiced her preference in seeing the end product before the public hearings are held. Thomas Eddington stated that members will receive the smaller version of the General Plan.

Alex Butwinski mentioned that shortening the document is a good beginning and supports the task force approach, specifically Option 1b but was not sure about the Executive Summary. The General Plan can be amended later to include appendices when there is more time. A more comprehensive General Plan should be a direction the City is going and the task force can accomplish this. He is frustrated with the amount of time this project has taken and this is an opportunity to get to a point where there is good framework to arrive at an adoptable General Plan by the end of the year. He would not call it an Executive Summary but a work product that is fairly adoptable by the end of the year. There seemed to be some agreement how that would work in the minutes. He likes the idea of a task force and would not add a Summary to the document.

Dana Williams believed the Council should do the same thing as the Planning Commission and rotate members in various sessions so that the time the General Plan is complete, everyone has participated in the process. Ms. Simpson believed staff did the right thing by removing 200 pages from the document. Dick Peek agreed and felt it should keep going that direction so members have a lean document to review and appendices or an Executive Summary added later. He considers the General Plan editable until the final meeting where action is taken. Council members unanimously agreed to form a task force, Option 1b with no Executive Summary. The Mayor confirmed that Alex Butwinski will represent Council at the first meeting and other rotating members will be determined.

Thomas Eddington announced the resignation of Katie Cattan who will be working for the city of Capilito, California.

3. 4th of July Event. Tommy Youngblood explained that the main changes include limiting parade entrants to 70 and volunteers from parade floats are asked to help with the management along the course to keep it tight. Also, police patrols will be increased in the Park outside the liquor licensed area because there was a problem with underage drinking behind the basketball courts last year. Cindy Matsumoto expressed that she doesn't know how to get the word out, but about 100 volunteers are needed. She asked if there is any data on where attendees come from, i.e., Heber or Salt Lake City. Joel Fine, organizer, stated that it depends upon the day the 4th falls. If it falls during the week, the crowd seems to be more locals but if it is a weekend date, there will be more people from the Valley but it is anyone's guess. Tommy Youngblood suggested that a survey could be distributed on that day and there was discussion that the results would probably not be very useful. Mr. Fine clarified that application and administrative fees are allocated toward expenses.

Dick Peek understood that the problem was a high school graduation celebration last year. Captain Rick Ryan pointed out that there were 17 scattered arrests of underage drinkers last year. He felt that tightening up the beer gardens will be helpful. Joel Fine understood that there was bad language with little kids around and the event needs to be family-friendly.

4. Western Summit County Master Agreement – Clint McAffee explained that staff had planned to present some detail on the Agreement today, but is still working with Weber Basin trying to get a few issues addressed. Staff will continue to work with Weber Basin and all of the other parties to work toward an agreement that can be presented for adoption by the City Council.

5. Budget – Operating Expenditure – Jed Briggs stated that staff is looking for direction on business license cost recovery percentages, the fee schedule, and some operating budget changes.

Jennifer Danowski addressed the recommended change to the business license administration fee. In 2009, an inspection fee was added which bumped the cost from $87 for lodging and nightly rentals and $95 for all other business as part of the administrative fee. Taxis are charged differently. The direction at the time from Council was to try to reach a 40% cost recovery; 2009 was the last fee increase and costs have risen quite a bit. When analyzing data, staff found that the cost recovery level was far below Council's direction, averaging about 25% depending upon the type of license. A chart is included in the meeting packet. She explained that to achieve 40%, the administrative fee portion would be increased to $149 for new businesses only, not renewals.

Liza Simpson did not recall the discussion on the 40% in 2009. Mr. Briggs explained that some of the other parts of the business license fee which included enhanced enforcement, transportation, and festival facilitation average about 40%. From previous studies conducted by consultants it is about 45% and the idea was to be consistent with that percentage. Cost recovery for fees varies in Departments and he explained that going to 60% or 70% seemed like too much and 40% seemed a lot more reasonable at the time.

Alex Butwinski stated that he is comfortable with 40% recognizing that it is a delicate balance of creating a friendly environment and the subsidy of taxpayers' dollars. He did not think any of the proposed fees are onerous enough to affect businesses' profitability. He noted that 50% would be a good goal, but is comfortable with 40%.

Andy Beerman believed there is an ability for some streamlining, specifically individually licensing 50 hotel units in one building. It seems like there could be an umbrella license for hotels that would significantly reduce the administrative costs and he hoped there could be a future discussion on this. The concerns of the lodging community have not really been resolved which mainly deal with the software switch. Ms. Simpson interjected that units have to be individually inspected and Mr. Beerman explained initially but not annually and every year 50 different forms need to be filled out. There should be more efficiencies. He recalls Deer Valley Lodging showing up at the Finance Department with a stack of paper about a foot high and he imagined it is difficult for the Department to process all of that paper.

Dick Peek agreed with Mr. Butwinski with staying with 40% now with a goal of 100% and to achieve economies of scale with certain classes of businesses. The Mayor asked if other resort communities were contacted and Ms. Danowski stated that around five communities were contacted and none of them based licensing fees on cost recovery. The staff report includes a fee comparison of other cities. Ms. Foster believes that cost recovery is a good business approach in covering costs of providing services. The Mayor relayed that the consensus is to remain at 40%.

Dick Peek asked about using cell phone technology to pay for parking and Brian Anderson explained that many of the pay by phone providers included a convenience fee as part of the service and the City can exclude it, which is .$25 per transaction. He explained that staff wanted to include this technology in the fee resolution, and it will take some time to catch on. Aspen uses the same technology where cell phones are used for 19% of transactions. About 70% use credit cards in Park City for the parking meters which represents about 90,000 transactions and Dick Peek pointed out that the City will spend about $4,300 before it will cost the user $.25. Andy Beerman noted that the phone system has a minimum of one hour and asked if the City could benefit from parking less than one hour but paying for an hour. Mr. Anderson expressed that it is definitely a possibility but it is also a credit card based service and Aspen absorbs the $.25. Diane Foster pointed out that Council should consider if it is worth $4,300 to introduce a new service.

Jed Briggs stated that FIAR represents the balanced budget which was presented on May 6, 2013 and since then changes have occurred. In achieving zero sum status, staff balances overall increases with decreases and since this is the off year of the budget, staff wanted to focus on not having any increases at all. When a department asked for something new, the Budget Department encouraged funding it with existing resources as much as possible to build efficiencies. Mr. Briggs acknowledged knowing about losing sales tax revenues three months ago and staff looked at any decreases available from departments where service levels were not being impacted. BFO programs that scored low is another area being explored.

He stated that the first recommendation of the City Manager is to add more funding to the Planning Department. There are many big projects in the works, and the Department needs more resources. Planning applications have increased 30% over last year and an average of 13% increase in the last couple of years. Although this is a good thing, it drains resources. For the tentative budget, the City Manager recommended the addition of the current Planning Manager with long-range and special projects; however, the Department is losing resources. The City Manager is now recommending bringing the contract planner back as well as adding a Planner II. These two positions would focus mainly on processing planning applications so that the other planners and Planning Manager can focus on getting projects completed. Mr. Briggs noted that this is zero sum because some money was found in the Planning Budget and other sources in order to pay for the positions. In response from a comment from Alex Butwinski, Mr. Briggs clarified that staff found a mistake in the City’s favor in the budget for Planning. In Ice and the Streets Departments, the budgets were higher than they should have been and they were adjusted downward and the Planning Department’s increased. Mr. Butwinski appreciated assigning costs to projected hours in completing projects. Andy Beerman asked if the projection for planning fee revenues has been adjusted. Mr. Briggs advised that planning fees are fairly small.

Mr. Beerman commented that if planning applications are up, it should also affect building and engineering fees which are in the millions. Mr. Briggs acknowledged that staff did not focus on building and engineering but it is something that can be studied. Diane Foster stated that an increase of activity in the Building Department is apparent and turn-around times are not being met. Vacation schedules, training, etc. are being adjusted to better staff the Department and some contingency money is set aside for contracted assistance. Building fees can provide an offset and Council may see a recommendation as early as next week. According to one of the local architects, business has come back to Park City in a huge way; it is bigger than it was before the recession and all at once. Mr. Beerman encouraged looking at fee revenues in a balanced manner and growth in property tax was also recognized.

Mr. Briggs discussed changes in the City Council Department which will better describe expenditures. The conference travel line item was decreased to zero and moved into meetings, conferences, travel as well as adding a mileage reimbursement and professional consulting line items. The general contingency fund contains about $130,000 and it is proposed to use $30,000 from that fund to increase the City Council Budget. Liza Simpson requested the numbers for the last five years for these funds. Andy Beerman discussed the desire to better track consultants for Council that were being paid from other departments. Ms. Simpson stated that her interest lies in the funds that exist.

In response to a comment from Dick Peek, Chad Root explained that flatwork, sidewalks, and driveways will require permits and is more stringent than the state code. Other types of building permits were discussed. Mr. Root described the double fee penalty for not obtaining a permit after a warning which is also in the state code. Mr. Peek asked about the handy home owner being penalized for not obtaining a permit and Mr. Root explained that they would have to pay the fee but it is not criminal. The first ACE citation results in no fee but after the second, it is a $50 fee and if not paid, could become a criminal action.

The City Manager is not recommending increased snow removal on Main Street for downtown walkways at $40,000 or increased snow removal on the street for about $50,000, including the purchase of a new loader. The Results Team did not support these requests which is consistent with not elevating levels of service during the off year of the budget. Next week, special service contracts will be presented to Council. Liza Simpson appreciated the BFO exercise in the report and stated that she agrees with the City Manager Recommended Budget and other members indicated their support.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING **DRAFT**
SUMMIT COUNTY, UTAH,
MAY 30, 2013

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, May 30, 2013. Members in attendance were Dana Williams, Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Staff present was Diane Foster, City Manager; Mark Harrington, City Attorney; Heinrich Deters, Trails and Open Space Manager; Nte Rockwood, Capital Budget Manager; and Mat Evans, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

State Legislature - State Representative Kraig Powell introduced himself and expressed his appreciation of Council and staff for good communication with him throughout the last legislative session regarding several bills which were of interest to the City. He hopes this will continue and explained the legislative process and the benefit of reviewing bills in their early stages. Representative Powell emphasized that this is a partnership and he doesn't believe in micromanaging counties and cities.

IV MINUTES OF VISIONING SESSION OF APRIL 18, 2013, MEETING OF MAY 9, 2013, AND JOINT MEETING OF MAY 16, 2013

Alex Butwinski and Liza Simpson submitted minor corrections to the Visioning Session and the Joint Meeting minutes, respectively. Alex Butwinski, "I move to approve the aforementioned minutes, as corrected". Andy Beerman seconded. Motion unanimously carried.

V CONSENT AGENDA *(Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon)*

1. Consideration of acceptance of the 2013 Pavement Management bids and authorization to staff to enter into agreements in a form approved by the City Attorney with:
   - (a) Staker Parson for milling and pavement overlays in the amount of $375,470
   - (b) Morgan Pavement for slurry seals in the amount $46,999

(c) Kilgore Contracting for crack seal and trail seal coat in the amount of $93,732
(d) Morgan Asphalt for utility adjustments in the amount not to exceed $57,900

2. Consideration to authorize the City Manager to execute a Professional Services Agreement, in a form approved by the City Attorney, with Carollo Engineers, Inc., for Quinn's Junction Water Treatment modifications, Phases I and II engineering services in an amount of $394,707 - The City Recorder clarified that the amount for Item 2 should read $394,707 not $304,707. Andy Beerman, "I move we approve the Consent Agenda, as amended". Liza Simpson seconded. Motion unanimously carried.

VI NEW BUSINESS

1. Consideration of an Ordinance approving a plat amendment for 1450-1460 Park Avenue, Park City, Utah – The Mayor opened the public hearing; there were no comments and he requested a motion to continue to a date uncertain. Liza Simpson, "I so move". Cindy Matsumoto seconded. Motion unanimously carried.

2. Consideration of Resolution recognizing the Yellow Dog Public Awareness Program in Park City, Utah – Heinrich Deters introduced Annie Ellis, organizer, who thanked the City and Mountain Trails for support of the program identifying unfriendly dogs with yellow bandanas. She explained the outreach efforts and the donation of yellow bandanas; the input she has received has been very positive.

Mr. Deters added that SBSRD and the County are aware of the program and are supportive. Implementation will basically involve signs at trail heads and posters around town. Ms. Simpson suggested using KPCW and other local media outlets for publicity. Mr. Deters referred to the heated discussions on the leash law at the County level but emphasized that the Yellow Dog Program is an awareness effort and does not conflict with the Animal Control Ordinance. This is intended so everyone can enjoy our open space safely and enjoyably. He mentioned that the County will be forming a task force on dog issues. These programs work best when they come from the community rather than government. Andy Beerman asked if there are similar programs in other towns and Ms. Ellis didn't believe so and discussed the educational piece which will hopefully promote more considerate dog ownership. The Mayor invited public input.

Ruth Meisma, Woodside Avenue resident, believes there are many people who fear dogs that don't really want to announce it so she can't see them wearing a yellow flag announcing it. She is unsure this will work because the program is based on the fact that every dog is leashed and in control and may provide a false sense of security. It shouldn't be up to people afraid of dogs to wear a yellow marker. The Mayor clarified that the bandanas are for dogs not people. She commented on the possibility of difficult dogs not being identified. All dogs should be leashed and in control at all times.

Heinrich Deters stated that staff will monitor the effectiveness of the program. Liza Simpson, "I move that we approve the Resolution recognizing the Yellow Dog Public Awareness Program in Park City". Dick Peek seconded. Motion unanimously carried.

3. Consideration of an Ordinance adopting the Revised Budget for Fiscal Year 2013-2014 and the Proposed Budget for Fiscal Year 2014-2015 for Park City Municipal Corporation and its related agencies – The Mayor opened the public hearing; there was no input. He requested a motion to continue to June 6th. Cindy Matsumoto, "I so move". Liza Simpson seconded. Motion unanimously carried.

4. Public hearing to receive input from the public with respect to (1) the issuance and sale of the City's general obligation bonds for the purpose of acquiring, constructing, improving and modifying pathways, roads and related improvements for use by pedestrians and cyclists and (2) the potential economic impact that the facilities will have on the private sector – Nate Rockwood explained that the bonds were presented to Council on May 2, 2013 and the closing will occur on August 5, 2013. Approval will issue the remaining walkability bonds just under $7.2 million and will refund some general obligation bonds. Alex Butwinski asked if the bond language is specific to walkability and Mr. Rockwood answered yes. Mr. Rockwood pointed out the wording qualifying road-related improvements for pedestrians and cyclists. Simply replacing a sidewalk does not make it more walkable; it has to be an improvement affecting walkability or biking. The Mayor opened the public hearing and there were no comments from the audience. No action is required.

5. Consideration of an Ordinance approving The Parkview Amended, Consolidated and Restated Record of Survey Plat, located at 2260 Jupiter View Drive, Park City, Utah – Mat Evans explained that the applicant is proposing to amend the plat to correct several existing plat errors, delineate the wetland setback line, allow the additions of square footage on 14 of the 36 units, and allow rear deck extensions for units that parallel the creek. This project was approved as part of a MPD in 1997 and over the years there have been changes to this property. A trail was installed as part of a requirement and because of that, McLeod Creek was straightened through this area and the setback line moved. With the setbacks adjusted, additions can be added to extend decks with conditions. There is no increase in density of the overall development or an increase in square footage because as recorded, there are basements that were never built. He stated that the square footage being proposed as a result of the plat amendment is a wash. The Planning Commission made some changes to the proposed conditions of approval which are noted in the Ordinance and staff recommends that the City Council approve the amended plat.

Liza Simpson asked if Conditions of Approval Nos. 8 and 9 sufficiently cover owners landscaping by the creek. Mr. Evans explained that the area between the units and the creek now is in a natural state. Dick Peek asked how Condition No. 9 would be enforced and Mr. Evans acknowledged that the prohibition against using pesticides is difficult. The applicant discussed the focus on xeriscaping and residents do not want chemicals used in the area and prefer environmental friendly methods.

The Mayor understood the pesticides and herbicide arguments but fertilizers do not need to be organic because it really doesn't make any difference. The applicant discussed planting trees near the creek and fertilizing them doesn't seem to be necessary. He detailed the type of trees in the project. With no further input, the public hearing was closed.

Alex Butwinski, "I move we approve The Parkview Condos amended, consolidated and restated Record of Survey Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft Ordinance". Liza Simpson seconded. The Mayor suggested dropping the wording *non-organic* from the condition to allow fertilization of the trees. Alex Butwinski, "I move we amend the motion to reflect the Mayor's removal of non-organic from the condition". Liza Simpson seconded. Motion unanimously carried.

6. Consideration of an Ordinance approving the 206 Grant Avenue Plat Amendment located at 206 Grant Avenue, Park City, Utah – Planner Mat Evans explained that the request is to combine Lots 21 and 22 of Block 72 of the Millsite Reservation. These are partial lots with double frontage on Grant Avenue and Sandridge Avenue. The owner wishes to combine the remnant parcels for future development of a small home or garage. The lot is of sufficient size to meet the current zone designation. The shape of the parcel does not lend itself to a large structure and the conceivable building form is about 500 square feet. This is also the location of the Swede Alley Stairs going from Swede Alley to Sandridge, located within the required setback area. The City owned this property at one time which was associated with the purchase of the Imperial Hotel but there is no implied parking arrangement for the Hotel. However, he pointed out the partial parking lot easement for 210 Grant Avenue which is noted on the plat, but will not impact any potential development.

In response to a question from Dick Peek, Mr. Evans explained that the total required setback is 14 feet with a minimum of five and in theory construction could occur up to the easement but he assumes the setback will be shifted to the north property line to accommodate a building form. Dick Peek acknowledged that this amendment will result in a buildable lot.

The Mayor opened the public hearing; there was no input and the hearing was closed. Liza Simpson, "I move that we approve the proposed plat amendment for 206 Grant Avenue, according to the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft Ordinance". Dick Peek seconded. Motion unanimously carried.

VII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned and a closed session convened.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2 p.m. Members in attendance were Mayor Dana Williams, Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Staff present was Diane Foster, City Manager; Clint McAffee, Water Manager; Tom Daley, Deputy City Attorney; Jonathan Weidenhamer, Economic Development Manager; Hugh Daniels, Emergency Operations Manager; Thomas Eddington, Planning Manager; Nate Rockwood, Capital Budget Manager; and Mark Harrington, City Attorney. Liza Simpson, "I move to close the meeting to discuss property and litigation". Alex Butwinski seconded. Motion carried unanimously. The meeting opened at approximately 4:20 p.m. Alex Butwinski, "I move to open the meeting". Andy Beerman seconded. Motion unanimously carried.

The City Council met again in closed session at approximately 6:45 p.m. All members were in attendance. Staff present was Diane Foster, City Manager; Tom Daley, Deputy City Attorney; Jonathan Weidenhamer, Economic Development Manager; Thomas Eddington, Planning Manager; Nate Rockwood, Capital Budget Manager; and Mark Harrington, City Attorney. Liza Simpson, "I move to close the meeting to discuss property and litigation". Dick Peek seconded. Motion carried unanimously.

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 Recorder

City Council

Subject:	**Park City Cooperative Preschool (PCCP) – Summer Lease Extension**
Author:	**Jonathan Weidenhamer**
Department:	**Sustainability**
Date:	**June 27th, 2013**
Type of Item:	**Administrative**

Summary Recommendations:
Direct staff to enter into a short term lease extension with PCCP in their current space, rooms 208 and 209 of the Library, to allow them to continue summer programming, prior to their relocation to their permanent home in the soon to be renovated 3rd Floor.

Background
The PCCP lease expires on June 30, 2013 (Exhibit B). Staff seeks Council authority to allow the PCCP to extend their lease to allow COOP to continue summer ops in their current rooms, 208 and 209. The first phase of the library project will be to renovate the 3rd Floor. Upon completion of the 3rd floor, the PCCP and Park City Film Series will move back in. Completion of the 3rd floor is currently anticipated on September 27, 2013. This first phase will be broken into smaller parts to allow the PCCP to move in earlier (see below). The majority of the work after PCCP move back in will be focused on the elevator and north stair tower. This is the first phase of the broader Library renovation and expansion.

The most recent schedule we have for non-library tenants in the building is as follows:

June 9	PCFS last film at Santy
June 17	Start of COOP summer camps
June 30	PCCP & PCFS current leases end
July 24	Start construction on the 3rd floor
August 18	PCCP summer ops end
August 23	PCCP space substantially complete
9/2	PCCP fall year starts
9/27	3rd floor construction complete
9/27	PCFS starts
Feb 2014	Renovation/ expansion floors 1-2 (12 – 15 months)
TBD	Construction complete

Exhibit A is the proposed lease for the summer for the second floor conference room. The next step will be to define terms for the longer term lease when the construction is finished, estimated to be late August, 2013.

Analysis

<u>COOP Summer Program Extension (7/1 – 8/18)</u>

There will have to be modifications to the structure of the lease extension. For instance, the current leases recognize an “annual” rent, where the extended leases would have a lump sum for the summer. The PCCP has asked to extend the availability of the 4% discount for early payment of entire rate. Staff doesn’t recommend doing so, the savings would be under $100.

To allow the PCCP to continue operations in their space beyond June 30, and while the 3rd floor is being remodeled, staff recommends extending the existing lease terms through a third addendum, but with the following modifications:

1. Term – 7/1 – 8/18/2013;
2. Rate - Reflect a pro-rated monthly amount with the same cost/ sf. Cost therefore is $48.49 x 49 Days = $2,376;
3. No credit for early payment;
4. No annual 5% increase

Summary Recommendations:
Direct staff to enter into a short term lease extension with PCCP in their current space, rooms 208 and 209 of the Library, to allow them to continue summer programming, prior to their relocation to their permanent home in the soon to be renovated 3rd Floor.

Exhibits

A Draft Lease for summer
B PCCP current lease

SECOND ADDENDUM TO THE LEASE AGREEMENT BETWEEN PARK CITY COOPERATIVE PRESCHOOL AND PARK CITY MUNICIPAL CORPORATION

THIS SECOND ADDENDUM is made by and between Park City Municipal Corporation ("Landlord") and Park City Cooperative School ("Tenant") to amend the First Addendum to the Lease Agreement signed and executed by the parties on August 30, 2012 ("Lease") as amended and to set forth the terms and conditions under which landlord will lease space in the Carl Winters Building (hereinafter referred to as the "CW Building") subject to the Lease, as amended. The parties agree as follows:

1. Property. The property leased is in several areas within the CW Building as described in Exhibit A (attached and hereafter referred to as Premises). The leased space includes the following property on the second floor of the CW Building: Rooms 208 and 209. The Premises includes an outdoor play area (hereinafter referred to the Preschool Playground). Tenant shall have exclusive use of the Preschool Playground from 10:00am to 11:00am, and the non-exclusive rights of use at all other times. Other tenants of the CW Building and Landlord may use the Preschool Playground provided that:

(1) The use does not conflict with previously scheduled use by Tenant; and

(2) The user takes full responsibility for clean-up and repair of any damages.

