

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 26, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, June 26, 2008.

Closed Session

2:00 p.m. Personnel and property

Work Session

3:30 p.m. Council questions/comments

3:45 p.m. Joint work session with Planning Commission on Historic District
Guidelines Separate cover and P. 6 - 20

- Public input

5:45 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Resolution honoring Police Chief Lloyd Evans for his exceptional 30 year public safety career in Park City, Utah P. 33

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 12, 2008
P. 21 - 32

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 under "Additional Discussion – Agenda Items"*)

1. Resolution honoring Police Chief Lloyd Evans for his exceptional 30 year public safety career in Park City, Utah P. 33

2. Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006; and related matters P. 34 - 43

3. Resolution celebrating KPCW's 28th Anniversary P. 44

VI RESIGNATIONS AND APPOINTMENTS

Appointment of one Planning Commissioner for a term expiring July 2012

VII OLD BUSINESS

Ordinance approving the Knoll Estates (aka Deer Valley Club Estates) Lots 17 and 18 Amended Subdivision Plat, located at 7888 Aster Lane, Park City, Utah

- (a) Public hearing
- (b) Motion to continue to a date uncertain

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

1. Consideration of a Lease Renewal and First Addendum with the University of Utah for space located in the Library and Education Center, 1255 Park Avenue, in a form approved by the City Attorney P. 45 - 58

2. Consideration of a Lease Renewal with the Park City Cooperative Preschool for space located in the Library and Education Center, 1255 Park Avenue, in a form approved by the City Attorney P. 59 - 69

3. Consideration of a Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of \$536,050 P. 70 - 88

4. Consideration of an Ordinance approving the Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey located at 1110 Empire Avenue, Park City, Utah. P. 89 - 94

- (a) Public hearing
- (b) Action

5. Consideration of an Ordinance approving the 601 Deer Valley Drive Condominium Plat located at 601 Deer Valley Drive, Park City, Utah P. 95 - 107

- (a) Public hearing
- (b) Action

6. Consideration of an Ordinance approving the 605 Deer Valley Drive Condominium Plat located at 605 Deer Valley Drive, Park City, Utah P. 108 - 120

- (a) Public hearing
- (b) Action

7. Consideration of an amended water agreement with Talisker Corp., in a form approved by the Deputy City Attorney P. 121 - 124

IX ADDITIONAL DISCUSSION – AGENDA ITEMS

X 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 City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 3, 2007**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, July 3, 2008.

Posted: 06/23/08

See www.parkcity.org

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

July 2008

3 No meeting – Golf Tournie

10 Jim gone

Special event joint venture update – Bob Kollar
408 & 412 Deer Valley Drive Loop Road plat amendment – FA
543 Woodside Avenue plat amendment – KC
260 Main Street record of survey plat – KC
900 Round Valley Drive plat amendment - BR
Appointments to police board
Appointments to Library Board
LOI with Summit Water

12-26 Tom gone

426 Woodside Avenue plat amendment – KW

14 Quarterly breakfast – School District (tentative)

24 No meeting – Pioneer Day

31 Richardson Flat Road construction agreement.- KC

August 2008

7 Joint Planning Commission work session

14-15 Management Team meeting

14 No meeting

21

28

September 2008

1 Labor Day

3-7 City Tour

4 No meeting

11

18

25 City-wide wireless - SR

Pending Items:

Update on “The Yard” operation on Kearns Blvd – 2008 Film Festival

Affordable housing resolution

Update on water supply and demand

Consideration of an amendment to the Burbs LLC Annexation Agreement/Affordable Housing

Resolution - Trails Master Plan

Carrying capacity/market analysis survey

Wild land interface issues

City Council Staff Report



Author: Dina Blaes, Consultant
Gary Hill, Interim Planning Director
Subject: Historic Preservation Update & Issues
Date: June 26, 2008
Type of Item: Legislative

Summary Recommendation: City Council should provide direction on the various issues listed below and take public comment. Staff recommends that a second Joint Work Session be scheduled for August 7, 2008 to discuss the "Average Wall Height" concept and any other issues that are not fully considered on June 26th.

Because of the extent of this staff report, the following outline is provided. The full staff report follows this outline.

I. Draft Design Guidelines

Staff recommends taking public comment on the draft design guidelines. Staff is not seeking direction from City Council at this time.

A. General Background

Information only. No direction or action sought.

B. Previous Action

Information only. No direction or action sought.

C. Roles of HPB and Planning Commission

Information only. The Planning Commission will require familiarity with the Design Guidelines in order to adequately assess the relationship between the guidelines and LMC amendments, but the LMC does not allow a review of the Design Guidelines by the Planning Commission unless specifically referred by the City Council (like is done with the Sign Code where the Planning Commission provides informal input after a courtesy review).

D. Land Management Code Amendments

No direction or action sought at this time.

II. Historic Preservation Policy Issues

A. Additions to Historically Significant buildings

Staff is seeking discussion and specific direction on this matter.

B. Historic Building Inventory - Landmark and Contributing buildings

Staff is seeking discussion on this matter.

C. Reconstruction of existing Historically Significant Buildings

Staff is seeking discussion and direction on this matter.

D. Volunteer Peer Review Process

Staff is seeking discussion and direction on this matter.

E. Historic District Design Review Process

Staff is seeking discussion and direction on this matter.

F. Average Wall Height

No discussion or action sought at this time.

I. Draft Design Guidelines

Recommendation: The HPB is fulfilling its obligations outlined in the LMC and is taking public input on this matter and will be evaluating the input and directing staff to make any necessary changes to the draft document. HPB could make a recommendation to the City Council regarding the Design Guidelines as early as July 7.

Staff recommends that the City Council also take public comment on the draft design guidelines following the joint discussion with Planning Commission on June 26.

Background:

A. General Background: The process of updating the *Historic District Design Guidelines* began following the adoption of the Historic Building Inventory on October 1, 2007. The project was broken into three phases as outlined below:

Phase I: Organizational framework of document completed; including general provisions, specific chapter “titles”, and initial policy statements. (completed December 2007).

Phase II: Evaluate content for potential Zoning-Guidelines conflicts: General Plan, Sign Code, Affordable Housing Guidelines & Standards, all “H” zones, and general provisions of Title 15; Execute illustrations determined to most effectively express the concepts developed through the evaluation and revision process; and Finalize draft of guidelines for review by Planning Director, Historic Preservation Board, and City Council. (Current and on going).

Phase III: Adoption of revised design guidelines and necessary Land Management Code amendments. (Anticipated to be mid-to-late August).

The HPB members have engaged in lengthy discussions on a range of topics including, but not limited to, “panelization”, compatibility of new construction, defining historic integrity, defining historic significance, the use of substitute materials, improving the application process by making it more predictable and transparent, increasing public involvement in the process, landscaping standards, the role of the HPB in the process, increasing the specificity of language used in the design guidelines to benefit all its users, balancing the rights of property owners with proposed regulation, increasing application requirements, placing a greater emphasis on retaining historic materials, reconstructing historically significant buildings, and the application appeal process.

Extensive comments and suggestions were received from the Planning Department and Building Department staff as well. These have been incorporated into the guidelines or will be addressed in the staff report.

The attached draft of the *Design Guidelines* is the result of policy directives from the HPB, staff's suggestions regarding the practicality of various provisions, and recognized best practices within the field of historic preservation. Please note:

1. The illustrations are not complete. However, placeholders for the illustrations are included throughout the text and will be completed for consideration at the July 7 HPB meeting;
2. The appendices are not complete, but will be finalized before the July 7 HPB meeting;
3. Public comment period is just beginning and that process will likely result in some modifications to the text.

B. Previous Action. At a joint Planning Commission, City Council, and Historic Preservation Board work session held February 27, the following direction was provided pertaining to the draft Design Guidelines.

1. Design Guidelines or Design Standards: Staff sought comments and direction on whether or not the design guidelines should be developed as updated design guidelines or as design standards. The Planning Commission and HPB supported the development of updated design guidelines. The City Council did not voice opposition to this approach so the document reflects updated design guidelines.
2. Two-tiered approach to guidelines: Staff sought comments and direction on the two-tiered approach to the design guidelines; "Universal" (Secretary of Interior-based) and "Specific" (local district-based) approach to the guidelines. The Planning Commission supported the proposed two-tiered approach. Again, the City Council did not voice opposition to the approach and, therefore, the two-tiered approach was developed.
3. Historically Significant buildings outside the Historic Districts (H Zones): Staff sought comments and direction on whether or not the design guidelines should apply to Historically Significant buildings outside the H Zones. The Planning Commission and HPB supported the application of the design guidelines to Historically Significant buildings located outside the boundaries of the H Zones. Again, the City Council did not voice opposition to this approach and the design guidelines as drafted are applicable to all Historically Significant buildings as well as the H Zones. Implementation of this provision will require an amendment to the LMC.

The HPB has discussed the guidelines at each meeting since the joint session and has now held two public hearings as well. The first, June 2, 2008 at 10:00 a.m. (regular meeting time) was not well attended and as a result a meeting was scheduled for June 16, 2008 at 6:00 p.m. On June 16, comments were received from eight members of the public who are residents of Old Town or who are or have been involved in the development of properties in Old Town as developer, architect, designer and/or owner. Comments included, among others, concerns that the public has not been involved until now, the guidelines should be more objective while still giving the applicant latitude and

options, the design review process be streamlined and more predictable and consistent, and that the guidelines should be more detailed. In addition, concerns were raised about the current LMC, particularly how the current height requirements drive roof forms. The HPB continued the public hearing portion of the meeting to July 7, 2008 at 6:00 p.m.

Those present were encouraged to submit additional comments via email to the Planning Office on or before June 27th.

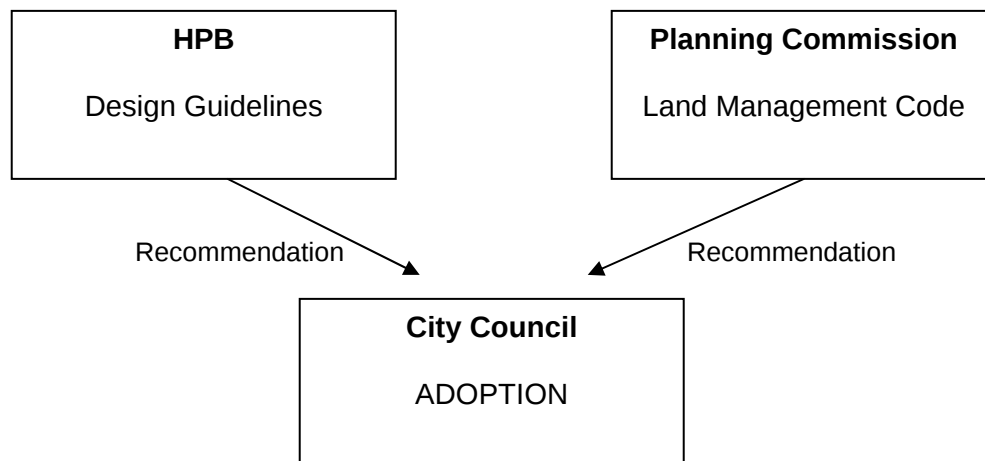
C. Roles of HPB and Planning Commission

The Land Management Code divides responsibilities for reviewing Historic District Guidelines and Regulations (LMC revisions) between the HPB and the Planning Commission. The Historic Preservation Board is authorized in the Land Management Code to make recommendations to the City Council regarding changes to the Design Guidelines:

Title 15 LMC, Chapter 11-10 Historic District Design Guidelines states, The HPB shall promulgate and update as necessary Historic District Design Guidelines for Use in the Historic District zones... From time to time, the HPB may recommend changes in the Historic District Design Guidelines to the Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

The Planning Commission is the body charged with forwarding recommendations to the City Council regarding changes to the Land Management Code:

Title 15 LMC, Chapter 12-15 Review by Planning Commission (B)(3) Land Management and Zoning Review. The Commission... shall have the primary responsibility to review amendments to the Land Management Code and shall forward a recommendation to the City Council.



The process of reviewing the Design Guidelines and associated LMC amendments will advance concurrently with the Planning Commission and Historic Preservation Board based on the procedures outlined in the LMC. The Planning Commission will require

familiarity with the Design Guidelines in order to adequately assess the relationship between the guidelines and LMC amendments, but the LMC does not allow a review of the Design Guidelines by the Planning Commission unless specifically referred by the City Council (like is done with the Sign Code where the Planning Commission provides informal input after a courtesy review).

If the City Council chooses to refer the guidelines for a courtesy review by the Planning Commission, staff recommends that the Council provide specific direction to the Planning Commission on what it would like it to review. These parameters could include:

- Providing comments on specific sections; i.e. Design Review Process, Rehabilitation Section, and New Construction Section
- Limiting comments to LMC-related issues,
- Etc...

It should also be pointed out that a Planning Commission review of the guidelines will likely add two months to the anticipated schedule for adoption, particularly if the PC input differs significantly from the HPB recommendations.

Does City Council wish to refer the Guidelines to the Planning Commission for a courtesy review and input after HPB makes its recommendation? If so, what parameters of review would the City Council like direct the Planning Commission to consider?

D. Land Management Code Amendments

Staff has identified sections of the LMC where the provisions of the document either conflict with the proposed Design Guidelines or may need to be clarified or expanded to support the intent of the Design Guidelines. Please note, what follows is not specific language for consideration, but rather sections of the Design Guidelines and associated sections of the LMC that may need to be modified in order to effectively implement the Design Guidelines. Relevant sections of the LMC are noted in parenthesis.

1. Scope of the Design Guidelines

- a) The proposed Design Guidelines call for all Historically Significant buildings in Park City to be subject to the guidelines, not simply those located within one of the Historic zones. Fourteen (14) Historically Significant buildings are located outside the Historic zones so several sections of the LMC need to be amended to enable the design guidelines to apply to Historically Significant buildings outside the "H" zones. (Title 15-11-10 and Title 15-11-11)

2. Design Review Process

- a) Document Existing Conditions.

The proposed Design Guidelines call for existing conditions to be thoroughly documented as part of the application process; these requirements should be incorporated into the LMC directly or by reference. (Title 15-15, Title 15-11-11, Title 15-1-8, and Title 15-1-9)

b) Incorporate the concept of a staff Design Review Team meeting into "Step 1: Pre-application" of the Design Review Process.

The applicant/design professional would meet with planning and building staff and listen to the staff discussion. This would streamline the process and give greater clarification to the applicant.

c) Public Comment Period.

The proposed Design Guidelines call for the public to have input on a complete application prior to staff making a determination--preliminary or otherwise--of compliance with the Design Guidelines. Currently, however, Notice is posted once staff makes a preliminary determination of compliance. (Title 15-11-11 and Title 15-1-21).

d) Appeals.

The design guidelines call for two possible appeals of a design review application; Planning Department decision can be appealed to the HPB and, in turn, the HPB decision can be appealed to the Board of Adjustment. Currently the LMC reflects a three-step appeal process of a staff determination: Planning Director – HPB – BOA. (Title 15-11-11)

3. Guidelines for Historically Significant Buildings

a) Accessory structures.

Several sections of the LMC should include language specifically addressing Historically Significant accessory structures (Title 15-11-9, Title 15-11-12, and Front Yard Exceptions in residential H Zones).

b) Additions to Historically Significant Buildings.

i) Additions to accommodate a garage: LMC language should limit the width of an attached garage to a dimension-certain or a dimension that is a percentage of the width of the Historically Significant Building's primary façade.

c) Parking Areas, Driveways & Detached Garages.

The LMC currently provides only minimum dimensions for parking areas, driveways, and garages; the LMC should include maximum dimensions for parking areas, driveways, and garages in the H zones and for Historically Significant Buildings. (Title 15-3)

d) Relocation and/or Reorientation of Intact Buildings.

The LMC should include a section within *Chapter 11-Historic Preservation* to define this process.

e) Disassembly/Reassembly of a Historically Significant Building.

The LMC should include a section within *Chapter 11-Historic Preservation* to define this process.

f) Sustainability

Language regarding sustainability should be included in the "purpose statements" of the H Zones.

4. Guidelines for New Construction

a) Front Yard Setback

Include language in the H zones that allows variation in the front yard set back based on the pattern along the street that is established by existing Historically Significant Buildings.

b) Height, Mass & Scale of new construction.

i) Building Height: Include language in the H zones that limits the height of new construction based on the height of existing Historically Significant Buildings located within a certain distance of the proposed structure.

ii) Steep Slope: Include language in H zones that states if the building steps to accommodate a change in grade it should have a minimal horizontal dimension; the dimension may be defined (ten feet) or may be a percentage of the façade width.

c) Lot coverage/building footprint

Include language in the H zones that limits the lot coverage of new construction based on the pattern established by Historically Significant Buildings within a defined distance of the proposed structure.

d) Parking Areas, Driveways & Detached Garages.

As noted in 3.c) above, include language in *Chapter 3-Off-Street Parking* that defines maximum dimensions for parking areas, driveways, and garages in the H zones so that these streetscape elements are treated consistently within the H zones.

Staff is not seeking specific direction on the proposed LMC amendments at this time; these will be discussed and considered by the Planning Commission.

II. Historic Preservation Policy Issues

A. Additions to Historically Significant buildings

Due to the amount of recent public discussion concerning construction in the historic districts and on Historically Significant homes, staff felt it important to clarify how the proposed guidelines will impact additions. It should be pointed out that these new guidelines will discourage "large" additions to Historically Significant buildings, but does not necessarily prohibit them. The only way to ensure that additions to Historically Significant buildings are made smaller is to amend the LMC to limit their height and footprint.

Several solutions to the problem of “large” additions to Historically Significant buildings may be available and staff provided the HPB with the following proposal as a starting point for discussion:

- 1) Projects proposing an addition of up to 200% of the original footprint of the Historically Significant building that comply with the design guidelines will receive the benefit of LMC exceptions as currently stated. There are examples in the Historic Districts where large additions were constructed that are compatible with the Historically Significant buildings; and
- 2) Projects proposing additions larger than 200% of the original footprint will not be permitted; and
- 3) Projects proposing additions of any size that do not comply with the design guidelines will be denied.

Providing specific language in the LMC regarding the size of additions in relation to the existing Historically Significant building benefits all parties by providing defined targets with which to work; the planning department can more easily review proposals, the owner/applicant will know “up front” what is and is not permitted, and the public will know what to expect.

Staff sought comment from both the HPB and the public on this concept at a public hearing held June 16, 2008. By consensus, the HPB did not support limiting the size of additions to Historically Significant buildings to 200% of the original footprint. They did, however, express concern about Historically Significant buildings being removed from the Historic Building Inventory because of large and incompatible additions being constructed.

In 2006, twelve buildings (shown below) were being remodeled and/or enlarged during the survey period. The alterations impacted the integrity of the properties to the extent that they no longer comply with the Standards of Review outlined in the LMC for determination of Historical Significance.



291 Daly Avenue



297 Daly Avenue



841 Empire Avenue



402 Marsac Avenue



827 Norfolk Ave.



1002 Norfolk Ave



811 Park Avenue



817 Park Avenue



909 Park Avenue



915 Park Avenue



1326 Park Avenue



1053 Woodside

The Standards of Review for determination of Historical Significance are more stringent than the current Design Guidelines or the manner in which the current Design Guidelines are being interpreted. This results in some projects that adhere to the required design review process, but do not maintain or reinforce the building's designation as a Historically Significant building.

Possible remedies to this problem:

- 1) Modify the LMC to limit the size of additions to Historically Significant buildings. As stated, the HPB did not support limitations on the footprint of additions to Historically Significant buildings beyond what is already called for in the LMC.
- 2) Redefine "Integrity" in the LMC to lower the standard in order for Historically Significant homes with very large additions to remain on the inventory. By consensus, the HPB did not support this approach.

Staff is seeking discussion and direction from the Council on this issue.

- **Does the Council support limiting the size of additions to Historically Significant buildings to 200% of the original footprint?**
- **Does Council support limitations on additions to Historically Significant buildings based on the average height and footprint of existing buildings within a reasonable proximity of the Historically Significant building?**

- **Does Council support limiting the size of additions to Historically Significant buildings in any way beyond what is already established in the LMC?**
- **If not, does Council support redefining "integrity" in the LMC to lower the standard in order for Historically Significant buildings with very large additions to remain on the inventory?**

B. Historic Building Inventory - Landmark and Contributing buildings

At the May 5, 2008 HPB meeting the idea of categorizing buildings on the Historic Building Inventory into Landmark buildings and Contributing buildings was briefly discussed. At a subsequent City Council meeting, staff was asked to develop the idea further and bring it back to the Council for discussion.

In looking at what would be required to achieve this, staff is providing the following for discussion and comment by the City Council. Ideally, intensive data on the buildings would be gathered concurrently with a comprehensive re-write of the LMC section 15-11-12 Determination of Historical Significance. In addition, minor changes to the design guidelines would be required.

Data Gathering: Staff would recommend gathering data on the buildings using the State Historic Preservation Office's Standard Operating Procedures for the completion of Intensive Level Surveys on all buildings in Park City built prior to 1962. Intensive Level Surveys involve research on the property and its owners, documentation of the property's physical appearance (including changes over time that can be substantiated by primary and secondary research sources), and completion of a Historic Site Form and copies of supporting documents. Intensive Level Surveys generally cost \$600 per property. Currently, the Historic Building Inventory includes 358 buildings, which would require \$214,800 to complete the surveys. An additional 40-50 buildings that were built before 1962, but did not comply with the standards of review for determination of Historical Significance would increase the total cost to approximately \$244,800. The estimated time frame for completion would be twelve to fourteen months.

Re-write of the LMC: LMC Section 15-11-12 Determination of Historical Significance would require modifications to accommodate two different designations within the broader definition of Historically Significant buildings. This process could occur concurrently with the Intensive Level Surveys.

Design Guidelines: The Design Guidelines would require modifications to accommodate two designations. At a minimum, modifications to sections of the Introduction and Design Review Process chapters would be required. Again, this process could occur concurrently with the Intensive Level Surveys.

Staff seeks comment from Council on this issue, but recommends considering this approach more fully in 2011 as part of the regular course of updating the

current survey. It is generally accepted that surveys should be updated every 6-10 years.

- **Would Council like to pursue creating an inventory for contributing buildings and landmarks (with associated guidelines and LMC amendments)?**
- **Is Council comfortable with completing the adoption of the currently purposed Guidelines before beginning the process on a “contributing buildings and landmarks” inventory?**

C. Reconstruction of existing Historically Significant buildings

In recent years, some projects involving Historically Significant homes have been delayed or anticipated outcomes altered due to insufficient information about the structure at the start of the application review process. New information on the condition of materials is often gained mid-project that results in necessary modifications to the preservation plan. The effect is increased costs to the applicant, frustration and anger on the part of the public and significant difficulty for the planning and building department staff to ensure that the project complies with the intent of the approved preservation plan. In an effort to eliminate this problem staff is recommending:

- 1) The information required from the applicant on the existing condition of the Historically Significant building (see current draft of the design guidelines) be increased and formatted for consistency; and
- 2) The Design Review Team approach noted in section I.C.2.b) of this staff report be implemented.

The information gleaned from some of these recent projects has lead to discussions among staff about creating a standard that would allow substantially deteriorated buildings to be removed and reconstructed.

On June 16, staff sought comment and from the HPB and the public on the following proposal.

If the documentation of existing conditions shows that 70% or more of the existing materials (combined structural and nonstructural) of a Historically Significant building cannot be made safe and serviceable through repair (as certified by a licensed structural or materials engineer), then the building may be removed and reconstructed on site. “Reconstruction” would be a defined term in the LMC as “the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving building for the purpose of replicating its appearance at a specific period of time and in its historic location.”

The reconstructed building would remain on the inventory of Historically Significant buildings; any additions or modifications to the reconstructed structure would be required to comply with the design guidelines; and the structure would still benefit from the exceptions to the LMC afforded other Historically Significant buildings.

By providing a standard, the applicant, the city and the public will benefit from knowing “up front” what is going to happen to the structure. In addition, costs to both the applicant/owner and the city would likely be reduced because changes mid-project would be eliminated.

The HPB, in general, supported the concept of allowing the reconstruction of existing Historically Significant buildings that are substantially deteriorated, but did not want to tie it to a percentage of failed materials. After lengthy discussion, the HPB directed staff to talk with the Building Department to develop a standard by which these decisions could be made and to bring that standard back to the HPB for consideration. This could include:

- Standards for foundation and structural materials
- Standards for exterior materials
- Standards for ornamental and façade materials

Staff is seeking discussion on this concept from the City Council and Planning Commission.

- **Is Council supportive of allowing reconstruction of Historically Significant Buildings as a means of preservation?**
- **Does council concur with Staff’s and HPB’s recommendation to develop standards with which a building must comply before being eligible for reconstruction?**

D. Volunteer Peer Review Process

On February 27, 2008 at a joint Planning Commission, City Council and HPB work session, proposed amendments to the HR1 zone were presented that included a Volunteer Peer Review Process. The relevant section from the February 27 staff report follows:

Voluntary Peer Review Process: The current draft [of the design guidelines] establishes a Voluntary Peer Review process intended to allow applicants the opportunity to present preliminary project concepts to [a] group of peers for input and possible problem solving. This is a non-mandatory pre-application process aimed at looking at development projects holistically prior to application. Suggestions provided by the VPR committee are not binding on subsequent decision-making bodies, but can [be] used as guidance in the event a formal application is filed. Staff seeks Council, Planning Commission and HPB feedback as to whether or not to formally implement the VPR process through the proposed code amendments.

Proposed HR-1 Amendments accompanying the staff report read as follows:
15-2.2-8. Architectural Review (B) VOLUNTEER PRE-APPLICATION PEER REVIEW. An applicant may elect to participate in a voluntary pre-Application peer review. The purpose of the voluntary pre-Application peer review is to encourage Applicants to approach project Development from an early and comprehensive perspective incorporating all potential issues and regulatory processes. The objective of the voluntary pre-Application peer review process is to foster a collaborative discussion on the project context and to provide preliminary peer and

staff input regarding strategies to best achieve project code compliance, neighborhood architectural Compatibility, and construction impact mitigation.

The Volunteer Pre-Application Peer Review (VPR) Committee shall consist of three (3) professional architects and a representative from the Planning Department. The VPR Committee may request additional participation from the Building and Engineering Departments when necessary. The Planning Department representative shall keep a written report of all VPR Committee recommendations and forward said report to any future administrative review body.

The Planning Commission requested public input on the VPR concept. Neither the City Council nor the HPB voiced consensus on this issue at the February 27th meeting.

The current draft of the Design Guidelines do not contain an optional Volunteer Peer Review meeting as part of the Historic District Design Review Application process because a number of issues surrounding its implementation have not been resolved. Including:

- 1) Criteria, scope, and authority.
 - a) Eligibility: Who would be eligible to serve on the VPR? Licensed architects only? At least one licensed architect? Engineers? Park City residents or not? How would they be chosen?
 - b) PCMC Staff: How would staff participate? Who would manage the process? How often would the group meet? How or would this meeting impact the weekly staff design review meeting? Will legal department have a role?
 - c) Conflicts/Problems: If the recommendations or direction given by the VPR is contrary to the LMC, Design Guidelines, and/or established policy, how will the issue be resolved?
 - d) Accountability: As a volunteer committee, how would the City ensure that the group is available to meet with applicants, especially those from out of state?
- 2) Cost & time to manage the process.
 - a) Does the city currently have the staff needed to manage the process? What is the additional cost to the planning department? Do staff's current work plans have the flexibility to manage the process?

Staff believes that many of the issues that were intended to be resolved by the VPR process are now addressed by the recommendation to 1) create a Design Review Team to provide better communication with the applicant, and 2) the recommendation to require a documentation of existing conditions at the beginning of the process.

Staff recommends not instituting a Volunteer Peer Review Process at this time, but implementing the Design Team and Existing Conditions requirements. Does Council concur with the approach?

E. Historic District Design Review Process.

City Council discussed the idea of increasing the HPB's design review role in February 2007, April 2007, May 2007, and December 2007, and February 2008. At these meetings, the Council did not express majority support to empower the HPB with design review authority. On February 7, 2008, the Council instead directed the HPB to conduct the additional duties outlined in the LMC Section 15-11-6.

At a joint Planning Commission, City Council and HPB work session held February 27, 2008 to discuss proposed amendments to the HR1 zone that pertained to issues other than the Steep Slope CUP process or standards, the Planning Commission asked the staff to investigate the possibility of the HPB having a role in the review of applications for Steep Slope CUP. The City Council did not voice support or opposition to this request during the meeting.

Current Land Management Code already allows the Planning Commission to refer a proposal to the body that oversees the City's Historic Preservation issues for a recommendation.

*15-2.2-6 Development on Steep Slopes (10) Height Exceptions (Steep Slopes)(c)
The proposed Building includes horizontal and vertical step backs to achieve increased Building articulation and Compatibility. The Planning Commission may refer the proposal to the Historic District Commission, prior to taking action, for a recommendation on the extent to which the proposed articulation and design are consistent with the Historic District Design Guidelines.*

This language is repeated verbatim in Title 15-2.1 Historic Residential Low Density, Section 6 Development on Steep Slopes (10)(c) and in Title 15-2.3 Historic Residential (HR-2), Section 7 Development on Steep Slopes (10)(c).