Tenant shall also have access to the public bathrooms in what is currently or soon will become the library portion of the CW Building. Tenant acknowledges Landlord is conducting a major renovation of the property. Temporary restroom, outdoor play and access areas may be required in alternative locations. There is no covenant of quiet enjoyment and the Tenant accepts the Premises "as is," and subject to work conditions in the sole discretion of Landlord to complete the renovation.

2. Rent. The rent for the leased space shall be as follows:

(1) Rate: Beginning July 1, 2013, Tenant's pro-rated rental obligation for the lease extension shall be $2,376for the leased space.

(2) Payments: Beginning July 1, 2013, rent shall be paid in monthly installments of $1,474.87 for July and $901.13 for August. Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.

(3) Deposit: No Deposit is required.

(4) Rent Adjustment: N/A

(5) Credit for Early Payment. No credit for early payment.

3. Term**.** The Lease term is extended for an additional period from July 1, 2013, through August 18, 2013.

4. Effective Date. The terms of this Second Addendum to the Lease shall be effective beginning July 1, 2013. All other terms of the Lease remain in effect.

5. Entire Agreement. This Second Addendum is a written instrument pursuant to Paragraph 30 of the Lease between the parties, and together with the Lease constitute the complete and entire agreement between the parties, which cannot be altered or amended except by written instrument, signed by both parties.

DATED this ____ day of June, 2013.

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

____
Dana Williams, Mayor

Attest:

____
Janet M. Scott, City Recorder

Approved as to form:

____
City Attorney's Office

PARK CITY COOPERATIVE PRESCHOOL

____

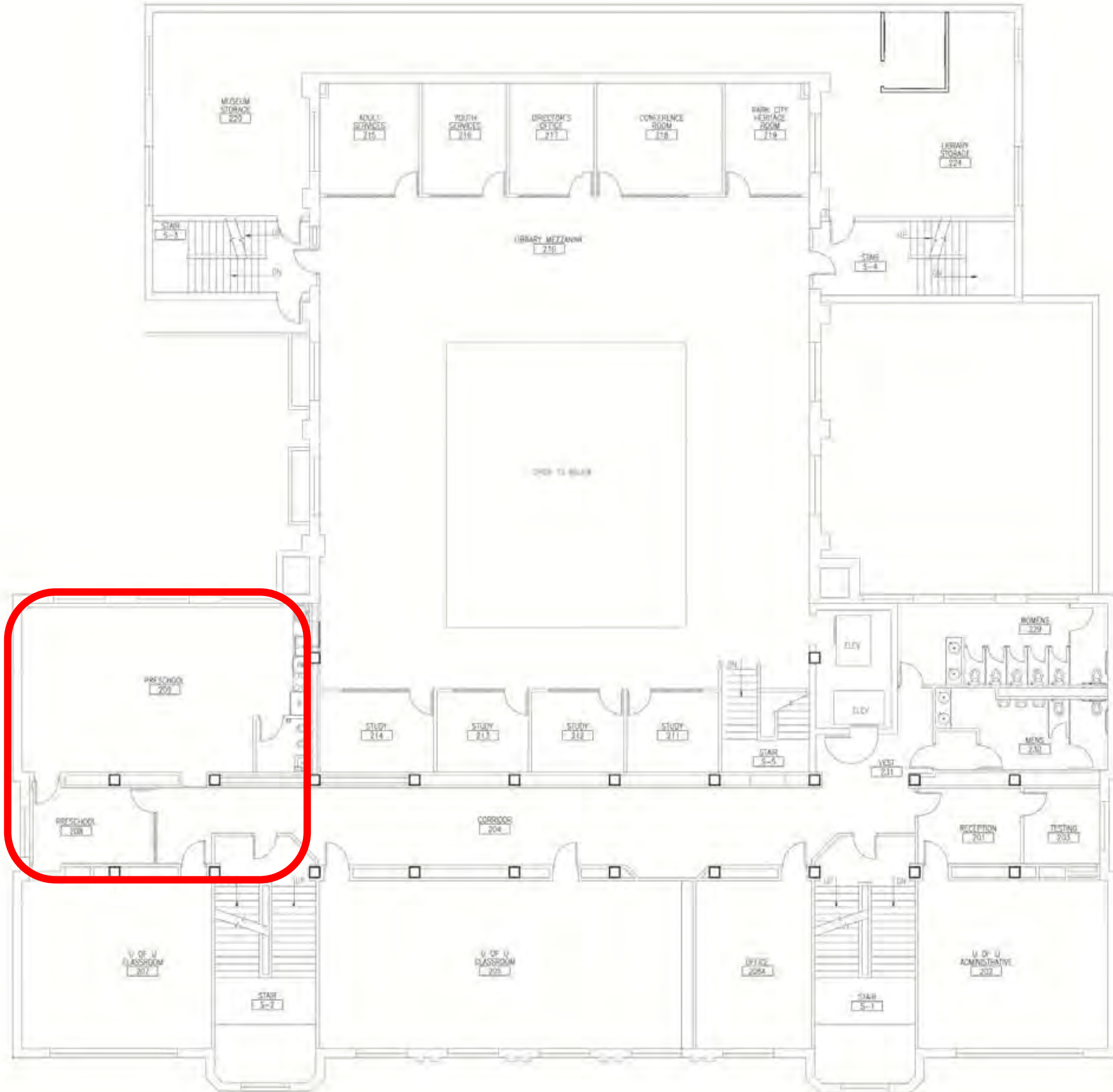
ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

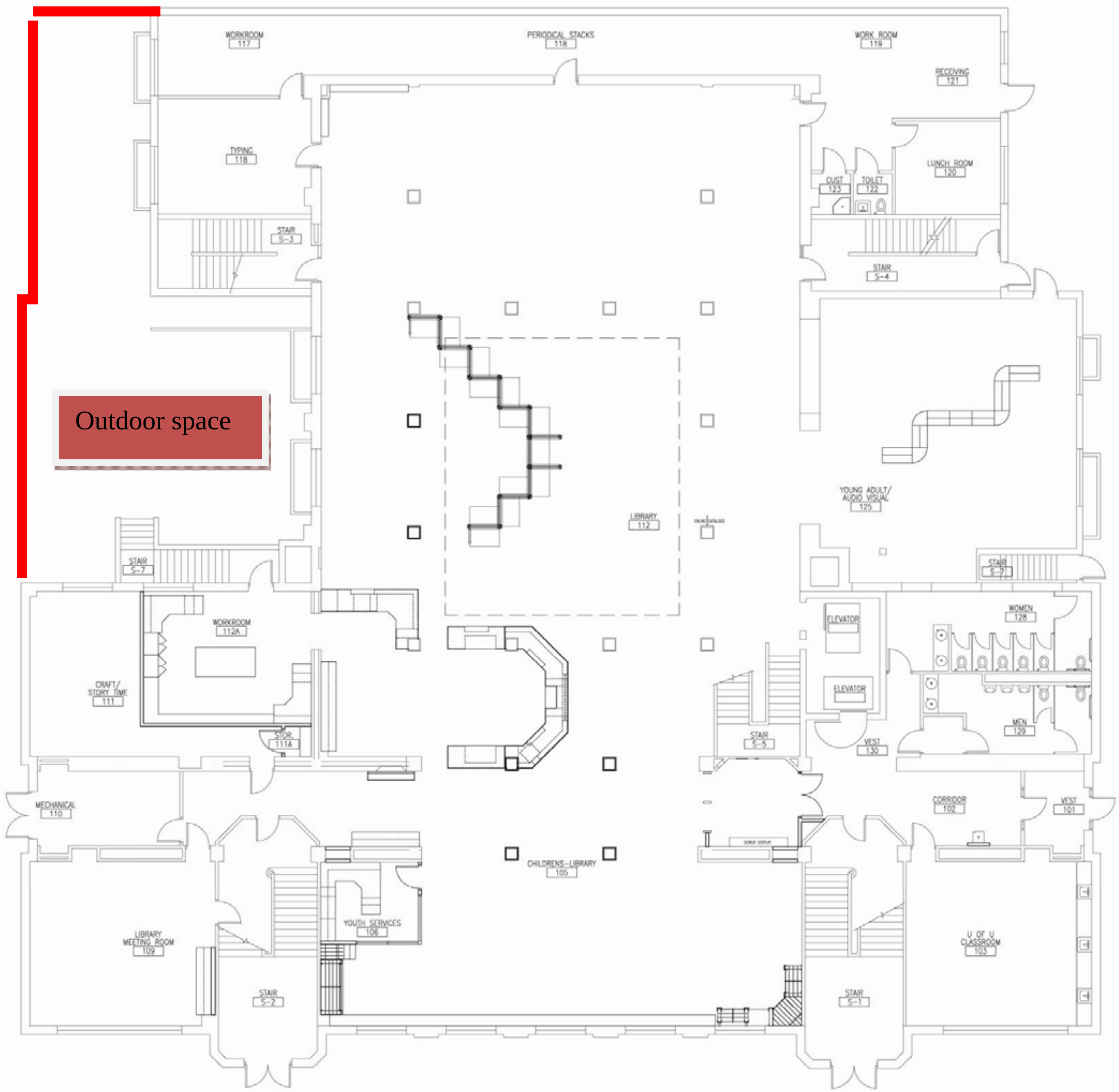
On this ______ day of August, 2013, personally appeared before me , who being duly sworn, did say that he/she is the __________of Park City Cooperative Preschool, and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and she acknowledged that the company did execute the same for its stated purpose.

____
Notary Public

Exhibit A



Second Floor


Outdoor space
WORKROOM 117
PERIODICAL STACKS 118
WORK ROOM 119
RECEIVING 121
TYPING 116
LUNCH ROOM 120
CUST 123
TOILET 122
STAIR S-3
STAIR S-4
LIBRARY 112
YOUNG ADULT/ AUDIO VISUAL 125
STAIR S-7
WORKROOM 112A
CRAFT/ STORY TIME 111
ELEVATOR
WOMEN 128
MEN 129
STAIR S-5
VEST 130
MECHANICAL 110
CORRIDOR 102
VEST 101
CHILDRENS-LIBRARY 105
YOUTH SERVICES 106
LIBRARY MEETING ROOM 109
U OF U CLASSROOM 103
STAIR S-2
STAIR S-1

First Floor

FIRST ADDENDUM TO THE LEASE AGREEMENT BETWEEN PARK CITY COOPERATIVE PRESCHOOL AND PARK CITY MUNICIPAL CORPORATION

THIS FIRST ADDENDUM is made by and between Park City Municipal Corporation ("Landlord") and Park City Cooperative School ("Tenant") to amend the Lease Agreement signed and executed by the parties on June 26, 2008 ("Lease") as amended and to set forth the terms and conditions under which landlord will lease space in the Carl Winters Building (hereinafter referred to as the "CW Building") subject to the Lease, as amended. The parties agree as follows:

6/13

8/12

2. Rent. The rent for the leased space shall be as follows:

(1) Rate: Beginning July 1, 2012, Tenant's annual rental obligation shall be Seventeen Thousand Six Hundred Ninety-eight Dollars and Forty-five Cents ($ 17,698.45) for the leased space.

(2) Payments: Beginning July 1, 2012, rent shall be paid in equal monthly installments of $1,474.87). Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.

(3) Deposit: No Deposit is required.

(4) Rent Adjustment: N/A

(5) Credit for Early Payment. If Tenant pays Landlord the annual rent in full by September 1, then rent will be reduced by four percent (4%).

3. Term. The Lease term is extend one year from July 1, 2012, through June 30, 2013.

4. Effective Date. The terms of this First Addendum to the Lease shall be effective beginning July 1, 2012. All other terms of the Lease remain in effect.

5. Entire Agreement. This Second Addendum is a written instrument pursuant to Paragraph 30 of the Lease between the parties, and together with the Lease constitute the complete and entire agreement between the parties, which cannot be altered or amended except by written instrument, signed by both parties.

DATED this 30 day of August, 2012.

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

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

PARK CITY COOPERATIVE PRESCHOOL

Christine Lipkie Kent

ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this 30 day of August, 2012, personally appeared before me , who being duly sworn, did say that he/she is the CHRISTINE KENT of Park City Cooperative Preschool, and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and she acknowledged that the company did execute the same for its stated purpose.

Notary Public

SHERRY ANN SNYDER
NOTARY PUBLIC - STATE OF UTAH
My Comm. Exp. 03/16/2016
Commission #654231

☐ MARK EMAIL w/ ACCESS to spaces 08-12

Park City Cooperative Preschool
Park City Municipal Corporation
2008 Property Lease

THIS AGREEMENT is made by and between Park City Municipal Corporation (hereinafter referred to as "Landlord") and the Park City Cooperative Preschool (hereinafter referred to as "Tenant") to set forth the terms and conditions under which Landlord will lease space in the Carl Winters Building at 1255 Park Avenue, Park City Utah (hereinafter referred to as the "CW Building") to Tenant. The parties agree as follows:

1. <u>Property</u>. The property leased is in several areas within the CW Building as described in Exhibit A (attached and hereafter referred to as Premises). The leased space includes the following property on the first floor of the CW Building: Room 209. The Premises includes an outdoor play area (hereinafter referred to the Preschool Playground). Tenant shall have exclusive use of the Preschool Playground from 10:00am to 11:00am, and the non-exclusive rights of use at all other times. Other tenants of the CW Building and Landlord may use the Preschool Playground provided that:
   (1) The use does not conflict with previously scheduled use by Tenant; and
   (2) The user takes full responsibility for clean up and repair of any damages.
   Tenant shall also have access to the public bathrooms in what is currently or soon will become the library portion of the CW Building, and any renovation of the CW Building shall include an entrance on the South side through which Tenant shall have access to the public bathrooms in what is currently or soon will become the library space. Any renovations will not affect the tenant's property lease agreement or terms set within this contract.

2. <u>Term</u>. The Lease term shall commence on July 1, 2008, and shall run for four (4) years through June 30, 2012.

3. <u>Rent</u>. The rent for the leased space shall be as follows:
   (1) Rate: Beginning July 1, 2008, Tenant's annual rental obligation shall be Fifteen Thousand One Hundred Sixty Seven Dollars and Twenty Five Cents ($15,167.25) for the leased space.
   (2) Payments: Beginning July 1, 2008, rent shall be paid in equal monthly installments of One Thousand Two Hundred Sixty Three Dollars and Ninety Four Cents ($1,263.94). Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.
   (3) Deposit: No Deposit is required.
   (4) Rent Adjustment: Beginning each July 1 the annual rent shall increase 5%, for example on July 1, 2009 the annual rent shall be $15,925.61.
   (5) Credit for Early Payment. If Tenant pays Landlord the annual rent in full by July 15, then rent will be reduced by four percent (4%).

4. <u>Utility Service</u>. Landlord shall be responsible for natural gas, electricity, sewer, refuse collection and water for the leased space. Tenant will be responsible for any other utilities such as telephone and cable television and shall establish an account with each of

these utilities in its own name.

5. Use of the Premises. The premises shall be used only for education and related purposes. Retail uses other than those incidental to educational uses shall be prohibited.

6. Telephone, Cable and Microwave. The Tenant will install its own telephone, television, computer and other communication equipment in the leased space. The remodeled space will include wiring, cables or chases for a wide variety for communications between spaces within the building and externally. Any specialized communication facilities, equipment, wiring, cables or installations will be the Tenant's responsibility.

7. Insurance. The Tenant will provide insurance at its expense covering its contents against loss through theft, fire, vandalism or similar casualties. The Landlord will maintain insurance on the structure for the replacement of the building itself, and the contents of the building owned by Landlord. The Landlord also carries a public liability policy insuring it against claims of personal injury on Landlord's property. The Landlord's policy does not cover the Tenant's employees or patrons who are on Landlord's property exclusively for the purpose of doing business with the Tenant. The Tenant agrees to maintain a comprehensive property liability policy written on an occurrence basis with limits no less than two million dollars ($2,000,000) combined single limit per occurrence and three million dollars ($3,000,000) aggregate for personal injury, bodily injury and property damage and to obtain a certificate of insurance naming Park City Municipal Corporation and the Municipal Building Authority of Park City as additional insured and evidencing coverage as to any person on the Premises as a result of Tenant's programs or activities. The Landlord is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect the Landlord for liability or allegations arising out of the Tenant's use of Landlord's property.

8. Payment of Taxes and Other Assessments. As a tax exempt entity, the Landlord does not expect to be assessed real estate and personal property taxes and other related assessments or taxes on the Premises. However should the Tenant change the tax status or should other circumstances cause taxes or assessments to be imposed on the Premises, then Tenant shall pay real estate and personal property taxes and other related assessments or taxes on the Tenant's Premises during the term of this lease.

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

10. Tenant Improvements. The Premises are being leased to Tenant in as-is condition. Any additional interior finish or furnishings desired by the Tenant must be approved in advance by the Landlord and Owner in writing and are the responsibility of the Tenant, with no allowance made for the costs of the Tenant improvements unless agreed to by Landlord in writing. At the expiration or termination of the Lease, all Tenant improvements become property of the Landlord unless specifically exempted in writing prior to installation.

11. Signs. Landlord reserves the right to specifically review and approve or reject proposed signs on or in the building. Landlord's approval for signs will not be unreasonably withheld, so long as the sign is directional rather than promotional, meets the requirements of the Park City Sign Code, and conforms with the historic nature and architectural detailing of the building. Signs shall be removed and any damage resulting from removal shall be repaired at the termination of the Lease.

12. Assignment/Sublease. The Lease may not be assigned or the Premises sublet without the advance written consent of Landlord except that any space within the building may be sublet to any other tenant within the building. Landlord's consent to assignment or sublease will not be unreasonably withheld.

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

   a. Landlord may, by written notice to Tenant, demand that Tenant either pay rental installments due within ten (10) days, or quit the premises within fifteen (15) days;
   b. Landlord may permit the Tenant to remain in possession and sue for the installments that are past due;
   c. Landlord may re-let the premises for Tenant's account at the rate and on such terms as are commercially reasonable at the time and under the circumstances, and charge Tenant for any difference in the rental received and the rental agreed to herein, provided that any re-letting shall be done in good faith under the circumstances;
   d. Landlord may agree to a payment of damages in such amount as the parties then agree, and release the Tenant from obligations under this Lease entirely. Unless Landlord has released Tenant's continued performance under this Lease, Tenant is deemed to be in possession of the Premises, and any re-letting by Landlord in on Tenant's account. Tenant is responsible for all payments and obligations under the Lease until Landlord releases Tenant.

14. Covenant of Quiet Possession. Landlord covenants with Tenant that Landlord owns or controls the Premises and that Tenant's possession will not be disturbed by acts or omissions of the Landlord so long as Tenant faithfully performs the obligations of this Lease.

15. Maintenance. The Landlord shall be responsible for all structural maintenance of the Premises, including the roof, foundation, structural members, and exterior wall surfaces. The Landlord will be responsible for janitorial service in areas used in common with the library and other tenants and cleaning the outside of the glass and replacement in the event of damage from an outside source. Tenant shall be responsible for all interior maintenance, including mechanical and electrical fixtures to the extent that they are located within and exclusively benefit the Premises, janitorial service, and glass maintenance (both cleaning the inside and replacement in the event of damage from an inside source) which is within the leased premises or solely serves the Premises. Landlord shall be responsible for mechanical systems, which serve space as reasonably necessary to maintain the structure and to service common utility facilities. Exterior maintenance of the site and snow removal shall be Landlord's responsibility. Maintenance of the Preschool Playground shall be the responsibility of the Tenant, subject to the responsibility of any other user thereof to clean up and repair any damage caused by their use as subject to paragraph 1. (1) and (2) above with the exception of normal exterior building maintenance and grounds maintenance which is the responsibility of the landlord.

16. Access to Other Spaces. Tenant shall not interfere with the access to other spaces within the building or obstruct the entrances to those other spaces in any way. Landlord shall have such access through Tenant's space as reasonably necessary to maintain the structure and to service common utility facilities. Landlord shall have the right to inspect the leased space during the Tenant's normal business hours.

17. Force Majeure. This Lease Agreement shall automatically terminate upon any holding, interpretation, or determination by a court, legislative, or administrative body that Landlord may not lease to a private educational entity or similar establishment or that the Landlord may not lease to a private entity either under existing state and federal law regulation or future state and federal law regulation.

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

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

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

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

22. Hold Over. Should Tenant hold over the Premises or any part thereof after the expiration of the term of this Lease unless otherwise agreed in writing, such holding over shall constitute a tenancy from month to month only, and Tenant shall pay as monthly rental the same monthly rental provided for herein.

23. Indemnity.

   a. The Tenant 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 Tenant'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 Tenant; and provided further, that nothing herein shall require the Tenant 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 Tenant expressly agrees that the indemnification provided herein constitutes the Tenant'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 Tenant claims or recovers compensation from the City for a loss or injury that Tenant 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.

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

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

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

27. Rights of Successors and Assigns. The covenants and agreements contained within the Lease shall apply to the benefit of successors in interest and legal representatives, except as expressly otherwise hereinbefore provided.

28. Security. The Landlord will install doors with locking hardware. The Tenant is entitled to put locks on the doors to its space, provided the Landlord is given keys for reasonable access and building maintenance. Both parties will attempt to keep the exterior doors locked after their use of the building is completed for the day. The Tenant shall have the obligation of checking and locking all exterior doors in the event that they are the only tenants left at the conclusion of the day. Windows in the rooms used by the Tenant shall be secured. Lights and radiators should be turned off at the conclusion of the Tenant's use each day.

29. Notice Provision. Any and all notices required by this Lease Agreement shall be in writing and delivered personally to the party to whom the notice is to be given, or mailed by certified mail, postage prepaid, and addressed as follows:

If to Landlord:
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

If to Tenant:
Park City Cooperative Preschool
P.O. Box ~~4165~~ 683482
Park City, Utah ~~84060~~ 84068

With a copy sent to:
Dwayne A. Vance
Miller Vance & Thompson PC
P.O. Box 682800
2200 N. Park Avenue, Suite D200
Park City, Utah 84068

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

DATED this 26 day of June 2008.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1, 1884

Approved as to form:

City Attorney's Office

PARK CITY COOPERATIVE PRESCHOOL

Signatory ALLISON STONE

ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this 21 day of ~~June,~~ July 2008, personally appeared before me ALLISON STONE who being duly sworn, did say that ~~he~~/she is the CHAIR for the Park City Cooperative Preschool, and acknowledged to me that the preceding Agreement was signed on behalf of said corporation, and she acknowledged that the company did execute the same for its stated purpose.

Lucinda J. Lopiccolo
Notary Public

LUCINDA J. LOPICCOLO
NOTARY PUBLIC - STATE OF UTAH
445 MARSAC AVE. PO BOX 1480
PARK CITY, UT 84060
My Comm. Exp. 04/28/2009

City Council

Subject:	**Park City Film Series (PCFS) – Summer Lease Extension**
Author:	**Jonathan Weidenhamer**
Department:	**Sustainability**
Date:	**June 27th, 2013**
Type of Item:	**Administrative**

Summary Recommendations:
Direct staff to enter into a short term lease with PCFS in the Miner's Hospital to allow the renovation of the 3rd Floor of the Carl Winters Building.

Background
The PCFS lease expires on June 30, 2013 (Exhibit C). Staff seeks Council authority to allow the PCFS to relocate temporarily to Miners Hospital for the summer while the 3rd floor is being renovated.

On April 11, 2013 Park City entered into a Letter of Intent (LOI) with the PCFS stating our intent to maintain our partnership during and after the Carl Winters Renovation (Exhibit B). Exhibit C is the current PCFS lease. The first phase of the library project will be to renovate the 3rd Floor. Upon completion of the 3rd floor, the Park City Film Series will move back in. Completion of the 3rd floor is currently anticipated on September 27, 2013. This is the first phase of the broader Library renovation and expansion.

The most recent schedule we have for non-library tenants in the building is as follows:

June 9	PCFS last film at Santy
June 17	Start of COOP summer camps
June 30	PCCP & PCFS current leases end
July 24	Start construction on the 3rd floor
August 18	PCCP summer ops end
August 23	PCCP space substantially complete
9/2	PCCP fall year starts
9/27	3rd floor construction complete
9/27	PCFS starts
Feb 2014	Renovation/ expansion floors 1-2 (12 – 15 months)
TBD	Construction complete

Exhibit A is the proposed lease for the summer for the second floor conference room. Consistent with the LOI, the next step will be to define terms for the longer term lease when the construction is finished, estimated to be late -September 2013.

Analysis

PCFS Summer Dark Time (6/10 – 9/5)

PCFS does not program the Santy in the summer (dates above). They do however use their leased office space on the 3rd floor, Rm. 301 regularly throughout the summer. There will have to be modifications to the structure of the lease to move to Miners Hospital. For instance, the current leases recognize an "annual" rent, where the extended leases would have a lump sum for the summer.

PCFS has requested a comparable space when her lease ends and during the construction (7/1 – 9/27). Staff recommends temporary relocation to the Miner's Hospital. The Executive Director is currently in a 144 sf office. There is a 3rd floor office available (163 sf) which is large enough for their office use and limited equipment storage. The normal lease rate is $125/day for the entire facility. On average we have 12 full building rentals annually in the 6 months where the facility isn't leased to Sundance. We don't believe this office being unavailable will impact any other lease of Miners. Therefore, we recommend a short term lease, with the following basic terms:

1. Term – 7/1 – 9/27/2013;
2. Rate – Pro-rated monthly amount with the same cost/sf = $241.22/month (this reflects the 2013 rent for the comparable space the film series is vacating in the Library);
3. No credit for early payment or 5% increase;
4. Include internet access or discount rate based on PCFS cost to acquire internet.

Summary Recommendations:
Direct staff to enter into a short term lease with PCFS, in a form approved by the City Attorney, in the Miner's Hospital to allow the renovation of the 3rd Floor of the Carl Winters Building.

Exhibits

A Draft Lease for summer
B PCFS LOI
C PCFS lease(s)

Park City Film Series
Park City Municipal Corporation
2013 Temporary Property Lease

THIS AGREEMENT is made by and between Park City Municipal Corporation (hereinafter referred to as "Landlord") and Park City Film Series (hereinafter referred to as "Tenant") to set forth the terms and conditions under which Landlord will lease space in Miners Hospital at 1354 Park Avenue, Park City Utah (hereinafter referred to as "Miners Hospital") to Tenant. The parties agree as follows:

1. Property. The property leased is within Miners Hospital as described in Exhibit A (attached and hereafter referred to as Premises). The leased space includes the following property on the second floor of Miners Hospital: 2nd floor office (Room 21) as is. The Premises contains approximately one hundred sixty three (163) square feet.

2. Term. The Lease term shall commence on July 1, 2013, through September 27, 2013. The property being leased is currently surplus municipal space, but may be required for municipal purposes by Landlord at the conclusion of the lease term. No option of renewal or first refusal is granted to Tenant.

3. Library Relocation Period. The intent of the parties is relocate the Tenant in this space pending the renovation of the Library, at which time it is anticipated the Tenant will return to the Library. The Library tenancy shall be defined by a separate lease agreement.

4. Rent. The rent for the leased space shall be as follows:
   (1) Rate: 241.22/month; pro-rated for partial month in September.
   (2) Payments: Rent shall be due on the first of each month, and past due if not paid by the tenth (10^{th}) of the month.
   (3) Deposit: No Deposit is required.
   (4) Credit for Early Payment. No credit for early payment.

5. Utility Service. Landlord shall be responsible for natural gas, electricity, sewer, refuse collection and water for the leased space. Tenant will be responsible for any other utilities such as telephone and cable television and shall establish an account with each of these utilities in its own name.

6. Use of the Premises. The premises shall be used only for quasi-public administrative use.

7. Telephone, Cable and Microwave. The Tenant will install its own telephone, television, computer and other communication equipment in the leased space. Any specialized communication facilities, internet, equipment, wiring, cables or installations will be the Tenant's responsibility.

8. Insurance. The Tenant will provide insurance at its expense covering its contents against loss through theft, fire, vandalism or similar casualties. The Landlord will maintain insurance on the structure for the replacement of the building itself, and the contents of the building owned by Landlord. The Landlord also carries a public liability policy insuring it against claims of

personal injury on Landlord's property. The Landlord's policy does not cover the Tenant's employees or patrons who are on Landlord's property exclusively for the purpose of doing business with the Tenant. The Tenant agrees to maintain a comprehensive property liability policy in the amount of Two Million Dollars ($2,000,000) (each person and each occurrence) and to obtain a certificate of insurance naming Park City Municipal Corporation and the Municipal Building Authority of Park City as additional insured and evidencing coverage as to any person on the Premises as a result of Tenant's programs or activities. The Landlord is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect the Landlord for liability or allegations arising out of the Tenant's use of Landlord's property.

9. <u>Payment of Taxes and Other Assessments</u>. As a tax exempt entity, the Landlord does not expect to be assessed real estate and personal property taxes and other related assessments or taxes on the Premises. However should the Tenant change the tax status or should other circumstances cause taxes or assessments to be imposed on the Premises, then Tenant shall pay real estate and personal property taxes and other related assessments or taxes on the Tenant's Premises during the term of this lease.

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

11. <u>Tenant Improvements</u>. The Premises are being leased to Tenant in as-is condition. Any additional interior finish or furnishings desired by the Tenant must be approved in advance by the Landlord and Owner in writing and are the responsibility of the Tenant, with no allowance made for the costs of the Tenant improvements unless agreed to by Landlord in writing. At the expiration or termination of the Lease, all Tenant improvements become property of the Landlord unless specifically exempted in writing prior to installation.

12. <u>Signs</u>. Landlord reserves the right to specifically review and approve or reject proposed signs on or in the building. Landlord's approval for signs will not be unreasonably withheld, so long as the sign is directional rather than promotional, meets the requirements of the Park City Sign Code, and conforms with the historic nature and architectural detailing of the building. Signs shall be removed and any damage resulting from removal shall be repaired at the termination of the Lease.

13. <u>Assignment/Sublease</u>. The Lease may not be assigned or the Premises sublet without the advance written consent of Landlord except that any space within the building may be sublet to any other tenant within the building. Landlord's consent to assignment or sublease will not be unreasonably withheld.

14. Remedies. In the event the Tenant fails to pay monthly installment payments when due, or violates or reaches any other term or condition of the Lease, Landlord shall have the right to exercise the following remedies, and any other remedies available at law or equity:

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

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

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

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

15. Covenant of Quiet Possession. Landlord covenants with Tenant that Landlord owns or controls the Premises and that Tenant's possession will not be disturbed by acts or omissions of the Landlord so long as Tenant faithfully performs the obligations of this Lease.

16. Maintenance. The Landlord shall be responsible for all structural maintenance of the Premises, including the roof, foundation, structural members, and exterior wall surfaces. The Landlord will be responsible for janitorial service in areas used in common with the library and other tenants and cleaning the outside of the glass and replacement in the event of damage from an outside source. Tenant shall be responsible for all interior maintenance, including mechanical and electrical fixtures to the extent that they are located within and exclusively benefit the Premises, janitorial service, and glass maintenance (both cleaning the inside and replacement in the event of damage from an inside source) which is within the leased premises or solely serves the Premises. Landlord shall be responsible for mechanical systems, which serve space as reasonably necessary to maintain the structure and to service common utility facilities. Exterior maintenance of the site and snow removal shall be Landlord's responsibility.

17. Access to Other Spaces. Tenant shall not interfere with the access to other spaces within the building or obstruct the entrances to those other spaces in any way. Landlord shall have such access through Tenant's space as reasonably necessary to maintain the structure and to service common utility facilities. Landlord shall have the right to inspect the leased space during the Tenant's normal business hours.

18. Force Majeure. This Lease Agreement shall automatically terminate upon any holding, interpretation, or determination by a court, legislative, or administrative body that Landlord may not lease to a private educational entity or similar establishment or that the Landlord may not lease to a private entity either under existing state and federal law regulation or future state and federal law regulation.

19. Increased Insurance Risk. Tenant will not permit said premises to be used for any

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

20. Care and Repair of Premises by Tenant. Tenant will inspect and accept the Premises for the purposes of this agreement prior to taking occupancy. Tenant will not commit any waste on Premises nor shall it use or permit the use of the Premises in violation of any state law or county or municipal ordinance or regulation applicable thereto. Tenant may, with the prior written consent of the Landlord, but at its own cost and expense, in a good workmanlike manner, make such alterations and repairs to the leased space as Tenant may require for the conduct of its business without, however, materially altering the basic character for the building or improvements or weakening the structure on the leased premises. Any permanent alterations or improvements to the Premises shall become the property of the Landlord upon expiration or termination of this Lease unless specifically exempted in writing prior to commencing work.

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

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

23. Hold Over. Should Tenant hold over the Premises or any part thereof after the expiration of the term of this Lease unless otherwise agreed in writing, such holding over shall constitute a tenancy from month to month only, and Tenant shall pay as monthly rental the same monthly rental provided for herein.

24. Available Space. If additional space becomes available in Miners Hospital, Landlord agrees to offer such space to tenants in Miners Hospital before making it available to non-tenants. Landlord reserves the right to use space that becomes available and to assign the space through a competitive bid process with tenants of Miners Hospital who have been in the building for one (1) year or more, at the time the space becomes available.

25. Indemnity.

(1) The Tenant 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 Tenant'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 Tenant; and provided further, that nothing herein shall require the Tenant 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 Tenant expressly agrees that the indemnification provided herein constitutes the Tenant'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 Tenant claims or recovers compensation from the City for a loss or injury that Tenant 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.

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

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

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

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

29. Rights of Successors and Assigns. The covenants and agreements contained within the Lease shall apply to the benefit of successors in interest and legal representatives, except as expressly otherwise hereinbefore provided.

30. Security. The Landlord will install doors with locking hardware. The Tenant is entitled to put locks on the doors to its space, provided the Landlord is given keys for reasonable access and building maintenance. Both parties will attempt to keep the exterior doors locked after their

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

31. Notice Provision. Any and all notices required by this Lease Agreement shall be in writing and delivered personally to the party to whom the notice is to be given, or mailed by certified mail, postage prepaid, and addressed as follows:

If to Landlord:
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

If to Tenant:
____
____
Park City, Utah 84060

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

DATED this ______ day of June 2013.

PARK CITY MUNICIPAL CORPORATION

____
Dana Williams, Mayor

Attest:

____
Janet M. Scott, City Recorder

Approved as to form:

____
City Attorney's Office

PARK CITY FILM SERIES

____
By:

ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this ______ day of June, 2013, personally appeared before me, _______________ who being duly sworn, did say that she is the Executive Director for the Park City Film Series, and acknowledged to me that the preceding Agreement was signed on behalf of said entity, and he acknowledged that the entity did execute the same for its stated purpose.

____
Notary Public

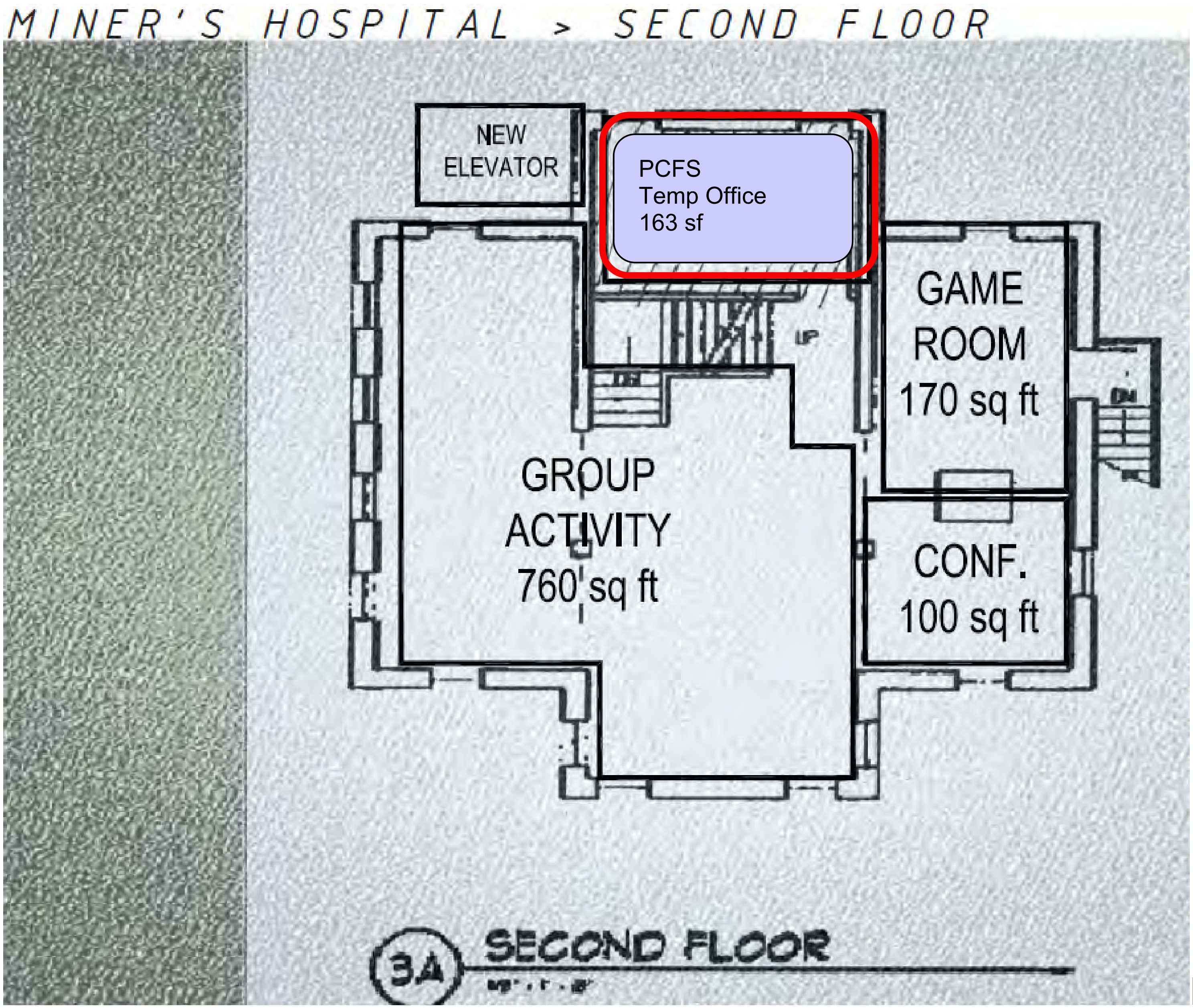

MINER'S HOSPITAL > SECOND FLOOR
NEW ELEVATOR
PCFS
Temp Office
163 sf
GAME ROOM
170 sq ft
GROUP ACTIVITY
760 sq ft
CONF.
100 sq ft
UP
3A
SECOND FLOOR

Exhibit A

Park City Film Series and Park City Municipal Corporation
Letter of Intent

This Letter of Intent is made and entered into this 11th day of April, 2013, by and between the Park City Film Series (PCFS) and Park City Municipal Corporation (City) (jointly referred to herein as the "Parties").

Purpose. The purpose of this letter of intent is to clarify the understanding of PCFS and City regarding their interest to continue a productive partnership now and after renovations are completed at the Carl Winters Building. PCFS and PCMC agree to use best efforts to adhere to the following:

Whereas, the Parties understand the importance in providing "alternative" film programing to the Park City community;

Whereas, the Parties utilize the Carl Winters Building as a community space; and

Whereas, regional collaboration and community partnerships are high priorities for both Parties.

Therefore, the Parties agree to the following:

1. Lease
    a. The current lease between the parties will expire on June 30th, 2013.
    b. While this LOI is non-binding as the City can only approve terms of a future lease in an open, public meeting, the parties agree to work cooperatively and develop a new long term (5 year) lease to rent space inside the Carl Winter's Building (Santy Auditorium and office space).
    c. The City is pursuing renovation of both the first and second floors for an expanded library, while concurrently pursuing renovation of the third floor for flexible community space including a temporary senor center and pre/post function space for Santy Auditorium and office space for PCFS. Upon completion of the third floor and as soon as City can provide safe access and other occupancy requirements (elevators, parking, etc), City intends to renew the lease with PCFS, subject to new rent terms to allow occupancy with a target date of September 2013.

2. Rent
    a. Both parties have failed to properly report/account for various rental calculations and additional screenings. The City will waive all back rental fees and additional screening fees prior to 3/1/13.
    b. Beginning with the March 2013 rental payment, rent for the space will be increased to reflect the terms of the current contract for the remainder of the 2012-2013 season.
    c. Additional screening fees will be charged after 80 screenings per the lease agreement during the remainder of the 2012-2013 season.

3. Equipment
    a. The city shall remain owner of the existing and any new film equipment and no new equipment may be installed without the advanced, written consent of the city. The

parties agree to work with the Sundance Institute on a purchase, operations, maintenance, and replacement agreement for of new Digital Cinema Projection equipment for the Santy Auditorium. All parties will also look at possible upgrades to the projection booth and auditorium as it relates to enhancing the performance ability of the Santy.

b. All parties will be trained on how to properly use the equipment currently within the projection booth at the auditorium. Regarding the 35mm projector – the Park City Film Series agrees to provide a trained projectionist to operate this highly technical equipment at a mutually agreed upon flat fee (as part of the city lease) to any third party that PCMC approves as part of its standard facility rental as a means to insure the open accessibility of the auditorium, while also insuring the integrity and operability of this sensitive equipment. The 35mm projector is a critical component of PCFS's weekly screenings as 95% of the films currently screened are in 35mm format.

c. Security is of paramount importance. The parties will develop a plan to ensure that equipment is kept safe and any damage can be easily tracked and repairs quickly made so as not to impede the Film Series from operating at full capacity for the remainder of the 2012/13 season.

4. Scheduling
   a. City will retain control of the building and any third party rentals outside the PCFS' permitted screenings.
   b. All partners with the PCFS will book screenings through the City.

5. Renovation
   a. PCFS will participate in focus groups and provide input on renovation of the Carl Winters Building and in particular the upgrades to the third floor and auditorium.

IN WITNESS WHEREOF, the parties have duly executed this Letter of Intent the day and year written above.

Park City Film Series

Katharine Wang, Director

PARK CITY MUNICIPAL CORPORATION

Jonathan Weidenhamer, Acting City Manager

Attest:

Janet M. Scott, City Recorder

PARK CITY SUMMIT COUNTY UTAH CORPORATE SEAL MARCH 1, 1884

Approved as to form:

Mark Harrington, City Attorney

Term. The Lease term shall commence on July 1, 2008, and shall run for five (5) years through June 30, 2013.
Rent Adjustment: Beginning each July 1 the annual rent shall increase 5%.
Credit for Early Payment. If Tenant pays Landlord the annual rent in full by July 15, then rent will be reduced by four percent (4%).

Film Series

Term. The Lease term shall commence on July 1, 2008, and shall run for five (5) years through June 30, 2013.
Rent Adjustment: Beginning each July 1 the annual rent shall increase 5%.
Credit for Early Payment. If Tenant pays Landlord the annual rent in full by July 15, then rent will be reduced by four percent (4%).
TERM. The parties acknowledge and agree that each of the ten (10) month terms, September 1st through June 30th, shall be suspended for the duration of the Sundance Film Festival as approved by the City pursuant to a Master Festival License. Rent shall be waived on a pro rata basis for each period of suspension.

00-01420

01-0907

FIRST ADDENDUM TO PARK CITY FILM SERIES AGREEMENT

THIS FIRST ADDENDUM is made and entered into in duplicate this 18 day of ~~June~~ October 2004, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), and the Park City Film Series ("Film Series") to amend the Film Series Agreement ("Original Agreement") signed and executed by the Parties on September 7, 2001.

WITNESSETH:

WHEREAS, the parties entered into an Agreement on September 7, 2001 (hereinafter "Original Agreement"); and

WHEREAS, both parties to the Original Agreement wish to alter certain provisions of the Original Agreement; and

WHEREAS, the parties desire to amend the Original Agreement to incorporate these provisions.

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. <u>FILM SERIES OBLIGATION</u>. In addition to the screenings specified in the Original Agreement on Fridays, Saturdays and Sundays, the Film Series may conduct one (1) screening per month on any Thursday, from September 1st through December 31st and February 1st through June 30th, which has not been previously booked by the Special Events and Facilities Department.

2. <u>TERM</u>. The parties acknowledge and agree that each of the ten (10) month terms, September 1st through June 30th, shall be suspended for the duration of the Sundance Film Festival as approved by the City pursuant to a Master Festival License. Rent shall be waived on a pro rata basis for each period of suspension.

3. <u>STORAGE OF EQUIPMENT AND SUPPLIES</u>. The Film Series shall be permitted to use an eight (8) foot by ten (10) foot area, which will be designated by the City in the backstage area, for storage of equipment and supplies related to the Film Series operation. No hazardous materials may be stored in this designated area. Equipment and materials stored in this area will be stored such that they do not cause risk of injury to individuals inside or outside of the storage area. The terms of Paragraph 8 and 9 of the Original Agreement shall apply to this storage agreement.

4. <u>OTHER TERMS</u>. All other terms and conditions of the Original Agreement shall continue to apply.

5. **ENTIRE AGREEMENT**. This First Addendum is a written instrument amending 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.

DATED this 18 day of ~~June~~ Oct. 2004.