Staff recommends:

1) the existing language in the Title 15, Chapter 2.1-6(10)(c), Chapter 2.2-6(10)(c), and Chapter 2.3-7(10)(c) be amended to reflect the *Historic Preservation Board* rather than the *Historic District Commission* and,
2) the Planning Commission exercise its discretion on a case-by-case basis to refer Steep Slope CUP applications to the Historic Preservation Board for a recommendation as currently outlined in the LMC.

- **Does City Council agree with the recommendation of staff to encourage the Planning Commission to refer Steep Slope CUP applications to the HPB as currently contemplated?**
- **Is there a policy need to vest the HPB with additional design review authority in addition to Steep Slope CUP review (if referred by Planning Commission)?**
- **If so, would City Council like to amend the LMC to provide the HPB with additional design review authority, and what would the scope of that design review authority be?**

F. Average Wall Height

This issue, first raised at the February 27 joint Planning Commission, City Council, and HPB work session, was intended to provide a new way to determine building height in the Historic Districts. The concept was discussed at some length, and the Planning Commission and City Council directed staff to return with conceptual drawings of probable designs (best and worse-case scenarios). In light of the other significant issues to be discussed on June 26th, staff recommends that this topic be considered at a future joint meeting. Staff recommends that this be scheduled for Planning Commission and City Council on August 7, 2008.

Review: This report has been reviewed by the Planning, Legal, Building, and City Manager's Departments.

Recommendation: City Council should provide direction on the various issues listed above and take public comment. Staff recommends that a second Joint Work Session be scheduled for August 7, 2008 to discuss the "Average Wall Height" concept and any other issues that are not fully considered on June 26th.

Attachment:

- 1) *Draft Design Guidelines for Park City's Historic Districts and Historically Significant Building (under separate cover)*

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 12, 2008**

Present: Mayor Dana Williams; Council members Candace Erickson; Roger Harlan; Jim Hier; Joe Kernan; and Liza Simpson

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Bret Howser, Budget Analyst; Sharon Bauman, Analyst II, Ken Fisher, Recreation Manager; Gary Hill, Budget Manager and Interim Planning Director; Bret Howser, Budget Analyst; Diane Foster, Sustainability Manager; Jerry Gibbs, Public Works Director; Kim Leier, Human Resources Manager; and Lori Collett, Finance Manager

1. Council questions/comments. Candace Erickson congratulated Chief Lloyd Evans on receiving the Rotary Club's Citizen of the Year Award. Joe Kernan stated that the proposed budget is reasonable but the City could achieve a better budget with more responsiveness to the community. There should be more attention to public surveys on needs and satisfaction. For instance 55% voted for the \$15 million walkability bond but 45% did not want to pay more taxes. He felt that both segments could be served and more time should be spent on compromise. One solution may be the creation of a public budget committee who develops policies and primary goals on spending tax dollars. Next week, the budget will pass, but Mr. Kernan stated that he will vote against it. He felt there should be a better balance of power with budget decisions involving management recommendations with an informed public budget committee. A well represented group of citizens can help the City spend its tax dollars in a way that represents the whole community.

Liza Simpson hoped that copies of the draft Historic District Guidelines will be made available to the public and placed on the website. Also, the locations for meetings for boards need to be updated. Jim Hier reported on the COSAC meeting and the Summit Land Conservancy has received a number of inquiries from the east side about conservation easements. Roger Harlan relayed business conducted at the Library Board and Mountainlands Community Housing Trust who met during the week. He stated that Bob Wells negotiated an arrangement with the Heber Valley RV Park for housing for 200 employees. Deer Valley will operate several shuttles a day to and from Heber and Park City. Mayor Williams commented on his trip to Oregon and remarked on the number of new wind farms being installed in the northwest.

2. Public Areas Administrative Policy and naming of Dog Park. Sharon Bauman explained that staff is seeking direction on affirming a previously discussed policy on naming public areas and whether to allow the dog park user group to proceed with a naming contest for the dog park. In 2005, Alison Butz presented the naming policy but it was never formally adopted. Concerns expressed by Council at that meeting are addressed in this draft. She emphasized that the purpose of the policy is to establish a uniform procedure for naming public areas and the policy identifies public

areas. Not all public areas must be named but from time to time, the City receives requests from user groups, neighbors, or interested parties who want to name a particular feature or area. Staff would like to use the administrative policy as a tool in dealing with these requests. Ms. Bauman referred to definitions of types of public areas and pointed out that names for subdivisions are submitted by the developers and/or owners and are approved by the City Engineer. She read a list of purpose statements and referred to the guidelines for naming and renaming public areas. Candace Erickson was pleased to see the ten years included as suggested qualifying criteria for prominent citizens. Council members were supportive of the policy.

Ken Fisher explained the contest, engaging the public, to name the dog park. The three top names would be submitted to Council for a final decision. Jim Hier asked that the names be prioritized. Roger Harlan pointed out the possibility that members may not like any of the names submitted. Jim Hier, "I move we affirm the Park City Naming of Public Areas Administrative Policy and allow the dog park user group to make a recommendation to City Council on the name of the new dog park". Joe Kernan seconded. Motion unanimously carried.

2. Planning Commission stipend. Gary Hill stated that this topic was reviewed in 2005. Currently, members receive \$100 per meeting and use of ski passes, consistent with employee use, APA membership, and Racquet Club use. He referred to a comparison included in the staff report where Park City falls within the high end of compensation. The Planning Commission does not receive pay for joint meetings and it is recommended that the policy be expanded to compensate members for these special sessions. Mr. Hill further recommended that Racquet Club use be consistent with the employee policy rather than being capped at a \$50 value. It was pointed out that the top three cities pay about \$133 per meeting and Joe Kernan expressed that he would be supportive of raising the compensation to that level.

With regard to checking out ski passes, Jim Hier felt it more appropriate to limit skiing to weekdays so City staff is not impacted. He felt it appropriate to pay Commissions \$100 for attending special meetings they are required to attend, including joint meetings and/or task force meetings. Joe Kernan suggested offering golf passes and Gary Hill replied that this was discussed in 2005. City employees have the ability to buy a punch pass at a discounted cost.

Kim Leier compared the policies for full-time and part-time employees in checking out ski passes for members. Candace Erickson preferred not to diminish the benefit to full-time employees by extending passes to Commissioners on the weekend. Members agreed to extend ski passes to Planning Commission members on the part-time employee basis on weekdays only and to pay \$100 per meeting for other required meetings attended. Liza Simpson recommended offering members subscriptions to any professional organizations of interest and Jim Hier felt that membership with APA seems adequate.

3. Outstanding budget issues. Bret Howser referred to his staff report addressing the CIP Budget, the carbon footprint analysis request in the amount of \$45,000, and changes between the proposed and the final budget.

He explained that remaining capital funding from previous years is the carry-forward number. The five year CIP contains \$154 million worth of capital projects which are recommended for funding. Of the \$154 million, \$86 million is cash on hand which is funding for the current year's adjusted budget. All of the carry-forward amount and the 2008 adjusted budget money is cash and everything going out in the future, with one exception, is anticipated revenues. The exception is the \$2 million of beginning balance money which is not appropriated in the CIP but planned to be spent on the Racquet Club renovation project next fiscal year and he pointed out the unfunded requests in the CIP. There was discussion about funding the speed feed-back signs. Jim Hier commented on the gap between \$86 and \$154 million for which funds are not yet earned in future years. He understood that everything in the current year is funded with cash and felt it would be helpful to look at future funding sources. Joe Kernan agreed.

Diane Foster spoke about the City's commitment to the Mayors Climate Protection Agreement in 2005 which stated that Park City would reduce our collective carbon footprint to 7% below the 1990 level by 2012. In order to do this, our 2008 levels and 1990 levels need to be determined and the 1990 levels will include some assumptions. This will provide a framework for all environmental initiatives and goals and a mechanism to measure achievements. The Mayor advised that the Kyoto Accord is likely to be amended this year. He emphasized that the expenditure of \$45,000 will determine where we are today and much of the information to 1990 can be extrapolated mathematically. Roger Harlan pointed out that many resources like water can be easily measured. Mayor Williams spoke about the importance of community buy-in for success. Mr. Hier stated that he is more supportive of the project now that he understands that the majority of the funding is not going to be spent on gathering information back to 1990. Joe Kernan felt that the information will be helpful in selecting sustainability projects that most benefit the community. Roger Harlan asked if the \$45,000 is a good use of taxpayers' dollars. Ms. Foster explained that the reason this project will be contracted is because it is the most efficient way to accomplish goals because staff does not have the expertise or software. Because the citizens of Park City are very environmentally oriented, she believes there will be community support. Ms. Foster stated that the project will go out to bid. Johnson Controls has performed a carbon footprint for Salt Lake, PCMR and Deer Valley Resort and will be one of the bidders. Candace Erickson stated that she has changed her mind about the project and is supportive now, understanding the effort will be to obtain current data rather than retroactive work to 1990.

Bret Howser addressed changes to the proposed budget, some of which are technical, additional requests from staff, or directives from Council. He discussed the necessary inter-fund transfer to the Fleet Fund in the amount of \$510,000 for fuel and maintenance costs. He spoke about the General Fund surplus which would be transferred to the CIP Budget and this year the transfer totals \$7 million but about \$900,000 of this amount is

from bond revenues in the MBA Fund. This amount will be split and \$1.5 million will be allocated to the Water Fund to help pay for electronic meter readers. Discussion ensued about the amount of water lost through leaks throughout the entire water system which Jerry Gibbs indicated is in a reasonable range in consideration of the miles of pipe. Mr. Howser stated that \$700,000 is allocated to the equipment and replacement fund; \$1.7 was appropriated to projects in the original budget and an additional \$2.2 million to new projects identified in the staff report. In response to a question from Jim Hier, Lori Collett explained that some capital projects were funded through MBA bonds. Mr. Howser pointed out that revenue assumptions were made in the proposed budget for the Water Fund which have been firmed up in the final budget.

Because of the unusually challenging snow year, the Streets Department requested \$400,000 to cover additional costs for snow removal. Staff revised its estimates to make the Department whole and to ensure that snow removal will not exceed budget next year. The amount is an additional \$400,000 for a total of \$800,000. He stated that \$100,000 is available in the General Fund contingency to offset the amount for a net request of \$300,000 for the Streets Maintenance Budget. This represents a 6% increase from the General Fund to the Public Works Budget. Jim Hier pointed out that a monthly monitoring module would have identified the shortfall months ago. Bret Howser replied that the Streets Maintenance Budget and other operations will be monitored more frequently. He discussed the 18% limit for the General Fund balance set by state law.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 12, 2008**

I ROLL CALL

Mayor Pro Tem Roger Harlan called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, June 12, 2008. Mayor Dana Williams was excused from the regular meeting but presided earlier over the work session and participated in closed session. Members in attendance were Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Heinrich Deters, Sustainability Analyst; Jon Weidenhamer, Project Manager; and Francisco Astorga, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council disclosure - Joe Kernan disclosed that one of his recycling customers is Trail's End.

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

1. Leash law and off-leash programs - Dave McFawn, Daly Avenue resident, stated that when he moved to Park City 14 years ago, it was a laid back easy going town. He was very disturbed to read that two dogs were sprayed with mace by an individual because the dogs were off-leash in City Park. He suggested a compromise allowing dogs to be off-leash at Trailside every other day or certify owners who can control their dogs-off leash, for example. He felt that many dog owners would enjoy no leash areas and days. Jim Hier stated that this is an issue with no simple resolution. He found it interesting that the guy maced the dog and not the dog owner who attacked him for spraying her dog. Liza Simpson also noted that the two dog owners approached were both petite women. Candace Erickson pointed out that the new dog park is a solution for some, acknowledging that the park is probably best suited for small and/or medium sized dogs. As far as walking dogs off-leash, Ms. Erickson stated that she has received two emails from a local family who is very upset about people walking their dogs off leash because their children are terrified due to past events.

Mr. McFawn asked if the Recreation Advisory Board has explored off-leash days or trails and asked if there is interest on behalf of Council members to do so. Mr. Hier replied that it isn't really a RAB issue and there was discussion about trails crossing through other jurisdictions. Mark Harrington suggested that this may be an appropriate inter-agency topic and the Old Town trails within Park City's boundaries may require agreements with private property owners. Liza Simpson pointed out that the attacks happened a while back and conflicts may increase in the summer. Council members expressed interest in exploring off-leash options.

2. Dog Park Project - Rich Wyman, resident, asked about the status of naming the dog park. It was explained that this was discussed during work session where holding an on-line contest was approved by Council. Jon Weidenhamer relayed that it is hoped that the dog park will be in operation by the end of July and described the road being built by IHC. Mr. Wyman questioned the City's commitment to the project since he understands City money will not be used because of RAP Tax money received to build the dog park. It was explained that the City will be using the grant and its own funds for elements of the park and the land is a significant contribution.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF MAY 29, 2008

Joe Kernan, "I move we approve the work session notes and minutes of May 29, 2008". Jim Hier seconded and Liza Simpson disclosed that she will be abstaining since she was not in attendance. Motion carried.

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Abstention

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

1. Consideration of a Resolution proclaiming the week of June 15 – June 22, 2008 as IMBA World Mountain Biking Summit Week in Park City, Utah – Heinrich Deters stated that the International Mountain Biking Association is recognized as the foremost mountain biking advocacy group in the world. He recognized Carol Potter, Mountain Trails Foundation, who was instrumental in bringing the event to Park City. Carol Potter stated that she thrilled because she has been working for two years to bring the IMBA to Park City. She highlighted activities planned. The Mayor requested a motion to approve. Jim Hier, "I so move". Liza Simpson seconded. Motion unanimously carried.

2. Consideration of Main Street dining leases extending the period from May 15 to May 1 each year and from one year terms to a term of five years, in forms approved by the City Attorney:

- 317 Main Street- Eating Establishment
- 525 Main Street- Main Street Deli
- 227 Main Street- Uptown Fare
- 412 Main Street- Bistro 412
- 402 Main Street- Java Cow Café & Bakery
- 530 Main Street- Main Street Pizza & Noodle

Heinrich Deters explained two changes to the existing lease terms, as stated in the agenda heading. These businesses must have an existing approved CUP and the City reserves the right to terminate leases at any time. He added that staff has not received

any complaints from the public about the outdoor dining program. Jim Hier, "I move we approve a series of five year leases to conduct sidewalk dining on City property, based on the staff report of June 12". Liza Simpson seconded. Motion unanimously carried.

3. Consideration of a Resolution adopting a final revised budget for fiscal year 2008 and the budget for fiscal year 2009 for Park City Municipal Corporation and its related agencies - The Mayor Pro Tem opened the public hearing and with no comments from the audience, requested a motion to continue to June 19. Candace Erickson, "I so move". Jim Hier seconded. Motion unanimously carried.