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

Dana Williams

Dana Williams, Mayor

Attest:

Janet M Scott

Janet M. Scott, City Recorder

PARK CITY SUMMIT COUNTY UTAH CORPORATE Seal MARCH 1, 1884

Approved as to form:

Timothy C. Twardowski

Timothy C. Twardowski, Assistant City Attorney

PARK CITY FILM SERIES
1255 Park Ave.
Park City, UT 84060

Frank J Normile

Frank J. Normile, Executive Director

STATE OF UTAH)
) ss.
COUNTY OF SUMMITT)

On this 18 day of ~~June~~ Oct 2004, personally appeared before me Frank J. Normile, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she is the Executive Director of the Park City Film Series, and acknowledged to me that the Park City Film Series executed the same.

Notary Public
SHARON C. BAUMAN
445 Marsac Avenue, P.O. Box 1480
Park City, Utah 84060
My Commission Expires
July 13, 2006
State of Utah

Sharon C Bauman

Notary Public

PARK CITY FILM SERIES AGREEMENT

WHEREAS, in 1994 the Park City Arts Council (Arts Council) and the University of Utah, Division of Continuing Education requested Park City Municipal Corporation (City) to purchase film and sound equipment for the Santy Auditorium at the Library and Education Center (Auditorium); and

WHEREAS, pursuant to that request, in January 1995 the Park City Council authorized a $45,000 interfund loan from the City's Capital Improvement Program Fund (CIP loan) to the Leisure Services Department for the purchase and installation of film and sound equipment for the Auditorium; and

WHEREAS, in January 1995 the City Council also authorized staff to enter into contracts with CLAYCO, the Arts Council, and the University of Utah for the purchase and installation of equipment and the operation of a film series; and

WHEREAS, on January 24,1995, the Arts Council entered into a contract to operate an "alternative" film series and to facilitate the City's prompt recovery of costs associated with the purchase of such sound and film equipment to support such a series. The contract was amended in 1996; and

WHEREAS, the Arts Council operated a successful film series from February 1995 through October 1999, to the benefit of the community; and

WHEREAS, by the season of 1998-1999 it became apparent to the Arts Council that the Park City Film Series should financially and organizationally stand on its own; and

WHEREAS, in October of 1999, the Park City Film Series filed to incorporate as a Utah corporation with an application pending before the Internal Revenue Service for 501 (c) 3 non-profit status; and

WHEREAS, the Arts Council would like to assign the film series contract to the Park City Film Series so that it may expand the alternative film series for the benefit of the community under the following terms and conditions.

NOW THEREFORE, the Park City Municipal Corporation, ("City"), and the Park City Film Series agree as follows:

1. <u>Term.</u> The term of this Agreement shall run for up to five (5) consecutive ten-month terms running from September 1st through June 30th. The initial term shall be for September 1, 2002 through June 30, 2003. This Agreement will automatically renew for each subsequent ten-month term unless either party delivers written notice of its intent not to renew on or before January 31, six months prior to expiration of any term. The parties acknowledge and agree that the term shall be suspended from January 12, 2003

through January 27, 2003 for City uses and/or lease 2003 Sundance Film Festival. No rent shall be due during those weeks.

2. **Film Series Obligation.** The Park City Film Services ("Film Series") shall conduct an "alternative" film series of approximately 80 screenings per year in the Auditorium on Fridays, Saturdays, and Sundays. The Film Series' obligations include film and auditorium rental, promotion, collection, training of equipment operators, equipment operation and supplies, equipment maintenance (80% of City's annual costs), accounting and administration thereof. Any screening starting later than 10 pm on Friday, Saturday or Sunday as designated herein, and any screening proposed for any other day or night require the advanced approval of the City.

   A. **Auditorium and Equipment Rental Fee/Minimum Annual Obligation.** The Film Series hereby commits to pay Park City a reduced auditorium, sound and film equipment rental fee of $8,000 per annum (Minimum Annual Obligation), regardless of Film Series attendance. Payments shall be made in equal monthly installments of $666.67 on or before the 10th of each month. This $8000 annual fee constitutes payment for up to 80 screenings. The Film Series shall pay to the City an additional screening fee of $100.00 per screening for any and all screenings in excess of 80 screenings in the 2002–2003 season. Any such additional screening fees shall be included within the monthly installments for the next month. For all additional screening in June 2003, the $100.00 additional screening fee shall be paid to the City by June 31, 2003.

   B. **Target Audience Screenings.** The Film Series shall provide a ticket discount of 20% of the regular ticket price to youth and seniors.

   C. **Auditorium Lease/Rental Regulations.** The Film Series shall comply with the City's standard lease for the Auditorium, attached as **Exhibit A** and all other reasonable regulations pertaining to the use of the facility.

   D. **Projectionist Training.** The Film Series shall hire a qualified, experienced, and competent film equipment projectionist to train, and shall identify and cause to be trained projectionists. The Film Series shall employ only trained film projectionists to operate City sound and film equipment during the Film Series. The Film Series shall be solely responsible for any damage, other than normal wear and tear, to the equipment. The City will hold other renters to the same standard so as to not to interfere with Film Series operations.

3. **Payment/Reporting.** The Film Series shall remit an attendance report to the City quarterly.

4. **Scale of Events.** The Film Series hereby acknowledges that the City Council has not removed the restriction of the use on the Auditorium to events with projected demand of

less than 400 participants. The Film Series must obtain prior Council approval should the Film Series desire to attract patrons in excess of 400 persons per event. Consistent with the Auditorium Lease, the Film Series shall arrange to mitigate parking demand to the satisfaction of the City's Facility Manager for events with projected attendance of 250 persons or more.

5. **Scheduling.** The Film Series is subject to the following Auditorium scheduling requirements: (1) The Film Series must submit a tentative annual schedule by by July 1st of each year; (2) The Film Series will permit one weekend per quarter to be used by the Park City Municipal Corporation for any purpose if such dates are agreed upon by July 1st of each year; and 3) No Film Series screening shall occur during the Sundance Film Festival, as scheduled annually. **Nothing herein shall allow the City to regulate the content or otherwise censor the Film Series' screenings nor speech.**

6. **Tax-Exempt Status**. In the event Film Series loses it tax-exempt status, the City shall have the option of terminating the contract, or increasing the rental to the fair market value of the space occupied by the Film Series on the date that the tax exemption was revoked.

7. **Assignment/Sublease**. The Film Series has no right to sublet or assign all or any portion of the leased space for any purpose whatsoever, including subleases or assignments to other non-profit organizations, or assignments for the benefit of creditors. Any attempt to sublet or assign shall cause this contract to immediately terminate.

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

9. **Insurance**. City will carry insurance on the structure for casualty loss, and public liability policies that provide insurance against claims of persons injured in or about the building in amounts in excess of those required by state law. The City policies will not extend to any film or property of Film Series's, and the City will not have any liability to Film Series for loss or damage to its film or property, except through the gross negligence of the City or its employees or agents. Film Series will carry insurance on its film and property as it deems appropriate. Film Series will not store or keep any product or equipment within the space that will, because of its nature, increase the risk of casualty losses to the overall building, or that will require additional premiums or specialty

coverage. Film Series will provide a policy of liability insurance in an amount of not less than One Million Dollars ($1,000,000) per person and Two Million Dollars ($2,000,000) per occurrence, with the City named as an additional insured. The policy will provide that no cancellation will be made without first having given the City thirty (30) days notice of the cancellation. Failure to maintain the insurance is a violation of the lease, and grounds for termination.

10. **Limited Remedies.** The remedies under this contract are limited. The preferred remedy shall be termination. The parties acknowledge that the Film Series' exclusive pledge under this contract shall be for payment of the Minimum Annual Obligation from Film Series net revenues, sponsorships and grants, as specified in paragraphs 2(A) above. The City hereby warrants that it shall not seek payment of the Minimum Annual Obligation from any other Film Series fund(s), nor from any asset of the any individual Film Series member, should a shortfall occur.

11. **Rescission.** This contract hereby rescinds and supersedes the previous Contract between the Arts Council and Park City Municipal Corporation.

DATED this ______ day of September, 2002.

PARK CITY MUNICIPAL CORPORATION

____
Dana Williams. Mayor

Attest:

____
Janet M. Scott, City Recorder

Approved as to Form:

____
Timothy C. Twardowski, Assistant City Attorney

PARK CITY FILM SERIES
1255 Park Avenue
Park City, UT 84060

____
Frank J. Normile, Executive Director

STATE OF UTAH)
)SS
COUNTY OF SUMMIT)

On this, the _____day of ________, 2001, personally appeared before me Frank J. Normile, who did say he is the Executive Director of the Park City Film Series, a Utah not-for-profit corporation, and that the foregoing was signed in behalf of said corporation by authority of a resolution of its board of directors, and said Frank J. Normile acknowledged to me that the Park City Film Series executed the same.

____
Notary Public

City Council
Staff Report

Subject: Library Board Appointments
Author: Jasmina Jusic, Interim Library Director
Department: Library
Date: June 27, 2013
Type of Item: Administrative

Summary Recommendations:
Appoint Bobbie Pyron and Faye Malnar to serve on the Library Board for three year terms.

Topic/Description:
Library Board Vacancies. While Council OK-ed these appointments last week, the formal appointment in regular session was inadvertently left off the agenda.

Background:
Park City Municipal Code and Utah State Code require municipal library board appointments to be made effective July 1 of each year. The board must have five members and may have as many as nine. All vacancies must be filled by Park City residents. Members may not serve more than two full terms in succession. Currently, the Park City Library Board has eight board members with three member's terms expiring on June 30, 2013. Of the remaining five board members three have terms expiring in 2014 and two have terms that expire in 2015.

In accordance with City policy, ads for the Library Board vacancies ran in the Park Record and were aired on KPCW. Applications for Board positions were available at the Library and at the Mayor's office and on the City and Library websites. A total of two applications were received.

Analysis:
A subcommittee of the Library Board has reviewed the applications and the full board is recommending the appointment of the two applicants to the board. The attached letter (Attachment "A") from the Library Board Interview Committee Chair, Marlene Ligare O'Hara, describes the qualifications of the following candidates: Bobbie Pyron and Faye Malnar. Adding these candidates will bring the total of voting board members to seven. Both Ms. Pyron and Ms. Malnar are currently on the Board. Ms. Pyron served a full term from 2009 to 2012. Both Ms. Pyron and Ms. Malnar served one year from 2012 to 2013 to complete terms of board members that had resigned.

Department Review:
City Manager, Legal Department, and the Recreation Library Team.

Alternatives:

A. **Approve:**

Make the appointments to ensure a fully staffed and legally constituted Library Board. The candidate's applications are attached for your consideration.

B. Deny:
The library board will have only five members. This may cause a problem if a member resigns from the board because the library will not have a fully functioning board.

C. Modify:
Make alternative appointments or reopen the recruitment process.

D. Continue the Item:
Utah Code requires municipal library board appointments to be made effective by July 1 of each year.

E. Do Nothing:
The library board will have only five members. This may cause a problem if a member resigns from the board because the library will not have a fully functioning board.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination **(Economic Impact)**	**Preserving & Enhancing the Natural Environment** **(Environmental Impact)**	**An Inclusive Community of Diverse Economic & Cultural Opportunities** **(Social Equity Impact)**	**Responsive, Cutting-Edge & Effective Government**
Which Desired Outcomes might the Recommended Action Impact?			+ Entire population utilizes community amenities + Community gathering spaces and places + Vibrant arts and culture offerings	+ Fiscally and legally sound
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*			Very Positive	Positive
Comments:				

Funding Source:
Not applicable.

Consequences of not taking the recommended action:
Library Board would only have five members potentially causing a problem is a member resigns before their term is up. In that case, the library would not have a functioning board meaning that the Library Board cannot function by law with only four members.

Recommendation:
Appoint Bobbie Pyron and Faye Malnar to serve on the Library Board for three year terms.

Attachment "A"

May 30, 2013

Honorable Mayor and City Council,

The Park City Library Board has three members with terms that expire on June 30, 2013. There were two candidates that applied and the library board decided not to conduct interviews because both individuals are currently on the board. The board recommends the appointment of Faye Malnar and Bobbie Pyron for 3 year terms.

> Faye (Ivory) Malnar: Faye is an active 30 year Park City resident. She currently serves on the Park City Leadership Alumni Committee and volunteers at the Park City Medical Center. Faye has a passion for books and reading and would be an excellent advocate for the library.
>
> Bobbie Pyron: Bobbie has served on the library board off and on for the past 9 years. She has been an extremely valuable member of the board. She is a librarian in the Salt Lake County Library and has been so for 23 years. Her knowledge and understanding of libraries and library issues is unique for a board member and wonderfully helpful.

We appreciate your consideration of these applicants to the Park City Library Board. Please contact either Jasmina Jusic or me if you have any questions.

Sincerely,
Marlene Ligare O'Hara
Library Board Chair
(435- 640-0114)

PARK CITY 1884

LIBRARY BOARD APPLICATION
PARK CITY MUNICIPAL CORPORATION

Name: Faye Malnar

Address: ~~2~~ PO Box 680010 · 2148 Sidewinder Dr.
mailing street

Telephone: Residence 435-645-9259 Office ____
E-mail faye.malnar@comcast.net Fax ____

1. How long have you lived within the City limits of Park City?
since 1982

2. What is your involvement with the community?
Leadership Park City - Class #1
Library Board
Volunteer at Park City Medical Center
Leadership Park City Alumni Committee

3. What is your involvement with Park City Municipal Corporation?
Library Board - (Term ends 6/30/13)

4. The Board meets the second Wednesday of each month from 12:00-1:30 pm. Would you be able to attend?
Yes X No ____

5. Why are you interested in serving on the library board?
After serving on the board for one year I would like to continue to see the projects that were started this year come to fruition - ie - The Digital Center & the renovation project.

6. What specific skills and/or qualities will you bring to enhance the effectiveness of the library board?

I have served on several non profit boards in the past and I feel that experience & my past job as Dir of Human Resources/Administration at U.S. Ski & Snowboard Assoc have prepared me to be able to understand what service on the board means & what I need to do to further enhance the board & the needs of the ~~[illegible]~~ library.

7. List three issues you consider to be of prime importance which the Library Board should address and briefly outline your concern and position on each issue:

1- Library renovation - I am excited about the plans to renovate the library. I feel it is a timely project & one that will benefit the entire community

2- Publicizing the benefits offered at the library. The library staff has done a great job with new projects & I feel we need to make sure the community is aware of what is offered.

8. What do you perceive as the mission of the library board?

To act as an advisory board to the staff & to establish policies for the operation of the library.

Application deadline is April 30, 2013. Please return this application to the Library (1255 Park Ave.) or to the Mayor's office.

<u>Mayor's Office</u>
Phone: (435) 615-5007 FAX 615- 4901
P. O. Box 1480, Park City, Utah 84060

<u>Library</u>
Phone: (435) 615-5605 FAX (435) 615-4903, or e-mail: ltillson@parkcity.org.
P.O. Box 668, 1255 Park Ave. 84060

PARK CITY
1884

LIBRARY BOARD APPLICATION
PARK CITY MUNICIPAL CORPORATION

Name: Bobbie Pyron

Address: 2512 Creek Drive Park City 84060
mailing street

Telephone: Residence 435-645-7788 Office ____________
E-mail bobbieepyron@gmail.com Fax ____________

1. How long have you lived within the City limits of Park City?
13 years

2. What is your involvement with the community?
I have served on the Park City Library Board off and on for the last ten years. I also volunteer for Friends of Animals Utah.

3. What is your involvement with Park City Municipal Corporation?
None

4. The Board meets the second Wednesday of each month from 12:00-1:30 pm. Would you be able to attend?
Yes X No ____

5. Why are you interested in serving on the library board?
I have been a librarian for over thirty years and I feel libraries are (more so than ever) a vital and crucial resource in their community.

6. What specific skills and/or qualities will you bring to enhance the effectiveness of the library board?

I have worked as a professional librarian for over 30 years. I've actively served on the Intellectual Freedom Committee and have built two libraries.

7. List three issues you consider to be of prime importance which the Library Board should address and briefly outline your concern and position on each issue:

1) Effective and efficient expansion of the physical space to better serve the community.
2) Outreach to underserved populations such as the Latino population & seniors.
3) Keeping abreast of rapidly changing technology, yet at the same time carefully assessing community needs and the reality of funding.

8. What do you perceive as the mission of the library board?

To make a positive difference in the lives of the people who use it by meeting their informational, educational, and recreational needs.

Application deadline is April 29, 2011. Please return this application to the Library (1255 Park Ave.) or to the Mayor's office.

<u>Mayor's Office</u>
Phone: (435) 615-5007 FAX 615- 4901
P. O. Box 1480, Park City, Utah 84060

<u>Library</u>
Phone: (435) 615-5605 FAX (435) 615-4903, or e-mail: ltillson@parkcity.org.
P.O. Box 668, 1255 Park Ave. 84060

City Council Staff Report

Sustainability

Author: Matthew Twombly
Subject: Main Street Improvements - Addendum #2 to the construction manager at risk (CMAR) contract
Date: June 27, 2013
Type of Item: Administrative - Award of Contract

Summary Recommendation –
Staff requests authorization to continue with the Main Street Improvements Project and authorize the City Manager to enter into an Addendum #2 to the construction manager at risk (CMAR) contract in a form approved by the City Attorney's Office with Miller Paving Inc. for the Guaranteed Maximum Price (GMP) of Four Hundred Thirteen Thousand Five Hundred Four Dollars. **($413,504).**

Topic: Main Street Improvement Project – Main Street from 5th Street to Claimjumper.

Background:
On May 2, 2013 Council authorized Addendum #1 for the CMAR agreement with Miller Paving Inc. in order to expedite the Main Street Improvement project between 4th and 5th Street on the East side. This section of Main Street between 4th Street and 5th Street and directly in front of 501 Main is substantially complete. This was done in order to install all the dining decks in the Improvement area for 2013. The schedule is to complete any punch-list items on this first phase of improvements by June 28th, with possibly cleanup between July 1st & 3rd.

Miller Paving has been working with the project team to complete the plans and bid package for the next section of Main Street between 5th Street and the Claimjumper on the West side, the Café' Terigo Plaza, and the 7th and Main Street intersection. The hope was to award the remainder of the work by the beginning of June so that Miller Paving could continue their work and not lose the crew to another project. The team ran into delays and decided to break up the second and final bid package and open bids on June 21, for the 5th Street to Claimjumper improvements so as to continue work in July and not lose the crew. The next package, including Terigo Plaza and 7th Street, bid opening is scheduled for July 1. These projects include significantly more subcontract work and time to bid.

Analysis:

Consistent with State code and PCMC procurement policy Miller Paving received bids and competitive quotes on June 21, 2013 for the subcontracts for package 2 of the first phase of the Main Street Improvements project. This package is for the part of Main Street between 5th Street and the Claimjumper on the West side. The request for bids was advertised in the Park Record on June 8th and 12th, in the Salt Lake Tribune June 7th and 8th, posted on the Utahlegals.com, the City's website and e-notify.

The GMP includes the general conditions, the cost of the bond, all the subcontract costs, the Construction Manager's fee of 3% for all the subcontracts, an allowance for hauling hazardous soils and a contingency. The general conditions are the costs associated with the construction manager's on-site personnel including vehicles, travel, wages, as well as other expenses to manage the site such as traffic control, ramps, construction fencing and other incidental expenses. A contingency is included because the plans were at 90% when they were bid. There is a 20% cost sharing clause to the contractor in the contract if the contingency is not or only partially used.

The estimated budget for this portion of the first phase is $450,000. There will also be the cost of testing and the tipping fees for the soils. They are estimated at approximately $16,000. The water department will pay their share of project costs estimated at approximately $29,000.

Unlike the first phase where businesses were less concerned with the work hours and more concerned with completion date, this phase will work shorter hours with more limited activity in the afternoons/evenings. The work will also be done in shorter; complete sections with much less visual disruption. The project team is working with the store owners and the following tentative schedule is anticipated. This may change based on utilities and merchant needs.

Miller Paving will begin this next phase July 8th and complete the first 75' - 100' or so from the driveway at the storm drain and head North toward the Claimjumper to complete to the next storm drain. The driveway to the rear of 523 Main will be inaccessible for 10 days to 2 weeks for the improvement work. After this section; work will stop for the first 2 weeks in August between Arts Festival and Tour of Utah.

On August 12th Miller will continue with the improvement project at the Claimjumper bulb-out and on the Café Terigo Plaza with a second crew. Likely after Labor Day when the bulb-out section is complete begin heading South toward 501 Main working in small sections at a time. Both Café Terigo and Main Street sidewalk improvements will continue into October. Due to construction staging for 692 Main Street, it is unlikely that the 7th Street intersection can be completed this year, however the project team will look at the issue closer.

The City's Project Team and Community Engagement Liaison (Craig Sanchez) has been meeting with the HPCA and all of the merchants, managers or other representatives for the businesses affected by the improvements. The City will continue to coordinate the construction throughout the project.

Department Review: This report has been reviewed by representatives of Sustainability, Legal, and the City Manager's Office and their comments have been integrated into this report.

Alternatives:

A. **Approve the request, and authorize the City Manager to enter into an Addendum #2 to the construction manager at risk (CMAR) contract in a form approved by the City Attorney's Office with Miller Paving Inc. in the amount of Four Hundred Thirteen Thousand Five Hundred Four Dollars. ($413,504): (Staff recommendation)**
B. Modify the request: Council could choose to modify the project and redo the CMGC selection process, which would delay the project.
C. Deny the request: Council could choose to not continue with the project at this time.
D. Continue the Item: Council may feel there is not enough information to make a decision, which will delay the project and the proposed schedule.
E. Do Nothing: Same effect as continuance.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination **(Economic Impact)**	**Preserving & Enhancing the Natural Environment** **(Environmental Impact)**	**An Inclusive Community of Diverse Economic & Cultural Opportunities** **(Social Equity Impact)**	**Responsive, Cutting-Edge & Effective Government**
Which Desired Outcomes might the Recommended Action Impact?	+ Balance between tourism and local quality of life ~ Varied and extensive event offerings + Accessibility during peak seasonal times + Safe community that is walkable and bike-able + Internationally recognized & respected brand (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome)	- Managed natural resources balancing ecosystem needs ~ Enhanced water quality and high customer confidence ~ Reduced municipal, business and community carbon footprints ~ Economically and environmentally feasible soil disposal (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome)	~ Preserved and celebrated history; protected National Historic District + Shared use of Main Street by locals and visitors + Entire population utilizes community amenities + Community gathering spaces and places + Vibrant arts and culture offerings (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome)	+ Well-maintained assets and infrastructure (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome) (+/-) (Select Desired Outcome)
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*	Very Positive	Negative	Very Positive	Positive

Comments: Events and accessibility may have temporary negative impacts during construction, but the improvements are positive in the long term. Storm water improvements will have a neutral effect on water quality. The carbon footprint will be neutral even though more resources are used due to the maintenance and lifecycle costs of the materials we are considering for Main Street. The historic side is neutral in that we will celebrate historic sites and provide information, but many may consider the improvements less than desireable as historic.

Funding Source:

This portion of the first phase of Main Street improvements was estimated to cost approximately $450,000. There is currently approximately $1,600,000 estimated for the first phase of Main Street Improvement projects out of the $15 M 10 year project budget. The water department will pay their share of project costs. Sustainability, Golf, Public Works, Planning, Engineering, and other City staff resources will be required to complete the project.

Staff Recommendations:
Staff requests authorization to continue with the Main Street Improvements Project and authorize the City Manager to enter into Addendum #2 to the construction manager at risk (CMAR) contract in a form approved by the City Attorney's Office with Miller Paving Inc. in the amount of Four Hundred Thirteen Thousand Five Hundred Four Dollars. **($413,504)**.

City Council Staff Report

Subject: **Requiring Pre-inspections for New Business Licenses**
Author: **Sherry Snyder, Building Dept. Permit Technician**
Department: **Building, Finance & Planning**
Date: **June 27, 2013**
Type of Item: **Legislative**

Summary Recommendations:

Review the ordinance, hold a public hearing and adopt the proposed ordinance which amends Title 4, Chapter 2, Section 8 and 10 of the Municipal Code of Park City (MCPC). These amendments address inspections for code compliance and business license issuance or denial.

Topic/Description:

Amending PCMC's Municipal Code to require a successful inspection as a prerequisite to applying for a business license.

Background:

Currently, the business license process begins in the Finance Department with an application that is then routed to Building, Planning and Police. The process now makes it so that once an application has been accepted by Finance the applicant can immediately start to do business "at their own risk" as stated in Title 4, Chapter 2, Section 10.

Planning and Police can usually process the application within 24-48 hours before routing it back to Finance. However, because of this procedure, the time the application takes to process in the Building Department can take anywhere between 96 hours to 120 days to complete. The reason for this long delay is that an inspection of the property is required and must be scheduled with the local contact listed. The main reasons applications are taking longer in Building than any other departments are as follows:

- Legal address not accurately listed on the application
- Local contact cannot be reached
- Location is occupied (nightly rentals)
- Applicants fail to schedule Initial inspections after staff gives notice to responsible party
- Responsible party/applicant does not reschedule a new inspection or follow up after a failed inspection

Analysis:

Staff has reviewed the business license process and it has determined that to start the procedure in the Building Department can dramatically decrease the time it takes to process the license. (Please see attached flow chart)

By requiring business license applicants to pass inspection before being able to submit an application for a business license, the process time will decrease, premises will actually be inspected before being open for business and staff will save an enormous amount of time not having to trying to chase after applicants to have their businesses inspected. By requiring a pre-inspection prior to application it will help to ensure that all businesses within the City are code compliant, obtain licenses prior to opening, pay applicable fees based on square footage and have proper signage provided by the City.

The actual inspection of a premises can generally be completed by the Building Department within 48 hours of scheduling it. At the end of the year or during special events, inspections may take up to 5 days to be completed.

With the current application process, Finance creates an activity in EDEN and uses the information provided by the applicant to populate required fields. Unlike the Building Department, Finance is not connected to the parcel system in EDEN which allows you to know whether an address provided is the legal address that is registered with Summit County. In turn, once the application is routed to Building, an inspection cannot be scheduled until the legal address is determined. This is done by searching the County website in several different ways (owner name, condo name, unit number) and in certain cases the applicant is called back if the search results in failure. Once the inspection takes place, square footage is determined for commercial businesses and home occupations and number of bedrooms for nightly rentals. If there is a difference in the footage or bedrooms a refund must be processed or an additional fee must be paid prior to issuance. Local contact information is required on the application so we know who to contact in order the schedule an inspection. In a lot of cases this is left blank and old contact information is used making it difficult if not impossible to get someone on the phone. Each applicant is given 60 days to schedule their inspection and if an inspection is failed they have another 60 days to make corrections. Inspections are required for not only the safety of the public but the owner as well. A property that has been inspected for life safety issues which includes but is not limited to fire sprinklers, fire extinguishers, working smoke detectors, proper exit signage and/or occupancy limitations ensures that in the event of an emergency all steps were taken to protect the public prior to occupancy of a property.

Requiring an applicant to pass inspection in order to initiate the process of a business license will eliminate incorrect addresses, square footage amounts (upon which the fee is determined), wrong local contact information and ensure that locations are actually inspected prior to the public entering into them.

Pre-inspections will be required on all business licenses including special events. Additional hours will be worked in order to accommodate any influx of business licenses during busy times. Site plans may be required on applications to determine occupancy when a property is used for temporary purposes. Occupancy will be determined by the Building Department and signage will be provided by the City. This will ensure that overcrowding does not occur.

We plan to educate business owners through meetings with the nightly rental/property management industry and anyone else who would like to attend.

At the time of application, the applicant will need a legal address, valid local contact information and an inspection date that does not exceed fourteen (14) business days past the date of application. All new businesses or business locations shall pay a non-refundable $75.00 inspection fee as set forth in the rate tables in effect at the time of application. A re-inspection fee will be assessed if more than two (2) inspections are required by the City to meet code compliance. The City may take up to ten (10) business days to complete the licensure process. Building inspections will typically take between 48 hours to five (5) business days to complete, provided the location passes inspection. 24 hours' notice is needed to schedule an inspection which will generally occur between 2 to 5 days out depending upon workload and special events**.** An additional five (5) business days may be needed to process a business license application which may include background checks.

By requiring the property to be inspected prior to applying for a business license it makes it the responsibility of the applicant to ensure safety before they occupy a property and obtain a license. Currently, once application has been made they can begin to do business which requires us as the City to continually try and make contact to ensure the property is safe.
Example: September of 2012 we inspected an office building on Sidewinder that had not serviced their fire riser. They were contacted by the Deputy Fire Marshal on 9/7/12 because they were in violation of the fire code. They were sent a letter on 10/3/12 stating they had until 11/5/13 to service the riser and complete a re-inspection. Contact was never made for a re-inspection. Their application was denied and only then did someone contact the Building Department regarding their inspection. By allowing them to continue to do business even though a serious life safety violation was occurring it made it easy for them to ignore our requests for inspection.

Department Review:
The Building Department has reviewed this matter as well as Finance, Sustainability, Legal, Engineering, Planning, Budget and Executive.

Alternatives:

A. Approve:
Adopt the ordinance as proposed. This is the recommended action of staff.

B. Deny:

Denying the request would mean that licensing would stay the same and it would result in uninspected premises, large amount of staff time spent scheduling inspections and the City being characterized as having excessive amount of time to process business licenses.

D. Continue the Item:

Continuing the item and providing direction to staff on revisiting the proposed ordinance is an acceptable option, as long as the ordinance would quickly be brought back before the council.

E. Do Nothing:

Doing nothing would produce the same results as denying the proposal.

Significant Impacts:

Approving the request will impact the nightly rental industry the most since the majority of property management companies wait until January to apply for all the new properties they acquired throughout the year instead of applying for the business license as the contract with the owner is signed. The nightly rental community will be notified of the proposed changes.

Funding Source:

Funding for this change is not required.

Consequences of not taking the recommended action:

Denying the request would mean that licensing would stay the same and it would amount to us being unresponsive to concerns over the excessive amount of time the process is taking the City as well as the applicant. Inspections will continue to not get done and will result in an inconsistent standard for all businesses in Park City. Many businesses will continue operating without a complete business license.

Continuing the item and providing direction to staff on revisiting the proposed ordinance is an acceptable option, as long as the ordinance would quickly be brought back before the council.

Recommendation:

Review the ordinance, hold a public hearing and adopt the proposed ordinance which amends Title 4, Chapter 2, Section 8 and 10 of the Municipal Code of Park City (MCPC). These amendments address inspections for code compliance and license issuance or denial.

Exhibits:

Exhibit A – Ordinance
Exhibit B – Flow chart of business license process
Exhibit C – Checklist for business licenses

Ordinance 13-

**ORDINANCE AMENDING TITLE 4, LICENSING, CHAPTER 2
SECTIONS 8 AND 10 REGARDING INSPECTIONS AND CREATING A PROCESS
FOR PRE-INSPECTIONS**

WHEREAS, the City Council is charged to protect the health and safety of its residents and visitors;

WHEREAS, the current Business License process allows businesses to conduct business at their own risk once application has been submitted for a Business License prior to receiving an inspection of the premises from the City; and

WHEREAS, requiring a pre-inspection before application for a Business License is made will significantly ensure that businesses are inspected and safe prior to the public being on the businesses premises within Park City; and

WHEREAS, the City Council held a public hearing on _____ and deems it in the best interest of the public to support the pre-application inspection process recommended by both the Building and t;

NOW, THEREFORE, BE IT ORDAINED that:

SECTION 1. AMENDMENT. Title 4, Chapter 2 and Sections 4, 8 and 10 are hereby amended as follows:

4- 2- 4. LICENSE APPLICATION.
Applications for business licenses shall be made in writing to the Director or his or her designee. Each application shall state the name of the applicant, the location of the business, if any, the fee and tax to be paid, the name and address of the business agent residing in Park City who is authorized to receive service of process and any communication regarding applicant's license, state sales tax reporting number, state contractor's license number, if applicable, and state real estate broker's license number, if applicable, and shall contain such additional information as may be needed for the purpose of guidance of the Director in issuing the license. All applications must be accompanied by a completed inspection form provided by the City that proves code compliance for the property. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Director. License application forms shall be prepared and kept on file by the Director or his or her designee.

4- 2- 8. INSPECTIONS FOR CODE COMPLIANCE/NOTICE OF INFRACTION/ LICENSE PARK CITY MUNICIPAL CODE - TITLE 4 LICENSING

Prior to ~~the issuance of a license~~ applying for a license ~~to engage in~~ for a new business not previously licensed at that location, or an existing business with a change of location, the applicant shall be required to have ~~inspections to be made~~ the prospective place of business inspected by the appropriate departments of the City or other governmental agency to ensure compliance with building, fire, and health codes. No license ~~shall be granted~~ can be applied for ~~unless~~ until ~~any~~ the required inspection reveals that the prospective place of business is in substantial compliance with the building, fire, and health codes. If during the pre-inspection process any code infractions are found, corrections shall be made and a re-inspection scheduled within thirty (30) days. If a re-inspection is not scheduled within thirty days, a new inspection will be required. Once a property is deemed in compliance with all applicable codes, the inspection will be valid for sixty (60) days. In addition to the business license fees; all new businesses or business locations shall pay a non-refundable inspection fee as set forth in the rate tables in effect at the time of application. A re-inspection fee will be assessed if more than two (2) inspections are required by the City to meet code compliance. The City may take up to ten (10) business days to complete the licensure process. Building inspections will typically take between 48 hours to five (5) business days to complete, provided the first inspection is passed. 24 hours' notice is needed for inspection but may be dependent upon workload and special events

Existing places of business licensed within the City may be inspected periodically by departments of the City for compliance with building, fire, and health codes. Written notice shall be given by the Director or his or her designee to a licensee upon the finding of any code infractions which notice shall provide for a reasonable period not to exceed ~~sixty (60)~~ thirty (30) days in which to correct such infractions, the failure of which shall result in the revocation of the license by the Director or his or her designee. The Director or his or her designee may request the City Attorney to file a complaint against any applicant or any licensee who continues to conduct business beyond the time limits provided in this section for noncompliance with the required standards..

4- 2-10. LICENSE ISSUANCE OR DENIAL.

~~Upon receipt by the Director or his or her designee of a completed license application and full payment of the fees, the City will not prosecute under Section 4-2-1 of this chapter for doing business without a license during the review and inspection process.~~ The Director or his or her designee shall notify the applicant of:

(A) The denial of a license and the reason for such denial; or

(B) The issuance of the license.

~~Any applicant doing business during the review period proceeds at their own risk and no legal or equitable rights exist prior to the issuance of the actual license certificate.~~

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

PASSED AND ADOPTED this _____ day of _____, 2013.

PARK CITY MUNICIPAL CORPORATION

____

Mayor Dana Williams

Attest:

____

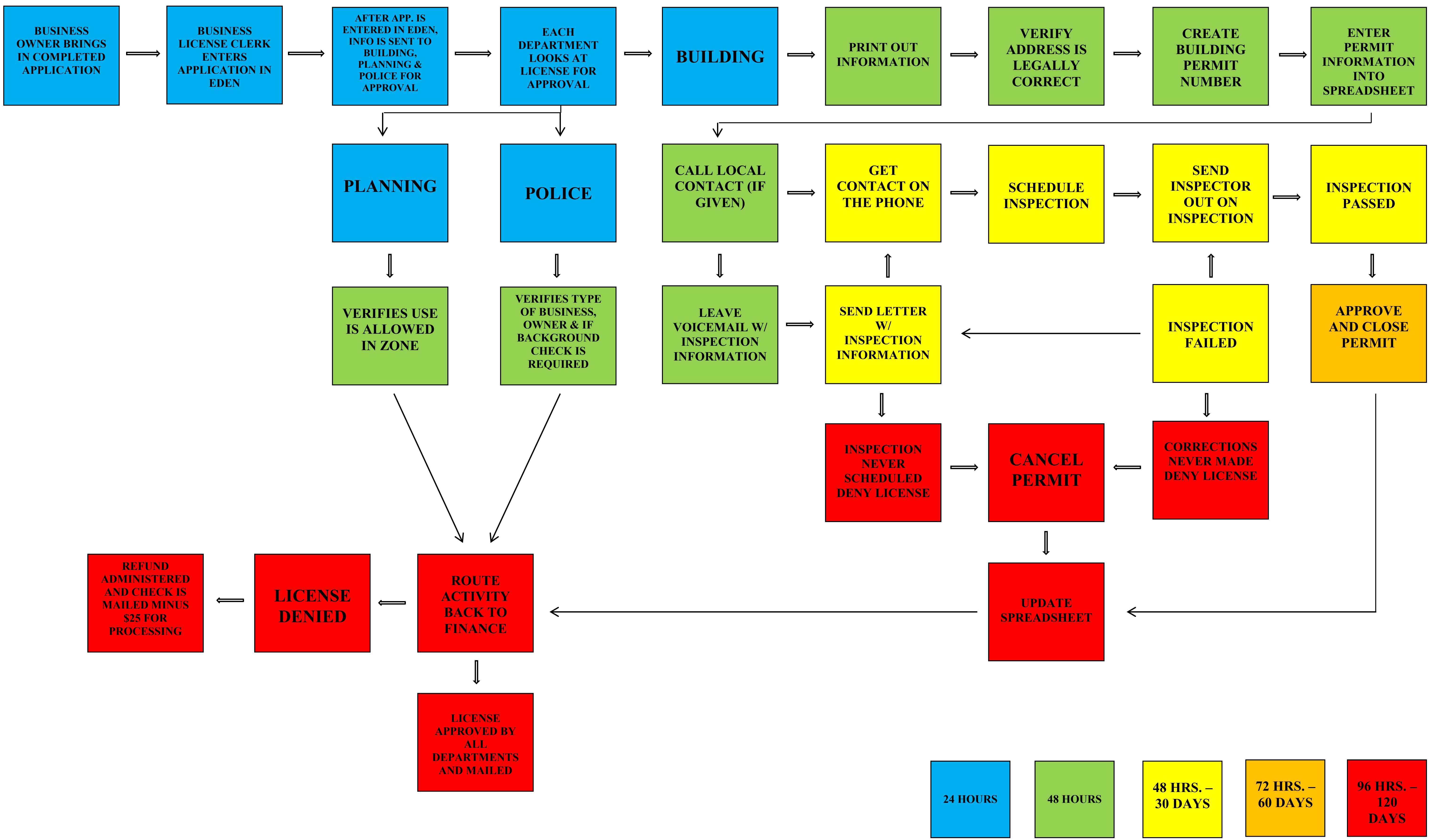
Janet M. Scott, City Recorder

Approved as to form:

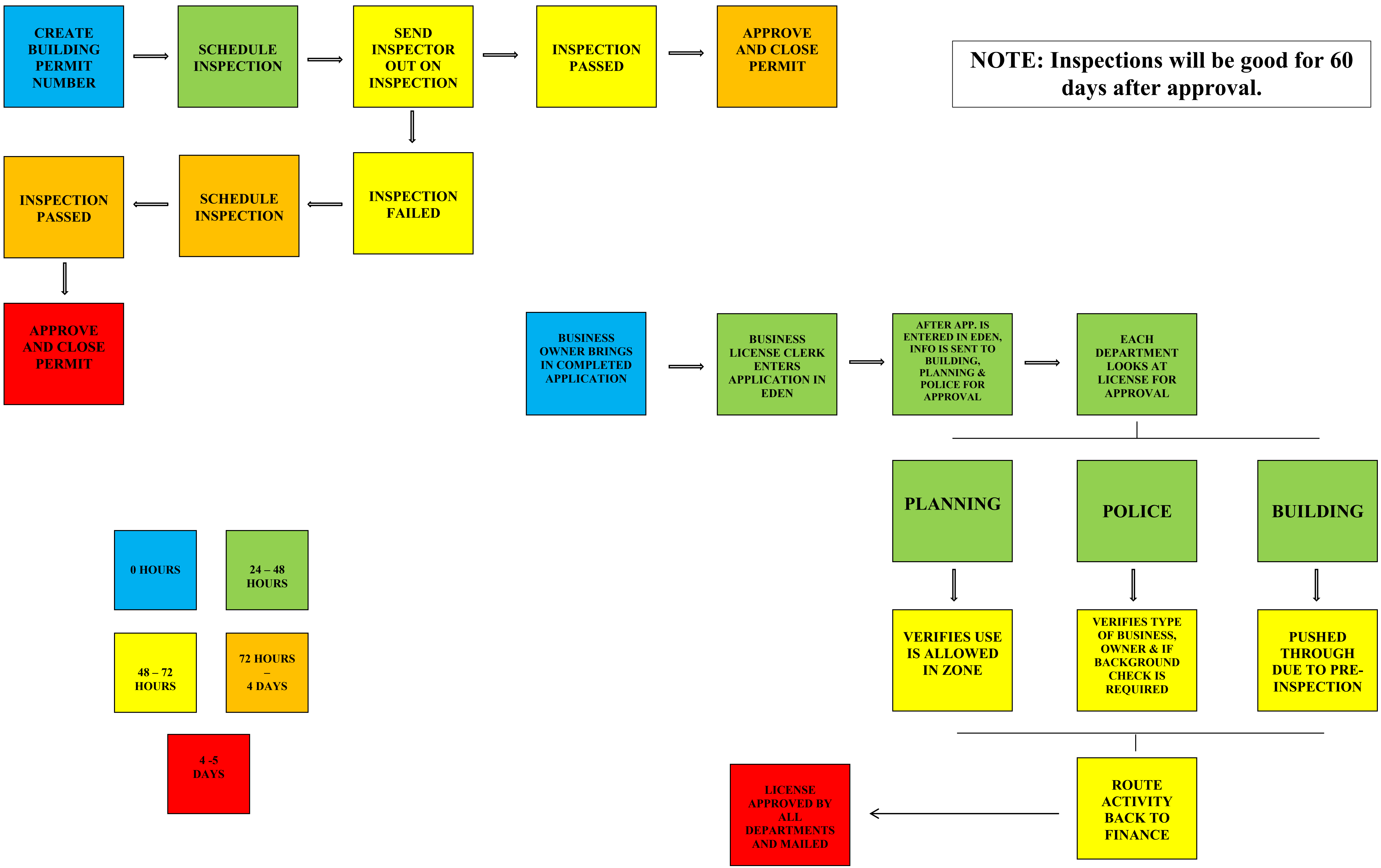
____

City Attorney

BUSINESS LICENSE PROCESS CHART NOW



PROPOSED BUSINESS LICENSE PROCESS CHART



PARK CITY COMPLIANCE INSPECTION REPORT

445 MARSAC AVE., PO BOX 1480, PARK CITY, UTAH 84060
OFFICE (435) 615-5100

PROPERTY ADDRESS ____ DATE ______________________________

BUSINESS NAME ____ TIME ______________________________

PERMIT NO. ________________________________

BUSINESS TYPE:	RESULTS OF INSPECTION:
☐ NIGHTLY RENTAL ☐ COMMERICAL ☐ HOME OCCUPATION ☐ CONVENTION ☐ LIQUOR	☐ INSPECTION PASSED ***APPROVED INSPECTION VALID FOR 60 DAYS*** ☐ INSPECTION FAILED, RE-INSPECTION REQUIRED ☐ UNABLE TO MAKE INSPECTION REASON __________________________

DETAILS:

TOTAL SQ. FOOTAGE ________________________	# OF BEDROOMS _______________
OFFICE SQ. FT. _______________________	OCCUPANCY __________________
STORAGE SQ. FT. ____________________	# OF EXITS ____________________
RETAIL SQ. FT. ______________________	# OF BATHROOMS ____________
WAREHOUSE SQ. FT. ________________	
DINING SQ. FT. ______________________	
OUTDOOR DINING SQ. FT. ___________	

COMMENTS

____

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____

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____

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____

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SIGNED ____

PARK CITY BUIDLING INSPECTOR

City Council
Staff Report

Subject:	**Utah Department of Transportation Highway 40 Underpass Update**
Author:	**Heinrich Deters**
Department:	**Sustainability**
Date:	**June 27, 2013**
Type of Item:	**Administrative**

Summary Recommendations: Staff recommends Council approve staff's funding proposal and Utah Department of Transportation's (UDOT)/City/County Cooperative Agreement associated with the Highway 40 underpass project.

Topic/Description: Collaborative regional planning efforts and regional trail connections.

Background:
In June of 2012, the Director of Region 2 for the Utah Department of Transportation announced a funding opportunity for the construction of a pedestrian/wildlife tunnel under Highway 40 between the City's Round Valley Open Space and the city/county Triangle parcel (Exhibit A). Approximately $700,000 in federal enhancement funds had become available and needed to be committed to a project by October 1st of 2012. This location was preferred by UDOT because:

a) The topography of that area presents the easiest and lowest-cost construction; and
b) UDOT does not want the tunnel to terminate on privately owned land.

Staff brought the project before Council on two separate occasions, on August 9th and 30th, 2012, discussing possible planning impacts to the county/city owned Triangle Parcel, wildlife corridors, trail connectivity, funding and coordination. On August 30, 2012, Council provided direction to conceptually support the project but not provide any City funding.

UDOT and the Snyderville Basin Special Recreation District (SBSRD) have continued to design and explore funding for the project, including structural designs which may be more conducive to elk and are based on positive findings from a similar underpass along Highway 70.

Final design plans call out a 12' high by 24' wide structure, with an estimated cost of $2,442,954 (Exhibit C). A breakdown of the existing 'committed funds and shortfall is identified below:

Existing Committed Funds:

UDOT	$1,200,000
Basin Recreation	$750,000
Total:	**$1,950,000**

Shortfall to be covered by joint County/City RAP Grant application: Total: $492,954

Analysis:

Regional Trail Connection
The project will provide an off grade trail connection for City and County residents between the two recreational trail systems and greatly improves the safety for recreationalists currently utilizing the Silver Summit overpass.