4. Consideration of an Ordinance approving The Habitat Replat Amendment located at 154 Marsac Avenue, Park City, Utah – Francisco Astorga explained that the property is located in the HR-1 District. The request is to combine portions of Lots 13, 14 and 15 of Block 52 of the Park City Survey. A street vacation of a portion of Marsac Avenue and two parcels of the Millsite Reservation will create three lots of record. He explained that two of these lots would be utilized for Habitat for Humanity and the third dedicated to the City for open space. Staff finds good cause for this plat amendment and the Planning Commission forwarded a positive recommendation. Mr. Astorga explained that the City Council must find the application compliant with Resolution No. 8-98 adopting a policy on vacating public rights-of-way. Staff also finds good cause for the street vacation. Julie Barnhart of Habitat thanked Council. The public hearing was opened and there were no comments from the audience. Jim Hier requested relocating Condition of Approval No. 4 and move it as Finding No. 15. Jim Hier, "I move we approve an Ordinance approving The Habitat Replat, as outlined in the staff report, based on the findings of fact, conclusions of law, and conditions of approval with Condition of Approval No. 4 being rewritten as Finding of Fact No. 15". Candace Erickson seconded. Motion unanimously approved.

5. Consideration of an Ordinance approving the Fourth Amendment to Trail's End at Deer Valley Record of Survey, located at 2100 Deer Valley Drive South, Park City, Utah – Planner Francisco Astorga explained that the application is for a remodel and structural changes to a common building within the development. The applicant explained the remodel involving moving the office and creating a front-desk check-in and lobby seating area for guests. Candace Erickson, "I move approval of the Fourth Amendment to the Trail's End at Deer Valley Record of Survey plat based on the findings of fact, conclusions of law, and conditions of approval as found in today's report, dated June 12". Liza Simpson seconded. Motion carried unanimously.

6. Consideration of an Ordinance approving the Second Amended Double Jack Condominium Record of Survey located at 1313 Woodside Avenue, Park Avenue, Utah – Francisco Astorga noted that the purpose of the application is to convert 216 square feet from common to limited common area adjacent to Unit 1 and to revise the limited common area designation in the underground parking area. The project was built differently than what was platted and the application amends the garage area to reflect how it was built. The Mayor Pro Tem opened the public hearing.

Applicant Michael Witty stated that he has spent quite a bit of time in public service and emphasized that Francisco is a great public servant. He has kept him informed at every stage and treated him as if this was a large project. With no further input, the public hearing was closed. Joe Kernan, "I move we approve the Ordinance approving the Second Amended Double Jack Condominium Record of Survey as written in the staff report". Liza Simpson seconded. Motion unanimously carried.

7. Consideration of an Ordinance approving the 369 Daly Avenue Subdivision creating two lots of record at 361 and 369 Daly Avenue, Park City, Utah - Planner Jeff Davis stated that the property currently exists on three metes and bounds parcels. Parcel A has a non-historic existing home, Parcel B is a vacant lot and Parcel C is a scrap piece deeded to the owner from the Daly West Subdivision. The applicant is proposing to divide Parcel C in half and incorporate the two halves into Parcels A and B. The Planning Commission forwarded a positive recommendation and no public input was received at the meeting. The Mayor Pro Tem opened the public hearing and with no comments from the public, closed the public hearing. Jim Hier, "I move we approve the 369 Daly Avenue Subdivision based on the findings of fact, conclusions of law and conditions of approval as found in the draft Ordinance". Candace Erickson seconded. Motion unanimously carried.

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VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Jon Weidenhamer; Project Manager; and Mark Harrington, City Attorney. Candace Erickson, "I move to close the meeting to discuss property and personnel". Roger Harlan seconded. Motion carried unanimously. The meeting opened at approximately 4 p.m. Jim Hier, "I move to open the meeting". Joe Kernan seconded. Motion unanimously carried.

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Prepared by Janet M. Scott

Janet M. Scott, City Recorder



**RESOLUTION HONORING POLICE CHIEF LLOYD D. EVANS, SR.
FOR HIS EXCEPTIONAL 30 YEAR PUBLIC SAFETY CAREER
IN PARK CITY, UTAH**

WHEREAS, Police Chief Lloyd D. Evans, Sr., a fourth generation Parkite, born in the Miners Hospital, educated in the Marsac Elementary School, graduated from the old Park City High School, now the Park City Library and Education Center, seemed destined to play an integral part in the evolution of his quiet mining town; and

WHEREAS, the Chief's 30 year commitment to the Park City community began in 1978 when he was hired as the City's eighth Patrolman. Advancements in his law enforcement career began quickly by being promoted to Sergeant over Detectives in 1983, to Lieutenant in 1984, to Deputy Chief in 1991, and Police Chief in 1997, always working diligently to implement better standards within the Department and to provide the best possible protections for the public; and

WHEREAS, Chief Evans' innovative practices in community-oriented policing has molded a Department of 30 sworn Police Officers and 12 Reservists into an institution promoting public safety while inspiring deep citizen confidence and trust; and

WHEREAS, in facing issues like assimilation of demographic groups, demands of growth, and economic fluctuations which at times divided the public, Chief Evans managed to keep the focus of the Police Department on the 'softer' side of policing by building bridges, educating the public, and promoting exceptional customer service; and

WHEREAS, Chief Lloyd Evans has risen to the challenges of accommodating everything from a stunning increase in cultural diversity to handling such world famous events as the 2002 Olympic Winter Games and the annual Sundance Film Festival and has done so with genuine warmth and sincere caring; and

WHEREAS, Chief Lloyd Evan's deep respect for the public safety profession never diminished his reputation as one of the organization's biggest proponents of humor and fun. His comedic performances as the emcee at City parties were unmatched. As one of the founders of the Cops vs. Hippies Thanksgiving Football Games in the early 1980s, he brought camaraderie and entertainment to a whole new level, and as Park City's Santa Claus for decades, it's difficult to estimate the hundreds of local kids who climbed up on his lap in awe and delight; and

WHEREAS, Lloyd Evans seems to earn admiration and respect from everyone he meets, not only in the field of public safety, but other professionals, co-workers and ordinary citizens who are proud to call him "friend";

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council hereby acknowledge Police Chief Lloyd Evan's dedication and devotion to duty over the past 30 years, and extend their heartfelt wishes for continued success and happiness in the future.

PASSED AND ADOPTED this 26th day of June, 2008.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder



City Council Staff Report

Subject: Third Supplemental Indenture of Trust for Water Revenue Bond
Author: Kathy Lundborg
Department: PW/Water
Date: June 26, 2008
Type of Item: Administrative

Summary Recommendations:

Staff recommends Council authorize the Mayor to approve and adopt the Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006.

Topic/Description:

City's Water Revenue Bonds, Series 2006; and related matters.

Background:

In August 2005, the Permanent Community Impact Fund Board authorized a \$4,450,000 loan to Park City for the construction and installation of culinary water system improvements. The proceeds of the loan were authorized to finance three (3) individual projects as follows:

- Park Meadows Treatment Facility
- Boothill Storage Tank
- Boothill Pump Station

These three projects comprised phase 1 of the larger system improvement (The Boothill Treatment, Storage, and Transmission Line), designed to provide culinary supply redundancy for zones within Park City's historic district, ensure adequate service and fire flow for Park Meadows, Prospector and Empire Pass neighborhoods, provide enhanced water treatment and to provide capability to blend water to address Spiro Tunnel antimony issues. The original engineer's cost estimates for the phase one projects totaled \$4,450,000 but through value engineering and cost management the City has completed the three projects expending only \$3,676,994 (detailed in the table below).

Project	Project Expenditures	Loan Amount	Unexpended Balance
Boothill Water Storage Tank	\$1,592,312	\$1,796,523	\$204,211
Boothill Pump Station	\$1,503,695	\$1,912,852	\$409,157
Park Meadows Well Treatment Facility	\$580,987	\$740,625	\$159,638
Total:	\$3,676,994	\$4,450,000	\$773,006

Park City would like to apply the remaining loan balance of \$773,006 to project phases 2 and 3. The three phases are detailed in the paragraphs that follow. An aerial map that provides a visual orientation of all the project components is also attached.

Boothill Treatment, Storage and Transmission Line Project

Park City Municipal Corporation has a critical need to construct a project designed to provide a redundant water supply for Old Town and Deer Valley, ensure adequate service and fire flow for Park Meadows, Prospector, and Empire Pass neighborhoods, provide better treatment, and provide capability to blend water to address the Spiro Tunnel antimony issues. The overall project has been divided into three separate phases:

Phase 1 (Completed):

Boothill Tank: 2 million gallon concrete reservoir which provides additional storage; Park Meadows Well Treatment Facility which provides additional water for the Boothill Tank; and Boothill Pump Station that will lift water from the Boothill pressure zone to the Woodside tank once the Boothill Transmission Line is constructed.

Phase 2 (Construction proposed for Summer 08):

Boothill Transmission Line from the Deer Valley Dr/Bonanza Dr intersection, along Deer Valley Drive to 12th Street, west to 12th Street and Woodside; PRV station at Deer Valley Drive and 12th Street. This phase can be built with limited impact on traffic on Deer Valley Drive as the pipe will be installed behind the curb.

Phase 3 (Construction proposed for Spring/Summer 09 in conjunction with the Bonanza Drive Reconstruction Project):

Boothill Transmission Line from newly constructed Boothill Pump Station, across Kearns Blvd, along Bonanza Drive to the terminus of the Phase 2 transmission line project at the Deer Valley Dr/Bonanza Dr intersection. Construction of this project will have major impacts on traffic on Bonanza Dr., so it was decided to complete this project in conjunction with the road reconstruction project.

Park City formally requested that the Permanent Community Impact Fund Board approve these requested changes in the loan scope of work and apply the remaining balance of \$773,006 to fund project phases 2 and 3. The latest engineer's cost estimate for the construction of Phase 2 is \$870,000. The remaining balance is part of the current approved budget and is funded with water service fees and impact fees.

Park City requested that both phase 2 and 3 are included in the change to scope of work. This will enable any balance of unexpended loan funds remaining after completion of phase 2 to be applied to phase 3.

Analysis:

In order to get the loan scope of work changed and to apply the remaining balance to phases 2 and 3, the Second Supplemental Indenture needs to be amended to provide for the creation of the Boothill Phases 2 and 3 Project Subaccount. Thus the Third

Supplemental Indenture needs to be approved and adopted through resolution by Council. If this is not completed, the remainder of the loan cannot be used and alternate funding sources will have to be identified to construct the project.

Department Review:

Public Works, Budget, Finance, Legal, and the City Manager have reviewed this staff report.

Alternatives:

A. Approve:

Staff recommends Council authorize the Mayor to approve and adopt the Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006.

B. Deny:

Council could deny Staff's request. Denying the request would delay the construction of the needed project as described above.

C. Modify:

Council could modify Staff's request. Modifying the request would delay the construction of the needed project as described above.

D. Continue the Item:

Council could continue Staff's request. Continuing the request would delay the construction of the needed project as described above.

E. Do Nothing:

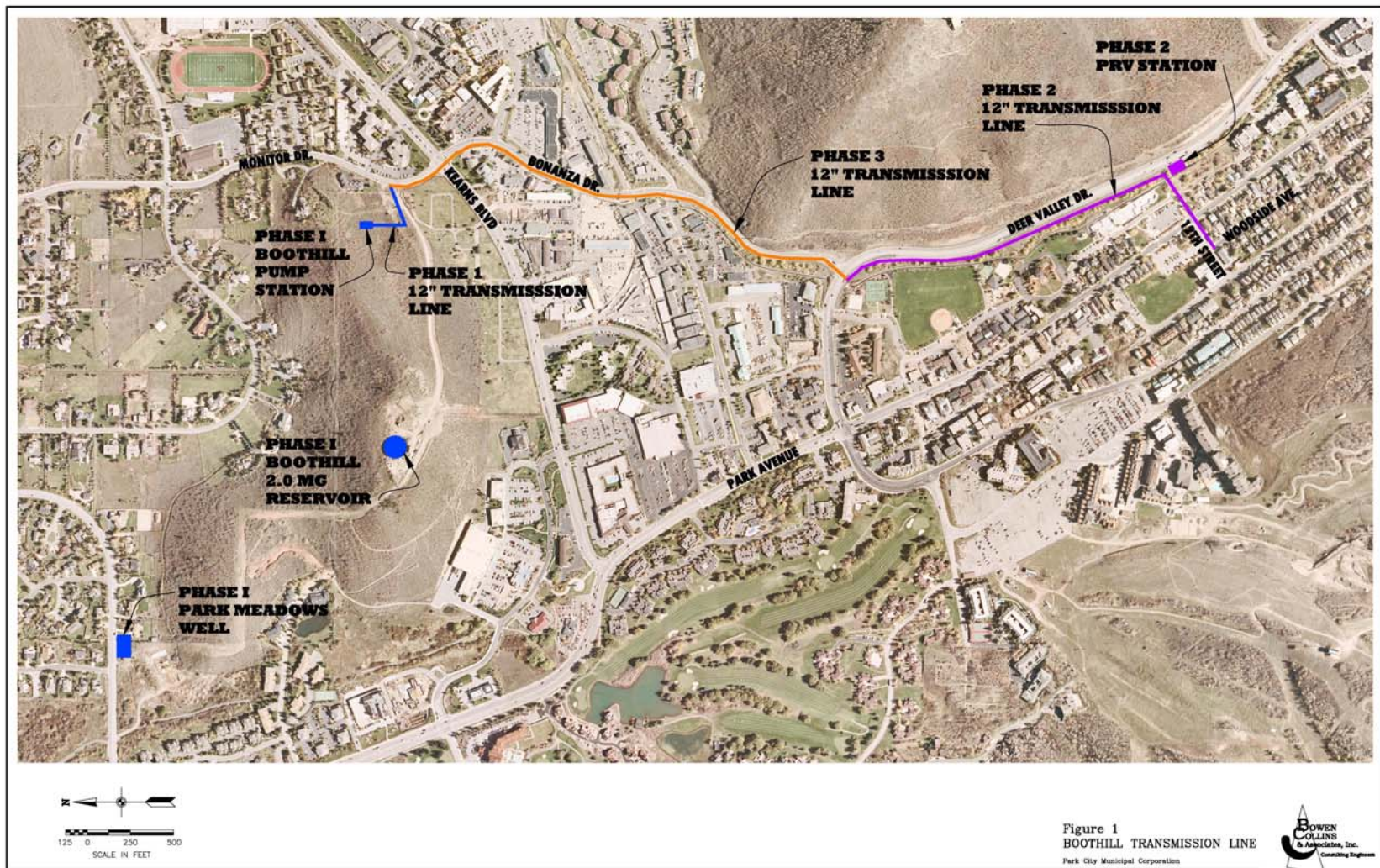
Staff does not recommend this alternative. Doing nothing would also delay the construction of the needed projects as described above.

Significant Impacts:

Phases 2 and 3 are part of the current recommended capital budget. If the remaining balance of the loan is not used for Phase 2, alternative borrowing will need to be identified which will most likely have less favorable terms as compared to the current loan.

Recommendation:

Staff recommends Council authorize the Mayor to approve and adopt the Resolution authorizing the execution and delivery of a Third Supplemental Indenture of Trust to amend the Second Supplemental Indenture of Trust relating to the City's Water Revenue Bonds, Series 2006.



RESOLUTION No. _____

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A THIRD SUPPLEMENTAL INDENTURE OF TRUST TO AMEND THE SECOND SUPPLEMENTAL INDENTURE OF TRUST RELATING TO THE CITY'S WATER REVENUE BONDS, SERIES 2006, AND RELATED MATTERS.

*** *** ***

Whereas, Park City, Utah (the “City”) is a political subdivision and body politic duly organized and existing under the Constitution and laws of the State of Utah; and

Whereas, the City and Zions First National Bank, as trustee (the “Trustee”), have heretofore executed and delivered the General Indenture of Trust, dated as of December 1, 2002, between the City and the Trustee, as supplemented (the “General Indenture”), and as further supplemented by the Second Supplemental Indenture of Trust, dated as of March 1, 2006, between the City and the Trustee (the “Second Supplemental Indenture”), providing for the issuance of the City’s \$4,450,000 Water Revenue Bonds, Series 2006; and

WHEREAS, the City desires to amend the Second Supplemental Indenture to provide for the creation of the Boothill Phases 2 and 3 Project Subaccount to pay a portion of the Costs of the Boothill Phases 2 and 3 Project (the “Boothill Phases 2 and 3 Project”); and

WHEREAS, attached hereto as *Exhibit A* is the form of a Third Supplemental Indenture of Trust, dated as of June 1, 2008 (the “Third Supplemental Indenture”) between the City and the Trustee, which would amend the Second Supplemental Indenture to effectuate such amendment; and

WHEREAS, Section 9.2 of the General Indenture provides that the City and the Trustee may, with the consent of the Bondholders, enter into a supplemental indenture for the purpose of modifying, altering, amending, adding to or rescinding, any of the terms or provisions contained in any supplemental indenture; and

WHEREAS, the consent of the State of Utah, Permanent Community Impact Fund Board, the sole Bondholder of the Series 2006 Bonds, the form of which is attached hereto as *Exhibit A*, will be delivered to the City and the Trustee prior to the execution and delivery of the Third Supplemental Indenture;

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

Section 1. Authorization of Execution and Delivery of the Third Supplemental Indenture.

The Third Supplemental Indenture in substantially the form presented at this meeting is in all respects approved, authorized and confirmed. The Mayor and City Recorder of the City are hereby authorized to execute said Third Supplemental Indenture in substantially the form presented at this meeting and with such changes as are authorized by the Mayor which may be necessary to correct errors or omissions therein, to remove ambiguities therefrom, to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the City Council, or the provisions of the laws of the State of Utah or the United States. The execution of said document by the Mayor shall conclusively establish the approval of the City of any such changes, alterations or additions.

Section 2. Authorization of Further Acts. The proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary in connection with the execution and delivery of the Third Supplemental Indenture or to carry out and comply with the provisions of the Third Supplemental Indenture as executed and delivered.

Section 3. Ratification of Acts. All acts and doings of the officers and agents of the City that are in conformity with the purposes and intent of this are hereby, in all respects, approved, ratified and confirmed.

Section 4. Severability. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

Section 5. Effective Date. This resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the City Council of Park City, Utah, this 19th day of June,
2008.

PARK CITY, UTAH

Mayor

ATTEST:

City Recorder

[SEAL]

EXHIBIT A

[THIRD SUPPLEMENTAL INDENTURE OF TRUST]

EXHIBIT B

[CONSENT OF BONDHOLDER]

Resolution No.

RESOLUTION CELEBRATING KPCW'S 28TH ANNIVERSARY

WHEREAS, KPCW, Park City Community Wireless, began broadcasting on July 2, 1980 at 8 p.m. and has provided 28 years of uninterrupted community service; and

WHEREAS, KPCW at 91.9FM and 88.1FM has provided the Park City area with up to date local news, traffic and weather information, free community services such as lost and found, ride board, public service announcements and music; and

WHEREAS, KPCW, through its membership with American Public Media, Public Radio International and National Public Radio, broadcasts National and International programming to the residents and listeners of Summit & Wasatch counties, including Morning Edition, Marketplace Morning Report, All Things Considered, the BBC World Service, and Car Talk.

WHEREAS, KPCW continues to be the only source of daily mass communication, serving Summit and Wasatch counties through its new home located at 460 Swede Alley in Park City, Utah;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council expresses its appreciation to KPCW which strives for excellence in continuing to provide local news, weather, music and continued community services to the residents and guests of Park City, Summit and Wasatch Counties and congratulates this non-profit on its remarkable 28 years of broadcasting in our community.

PASSED AND ADOPTED this 26th day of June, 2008.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

City Council Staff Report



Subject: University of Utah
Author: Max J. Paap
Date: June 24, 2008
Department: Sustainability
Type of Item: Administrative – Lease Authorization

Summary Recommendations:

Staff recommends that Council approve the four year lease renewal of the Library and Education Center to the University of Utah from July 1, 2008 through June 30, 2012; and the First Addendum to that renewal that allows use of Room 205/207 during the Marsac Building remodel that would run from July 1, 2008 through July 1, 2009 in a form approved by the City Attorney.

Topic:

The University of Utah is looking to continue to lease a portion of the Library and Education Center to provide community education programs and continuing education to the Park City/Summit County area.

Background

Since 2004 PCMC has rented space to the University of Utah (UofU) at the Library. They rent Rooms 103, 201, 202, 205, and 207, which is a total of 3,222 square feet. The terms of the existing lease expire on June 30, 2008. At this time staff recommends Council consider a new lease, the goals of which are to: update and simplify terms; provide a space for Council, Planning Commission, and other necessary public meetings during the Marsac Building remodel; and allow, if warranted, for consideration of a major expansion of Library programming in 2012.

It is important to the UofU to:

1. Remain eligible for the 4% discount for early payment
2. Rather than have a fluctuating rental amount based on temporary PCMC use, continue to keep the base rent amount for the 4 year lease at \$53,968.50 while including individual addendums during the Marsac Remodel allowing PCMC use of room 205/207.

Analysis

The lease terms will be from July 1, 2008 until June 30, 2012. The rate is \$53,968.50 (\$16.75/sf annually, \$4,497.38 monthly). In 2010, the rate increases to \$57,190.50 (\$17.75/sf annually, \$4,765.88 monthly). This is similar to rental amounts of other City-owned facilities. In the past the UofU has been eligible for a 4% early pay discount. Staff recommends we continue this discount. Thus, annual rent from 2008 - 2010 would

be \$51,809.76/ \$4,317.48 monthly; and from 2010-2012 would be \$54,902.88 annually/ \$4,575.24 monthly.

Due to the Marsac remodel PCMC needs to use Room 205/207 to host larger regularly scheduled public meetings. This situation has worked out well for both parties, and both staff's feel confident that arrangement can continue. The average monthly rent paid to the UofU is approximately \$1,300 (4 Council meetings, 2 Planning Commission meetings, and 2 neighborhood meetings). This amount comes from a combination of hourly and daily rentals. The typical rental rates are \$240/ day, or \$35 /hour; the UofU additionally discounts this rate to PCMC by 20%, so the City pays \$192/day or \$28/hour. PCMC staff feels it important at this time to have the new lease address the expense for renting space in a city-owned building.

Staff estimates an annual need of approximately 100 meetings in room 205/207 (Exhibit 1). Staff has provided 3 alternatives to address the rental expense of room 205/207:

Alternative 1 –Rent room 205/207 from the UofU on a monthly, quarterly, or annual basis - Lease the Property to the UofU for \$51,809.76. During times when the City needs the room for meetings, rent the room back from them at a 20% discount of their normal rates (\$240/ day- Alternative 1A; or \$35 /hour Alternative 1B). This is the current situation and is the UofU's preferred option. This arrangement has allowed the UofU in the past to put some rental income back into the space (new carpeting, blinds, etc.). Should Alternative 1 be preferred, staff finds using the hourly rate (figuring average meetings of 4 hour duration) is the preferred option as it reduces the annual rental amount. See Exhibit 2 for cost analysis

Alternative 2 - Rent room 205/207 PCMC meetings at a further discounted rate – Same model at # 1, but with an rental discount of 50%. This alternative further reduces the rental costs to PCMC beyond Alternative 1.

Alternative 3 – Allow for an addendum to the lease for the period of the Marsac remodel only which will reduce the base rent in a proportionate amount of use by Park City for meetings. Staff estimates use of approximately 97 days annually. Any use beyond the estimated 97 days, PCMC will agree to rent at the typical UofU rate, discounted 20% (\$192/ day or \$28 /hour). To reduce operational efforts and simplify, **Staff recommends this as the preferred alternative.**

Significant Impacts

1. The lease will reserve use of room 205/207 during by PCMC every Thursday, every other Wednesday, and for up to 2 additional days a month.
2. The lease allows UofU to sub-let to Sundance during the Sundance Film Festival; which will preclude the City from having regularly scheduled meetings in room 205 for 2 weeks each January. Staff anticipates potential cancellation of the normal Planning Commission during that time, and relocation/ cancellation of up to 2 (two) Council meetings to the new Police Station if necessary.

3. The Santy Auditorium is not a viable option for City meetings during Sundance, but is typically available as an alternative, should a conflict arise for the “2 additional days per month”. The Santy is rented on a recurring basis on Friday, Saturday, and Sunday evenings for the Film Series; Sunday days for the Presbyterian Church, and the 1st Wednesday evening of each month for the Sundance Documentary series (Planning Commission meets the 2nd & 4th Wednesday of each month).

ALTERNATIVES

- A. Recommend the lease and First Addendum be approved, thereby allowing the University of Utah to rent space in the Library and Education Center.
- B. Modify terms of the lease. .
- C. Deny the lease.
- D. Continue the item, which would necessitate the University to cease activity in the space until a lease is approved.

Consequences of not taking the recommended action:

The University of Utah would need to find another location to expand their programming in Park City.

RECOMMENDATION:

Staff recommends that Council approve the four year lease renewal of the Library and Education Center to the University of Utah from July 1, 2008 through June 30, 2012; and the First Addendum to that renewal that allows the City use of Room 205/207 during the Marsac Building remodel that would run from July 1, 2008 through July 1, 2009 in a form approved by the City Attorney.

Exhibits

Lease

First Amended Lease

Exhibit 1 - Estimated annual use of Room 205 by PCMC

Exhibit 2 - Fiscal analysis

**University of Utah
Park City Municipal Corporation
2008 Property Lease**

THIS AGREEMENT (the "Lease") is made by and between Park City Municipal Corporation (hereinafter referred to as "Landlord") and University of Utah (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. Property. The property leased is 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 and second floors: Rooms 103, 201, 202, 205 and 207.
2. Term. The Lease term shall commence on July 1, 2008, and shall run for four (4) years through June 30, 2012.
3. Rent. The rent for the leased space shall be as follows:
 - a. Rate: Beginning July 1, 2008, Tenant's annual rental obligation shall be Fifty-Three Thousand Nine Hundred Sixty Eight Dollars and Fifty Cents (\$53,968.50) for the leased space.
 - b. Payments: Beginning July 1, 2008, rent shall be paid in equal monthly installments of Four Thousand Four Hundred Ninety-Seven Dollars and 37 Cents (\$4,497.37). Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.
 - c. Deposit: No Deposit is required.
 - d. Rent Adjustment: Beginning July 1, 2010 the annual rent shall increase to \$57,190.50 (\$4,765.88 monthly).
 - e. 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. 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.
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 one million dollars (\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) aggregate for personal injury, bodily injury and property damage and to obtain a certificate of insurance naming Park City Municipal Corporation and the Municipal Building Authority of Park City as additional insured with regard to the negligent acts or omissions of Tenant and evidencing coverage as to any person on the Premises as a result of Tenant's programs or activities. The Landlord and the Tenant are protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act on 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 tax exempt entities, neither the Landlord nor Tenant expects 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 lien against the property, Tenant shall promptly discharge the lien at Landlord's request, or post funds sufficient to satisfy the lien during any period of good faith contest of the lien by Tenant. In the event Landlord 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 such 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 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. 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. However, the Premises are used for a variety of community and special events and Tenant acknowledges there may be temporary impacts, noise and loss of parking during such events.
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.

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 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 Lease.
19. Care and Repair of Premises by Tenant. Tenant will inspect and accept the Premises for the purposes of this Lease 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 so extensive as to require the substantial rebuilding, the effect 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 Lease or any extension thereof in the same condition or as altered pursuant to the provisions of this Lease. Ordinary war, 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. Subject to the provisions of paragraph c. of this Section 23, 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 the Tenant's defective performance or failure to perform any aspect of this Lease; 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 Lease. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Lease. The provisions of this section shall survive the expiration or termination of this Lease.
 - b. No liability shall attach to the City by reason of entering into this Lease except as expressly provided herein.
 - c. Tenant is a governmental entity under the Utah Governmental Immunity

Act of the Utah Code, Section 63-30d-101 et seq. 1953 (as amended) (hereinafter, the "Act"). Nothing in this Lease, including without limitation, the indemnification provisions herein, shall be construed to be a waiver by Tenant of any protections, rights, or defenses applicable to Tenant under the Act. It is not the intent of Tenant to incur by contract any liability for the negligent operations, acts, or omissions of the City or any third party and nothing in this Lease shall be so interpreted or construed. Without limiting the generality of the foregoing, and notwithstanding any provisions to the contrary in this Lease, the indemnity obligations of Tenant contained in this Lease are subject to the provisions of the Act, including the limitations on liability established in Section 63-30d-604 of the Act.

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 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 and the binding upon the parties hereto and upon their respective 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. Tenant shall have the obligation of checking all interior doors on space assigned to Tenant 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 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 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:

University of Utah
Attn: Vice President for Administrative Services
201 S. Presidents Circle, Rm. 209
Salt Lake City, UT 84112

with a copy to:

University of Utah
1910 East South Campus Drive
Room 1215
Salt Lake City, UT 84112

30. Entire Agreement. This Lease 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 26th day of June 2008.

**FIRST ADDENDUM TO PARK CITY MUNICIPAL CORPORATION AND
UNIVERSITY OF UTAH LEASE AGREEMENT**

THIS FIRST ADDENDUM is made and entered into in duplicate this 26th day of June 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("Landlord"), and the University of Utah, ("Tenant") to amend the Lease Agreement executed by both Parties on June 26, 2008,

WITNESSETH:

WHEREAS, the University of Utah benefits the residents Park City and Summit County by providing community education programs and continuing education.