Funding
UDOT and SBSRD met with County and City staff on May 14th to discuss possibly funding coordination. At the meeting, staff discussed the possibility of utilizing remaining County RAP grant funds as an option. Following up on that discussion, County staff did confirm that close to $1M in funding was available and the RAP Committee is looking to reopen the application process in July.

With that in mind, City staff is interested in applying for funds jointly with the County to cover the existing shortfall. Committed City funding would be needed in the amount of $250,000 to cover one half of the shortfall prior to the grant application process. If the RAP Tax application is successful, those monies would be used to reimburse the City. In the case where the RAP Tax application process was not successful, the City would not receive a reimbursement.

The current Trails Master Plan budget has approximately $365,000 and will be utilized to provide the initial funding.

- **Is Council comfortable with this funding approach?**

UDOT/City/County Cooperative Agreement (Exhibit B)
The Utah Department of Transportation would like to enter into an agreement with Park City Municipal and Summit County to clarify funding for the project as outlined above. The agreement recognizes the funding by the City and County for the project.

Special Event Impact
Construction of the project may include closures on Highway 40 which may impact special events proposed in the fall.

Alternatives:
A. Approve: Approve Staff's funding proposal and UDOT/City/County Agreement as provided
B. Modify the request: Provide additional information and direction.
C. Deny the request: Direct staff to not seek grant funding for the project and refuse UDOT's easement request.
D. Continue the Item: Ask staff to return with more information.
E. Do Nothing: Same effect as continuance.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	+ Accessible and world-class recreational facilities, parks and programs	+	+	+
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*	Very Positive	Very Positive	Very Positive	Very Positive
Comments:				

Triangle Planning Efforts
The current proposed project does not preclude any future planning or implementation efforts on the Triangle parcel. The planning team made up of City and County staff is working on a joint use recommendation, which identifies possible facility locations and preserved open space corridors. The planning team is looking to present the plan to respective councils in the next two months.

Departmental Review
This report has been reviewed by the City's Sustainability, Legal Departments and the City Manager.

Staff Recommendations:
Staff recommends Council approve staff's funding proposal and Utah Department of Transportation's (UDOT)/City/County Cooperative Agreement associated with the Highway 40 underpass project.

Exhibit A- Project Location

Utah Department of Transportation Highway 40 Underpass Project

Exhibit B- UDOT/PCMC/County Cooperative Agreement

F-0040(16); Summit County
Pedestrian/Wildlife Crossing US-40 MP 2.16
SUMMIT COUNTY/PARK CITY
Authority No. 53827 PIN 10916

C O O P E R A T I V E A G R E E M E N T

THIS COOPERATIVE AGREEMENT, (the "Agreement") made and entered into this _______ day of ________ 2013, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, a state agency, hereinafter referred to as **"UDOT"** and **SUMMIT COUNTY,** a political subdivision of the State of Utah, hereinafter referred to as **"County," and PARK CITY CORPORATION,** a Municipal Corporation in the State of Utah, herinafter referred to as "**City."** UDOT, the City and the County are hereafter sometimes referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, UDOT is engaged in preparing plans, specifications and estimates of costs toward constructing the highway project identified as F-0040(116)0; Pedestrian/Wildlife Crossing, under US-40 at Mile Post 2.16, in Summit County, Utah; and

WHEREAS, in the interest of public safety, the Parties hereto desire to coordinate for the purpose of funding the construction and providing maintenance of above said project pedestrian/wildlife crossing, (hereinafter referred to as the "Project"); and

WHEREAS, the proposed Project funding is as follows

County	$250,000.00
City	$250,000.00
Snyderville Basin Special Recreation	$750,000.00
UDOT	$1,200,000.00

and

WHEREAS, the **County** desires to participate in the funding of the Project construction in the amount of $250,000.00.

WHEREAS, the **City** desires to participate in the funding of the Project construction in the amount of $250,000.00.

WHEREAS, the Parties hereto desire to enter into this Agreement to define the terms and conditions for the participation of the Project funding and maintenance of the Project work; and

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

(1). **UDOT** has provided copies of the Project Engineering Plans to the **City** and **County** for their review and comment. **UDOT** shall meet its 2012 Standard Specifications and other applicable standards concerning the Project construction.

(2). **UDOT** shall advertise for bids, award the Project contract, and administer the Project construction.

(3). Within fifteen (15) days from receipt of the executed Agreement, **County** and **City** shall each send a check payable to UDOT in the amount of **Two Hundred and Fifty Thousand Dollars ($250,000.00)** to the **UDOT** Comptroller's Office located at UDOT/COMPTROLLER, 4502 South 2700 West, Box 141510, Salt Lake City, Utah 84119.

(4). **UDOT** reserves all rights in and to the existing N/A Line related to the facilities contained in this Agreement and nothing in this Agreement should be construed otherwise. **UDOT** does not relinquish any rights to said N/A Line by entering into this Agreement. **UDOT** shall own all Project improvements located within its right-of-way.

(5). The crossing shall only be used for wildlife and pedestrians . No motorized vehicles, except of maintenance purposes, shall be allowed to use or access this trail system. If at any time motorized vehicles, other than maintenance vehicles, are allowed or permitted, then the Parties hereto agree that this Agreement shall be void and the Project improvements shall no longer be open for use by pedestrians.

(6). The Parties hereto agree that any modification, expansion, increased impact of anticipated use(s) to the trail, that are not defined in this Agreement or allowed as part of the Project, constitute grounds for a written amendment to this Agreement. Any and all uses not otherwise described as permitted uses in this Agreement are prohibited.

(7) The **City** shall permit **UDOT** to enter and construct a portion of the Project on City property. The City property shall be accessed from the **UDOT** right-of-way and not from Highland Drive, as set forth in Exhibit 'A" hereto.

(8). Upon completion and final inspection of the Project construction, **UDOT** shall maintain the crossing structure and drainage on the US-40 right-of-way and the **City** shall maintain the Pedestrian Trail on **City** property as shown in Exhibit "A."

(9). Upon final Project closeout, **UDOT** shall return any remaining Project funds to the **County** and **City** on an equal basis.

(10). This Agreement may not be assigned without the express written consent of **UDOT**.

(11). **UDOT,** the **City,** and the **County** are governmental entities subject to the Governmental Immunity Act of Utah, UCA §§63G-7-101 thru 904 (1953, as amended) . Each Party agrees to indemnify, defend and save harmless the other from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out the negligent acts, errors or omissions of the indemnifying Party's officers, agents, contractors or employees in the performance of this Agreement. Nothing in this paragraph is intended to create additional rights to third parties or to waive any provision of the Governmental Immunity Act of Utah, provided said Act applies to the action or omission giving rise to the protections in this paragraph. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

(10). This Agreement may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto.

(11). This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.

(12). Nothing contained in this Agreement shall be deemed or construed, either by the Parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture or other association between the Parties.

(13). This Agreement contains the entire agreement between the Parties, with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party or agents for either Party that are not contained in this written Agreement shall be binding or valid.

(14). If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or paragraphs herein contained, shall not affect the remaining portions hereof, or any part thereof.

(15). Each Party represents that it has the authority to enter into this Agreement

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

SUMMIT COUNTY,
A Political Subdivision of the State of Utah

By ________________________________

County Manager

Date:

PARK CITY CORPORATION,
A Municipal Corporation in the State of Utah

By________________________________

City Attorney

Date:

By Honorable________________________________

Mayor

Date:

****

RECOMMENDED FOR APPROVAL: **UTAH DEPARTMENT OF TRANSPORTAION**

By________________________________ By____
Region Project Manager Region Director

Date: ______________________________ Date: _____________________________________

****

APPROVED AS TO FORM: By____
UDOT Comptroller Office
Contract Administrator

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

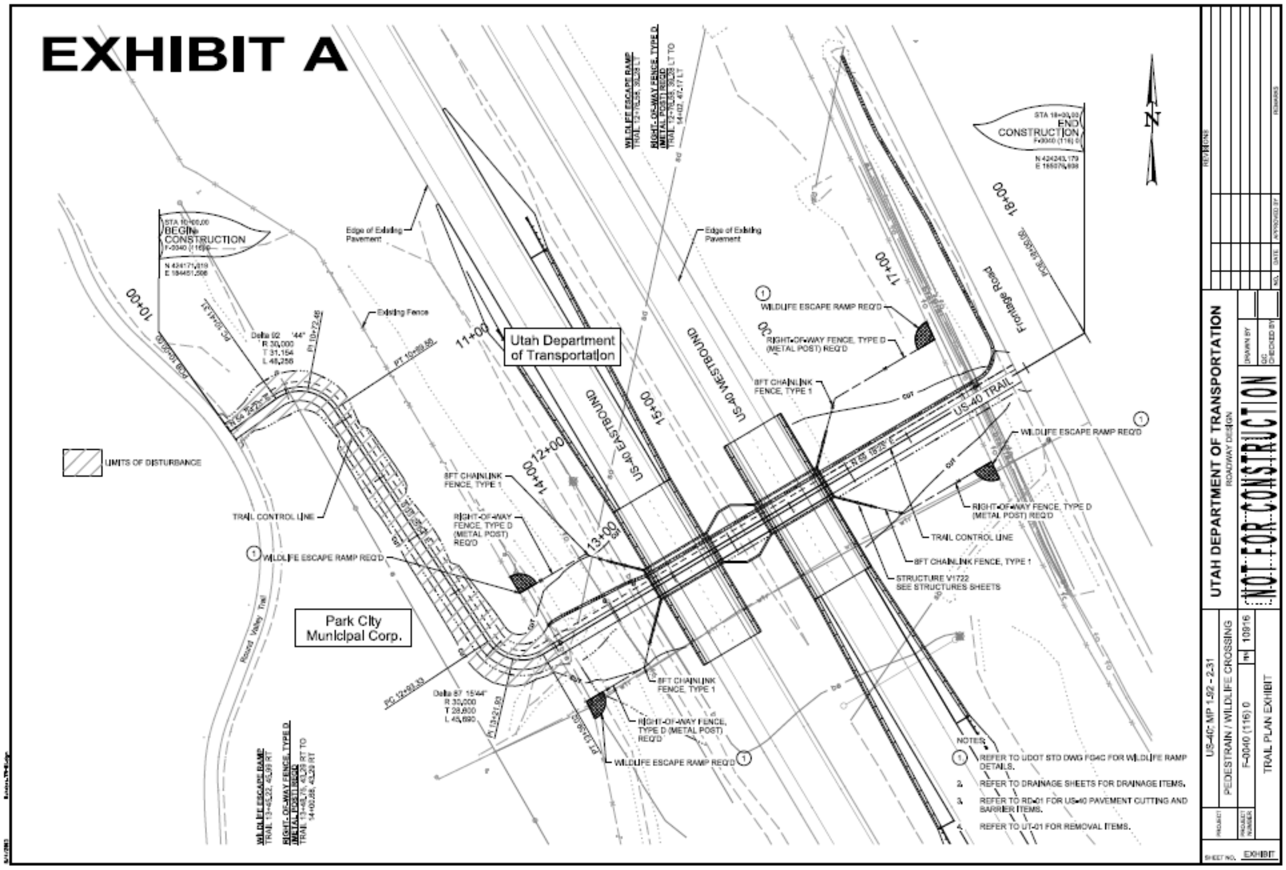


Exhibit C- UDOT Project Engineer's Estimate

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0	Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40	Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety	Route:	0040
Version #:	1	Ref Post Begin:	000+1.92
County:	SUMMIT	Ref Post End:	000+2.13
Region:	REGION 2	Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND Contract Method: Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16	Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Bid Items

Detail	Alt Group	Alt #	Description
10 - ROADWAY	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
1	012850010	Mobilization	1	Lump	$140,000.00	$140,000.00
2	013150010	Public Information Services	1	Lump	$15,000.00	$15,000.00
3	015540005	Traffic Control	1	Lump	$75,000.00	$75,000.00
4	01557001*	Maintenance of Traffic	1	Lump	$225,000.00	$225,000.00
5	015710025	Check Dam - 12 Inch Fiber Roll	38	ft	$5.00	$190.00
6	015710030	Silt Fence	3,312	ft	$2.00	$6,624.00
7	015710075	Drop-Inlet Barrier - 18 Inch Fiber Roll	28	ft	$6.71	$187.88
8	015710110	Pipe-Inlet Barrier - 18 Inch Stone	30	cu yd	$80.60	$2,418.00
9	015720020	Dust Control and Watering	94	1000 gal	$35.00	$3,290.00
10	020560005	Borrow (Plan Quantity)	6,715	cu yd	$24.00	$161,160.00
11	020560020	Granular Borrow	905	Ton	$11.05	$10,000.25
12	020750030	Geotextiles - Drainage	178	sq yd	$5.00	$890.00
13	02077000*	Geomembrane-Drainage	141	sq yd	$5.00	$705.00
14	022210080	Remove Fence	258	ft	$3.00	$774.00
15	022210095	Remove Pipe Culvert	10	ft	$21.00	$210.00
16	022310020	Clearing and Grubbing (Plan Quantity)	2	Acre	$3,500.00	$7,000.00
17	023160020	Roadway Excavation (Plan Quantity)	8,356	cu yd	$14.00	$116,984.00
18	023180010	Small Ditch Excavation (Plan Quantity)	105	cu yd	$14.00	$1,470.00
19	023730010	Loose Riprap	154	cu yd	$69.37	$10,682.98

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0	Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40	Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety	Route:	0040
Version #:	1	Ref Post Begin:	000+1.92
County:	SUMMIT	Ref Post End:	000+2.13
Region:	REGION 2	Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16	Bid Open Date:	

Contract Method: Design Bid Build

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Bid Items

Detail	Alt Group	Alt #	Description
10 - ROADWAY	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
20	02610132*	12 Inch Culvert, HDPE, Class C, Smooth	20	ft	$50.00	$1,000.00
21	026101320	18 Inch Culvert, HDPE, Class C, smooth	30	ft	$52.58	$1,577.40
22	026101322	24 Inch Culvert, HDPE, Class C, smooth	66	ft	$53.42	$3,525.72
23	026130020	Culvert End Section 12 inch	2	Each	$356.56	$713.12
24	026130030	Culvert End Section 18 inch	2	Each	$539.08	$1,078.16
25	026130040	Culvert End Section 24 inch	4	Each	$652.01	$2,608.04
26	026330130	Concrete Drainage Structure 5 ft to 7 ft Deep - CB 9	2	Each	$3,165.12	$6,330.24
27	027120010	Lean Concrete Base Course, 4 inch thick.	1,416	sq yd	$25.00	$35,400.00
28	027210010	Untreated Base Course	510	Ton	$19.05	$9,715.50
29	027410060	HMA - 3/4 inch	150	Ton	$71.36	$10,704.00
30	027430040	HMA - Bike/Ped Path 1/2 Inch	176	Ton	$98.00	$17,248.00
31	027520030	Portland Cement Concrete Pavement 11 inch Thick	1,416	sq yd	$66.00	$93,456.00
32	027610021	Longitudinal Rumble Strip - Concrete	520	ft	$0.50	$260.00
33	027650050	Pavement Marking Paint	5	gal	$100.00	$500.00
34	028220060	Right-of-Way Fence, Type G (Metal Post)	417	ft	$9.00	$3,753.00
35	028270010	Wildlife Escape Ramp	4	Each	$3,470.72	$13,882.88
36	028430030	Crash Cushion Type F	4	Each	$8,198.18	$32,792.72
37	028440010	Precast Concrete Barrier - 32 Inch (New Jersey Shape)	1,160	ft	$44.54	$51,666.40

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0			Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40			Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety			Route:	0040
Version #:	1			Ref Post Begin:	000+1.92
County:	SUMMIT			Ref Post End:	000+2.13
Region:	REGION 2			Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND	Contract Method:	Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16			Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Bid Items

Detail	Alt Group	Alt #	Description
10 - ROADWAY	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
38	035750010	Flowable Fill	93	cu yd	$70.66	$6,571.38
					Subtotal:	$1,070,368.67

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
20 - STRUCTURES	0	0	Drg. V-1722

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
39	02645000*	Precast Concrete Three Sided Arch Structure	1	Lump	$705,000.00	$705,000.00
					Subtotal:	$705,000.00

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
30 - LANDSCAPING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
40	029120050	Strip, Stockpile, and Spread Topsoil (Plan Quantity)	4,840	sq yd	$0.87	$4,210.80
41	029220010	Drill Seed	1	Acre	$448.50	$448.50
42	029220030	Broadcast Seed	1	Acre	$882.94	$882.94
					Subtotal:	$5,542.24

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
40 - SIGNING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
43	028910080	Sign Type A-2, 12 inch X 18 inch	1	Each	$39.68	$39.68
44	028910095	Sign Type A-2, 24 inch X 12 inch	4	Each	$75.09	$300.36

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0			Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40			Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety			Route:	0040
Version #:	1			Ref Post Begin:	000+1.92
County:	SUMMIT			Ref Post End:	000+2.13
Region:	REGION 2			Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND	Contract Method:	Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16			Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Bid Items

Detail	Alt Group	Alt #	Description
40 - SIGNING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
45	028910103	Sign Type A-2, 24 inch x 24 inch	4	Each	$105.85	$423.40
					Subtotal:	$763.44

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
70 - ATMS	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
46	13560002*	UDOT ATMS relocation	1	Lump	$20,000.00	$20,000.00
					Subtotal:	$20,000.00

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
75 - MISC BID	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
47	02533000*	26-Inch Water Casing by Open Cut-MRW (Non Participating)	1	Lump	$25,000.00	$25,000.00
					Subtotal:	$25,000.00

Funding:

100.00%	$0.00

Detail	Alt Group	Alt #	Description
180 - TIME AND/OR LANE RENTAL	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
48	00221000*	Contract Time-BASE	45	Cal d	$1,270.00	$57,150.00

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0	Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40	Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety	Route:	0040
Version #:	1	Ref Post Begin:	000+1.92
County:	SUMMIT	Ref Post End:	000+2.13
Region:	REGION 2	Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND Contract Method: Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16	Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Bid Items

Detail	Alt Group	Alt #	Description
180 - TIME AND/OR LANE RENTAL	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
49	00221001*	Contract Time-US40 single lane	45	Cal d	$750.00	$33,750.00
					Subtotal:	$90,900.00

Funding:

100.00% $0.00

Contract Amount(Excluding Innovative Contracting, Time and Lane Rental): $1,826,674.35

Subtotal (Contract Amount):	$1,826,674.35
Innovative Contracting, Time and Lane Rental:	$90,900.00
Total Bid Items Engineers Estimate:	$1,917,574.35
Bid Amount for Award Consideration:	$1,917,574.35

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0			Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40			Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety			Route:	0040
Version #:	1			Ref Post Begin:	000+1.92
County:	SUMMIT			Ref Post End:	000+2.13
Region:	REGION 2			Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND	Contract Method:	Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16			Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Non-Bid Items

Detail	Alt Group	Alt #	Description
77 - MISC NON-BID: UDOT CONTINGENCY FU	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
	00000277*	UDOT Contingency Fund	1	Lump	$163,000.00	$163,000.00
					Subtotal:	$163,000.00

Funding:

100.00% $0.00

Detail	Alt Group	Alt #	Description
95 - CONSTRUCTION ENGINEERING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
	00000910*	In-House	1	Lump	$150,000.00	$150,000.00
	00000911*	Consultant PI	1	Lump	$10,000.00	$10,000.00
					Subtotal:	$160,000.00

Funding:

100.00% $0.00

Detail	Alt Group	Alt #	Description
96 - ADJUSTING UTILITIES	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
	00000007*	Relocate All West Fiber	1	Lump	$15,000.00	$15,000.00
	00000008*	Relocate Centurylink Copper	1	Lump	$30,000.00	$30,000.00
	00000009*	Relocate Centurylink Fiber	1	Lump	$15,000.00	$15,000.00
					Subtotal:	$60,000.00

Funding:

100.00% $0.00

Detail	Alt Group	Alt #	Description
97 - PRELIMINARY ENGINEERING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
	00000201*	In-House	1	Lump	$25,000.00	$25,000.00
	00000202*	Consultant-HDR	1	Lump	$183,541.30	$183,541.30

Engineer's Estimate (Innovative Contracting)
Utah Department of Transportation

Project Number:	F-0040(116)0			Road Length:	0.39 mi
PIN Description:	Ped/Bike Conntectivity Tunnel Under US-40			Pavement Surface Width:	ft
Concept:	Pedestrian/Bicycle Safety			Route:	0040
Version #:	1			Ref Post Begin:	000+1.92
County:	SUMMIT			Ref Post End:	000+2.13
Region:	REGION 2			Designed By:	HDR ENGINEERING INC
Unit of Measure:	CSI - INCH/POUND	Contract Method:	Design Bid Build	Checked By:	HDR ENGINEERING INC
Location:	US-40; MP 2.16 - 2.16			Bid Open Date:	

Engineer's Estimates are UDOT CONFIDENTIAL until the project is awarded and should be kept within the limits of the project team until such time.

Non-Bid Items

Detail	Alt Group	Alt #	Description
97 - PRELIMINARY ENGINEERING	0	0	

Number	Item Number	Description	Quantity	Unit	Unit Price	Amount
	00000203*	Consultant-Stanton	1	Lump	$10,282.00	$10,282.00
	00000204*	WTO-TBE	1	Lump	$9,738.06	$9,738.06
	00000205*	WTO-HNTB	1	Lump	$4,718.30	$4,718.30
					Subtotal:	$233,279.66

Funding:

100.00%	$0.00

State Force Account:	$0.00
State Furnished:	$0.00
Adjusting Utilities:	$60,000.00
Construction Engineering:	$160,000.00
Miscellaneous Non-Bid:	$163,000.00
Preliminary Engineering:	$233,279.66
Right of Way:	$0.00
Non-Bid ItemsTotal :	$616,279.66

Bid Items Total:	$1,917,574.35
Non-Bid Items Total:	$616,279.66
Grand Total:	**$2,533,854.01**
Minus Innovative Contracting, Time and Lane Rental:	$90,900.00
	$2,442,954.01

City Council
Staff Report

Subject:	**Park Silly Sunday Market**
Author:	**Jason Glidden & Tommy Youngblood**
Department	**Sustainability**
Date:	**June 27, 2013**
Type of Item:	**Supplemental Plan Change**

Summary Recommendations:
Affirm Staff findings that the Park Silly Sunday Market is operating consistent with their City Services Agreement and approve the amended supplemental plan that includes the removal of the expanded Farmers Market in the Swede Alley Surface Lot.

Background:
On December 13, 2012 Park City Municipal Corporation and Park Silly Sunday Market (PSSM) entered into a one year services agreement. As part of the approved contract, a Supplemental Plan must be presented and approved by City Council.

On April 11th, 2013 City Council approved the Supplemental Plan submitted by the PSSM. Included in that plan was a proposal to expand the Farmers Market to include the Swede Alley Surface Lot.

Park Silly Sunday Market executed the plan of the expanded farmers market into the surface lot in Swede Alley over the weekend of June 16th. A temporary cross walk was set up on Swede Alley that has PSSM personnel staged to assist pedestrians crossing the road, Park Silly staff reported that it was very difficult to manage the crossing and created a dangerous situation for pedestrians, vehicles and crosswalk staff.