WHEREAS, The University of Utah requires a long term lease to continue to provide this service; and

WHEREAS, the City Council has identified Community Amenities and Events as a Top Priority, which the University of Utah meets; and

WHEREAS, the City desires to allow the University of Utah to continue their operations at 1255 Park Avenue; and

WHEREAS, the parties entered into a long term Lease Agreement on June __, 2008 (hereinafter "Original Agreement") for certain property located within, 1255 Park Avenue, Park City, Utah; and

WHEREAS, the City requires the use of rooms 205/207 for meetings during the period that the Marsac Building is being remodeled and this Lease Addendum #1 shall reduce the rent proportionately for the time that the City uses those rooms .

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the sufficiency of which is hereby acknowledged, the parties hereto now amend the Original Agreement as follows:

1. Property. The property leased is 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 and second floors: Rooms 103, 201, 202, 205 and 207. However, during the term of this addendum, the Landlord has exclusive use of rooms 205/207 every Thursday night, the first and third Wednesday of every month and two other days per month.
2. Term. The Lease term shall commence on July 1, 2008, and shall run for two (2) years through June 30, 2010.
3. Rent. The rent for the leased space shall be as follows:
 - a. Rate: Beginning July 1, 2008, Tenant's annual rental obligation shall be

Thirty-Eight Thousand Forty Four Dollars (\$38,044) for the leased space.

- b. Payments: Beginning July 1, 2008, rent shall be paid in equal monthly installments of Three Thousand One Hundred Seventy Dollars and Thirty Three cents. Rent shall be due on the first of each month, and past due if not paid by the tenth of the month.
 - c. Deposit: No Deposit is required.
 - d. 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.

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

DATED this _____ day of June 2008.

1. Exhibit 1

Anticipated/Estimated Use of Rm. 205

Council meetings	48
Planning Commission	25
Other (2 monthly neighborhood, joint, etc.)	<u>24</u>
	97

Exhibit X Fiscal Analysis

Terms of Draft Lease (2008-2012)	
amount due	\$53,968.50
4% discount	\$2,158.74
amount due after 4% discount	\$51,809.76

Existing Situation	
Average Monthly rent from PCMC to UofU since inception of Marsac Remodel	\$1,300
annual cost	\$15,600
annual rental revenue to PCMC minus average monthly costs to rent space	\$36,209.76

Alternative 1A (Daily Rental Cost)		Alternative 1B (hourly Rental Costs)		Alternative 2(50% discount)	
Daily Rate (typical)	\$240	Hourly Rate (typical)	\$35	Hourly Rate (typical)	35.00
20% discount	\$48	20% discount	\$7	50% discount	17.50
Daily Rate (PCMC)	\$192	Hourly Rate (PCMC)	\$28	Hourly Rate (PCMC)	17.50
100 meetings at Daily Rate	\$19,200	100 meetings at Hourly Rate @ ave 4 hour meeting	\$11,200	100 meetings at Hourly Rate @ ave 4 hour meeting	7,000.00
Annual rental revenue if PCMC rents rm. 205 at Daily Rate	\$32,610	Annual rental revenue if PCMC rents rm. 205 at typical Hourly rate (w/ 20% discount)	\$40,610	Annual rental revenue if PCMC rents rm. 205 at typical Hourly rate (w/ 50% discount)	44,809.76

Alternative 3 (Reduced rent to UofU based on proportionate use of rm. 205 by PCMC). Staff recommended option	
97 days /365 days	26.57%
51809.76 x 26.57%	\$13,766
51809.76 - 13,766	38,044

City Council Staff Report



Subject: Park City Cooperative Preschool Lease
Author: Jennifer Byrd
Date: June 26, 2008
Department: Sustainability- Implementation
Type of Item: Administrative – Lease Authorization

Summary Recommendations:

Staff recommends that Council approve the four (4) year lease renewal of the Park City Cooperative Preschool for Room 209 in the Carl Winter's Building located at 1255 Park Avenue from July 1, 2008 to June 30, 2012.

Description:

Topic:

The Park City Cooperative Preschool is seeking to renew their lease for Room 209 of the Carl Winter's Building located at 1255 Park Avenue from July 1, 2008 to June 30, 2012.

Background:

Records show that the Park City Cooperative Preschool has been leasing Room 209 in the Carl Winter's building since 2003. They have proven to Park City Municipal Corporation to be excellent tenants.

Analysis:

The Lease term shall commence on July 1, 2008 and shall run for four (4) consecutive years through June 30, 2012.

Lease Rate

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.

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.

Deposit: No Deposit is required.

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.

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%).

Lease Rate July 1, 2008 – June 30, 2009	Equal Monthly Installment Payments	4% Credit for Early Payment Rent paid in full by July 15, 2008	Deposit
\$15,167.25	\$1,263.94	\$14,560.56	None
Lease Rate July 1, 2009 – June 30, 2010	Equal Monthly Installment Payments	4% Credit for Early Payment Rent paid in full by July 15, 2009	Deposit
\$15,925.61	\$1,327.13	\$15,288.59	None
Lease Rate July 1, 2010 – June 30, 2011	Equal Monthly Installment Payments	4% Credit for Early Payment Rent paid in full by July 15, 2010	Deposit
\$16,721.89	\$1,393.49	\$16,053.01	None
Lease Rate July 1, 2011 – June 30, 2012	Equal Monthly Installment Payments	4% Credit for Early Payment Rent paid in full by July 15, 2011	Deposit
\$17,557.98	\$1,463.17	\$16,855.67	None

Insurance Requirement

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.

Exclusive use of Space

Park City Cooperative Preschool will have exclusive use of Room 209. The Park City Cooperative Preschool will have exclusive use of the Preschool Play ground between the hours of 10:00am and 11:00am as set forth in Exhibit A.

The attached lease will be in effect upon execution. Staff agrees and has amended the lease to reflect this.

Significant Impacts/Staff Response:

Renting Room 209 in the Carl Winter's Building to the Park City Cooperative Preschool adherent to the above-mentioned terms will have no impact to any other existing meetings/programs in the building. This has been proven in the years past.

Department Review:

All applicable departments have reviewed the Park City Cooperative Preschool lease and their comments have been incorporated into the report.

ALTERNATIVES

- A.** Recommend the lease be approved, thereby allowing the Park City Cooperative Preschool to lease Room 209 in the Carl Winter's Building.
- B.** Modify terms of the lease and approve, in order to allow for the Park City Cooperative Preschool to lease Room 209 in the Carl Winter's Building.
- C.** Recommend denial of the lease thereby preventing the Park City Cooperative Preschool to lease Room 209 in the Carl Winter's Building.
- D.** The City Council may continue the item until July with an extension of the current lease between the Park City Cooperative Preschool and Park City Municipal Corporation.

Consequences of not taking the recommended action:

The Park City Cooperative Preschool would need to find another suitable location for their preschool.

RECOMMENDATION:

Staff recommends that Council approve the four (4) year lease renewal of the Park City Cooperative Preschool for Room 209 in the Carl Winter's Building located at 1255 Park Avenue from July 1, 2008 to June 30, 2012.

Exhibits

Exhibit A – Lease Agreement between the Park City Cooperative Preschool and Park City Municipal Corporation.

**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. 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 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. Term. The Lease term shall commence on July 1, 2008, and shall run for four (4) years through June 30, 2012.
3. Rent. 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. 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.

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 is on Tenant's account. Tenant is responsible for all payments and obligations under the Lease until Landlord releases Tenant.

14. Covenant of Quiet Possession. Landlord covenants with Tenant that Landlord 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, and the Tenant shall have the obligation of checking all exterior doors in the event that they are the only tenants left at the conclusion of the day in which case the Tenant will make sure that all exterior doors are locked 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.

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
Park City, Utah 84060

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 _____ day of June 2008.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

PARK CITY COOPERATIVE PRESCHOOL

Signator

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SUMMIT)

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

Notary Public



City Council Staff Report

Author: Kathy Lundborg
Subject: BOOTHILL TRANSMISSION LINE PHASE 1
CONSTRUCTION CONTRACT
Date: June 26, 2008
Type of Item: Administrative PUBLIC WORKS

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of \$536,050.00.

Description:

Water Strategic Plan Topic: Infrastructure, Strategy/Policy: Implement Capital Facilities Plan

Topic:

Boothill Transmission Line

Background:

The Boothill Transmission Line Phase 1 is the next step in a multi-step system upgrade. The major parts of the system include the Park Meadows Treatment Facility, Boothill 2 million gallon underground storage tank, Boothill 2200 gpm pump station, and two Boothill transmission line phases. Once completed, the system will provide culinary supply redundancy for zones within Park City's historic district, ensure adequate service and fire flow for Park Meadows, Prospector and Empire Pass neighborhoods, provide enhanced water treatment and to provide capability to blend water to address Spiro Tunnel antimony issues.

In the summer of 2005, new pipelines were installed on Boothill from the Park Meadows and Divide Wells to the new valve vault on Boothill and another pipeline was constructed from the vault to Monitor Dr. These pipelines were needed to facilitate chlorine contact time for the Park Meadows well treatment, to improve blending options for Spiro water, increase fire flow protection to Park Meadows & Prospector areas, and provide a transmission line for the new pump station.

In 2006, the new 2 million gallon underground storage tank (reservoir) was constructed next to the existing Boothill tank and was tied into the new valve vault. The pump station was constructed in 2007 at the base of Boothill, and will provide the water Old Town and Empire Pass area once the transmission lines are finished.

The next and final step will be to build a new transmission line from Boothill Pump Station up Bonanza to Deer Valley Drive, Deer Valley Drive to about 12th, across City Park where it will be tied in with the existing transmission line that extends from Woodside. The proposed transmission line is broken into two construction phases.

Proposed Construction and Contractor:

The transmission line Phases 1 and 2 will provide the final connection between the completed improvements (storage and pumps) to the existing water system in Old Town and Empire Pass area to provide a source redundancy, capacity, growth, and required fire flows.

The Boothill Transmission Line Construction Phase 1 will start at the Deer Valley Dr/Bonanza Dr intersection, along Deer Valley Drive to 12th Street, west along 12th Street and then connect into the existing transmission line at Woodside. A new connection will also be constructed at the crossing of the Snow Park transmission line for future use at the south end of City Park. This phase can be built with limited impact on traffic on Deer Valley Drive as the pipe will be installed behind the curb.

The Boothill Transmission Line Construction Phase 2 (proposed for Spring/Summer 09) will be the final connection from the newly constructed Boothill Pump Station, across Kearns Blvd, along Bonanza Drive to the terminus of the Phase 1 transmission line project at the Deer Valley Dr/Bonanza Dr intersection. Construction of this project will have major impacts on traffic on Bonanza Dr., so it was decided to complete this project in conjunction with the road reconstruction project.

The Boothill Transmission Line Phase 1 construction project was advertised this spring in the Park Record and Intermountain Contractor. Eight bidders attended the prebid meeting and two bids were received and opened on June 16, 2008.

Analysis:

The following summarizes the bids:

Contractor	Total Bid
Engineer's Estimate	\$724,775
Silver Spur Construction	\$536,050
DC Excavating	\$865,395

Silver Spur Construction is the lowest qualified bidder. Qualifications and Bid Documents were verified by our Engineer, Bowen Collins & Associates and staff. Staff therefore recommends Silver Spur Construction as the successful bidder.

The funding for this project is from the remaining Community Impact Board Loan, the Third Supplemental Indenture for which is also on the Agenda for Council approval.

The City's Project Manager will be working under the guidance of the Water Manager.

Department Review:

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

Alternatives:

A. Approve the Request:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of **\$536,050**.

B. Deny the Request:

Council could deny Staff's request. Denying the request would delay the much-needed additional capacity.

C. Continue the Item:

Council could continue the request. Continuing the request would delay the much-needed additional capacity.

D. Do Nothing:

Staff does not recommend this alternative. Doing nothing would also delay the much-needed additional capacity.

Significant Impacts:

The Boothill Transmission Line Phase 1 construction project is part of the approved FY09 budget.

Recommendation:

Staff recommends Council authorize the City Manager to execute a Construction Agreement, in a form approved by the City Attorney, with Silver Spur Construction. for the construction of the Boothill Transmission Line Phase 1 for a lump sum amount of \$536,050.

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2008, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and **BUILD, INC., 12721 Fort Street, Draper, UT 84020**, which is a (check one) ____ corporation ____ partnership ____ sole proprietorship **X** limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the **BOOTHILL TRANSMISSION LINE PHASE 1** (hereinafter "Project"), which consists of the construction of the Boothill Transmission Line in accordance with the Contract Documents and Park City Standards, Construction Specifications, and Standard Drawings.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. INSURANCE. Unless otherwise specified in the bid documents, the Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide a Certificate of Insurance evidencing:

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

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

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

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

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

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

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Five Hundred Thirty Six Thousand and Fifty Dollars, (\$536,050.00)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

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

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

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

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

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

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

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

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **90 calendar days**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **Seven Hundred Fifty Dollars (\$750.00)**, (NOTE: liquidated damages clause must be agreed to by Contractor, if no mutual agreement, then no liquidated damages) which the parties

believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

SECTION 8. ADDITIONAL WORK/CHANGE ORDERS. The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

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

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

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence

in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

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

- A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;
- B. If Contractor substantially fails to perform any part of this Agreement;
- C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;
- D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

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

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

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

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

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

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity

under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

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

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

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

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

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

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for

whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

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

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

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

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

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

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

allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

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

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

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

SECTION 21. CONSTRUCTION MANAGEMENT PLANS. Contractor shall submit a Construction Mitigation Plan to be approved by the Community Development Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department.

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

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

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

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

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

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

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

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

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

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

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

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

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

SECTION 23. OBEY LAWS. Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

SECTION 24. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed,

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

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

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

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

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

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

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

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

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

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

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

ATTEST:

City Recorder's Office

APPROVED AS TO FORM:

City Attorney's Office

Silver Spur Construction
12721 Fort Street
Draper, UT 84020

Signator, Title

Construction Agreement

2

Project: Boothill Transmission Line Phase 1

Utah Contract License No.

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, _____, personally appeared before me (signator), 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 (title or office) of (Contractor business name) by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said Corporation executed the same.

Notary Public

City Council Staff Report



Subject: Amended Plat for Lots 28 and 29,
Block 17 of the Snyder's Addition to
the Park City Survey
Author: Francisco Astorga
Date: June 26, 2008
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the City Council hold a public hearing and consider approving the Lots 28 and 29, Block 17 of the Snyder's Addition Plat Amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Description

Applicant: Magdalena Matthes
Location: 1110 Empire Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Historic residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On April 22, 2008, the City received a completed application for the Amended Plat for Lots 28 and 29, Block 17, Snyders Addition to the Park City Survey. The property is located at 1110 Empire Avenue in the Historic Residential (HR-1) zone. The proposed plat combines lots 28 and 29 into one lot of record. The proposed new lot will be 3,712.5 square feet in size. There is an existing, non-historic single family dwelling on the property.

On January 26, 2007, the Park City Council reviewed and approved this same request. The applicant failed to record the plat amendment at the County within one year from the date of City Council approval, and therefore, the approval and the plat were voided.

At the time of the first application, July 2006, a variance was also applied for to reduce the minimum lot size allowed for a duplex from 3,750 square feet to 3,712.5 square feet. The variance was granted by the Board of Adjustment on December 19, 2006, allowing the plat amendment application to continue being processed. According to the Land Management Code, variances run with the land. There have not been any changes in circumstances to the land nor to the LMC.

The applicant wishes to combine the lots into one lot of record to construct a duplex on

the lot. A building permit cannot be issued for construction across a lot line.

The Planning Commission reviewed the application during the June 11, 2008, Planning Commission meeting. A positive recommendation was forwarded to the City Council.

Analysis

The lot created by this plat amendment would comply with all requirements of the Land Management Code.

Staff finds good cause for this plat amendment as two lots will be combined into one lot of record, thereby increasing the required side yard setbacks for the proposed building from 3' to 5'. The lot size is consistent with the pattern of development in the neighborhood. A duplex is proposed to be built on the lot once the plat amendment is completed.

	Permitted	Proposed
Height	27'	27' with pitched roof
Front setback	10'	10'
Rear setback	10'	10'
Side setbacks	5' min, 10' total	5' on north, 5' on south
Lot size	1,875 square feet for a single family home 3,750 square feet for a duplex	3,712.5 square feet (received a variance for a duplex)
Footprint	1,506.7 square feet	1,506 (conceptually)
Parking	2 per dwelling unit	2 per dwelling unit

Central to the future development of the property will be the issue of determining height of the new structure, as there is an existing contemporary home with a driveway, and significant site disturbance on either side of the building. The LMC requires that height be measured from existing grade, prior to any disturbance on the property. However, because this site has been disturbed in the past it will be very difficult to determine exactly what existing grade is. Therefore, staff recommends that the Commission consider approving language that Height for the future building be established by averaging grade from datum points at center of the front and rear property lines.

Process

Prior to the receipt of a building permit for construction on this lot, the applicant will need to submit an application for Historic District Design Review for review and approval by the Planning Department for compliance with applicable Historic District Design Guidelines. A duplex requires a Conditional Use permit to be reviewed by the Planning Commission. The Council approval of this subdivision application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is not publicly noticed nor subject to review by the Planning Commission unless appealed.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet on May 20, 2008. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report.

Alternatives

- The City Council may approve the Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey as conditioned or amended; or
- The City Council may deny the Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey.
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The lots would remain as is.

Recommendation

Staff recommends the City Council hold a public hearing and consider approving the Lots 28 and 29, Block 17 of the Snyder's Addition Plat Amendment based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat

Draft Ordinance No. 08-

AN ORDINANCE APPROVING THE AMENDED PLAT FOR LOTS 28 AND 29, BLOCK 17, SNYDER'S ADDITION TO THE PARK CITY SURVEY LOCATED AT 1110 EMPIRE AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 1110 Empire Avenue have petitioned the City Council for approval of the Amended Plat for Lots 28 and 29, Block 17, Snyders Addition to the Park City Survey; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 11, 2008, to receive input on the Amended Plat for Lots 28 and 29, Block 17, Snyders Addition to the Park City Survey;

WHEREAS, the Planning Commission, on June 11, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Amended Plat for Lots 28 and 29, Block 17, Snyders Addition to the Park City Survey.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Amended Plat for Lots 28 and 29, Block 17, Snyder's Addition to the Park City Survey as shown in Attachment A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located in the Historic Residential (HR-1) zoning district.
2. The HR-1 zoning district is a residential zone characterized by a mix of contemporary residences and smaller historic homes.
3. The amendment will combine two Old Town lots into one lot of record.
4. Access to the property is from Empire Avenue.
5. On December 19, 2006 the applicant received a variance from the Board of Adjustments to reduce the minimum lot size for a duplex in the HR-1 zone from 3,750 square feet to 3,712.5 square feet.
6. The proposed lot is 3,712.5 square feet in size.
7. Footprint for a lot of this size is 1,507 square feet.
8. A duplex in the HR-1 zone is a conditional use.
9. There is an existing contemporary single family home on the property.

10. The applicant proposes to remove the home to accommodate the new duplex.
11. Due to existence of the single family home, driveway and landscaping, it is difficult to determine existing grade for the purpose of measuring height.
12. Height for the future building shall be established by averaging grade from datum points at the center of the front and rear property lines.
13. Height and setbacks for this lot are 27 feet maximum height, 5 feet side setbacks, and 10 feet front and rear setbacks.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. A ten-foot-wide public snow storage easement shall be dedicated along Empire Avenue frontage of the lot.
4. Height for the future building shall be established by averaging grade from datum points at the center of the front and rear property lines.

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

PASSED AND ADOPTED this 26th day of June, 2008.

Attachment A – Proposed Plat

City Council Staff Report



PLANNING DEPARTMENT

Subject: 601 Deer Valley Drive
Author: Francisco Astorga
Date: June 26, 2008
Type of Item: Administrative – Condominium Record of Survey

Summary Recommendations

Staff recommends the City Council hold a public hearing and consider approving the 601 Deer Valley Drive Condominium Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Description

Applicant: Deer Valley Drive Holding Company c/o Kerry Owens
Location: 601 Deer Valley Drive
Zoning: Residential Medium Density (RM)
Adjacent Land Uses: Residential
Reason for Review: Condominium Record of Survey require Planning Commission review and City Council approval

Background

On April 28, 2008, the City received a completed application for a Condominium Record of Survey for a duplex located at 601 Deer Valley Drive in the Residential Medium Density (RD) zoning district. The property is Lot 1 of the 601 Deer Valley Drive Subdivision. Approval of the Condominium Record of Survey would allow for each unit to be sold separately. Construction of the duplex is nearing completion.

The Planning Commission reviewed this application during their June 11, 2008, meeting. A positive recommendation was forwarded to the City Council.

Analysis

The duplex is located at 601 Deer Valley Drive. A duplex dwelling is an allowed use in the RM zone. The minimum lot size for a duplex is 3,750 square feet. The area of the lot is 7,180 square feet. The front yard setback for a duplex is fifteen feet (15') minimum, rear yard setback is ten feet (10') minimum, and side yard setbacks are five feet (5') minimum. The existing conditions comply with required minimum setbacks.

Parking requirements for the duplex have been met within the site. The parking ratio requirement for a duplex (Section 15-3-6) is two parking spaces per dwelling unit, requiring four total parking spaces. The individual garages for each unit contain two parking spaces each.

As shown on the 601 Deer Valley Drive Subdivision Plat (Exhibit B) the drive access for Lot 1 is currently through the 20-foot-wide access, snow storage, and parking easement

on Lot 2 parallel to Deer Valley Drive. The Condominium Record of Survey further memorializes the access, snow storage, and parking easement. Another Condominium Record of Survey has been submitted with this application for the adjacent property, 605 Deer Valley Drive Condominium Plat.

The two condominium units vary in floor area. Unit A has 5,064.7 square feet of private ownership and Unit B has 4858.3 square feet of private ownership. Shared entry area and open space are identified as common ownership. The decks are identified as limited common ownership. Voting rights are based upon floor area.

Staff finds good cause for this condominium conversion as the units can be sold separately.

Process

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

Department Review

This project has gone through an interdepartmental review. The Building Department raised certain building code requirements dealing with fire separation construction. The applicant was already aware of those same requirements. No other issues were brought up at that time.

Notice

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

Public Input

No public input has been received by the time of this report.

Alternatives

- The City Council may approve the 601 Deer Valley Drive Condominium Plat as conditioned or amended; or
- The City Council may deny the 601 Deer Valley Drive Condominium Plat and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on 601 Deer Valley Drive Condominium Plat.
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The units could not be sold separately.

Recommendation

Staff recommends the City Council hold a public hearing and consider approving the 601 Deer Valley Drive Condominium Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Condominium Record of Survey Plat

Exhibit B – Original Subdivision Plat

Exhibit C – Correspondence

Exhibit A - Draft Ordinance No. 08-

AN ORDINANCE APPROVING THE 601 DEER VALLEY DRIVE CONDOMINIUM PLAT LOCATED AT 601 DEER VALLEY DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 601 Deer Valley Drive have petitioned the City Council for approval of the 601 Deer Valley Drive Condominium Plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 11, 2008, to receive input on the 601 Deer Valley Drive Condominium Plat;

WHEREAS, the Planning Commission, on June 11, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the 601 Deer Valley Drive Condominium Plat.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 601 Deer Valley Drive Condominium Plat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 601 Deer Valley Drive.
2. The zoning is Residential Medium Density (RMD).
3. The area of the lot is 7,180 square feet in size.
4. Unit A is 5,064.7 square feet in size, Unit B is 4,858.3 square feet in size.
5. The duplex is an allowed use within the RDM zoning district.
6. The duplex at 601 Deer Valley Drive complies with the setback requirements of the RDM zoning district.
7. The LMC requires two parking spaces per unit for a duplex.
8. Each unit has two dedicated parking spaces within the site.
9. The findings within the Analysis section are incorporated within.

Conclusions of Law:

1. There is good cause for this condominium record of survey.

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

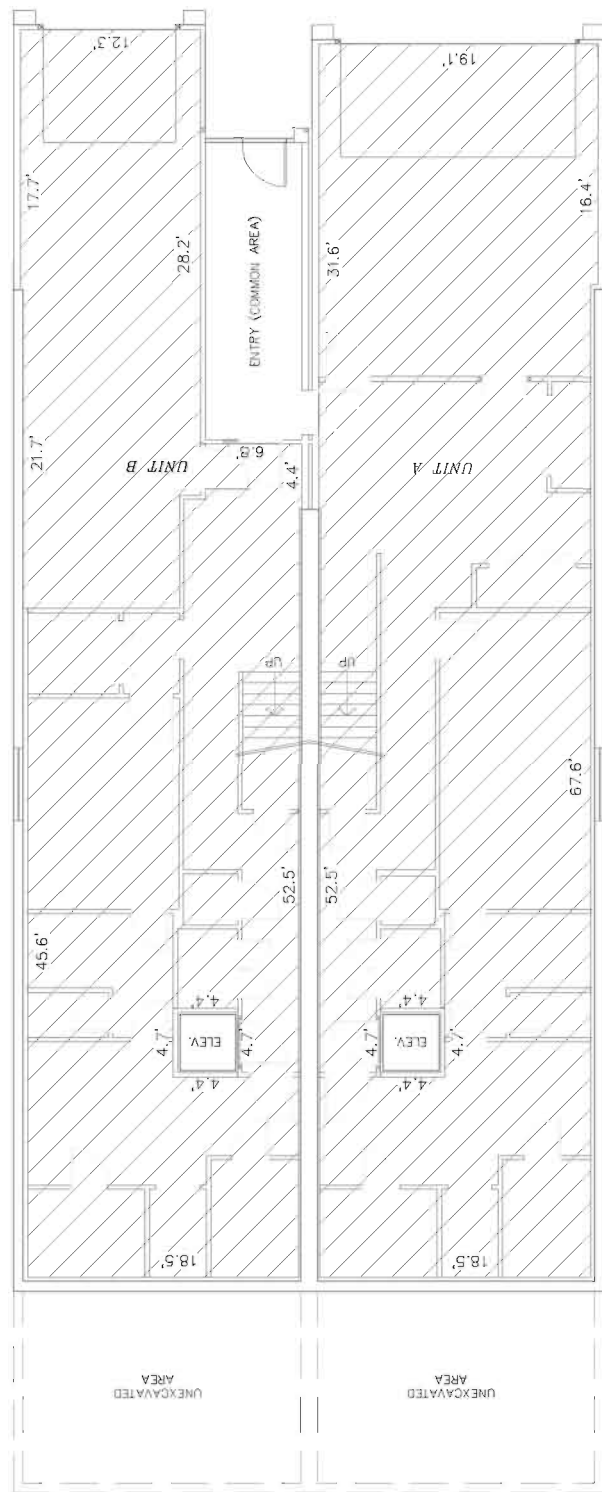
Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The CC&R shall include a tie breaker mechanism.

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

PASSED AND ADOPTED this 26th day of June, 2008.

Attachment 1 – Proposed Condominium Plat



BASEMENT FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1544.3 SF	7094.00
UNIT B	1375.8 SF	7094.00

LEGEND:



601 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT
A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE
4 EAST, SALT LAKE BASIN AND MOUNTAIN

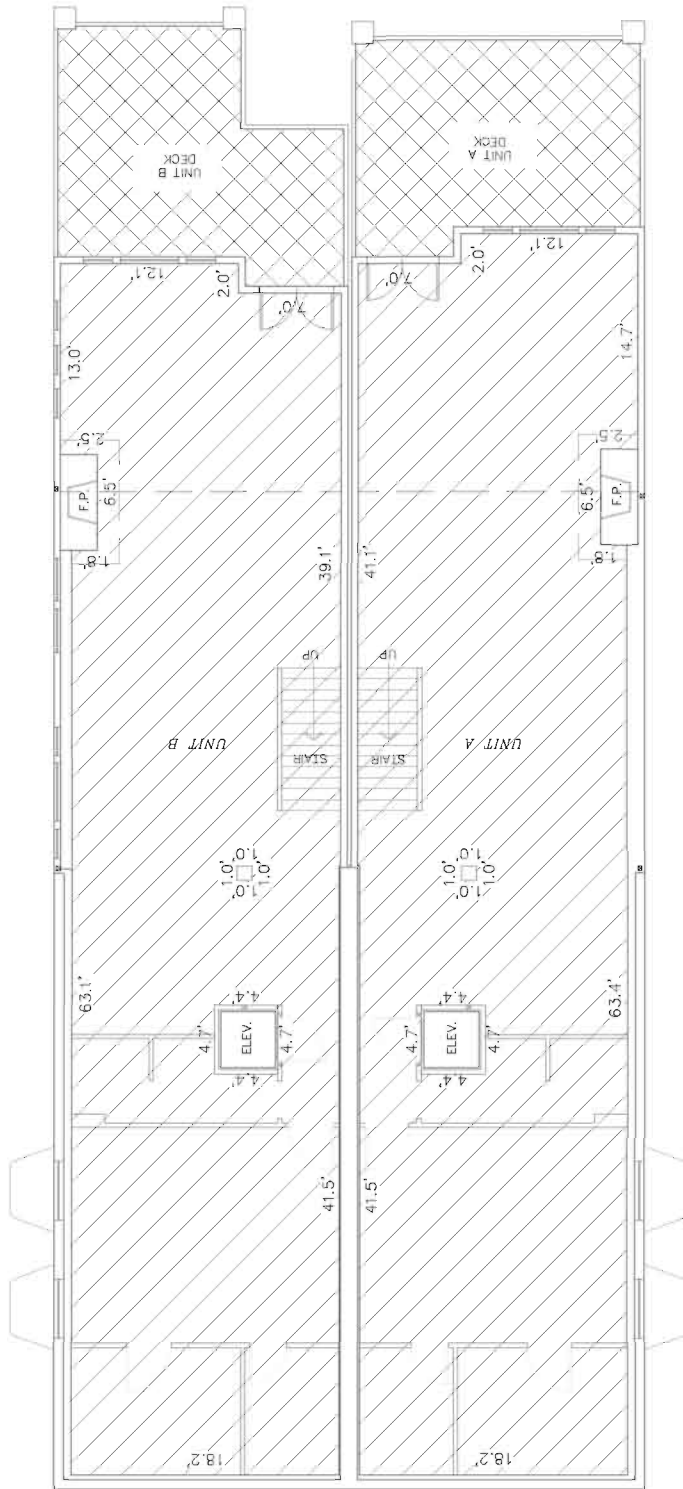
9. 2016. 2. 18. 6.