Analysis:
It was determined by PSSM that the current amount of traffic on Swede Alley makes it difficult to allow for this type of activity in the Swede Ally Surface Lot without restricting traffic further. Rather than proposing a restriction to traffic on Swede Alley, PSSM would like to amend the supplemental plan and cancel use of the surface parking lot for the expanded farmers market and return to the original footprint on 5th street between Main and Swede.

This proposal was brought to the Working Group has been approved. Other options for expansion of the Farmer's Market will be evaluated in the future and presented to the Working Group and City Council for approval before proceeding.

Department Review:
The Special Events Department & all related departments have reviewed this plan. Their comments were included when developing this report. All operational departments attend monthly Special Events Meetings where items are discussed.

Significant Impacts:

	World Class Multi-Seasonal Resort Destination (Economic Impact)	Preserving & Enhancing the Natural Environment (Environmental Impact)	An Inclusive Community of Diverse Economic & Cultural Opportunities (Social Equity Impact)	Responsive, Cutting-Edge & Effective Government
Which Desired Outcomes might the Recommended Action Impact?	+ Balance between tourism and local quality of life + Varied and extensive event offerings		+ Residents live and work locally + Shared use of Main Street by locals and visitors	
Assessment of Overall Impact on Council Priority *(Quality of Life Impact)*	Positive ⇧	Neutral ⇔	Positive ⇧	Neutral ⇔
Comments:				

Consequences of not taking recommended action:
Master Festival License and city services agreement for the Park Silly Sunday Market would not be allowed to be continued and would result in use of the original contracted plans.

Alternatives:

Approve the Request:
Affirm Staff findings that the Park Silly Sunday Market is operating consistent with their City Services Agreement and approve the amended supplemental plan that includes the removal of the expanded Farmers Market in the Swede Alley Surface Lot. **This is Staff's recommendation.**

Deny the Request:
Deny that Park Silly Sunday Market is operating consistent with their City Services and Master Festival License

Modify the Request:
Modify the parameters Master Festival License and City Service Agreement with the Park Silly Sunday Market

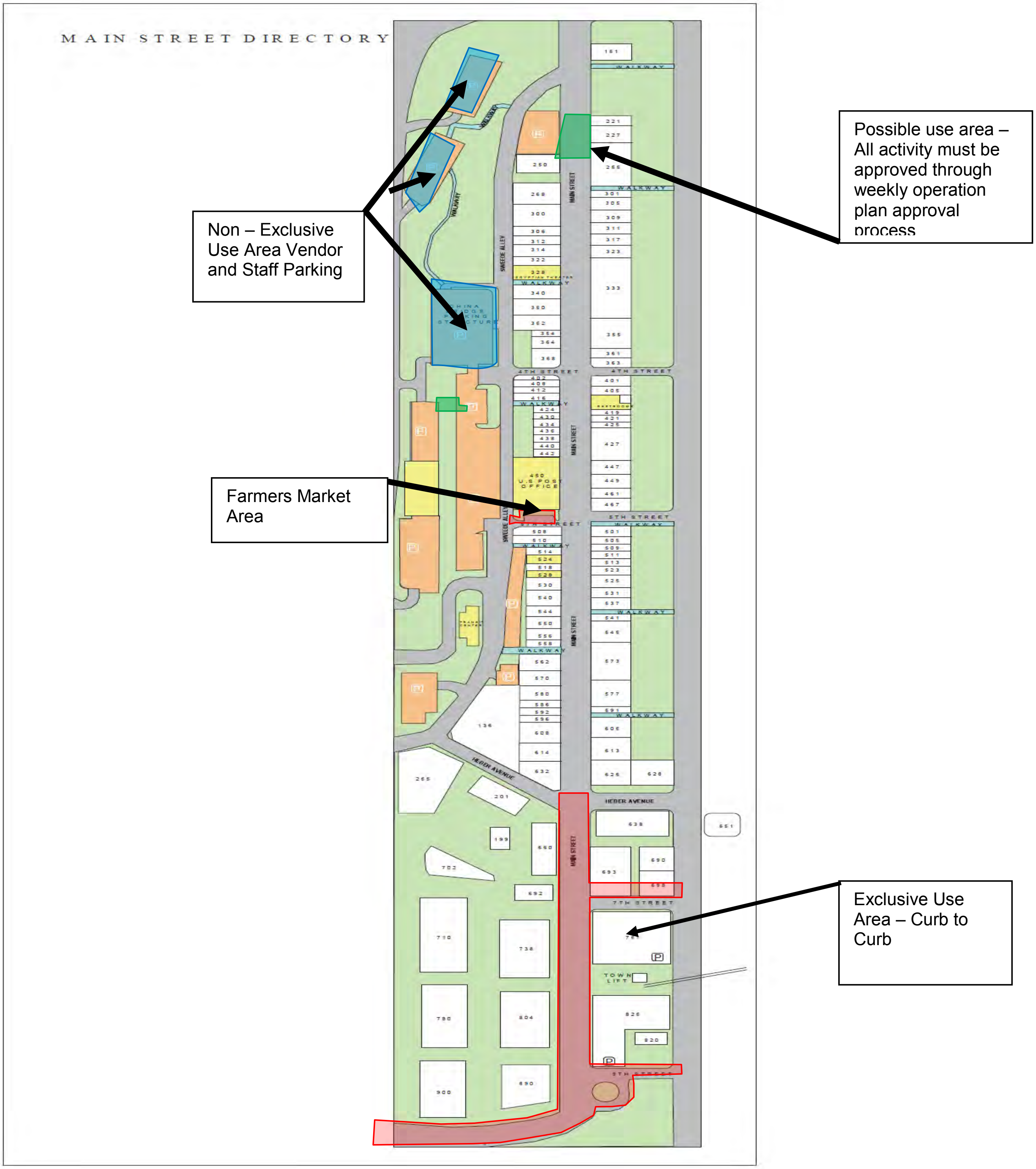
Continue the Item:
The City Council may continue the hearing for more information and discussion.

Recommendations:

Affirm Staff findings that the Park Silly Sunday Market is operating consistent with their City Services Agreement and approve the amended supplemental plan that includes the removal of the expanded Farmers Market in the Swede Alley Surface Lot.

Exhibits:

Exhibit A - Overall Operational Site Map
Exhibit B - 2013 Park Silly Sunday Market Contract


MAIN STREET DIRECTORY
Non – Exclusive Use Area Vendor and Staff Parking
Possible use area – All activity must be approved through weekly operation plan approval process
Farmers Market Area
Exclusive Use Area – Curb to Curb
4TH STREET
5TH STREET
7TH STREET
HEBER AVENUE
MAIN STREET
SWEDE ALLEY
WALKWAY
U.S. POST OFFICE
TOWN LIFT

Master Festival Event License and City Services Agreement

THIS MASTER FESTIVAL EVENT LICENSE AND CITY SERVICES AGREEMENT is entered into as of _________, 2012, between PARK CITY MUNICIPAL CORPORATION, a political subdivision of the state of Utah ("Park City" or "City"), and Park Silly Sunday Market, a Utah non-profit corporation ("PSSM").

Recitals

WHEREAS, PSSM has staged the Park Silly Sunday Market ("Market") in Park City under the regulation and authority of annual Master Event Licenses issued by Park City;

WHEREAS, Park City and PSSM wish to enter into a contract establishing Park City Main Street as the Market headquarters and to maximize planning efficiencies, pool resources and improve event management to ensure the continued success of the Market with minimal impacts to the residents of the City;

WHEREAS, PSSM, a non-profit entity, desires to use certain facilities owned or controlled by Park City and to obtain certain municipal services, fee waivers, and other nonmonetary assistance from Park City and others as appropriate in connection with the Market, all under the terms hereinafter provided;

WHEREAS, Park City desires to contract with PSSM to implement additional closures of Main Street, perform marketing and event management services, and to make substantive changes to the location and programming of the Market as specified pursuant to the terms herein;

WHEREAS, Park City is authorized by Section 10-7-85 of the Utah Code Annotated to provide for and appropriate funds and services for the support of the arts for the purpose of enriching the lives of its residents;

WHEREAS, pursuant to Sections 10-8-2(1) and 10-2-84 of the Utah Code Annotated, the City Council hereby finds that the provision of City funds, property and services is for a corporate purpose consistent with the Park City General Plan, particularly the Community Economic Element, and provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the city;

WHEREAS, Park City reviewed the direct economic benefits of the Market to Park City, and the Summary of Revenue Impacts to Park City is incorporated herein by reference. The City Council also finds that, in addition to the services contracted for herein, the Market has numerous additional indirect and intangible benefits which create an additional overall positive economic, artistic and quality of life impact on the City, its residents and its visitors, and nothing herein shall be determined to be a gift or charitable contribution by the City.

Agreement

In consideration of the recitals listed above, which are incorporated herein, and of the terms and mutual covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

A. PRINCIPLES AND RESPONSIBILITIES.

1. General Principles.

1.1 Mutual Cooperation and Flexibility. Park City and PSSM mutually acknowledge and agree to proceed through all stages of planning and operations for the Use Areas identified at Exhibits E-1 of this Agreement and each Market in the spirit of mutual cooperation and flexibility, recognizing that circumstances may change between the date of execution of this Agreement and the commencement of each annual Market Event. Park City and PSSM agree that the purpose for cooperation and flexibility is the successful operation of the Market. Both Parties understand that plans may change each year, subject to final approval by the City Council.

1.2 Supplemental Plan. This Agreement outlines the terms for the respective duties and obligations of Park City and PSSM with respect to the Use Areas and the other items covered by this Agreement. The Parties agree that implementation of the specific terms outlined in this Agreement will require the development of supplemental implementation and operational plans (referred to herein as the "Supplemental Plan") with respect to those functions of the Use Areas. The Supplemental Plan and any modifications are incorporated herein and a material part of this Agreement. Any substantial changes in material terms, as determined by City Staff, shall require an amendment to this agreement and City Council approval. The City Council reserves full authority to approve or reject changes in accordance with Title 4, Chapter 8 (as amended) of the Park City Municipal Code and any other applicable ordinances.

1.3 PSSM General Responsibilities. In addition to the responsibilities of PSSM set forth herein, PSSM shall timely provide the City with all annual plans related to the Market and any other relevant information regarding the Market necessary for the Parties to perform pursuant to this Agreement.

1.4 Park City General Responsibilities. In addition to the responsibilities of Park City set forth herein, Park City shall produce to PSSM all information relevant to the Market and the Use Areas, including internal staff communications. Park City shall also promote positive support for Park City's involvement in the Market and the opportunities provided thereby. Park City shall cooperate with PSSM and use its best efforts to notify PSSM of any pending City ordinance, City right of way project, or any other City activities that could negatively impact the Market or the Market's sponsorship relationships.

B. TERM AND LEASE OF USE AREAS DURING USE PERIODS.

2. Term. PSSM hereby agrees to hold the 2013 Market in Park City. Accordingly, this agreement shall be effective from December 13, 2012 to September 30, 2013

2.1 Dates of Market. The dates of the Market shall be held on 15 successive Sundays from June 2, 2013 through September 29, 2013 with the following exceptions:

1. No Market on August 4, 2013 for the Park City Kimball Arts Festival
2. Park City shall notify PSSM by April 1, 2013 if Park City requests the Market be canceled to accommodate a stage of the Tour of Utah on August 11, 2013

The Supplemental Plan shall have Council approval by March 28th 2013 for the Market to begin on June 2, 2013. Any delay in Supplemental Plan approval may necessitate a commensurate delay in the start of the Market.

2.2 Hours. The event will last from 10:00 am to 5:00 pm. Street closures for load in, load out, set up and delivery would allow street closures from 6:00 am to 8:00 pm. Park City shall consider expanded hours and special holiday late closures (Opening Day, Holiday weekends, and Silly Fest). In determining whether the Market may have expanded hours, Park City shall consider any recommendation of the Working Group as defined in Section D. 9.9 below, and which is subject to the Participation Agreement for Working Group Regarding 2013 Park Silly Sunday Market ("Working Group"), or if the Working Group does not make a recommendation, then the rights and due process of all stakeholders equally including the public, PSSM, Park City and the HPCA.

2.3 Location. The event will be held on Main Street between Heber Avenue and 9th Street, and on 5th Street from Main to Swede Alley. Park City shall consider expanded venue areas based on the recommendation of the Working Group and if there is no recommendation then the input from the HPCA, PSSM, City Council and the public as part of the consideration of Supplemental Plan or Mid-Event Review.

1. The Coalition/9th Street Park shall not be included as part of the event. It will remain available for any protest, other artist or for the public's use.

2.4 Expanded Marketing. Expanded Marketing, Media, Cross Promotional and Public Relations activity is required and shall be further defined in Section D.9.

2.5 Additional Conditions of Approval. The following apply unless specifically modified by the Supplemental Plan:

1. PSSM shall incorporate specific measures directed by Park City, including equipment, facilities and services to ensure the Market will be conducted with due regard for safety, health and sanitation.

2. Unless specifically approved by the Supplemental or Mid-Event Review, Expanded Market Activities or Expanded Location on Main Street south of Heber Avenue shall terminate by 6:30 pm on each Sunday. Main Street north of Heber Avenue shall reopen by 8:00 pm. Should PSSM be unable to open the street by that time, the closing time of the Market shall be adjusted to meet stated time limits.
3. A Fire Lane approved by the Fire Marshall will be maintained to provide access across Heber Avenue and Main Street at all times of Market operation. PSSM shall provide signage to indicate closures and detour options.
4. PSSM must obtain Relief from Noise Restrictions (Park City Municipal Code (PCMC) Section 6-3-11), as amended, for any set- up activity occurring before 9:00 am on any given Sunday.
5. PSSM shall comply with all UDABC regulations and obtain applicable approvals for the beer garden area and all other areas of compliance.
6. PSSM has met with Park City Police and is aware that the Market has grown to a level where it warrants more than routine patrol and the cost of additional Police may be incurred by the applicant unless waived by City Council.
7. A base operational plan footprint and sign plan shall be submitted at the Supplemental Plan process outlining placement of no less than 80% of the Market. This will be used as the Approved Operational Market Footprint. All plans for tents, stages and other temporary structures and activities shall be submitted to the Building Department and the City Representative for review each week of the Market by Thursday at 5pm for the Market on the following Sunday. All changes from the Approved Operational Market Footprint must be approved prior to Friday at 5pm of that week
8. The costs to provide additional City staff, as estimated in the report herein, will be incurred by PSSM, unless otherwise waived by the City Council.
9. The applicant will orient all temporary stages so as to minimize sound impacts to the neighborhood. Monitoring of the amplified shall be consistent with PCMC 4-8A-7, as amended; regulations for Public Outdoor Music Plazas. The General Regulations of this section indicate the following:

   4-8A-7. GENERAL REGULATIONS**.**

   (A) The program manager, or his/her designee, shall provide on-site management for each event.

   (B) A sound technician shall provide on-site monitoring for each event with music, amplified or otherwise, and any amplified event.

   (C) Except as otherwise provided at Subsection 6(A) herein, for amplified events or music, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage. The data currently available to the City indicates that a maximum decibel level of 90 satisfies the purpose of this ordinance. The City may amend this ordinance consistent with newly acquired data.

   (D) All events shall be open to the public and free of charge.

   (E) The Police Department or other proper City official shall have access at all times to all Public Outdoor Music Plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

(F) All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.

10. If at any time, the vendor participation either north or south of Heber Avenue independently or for the entire Market drops to below 75% of its highest point from the 2010 - 2012 market seasons, and such drop in attendance is not the result of weather conditions, acts of god, or other conditions or events beyond PSSM's reasonable control, the City Council shall conduct a review of the MFL at the first available Council meeting. Event staff and public safety shall provide an assessment of success of the event pursuant to the criteria listed in the Master Festival License, PCMC Title 4, Chapter 8 and whether the findings, conclusions and conditions are still correct and/or being implemented. Upon one or more findings that the MFL is no longer meeting the anticipated vendor/public participation levels justifying the street closure, the above MFL criteria, or conditions approval, the City Council may amend this approval accordingly.

11. As part of the Master Festival License, PSSM shall provide the case number issued by the Utah State Tax Commission and a copy of PSSM's application to the Utah State Tax Commission which lists all participating vendors and the information required in the application. PSSM shall also provide a list of all participating not-for-profit organizations. Consistent with section PCMC 4-8-7, concessions directly related to the event do not require a regular business license. The Utah State Tax Commission does require a Temporary Special Events Sales Tax License.

12. Nothing herein shall limit use of Coalition Park by non-vendors in accordance with the Art in the Park Ordinance PCMC § 4-3A-7, as amended.

13. The Working Group shall regularly review the vendor list to ensure the participants reflect the integrity of the Market's purpose and mission, and limit sales of mass produced goods.

14. PSSM shall return to Council no later than November 15, 2013 to conduct a debrief of the 2013 Market.

3. Grant of Lease. Park City hereby grants to PSSM and its designees and assigns, and PSSM hereby accepts, the right for the occupancy and use of the Use Areas for the purposes further described on Exhibit E-1 along with the use all available utilities, services and related incidental rights in such Use Areas, all upon the terms, and subject to the conditions set forth in this Agreement. The relationship between Park City and PSSM with respect to the Use Areas is that of landlord and tenant, and may be further be defined by Lease Agreement. However, the Lease Agreements shall not conflict with this Agreement or any Exhibit attached hereto. Park City makes no express or implied warranties regarding the Use Areas and PSSM hereby acknowledges it has inspected the Use Areas and accepts the Use Areas "as is."

4. Non-Exclusive Use; Right to License. The Use Areas are public rights of way and PSSM has Non-Exclusive Use as granted herein. During Market hours, PSSM shall have the exclusive right to jury, select and authorize Market vendors pursuant to the criteria herein and PSSM's internal guidelines and contracts. Otherwise, no right to exclude is hereby granted except as may be required by applicable law (UDABC alcohol areas). Businesses adjacent to and within the Use Areas shall remain eligible for outdoor/sidewalk sales as otherwise provided for in the Municipal Code.

4.1 Access Prior to Use Periods. Unless otherwise set forth herein, Park City and PSSM shall cooperate to arrange times that PSSM and its designees may have non-exclusive access to the Use Areas prior to the Use Periods for the purpose of inspections, planning, preparations, testing and design work, surveys, examinations, and other activities that are necessary for Use Area planning and preparatory functions and advance preparations for and (if necessary) advance construction of certain Temporary Improvements such as installation of cables, conduits, curb cuts, signage and substructure; provided that such access shall not materially interfere with ordinary and customary Park City operations and that such advance construction shall be consistent with the requirements outlined herein.

4.2 Lawful Use. During the applicable Use Periods, PSSM will not use, operate or maintain the Use Areas improperly, carelessly, in violation of any applicable law or in any manner contrary to that contemplated by this Agreement.

4.3 Permitted Uses. PSSM is granted use of the Use Areas and may authorize or license others to use the Use Areas at any time during the applicable Use Periods, with City Approval, for the purposes indicated on Exhibit E-1; including for the moving in and out, and the construction, erection and staging of decorations, trash, recycling and other temporary facilities and installations and other Temporary Improvements, lighting, sound systems, booths, stages, tents, fencing and other equipment; for the sale of food, beverages, novelties, souvenirs and other merchandise to persons attending the Market; for advertising, marketing and promotion; and for any other purpose related to the Market.

4.4 Restoration. PSSM shall return the Use Areas to Park City at the conclusion of their respective Use Periods in clean, orderly condition and in good repair and working order, reasonable wear and tear excepted. Prior to the end of the Use Periods, PSSM shall, at its sole cost and expense, remove all Temporary Improvements and modifications located in or on the Use Areas, unless otherwise agreed upon in writing by the Parties.

5. Permits and Licenses.

5.1 Permits and Licenses. PSSM shall be solely responsible for any building or other permits necessary for its temporary improvements or food operations.

5.2 Master Festival Event License. The City hereby finds the Market to comply with the PCMC Section 4-8-5. Upon execution of this Agreement, Park City shall issue to PSSM a

Master Event License that covers all activities of PSSM described in this Agreement that may require such a license. Annual Supplemental Plans will be necessary to obtain building permits, temporary beer and liquor licenses, sign plan approval and all other required permits, approvals, variances, etc. that may be encompassed by the Master Event License for each Market.

5.3 Permits and Licenses Issued by Other Governmental Authorities. PSSM shall have sole responsibility for obtaining and paying for any and all certificates, permits, licenses and approvals that are required to be obtained from governmental authorities other than Park City for the operations of the Use Areas that are unique to PSSM's use of the Use Areas during the Use Periods. Park City shall support and cooperate with PSSM in obtaining any necessary permits for the activities associated with the operations of the Use Areas during the Use Periods, and shall authorize PSSM to apply in the name of Park City (or Park City will apply for such permits in its own name) with respect to any necessary permits from other governmental authorities that must be issued in the name of Park City.

5.4 Governmental Ordinances. The Special Events and Facilities Department shall support and cooperate with PSSM in obtaining permits as necessary concerning any local, city, county or state ordinances, rules, laws and regulations to assist PSSM in hosting and staging the operations of the Market and related activities in Park City.

5.5 **Sign Plan.** On or before April 1, 2013, Park City shall provide PSSM with a written plan detailing the applicable dates that PSSM promotional banners and signs shall be allowed on Main Street and the specific dates when such banners and signs must be periodically and/or permanently removed.

C. PARK CITY FACILITIES AND SERVICES.

6. City Services.

6.1 Basic City Services. In addition to enhanced restroom and trash service provided to all events, at no additional cost to PSSM, Park City will provide the following City Services:

(a) PSSM shall be entitled to a waiver of the following fees:

a. Parking fees for any approved Use Areas.
b. Building Permit fee and inspection fees for all tents and temporary structures.
c. Transit Department fees (labor and operational costs) for re-routing transit and moving 2 stops on Park Avenue.
d. Transit Department for re-routing Main Street Trolley.
e. Parks Department for street banner installation (does not include banner costs).
f. Application fees for the Master Festival Event License.
g. Use of city-owned type 1 and bicycle barricades, if available.

(b) PSSM shall be entitled to a credit of 240 hours (2 officers, 8 hours for 15 days) or enhanced Police patrols when determined necessary by the Park City Police

Department.

(c) PSSM shall be entitled to use of Park City Main Street and other approved use areas at no cost, as outlined within Exhibit E-1.

(d) Installation and two (2) municipal electronic text signs, as otherwise agreed in accordance with mutually acceptable Supplemental Plans concerning Traffic Control.

PSSM may, in consultation with Park City, request adjustments in the priorities or timing or intensity of maintenance and other City Services to be provided by Park City to promote the efficiency and success of the Market. If such adjustments require Park City to provide services which exceed the level or type of City Services in the aggregate that Park City is committed to provide at Section 6.1 herein, then such services shall be considered Additional City Services to be paid for by PSSM under Section 6.2.

6.2 Additional City Services and Work Order Process.
PSSM may request services from Park City in addition to Basic City Services under this agreement, either due to quantity, frequency or type of service requested (collectively, "Additional City Services"). PSSM will be charged the actual cost of Additional City Services incurred by Park City.

7. City Representative.

7.1 Event Representative. Prior to and during the Use Periods, Park City shall designate at least one full-time employee to serve as its "City Representative" for the Market, who shall be the operational liaison between Park City and PSSM and who shall be authorized by Park City to (a) ensure that the Use Areas are operated and maintained as set forth in this Agreement, (b) ensure that, at PSSM's request, access to and street closure(s) (if applicable) of the Use Areas is provided to PSSM upon commencement of the Use Periods, (c) serve as Park City's representative for the services of any Park City personnel provided pursuant to this agreement, and (d) give or obtain any necessary consents, approvals or authorizations on behalf of Park City in relation to the Supplemental Plan. The City Representative shall generally be Special Events staff for the City, unless otherwise approved in advance by PSSM, which such approval shall not be unreasonably withheld or delayed.

7.2 Management Representative. Park City shall also designate at least one Departmental Manager who shall be authorized to speak on behalf of the City Manager and City Council, and to act for the City Representative if the City Representative is not available. The costs of providing the City Representative and the Management Representative to provide services under this agreement shall be borne solely by Park City. The Management Representative shall, if requested by PSSM, assist PSSM with the formation of a logistics coordination team.

7.3 Management Meetings. The Event Representatives and Manager shall meet to review Market operation, Supplemental Plan and terms of this Agreement. Any changes to this Agreement or Supplemental Plan shall be approved prior to the first operational date of the Market.

8. Parking and Transportation.

8.1 Transportation Plans. PSSM, with coordination from Park City, shall develop and implement plans for traffic control around Main Street, as part of the Supplemental Plan to meet the transportation and parking needs of the public during the Use Periods, including provisions for parking, road closings and any enhanced transit service to off-site shuttle lots. Park City shall modify and as necessary expand the public City Transit service, at Park City's expense, to meet the increased public demand during the Market consistent with the purposes of the Agreement and the needs of the public, including patrons of the Market. The system will remain open to the public and will service the existing transit routes.

The transportation plans contemplated by the paragraph above are intended as an enhancement to Park City's public transportation to meet the needs of the public during the Use Periods and are not to be construed as the provision of "charter" services.

8.2 Cooperation in Main Street Closing. Consistent with the requirements to develop plans for traffic as part of the Supplemental Plans, Park City and PSSM both agree to support and cooperate with one another if both Parties agree to close all or a portion of Main Street for pedestrian use only or restrict traffic to one-way during some portion or all of the Use Periods.

8.3 Parking Areas. Park City shall make available to PSSM for non-exclusive use the upper and lower Sand Ridge parking lots and the top level of the China Bridge Parking Structure for PSSM Vendors and Staff in accordance with Exhibit E.1.

D. PSSM SERVICES.

9. PSSM Obligations. As consideration for the City support herein, PSSM agrees to the following:

1. Vendor mix – PSSM agrees to regulate their vendor mix to mitigate for potential of adverse impacts to brick and mortar Main Street businesses:
   a. PSSM shall continue to develop the local growers' area of the Market. PSSM shall develop a plan to define a specific vendor mix and category type for approval with the Supplemental Plan. In developing a vendor mix plan PSSM may consider any written recommendations from the Working Group regarding vendor mix. PSSM's vendor mix plan shall specify a number of vendor types allowed or a percentage of vendor types allowed that may include, but is not limited to following categories;
      1. Jewelry
      2. Clothing
      3. Personal Care products
      4. Photography & Painting
      5. Ceramics and Pottery
      6. Non- traditional art or products

7. Not-for-profit groups (with or without point of sale activity)
8. Snack Food (food substantially prepared offsite that is neither prepackaged nor a baked good)
9. Gourmet Food (prepackaged food or baked goods).

2. On-Site Food (not to exceed 14 total) PSSM agrees to this number for On-Site Food Vendors.
   a. No on-site food vendors south of Heber
   b. PSSM agrees to offer first right of refusal to HPCA on 3 of each type of food vendor (Onsite Food, Gourmet Food and Snack Food). PSSM agrees to offer second right of refusal to the Restaurant Association. As previously noted on-site food vendors shall not exceed a total of 14.
   c. In an effort to minimize direct negative competition to HPCA merchants and unwanted mass-produced items; PSSM shall develop, implement and manage criteria and in season follow-up for all vendor admissions to the Market. PSSM may consider any suggestions from the Working group in developing criteria for vendor admissions to the Market. This criteria shall include specific definitions and review/checking procedures of vendor product verification.

3. <u>HPCA access to vendor space</u> – PSSM agrees to provide:
   a. One 10'x10' vendor booth space with full set up for HPCA member use each week.
   b. Space in the PSSM Information kiosk/table for HPCA outreach, coupons, information etc.

4. <u>Expanded Market Activities</u>
   a. PSSM agrees to identify and implement limited mutually agreed upon activities and programming of Main Street south of Heber Avenue. The activity should be geared at bursts or pockets of activity that do not necessitate the complete closure of Main Street in 2013. In the event that no agreement is reached with the City, PSSM will not be eligible for $10,000 of the financial contribution identified in Section E10(a) i.

5. <u>Marketing, Media, Cross Promotional and Public Relations</u> – PSSM agrees to
   a. Promote Main Street in all marketing and promotional material.
   b. Include HPCA logo and sponsor credit in all media placement (detailed in Exhibit E-1), website, email blasts, social media and prominent locations within the Market.
   c. Signs and maps directing visitors to upper Main Street and China Bridge parking spaces, encouraging them to walk the length of Main Street.
   d. Co-promotions with Chamber, Utah Office of Tourism, etc. of specific specials, i.e. "early bird" dinner special.
   e. Media – The HPCA logo and sponsorship credits will be provided in all media placement that the PSSM currently employs, including but not limited to:
      i. Print ads (10 plus publications). PSSM to submit media/PR yearly recap to

Park City;

ii. Ads, links or info listings on 20 Utah tourism, business and special internet websites;
iii. Periodic television coverage;
iv. Radio spots and promotions;
v. Website spots, summer guides, fairs, non-profit organization calendar listings;
vi. Email blasts to 7,500+ subscribers; and
vii. Social media and blogspot posts.

6. Review(s) – PSSM agrees to:
   a. Approval of supplemental plan & review of specific operational plan
   b. Debrief of Market - is Market being operated consistently with service contract and Council goals
   c. Mid-Event Review –A mid-event review, which will consist of a Managers Report to City Council or Work Session by August 23, 2013.
   d. Financial information regarding contributions to PSSM pursuant to this Agreement made available to City

7. Demonstrated & Measurable success – The following performance measures will be considered as part of the annual Supplemental Plans:
   a. Attendance – average attendance targets shall be established and verified annually by staff and PSSM
   b. Quantify Marketing & PR Value – of at least $150,000
   c. Reduced impacts to local business-– PSSM shall present a variety of promotional opportunities for local businesses and HPCA members to participate in. PSSM will summarize efforts and participation in a report to Park City at the annual review.
   d. Community support – PSSM shall report at the annual review, the year-round efforts to support the community at-large, non-profits and Park City youth programs.
   e. Environmental impacts - PSSM will continue its Zero Waste and bike valet program and include in the final report.
   f. Community benefits – PSSM shall conduct a limited survey of market attendees geared at measuring benefit to local community. Park City reserves the right to provide input to said survey and methodology, and changes shall be mutually agreed upon. This should be conducted with requirements for UTIC funding.

8. Limitation on use of funds - PSSM shall provide financial reports at the annual review that will outline the use of funds tied directly to contributions received by PSSM from Park City pursuant to this Agreement. These contributions will not to be allowed for executive or director salaries.

9. Working Group – PSSM agrees to create a Working Group that will include at least: (a) two (2) HPCA representative; (b) two (2) PSSM representative; and (c) two (2)

members of the Park City Council. The Working Group shall seek to promote and foster cooperation and communication between PSSM and the HPCA regarding PSSM's selection, inclusion and oversight of specific vendors that participate or have applied to participate in the 2013 Market and any other issues relevant to the 2013 Market.

9.1 Park City, Main Street Venue. Park City's Main Street shall be recognized as the headquarters of the 2013 Market.

9.2 Marketing and Public Relations – Press Releases and Promotional Materials. PSSM shall include a reference to "Park City, Utah" in all press releases made; and all promotional materials, and shall cooperate where possible in releasing joint public statements with the City and the HPCA promoting Park City, Utah generally. PSSM agrees to aggressively market residents and visitors to attend the Market on Main Street Park City, Utah using the following mechanisms:

A. www.parksillysundaymarket.com;
B. On-site event promotions; and
C. Weekly radio and TV spots; and
D. Weekly email blast and social media updates

9.3 Cooperation with Chamber Bureau and Business Associations. PSSM and Park City shall use best reasonable efforts to coordinate with the Park City Chamber Bureau and other business associations as the City staff may from time to time suggest, to solicit business support and minimize adverse impacts on the community.

E. FINANCIAL

10. Service Contract. Subject to annual budget appropriation, Park City hereby agrees to make the following annual contribution to PSSM towards the cost of the Market for the term of this contract:

(a) Annual cash payment for the following services ($ 65,000 Total):
- (i.) $30,000 will be for Marketing, Media, Cross Promotions and Public Relations as defined in Section D.9.4.
- (ii.) $10,000 will be for expanded Activities ad defined in Section D.9.3
- (iii.) $25,000will be for the Market north of Heber Avenue to 9th Street. This contribution is not to be used for any executive or director salaries but instead must be directly tied to operations and promotion of the Market.

(b) Annual fee waivers and Value in Kind, based on a combination of the following:
- (i.) Fee waivers – 2013 fees estimated at $20,385
- (ii.) $10,000 in Value in Kind – storage, capital improvements (power upgrade, equipment, contribution of additional city services etc.).

10.1 Park City agrees that this Agreement and all Park City's obligations and contributions shall be included in the City Manager's Recommended Budget delivered to the Park City Council on the first scheduled meeting in May and must be approved by the Park City Council no later than June 30 of each year. If such budget is not approved prior to June 30, PSSM and Park City shall meet and attempt to secure funds to make up for costs which were not approved in the budget. If such funds cannot be secured by November 15, PSSM may, at its option, terminate this Agreement upon ninety (90) days prior written notice, without recourse or further claims by Park City. Payment shall be by December 15 of each year. No payments shall be made to PSSM prior to approval of the Supplemental Plan. Similarly, should PSSM dissolve or file bankruptcy, PSSM may terminate this Agreement upon ninety (90) days prior written notice prior to that year's Market, without recourse or further claims by Park City.

10.2 PSSM agrees to keep and maintain its financial books and records in accordance with generally accepted accounting principles. The City or its independent auditor reserves the right to conduct its own annual audit of the financial books and records at reasonable times and places during ordinary business hours provided that thirty (30) days written notice of the audit is provided to PSSM and such notice contains a reasonable explanation for the audit. Any audit performed by Park City pursuant to this Agreement shall be performed at Park City's sole expense. If the contributions have not been used as agreed herein, the City shall be entitled to a full or partial refund of the amount. PSSM agrees to turn in all IRS forms, updated business plans, and other similar financial information by November 1, 2013.

F. INSURANCE AND RISK MANAGEMENT.

11. Indemnifications.

11.1 PSSM's Indemnity. PSSM shall indemnify and hold the City, and their 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 and/or performance of any terms of this Agreement. However, that if such claims are caused by or are the result of concurrent or contributory 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 PSSM. Nothing herein shall require PSSM to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence or intentional misconduct of the City, its agents, employees, and/or officers. PSSM expressly agrees that the indemnification provided herein constitutes the PSSM'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 PSSM claims or recovers compensation from the City for a loss or injury that PSSM 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. Nothing herein shall waive any provision, defense or limitation of the Utah Government Immunity Act.

11.2 Waiver of Claims Against Park City. PSSM shall not make any claim against Park City or its officers, employees and agents with respect to any liability incurred by PSSM to any third person on account of bodily or personal injury or damage to or loss of property arising out of this Agreement, use of the Use Areas, or the Market, except to the limited extent such liability results from the willful misconduct of Park City, its officers, employees, or agents.

12. Insurance.

12.1 Insurance. PSSM shall procure and maintain at its own expense throughout the Exclusive Use Periods the following insurance:

(a) Workers' compensation insurance for PSSM employees, including statutorily required limits and other requirements of law.

(b) All employee benefit programs and overages required under ERISA, unemployment insurance and any other insurance required by state or federal laws.

12.2 PSSM Liability Insurance. Prior to commencement of any activity in Park City under this Agreement, PSSM shall procure and thereafter maintain during the entire period of such activity one or more policies of insurance providing all of the following coverage, whether by separate policies or by endorsement:

(a) Commercial general liability policy, with combined single limits of Two Million dollars ($2,000,000.00) per occurrence and Four Million Dollars ($4,000,000.00) in aggregate

(b) Liquor Liability Coverage Part on the commercial general liability policy;

(c) PSSM shall require any hired security company to provide a policy of liability insurance and name PSSM and Park City as name insured on the policy with limits set forth in 14.2(a).

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12.3 Additional Requirements. The insurance provided by PSSM pursuant to Section 14.2 of this Agreement

(a) Shall be written on an occurrence basis, and with respect to any coverage provided on a claims-made basis, shall be supplemented by a two (2) year tail policy for the limits applicable to the policy periods covered by such tail policy, which are approved by Park City, such approval not to be unreasonably withheld or delayed;

(b) Shall provide that Park City be named as additional insured with respect to liability arising out of or in connection with PSSM's activities under this Agreement, including those claims, set-offs, losses, damages, liabilities, fines and expenses that arise out of or in connection with the acts or omissions of Park City incident to PSSM's above-referenced activities, but not including the willful misconduct of Park City or its respective officers, employees or agents;

(c) Shall provide if reasonably possible that with respect to any covered claim arising under this Agreement, such insurance shall be primary coverage without reduction or right of set-off or contribution on account of any insurance provided by Park City for itself or for its officers or employees; and

(d) Shall provide if reasonably possible that such insurance shall not be altered or canceled without thirty (30) days' prior written notice to Park City.

12.4 Park City Liability. Nothing herein shall waive any provision, defense or limitation of the Utah Government Immunity Act.

G. MISCELLANEOUS.

13. License for Use of PSSM Marks. PSSM grants to Park City a license to use PSSM's emblem(s) and other trademarks for any non-commercial, governmental purpose, press release, and in internal Park City communications/reports. Such license shall be subject to restrictions prohibiting any commercial use of such marks.

14. License of Park City of Utah Logo, Name and Marks. Park City hereby grants PSSM a non-exclusive license to use for the effective term of this Agreement, any Park City-related symbols, emblems, marks, logos, trademarks, service marks, or pictures, paintings or likeness of the City, including without limitation the use of the (i) the name "Park City", and any variations thereof, (ii) the names of any officials of Park City, and (iii) the name and likeness of any buildings or grounds owned by Park City, in every case solely for the purposes of (a) broadcasting the Market, (b) providing map and way finding information, and (c) advertising or promoting the Market; but specifically excluding any license for the sale of any novelties or merchandise.

15. Photography and Broadcast Rights. PSSM shall have the non-exclusive right to arrange, conduct or permit commercial and noncommercial photography, filming, videotaping, television and radio transmission, and similar activities in and above the Use Areas during the Use Periods. PSSM shall have the non-exclusive right to record, to broadcast, and to permit media coverage of PSSM's activities in Park City with a Film Permit.

16. Sponsorships. PSSM shall have the exclusive right to sell sponsorships and suppliership of and other rights of affiliation with the Market and events staged or conducted by PSSM in the Use Areas.

17. Representations and Warranties.

17.1 Representations and Warranties of PSSM. PSSM hereby represents and warrants that (a) PSSM is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Utah, (b) PSSM has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder, (c) the execution of this Agreement by PSSM and the performance by PSSM of its obligations hereunder have been duly authorized by all necessary corporate action, and (d) this Agreement has been duly executed and delivered by PSSM and is a valid and binding obligation of PSSM.

17.2 Representations and Warranties of Park City. Park City hereby represents and warrants to PSSM that (a) Park City validly exists, and is in good standing under the laws of the State of Utah, (b) Park City has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder, and (c) the execution of this Agreement by Park City and the performance by Park City of its obligations hereunder have been duly authorized by all necessary action, including all reviews and approvals required by the City Council of Park City.

18. Unforeseen Circumstances. Either Party may terminate or suspend its obligations under this Agreement if such obligations are rendered impossible of performance by any of the following events to the extent such event is beyond the reasonable control of the party whose performance is prevented: Fire, flood, riot, earthquake, civil commotion, insurrection, Act of God, war or any law or supervening illegality. In any such event, such party shall not be liable to the other for delay or failure to perform its obligations.

19. Dispute Resolution. The Parties agree that any dispute arising in connection with the interpretation of this Agreement or the formulation or implementation of any of the Supplemental Plans or the performance of any party under this Agreement or otherwise relating to this Agreement shall be treated in accordance with the procedures set forth in this Section, prior to the resort by any party to arbitration or litigation in connection with such dispute. The dispute shall first be referred for resolution to Park City's City Representative and PSSM’s Manager or other person designated by PSSM as exercising authority over the Use Areas. If such persons are unable to resolve the dispute, it shall then be referred for resolution to Park City's Manager Representative and PSSM's Managing Director. Either Party may invoke such procedures by presenting to the other party a “Notice of Request for Resolution of Dispute” (a “Dispute Resolution Notice”) identifying the issues in dispute sought to be addressed hereunder. A telephone conference of such officers shall be held within three (3) days, or if an emergency meeting is requested, within eight (8) hours, after delivery of the Dispute Resolution Notice. In the event that such officers are unable to resolve the dispute, then upon delivery of a further Dispute Resolution Notice, either Party may require that the matter be referred for resolution to the City Manager of Park City and the Managing Director of the Market. A telephone conference of the City Manager of Park City and the Managing Director shall be held within (2) two days, or if an emergency meeting is requested, within eight (8) hours, after delivery of the further Dispute Resolution Notice. If the City Manager of Park City and the Managing Director are unable to resolve the dispute, then the Parties shall engage in nonbinding mediation with a mutually acceptable mediator to resolve the issue within three (3) days of the delivery of a further Dispute Resolution Notice. Both Parties shall share the costs of such mediation equally. In the event that the parties are unable to agree on a mediator, then each Party shall select one (1) mediator and the two mediators shall select a third mediator. Each Party shall bear the cost of the mediator chosen by that Party and the Parties shall share the costs of the third mediator. If the dispute involves the formulation or implementation of any of the Supplemental Plans contemplated under this

Agreement, the parties agree that the persons outlined above who are authorized to attempt to resolve disputes shall consider the minimum requirements for each of the Supplemental Plans outlined in this Agreement along with reasonable supplementation of such minimum requirements in order to meet the purposes outlined in this Agreement.

20. Other Miscellaneous Terms.

20.1 Governing Law. This Agreement shall be construed in accordance with, and governed by the substantive laws of, the State of Utah, without reference to principles governing choice or conflicts of laws.

20.2 Severability. If any provisions or portions thereof of this Agreement shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement or the application of such provisions or portions thereof shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by the law, so long as the intent of the parties can be maintained.

20.3 Assignment and Delegation. Neither party may assign nor in any manner transfer the benefits of this Agreement or delegate its obligations under this Agreement without the prior written consent of the other party. Subject to the foregoing limitation, this Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors, agents, heirs and assigns.

20.4 Waiver. No action taken by either party shall be deemed to constitute a waiver of compliance by such party with any representation, warranty or covenant contained in this Agreement. Any waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver by such party of any subsequent breach.

20.5 Headings. The article and section headings herein are for convenience and reference only, and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

20.6 Consent. Unless otherwise specifically noted herein, the consent of any party to any action may be made in such party's sole discretion. All consents or approvals hereunder shall be given without delay by either party.

20.7 Entire Agreement. This Agreement, together with any attached Exhibits, constitutes the entire agreement between the parties hereto with respect to the subject matter contained herein, and there are no covenants, terms or conditions, express or implied, other than set forth or referred to herein. This Agreement supersedes all prior agreements between the parties relating to all or part of the subject matter herein.

20.8 No Third Party Beneficiaries. This Agreement is intended for the sole benefit of Park City and PSSM and there are no third party beneficiaries to this Agreement.

20.9 Notice. Unless otherwise specified herein, all Notices, requests, consents and demands required to be in writing, including any Dispute Resolution Notice (collectively referred to herein as a "Notice" or "Notices") shall be given to or made upon the parties at their respective addresses set forth below, or at such other address as a party may designate in writing delivered to the other parties. Unless otherwise agreed in this Agreement, all Notices, requests, consents and demands shall be given or made by personal delivery, by confirmed air courier, by facsimile transmission ("*fax*") (with a copy sent the same day by first-class mail), or by certified first-class mail, return receipt requested, postage prepaid, to the party or parties addressed as aforesaid. If sent by confirmed air courier, such Notice shall be deemed to be given upon the earlier to occur of the date upon which it is actually received by the addressee or the business day upon which delivery is made at such address as confirmed by the air courier (or if the date of such confirmed delivery is not a business day, the next succeeding business day). If mailed, such Notice shall be deemed to be given upon the earlier to occur of the date upon which it is actually received by the addressee or the second business day following the date upon which it is deposited in a first-class postage-prepaid envelope in the United States mail addressed as aforesaid. If given by fax, such Notice shall be deemed to be given upon the date it is actually received by the addressee.

If to Park City:
Economic Development Manager
Park City Municipal Corporation
PO Box 1480
445 Marsac Avenue
Park City, UT 84060-1480
Tel 435-615-5000
Fax 435-615-4901

With copies to:
City Attorney
Park City Municipal Corporation
PO Box 1480
445 Marsac Avenue
Park City, UT 84060-1480

If to PSSM:
Kimberly Kuehn – Executive Director
Park Silly Sunday Market
PO Box 684229
Park City, UT 84068

20.10 Reserved Police Power. The City expressly reserves, and PSSM expressly recognizes, the City's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

20.11 Nondiscrimination.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, PSSM 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. PSSM 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. PSSM 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.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

PARK CITY MUNICIPAL CORPORATION

______________________________ ______________________________
Dana Williams, Mayor ;

Approved as to Form:

____
Mark D. Harrington, City Attorney

Attest:

____
City Recorder

PARK SILLY SUNDAY MARKET

____
Kimberly Kuehn Executive Director

ACKNOWLEDGMENT

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On this ______ day of ____, 2012, personally appeared before me ________________, who being duly sworn, did say that he is the ____________ for _____________________, and acknowledged to me that the preceding Agreement was signed on behalf of said company, and he acknowledged that the company did execute the same for its stated purpose.

____
Notary Public

Exhibit E- 1 – PSSM 2013 Use Areas