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ ROOM _____ PAGE _____

REC'D 38 11



MAIN LEVEL FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1511.0 SF	7103.15
UNIT B	1473.1 SF	7103.15



601 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
QUARTER OF SECTION 18, TOWNSHIP 2 SOUTH, RANGE
4 EAST, SALT LAKE BASE AND MERIDIAN

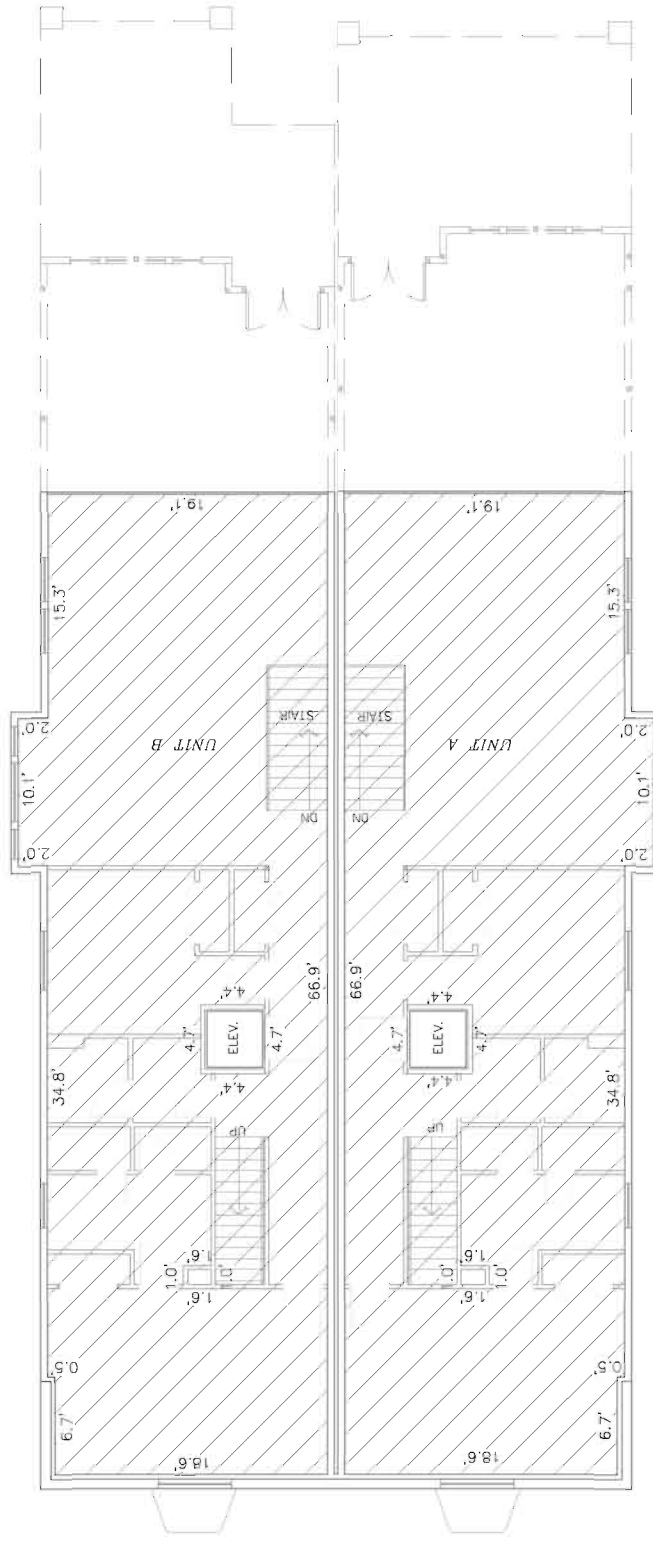
SHEET 3 OF 6

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE TIME BOOK PAGE

FEE RECORDER



SECOND LEVEL FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1271.8 SF	7112.29
UNIT B	1271.8 SF	7112.29

LEGEND:

PRIVATE OWNERSHIP

LIMITED COMMON AREA

COMMON AREA

601 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT
 A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
 QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE
 4 EAST, SALT LAKE BASE AND MERIDIAN

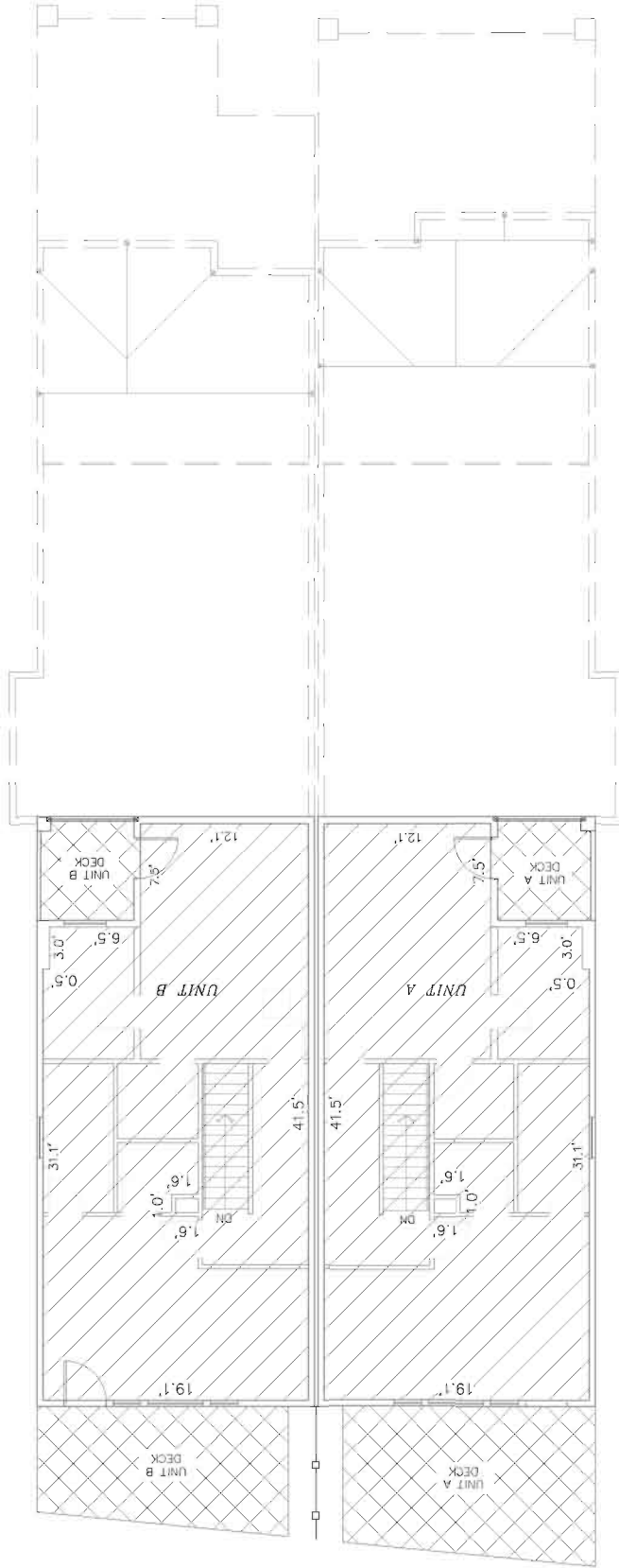
SHEET 4 OF 6

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____

FEE _____ RECORDER _____

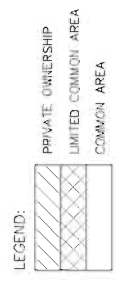


THIRD LEVEL FLOOR PLAN

SCALE 1/4" = 1'-0"

UNIT #	NET SQUARE FEET
UNIT A	5064.7 SF
UNIT B	4858.3 SF

UNIT #	NET SF	ELEVATION
UNIT A	737.6 SF	7121.44
UNIT B	737.6 SF	7121.44



601 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

SHEET 5 OF 6

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____
 FEE _____ RECORDER _____



	PRIVATE OWNERSHIP
	LIMITED COMMON AREA
	COMMON AREA

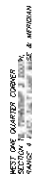
CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE
4 EAST, SALT LAKE BASIN, AND MERIDIAN

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____
FEE _____ RECORDER _____



WINNER'S RATIFICATION AND CONSENT TO RECORD

[illegible]

In witness whereof, I have hereunto set my hand this _____ day of _____ 2002.

1. INFORMATION

Date / Month / Year _____

No. _____

On the _____ day of _____ 2006, personally appeared before me the undersigned
Notary Public, State of New York, _____,
My commission expires August 17, 2007.

SUPERVISOR'S CERTIFICATE

I, Robert W. Paul, certify that I am a Registered Lead Servicer and that I hold Certificate No. 73736, as prescribed by the laws of the State of Utah, and this Affidavit has been prepared under my direction in accordance with the requirements of Park City Mortgage Corporation. I further certify that the property boundaries as shown are correct.

6/28/09

6/28/09

AS SURVEYED DESCRIPTION

[illegible]

NOTE: Sewer lateral stubs have not been provided for these lots. Lot owners must connect private wastewater laterals to the existing public wastewater main line located in Deep Valley Drive per Snyderville Basin Water District standards and specifications.

[illegible]

CERTIFICATE OF ATTEST
 I, CLERK OF THE BOARD OF SUPERVISORS, DO HEREBY CERTIFY THAT THE RECORD OF SURVEY
 MAP WAS APPROVED BY PARK CITY
 COUNCIL THIS 26th DAY
 OF JULY 1964 A.D.

CONVERTIBLE BASIN WATER RECLAMATION DISTRICT

FOR CONFORMANCE TO SNYDERVILLE BASIN WATER
PROTECTION DISTRICT STANDARDS ON THIS 12th
DAY OF July, 2004 A.D.

ENCYCLOPEDIA OF THE HISTORY OF

I FIND THIS PLAY TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 26TH DAY OF FEBRUARY 1966.

APPROVAL IS TO FORM

APPROVED AS TO FORM THIS 27th
DAY OF JULY, 2004 A.D.

COUNCIL APPROVAL AND ACCEPTANCE

APPROVAL AND ACCEPTANCE BY THE PARK CITY
COUNCIL THIS 30 DAY OF JUNE,
2004 A.D.

RECEIVED

STATE OF UTAH COUNTY OF SUNDANCE
AT THE REQUEST OF ATLAS THE
DATE 7-30-2009 TIME 1:15 PM BOOK 1

11

2004
by David M. Smith
PARK CITY RECORDER

BY S. B. W. R. D.

BY Pratt

ORNEY

Done

Member, Deputy

Exhibit C - Correspondence

June 9, 2008

Park City Planning Commission
Marsac Building
Park City, Utah 84060

Commissioners,

I am writing in opposition to the proposed condominium conversion of the duplexes located at 601 and 603 Deer Valley Drive. I am unable to attend the meeting at which this proposal is being reviewed. My concern is that this conversion would further encourage nightly rentals of these units and increase disturbances in the neighborhood. My residence is located at 634 Sunnyside Drive on a lot that borders the lot on which these duplexes are situated. I live in Sunnyside Subdivision which has been rezoned to exclude nightly rentals. Our subdivision has experienced numerous late night disturbances from nightly rentals using the decks located on the back of the Sunspot Condominiums and other nightly rentals in the neighborhood. The noise from outside decks is particularly pronounced in the canyon in which we live along Deer Valley Drive.

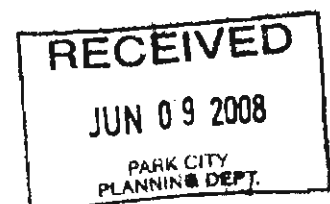
Before these duplexes received initial Planning Commission approval I received verbal assurances from the Building Department that there would not be decks placed on the back of these duplexes bordering the front of our property. When I received the initial notification for this project prior to the Planning Commission review of the original proposal a few years ago I contacted the Planning Department to voice my concern that rear decks not be part of the project. Planning department staff informed me that I needed to register my concern with the Building Department, which I did. They assured me that because rear decks were not part of the original plans that no decks could be constructed without prior notification of the neighbors and subsequent approval of the Building Department. This summer four decks were constructed on the back of these units and hot tubs have been installed on each deck without prior notification of the neighbors.

Should these duplexes be converted to condominiums it would further enable and encourage nightly rentals of these units and the subsequent noise and disturbances which occur. Although maintaining the existing status of these units would not prohibit nightly rentals, my neighbors and I believe that the existing status would encourage the use of the duplexes as single family dwellings which is our preference. Our experience with single family dwellings is that they are not nearly as noisy as nightly rental units and enhance the cohesiveness of the neighborhood. Thank you for your consideration of my concerns.

Respectfully,



Rick Anderson
634 Sunnyside Drive
Park City, UT 84060 - 1955



City Council Staff Report



Subject: 605 Deer Valley Drive
Author: Francisco Astorga
Date: June 26, 2008
Type of Item: Administrative – Condominium Record of Survey

Summary Recommendations

Staff recommends the City Council hold a public hearing and consider approving the 605 Deer Valley Drive Condominium Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Description

Applicant: Deer Valley Drive Holding Company c/o Kerry Owens
Location: 605 Deer Valley Drive
Zoning: Residential Medium Density (RM)
Adjacent Land Uses: Residential
Reason for Review: Condominium Record of Survey require Planning Commission review and City Council approval

Background

On April 28, 2008, the City received a completed application for a Condominium Record of Survey for a duplex located at 605 Deer Valley Drive in the Residential Medium Density (RD) zoning district. The property is Lot 2 of the 601 Deer Valley Drive Subdivision. Approval of the Condominium Record of Survey would allow for each unit to be sold separately. Construction of the duplex is nearing completion.

The Planning Commission reviewed this application during their June 11, 2008, meeting. A positive recommendation was forwarded to the City Council.

Analysis

The duplex is located at 605 Deer Valley Drive. A duplex dwelling is an allowed use in the RM zone. The minimum lot size for a duplex is 3,750 square feet. The area of the lot is 7,180 square feet. The front yard setback for a duplex is fifteen feet (15') minimum, rear yard setback is ten feet (10') minimum, and side yard setbacks are five feet (5') minimum. The existing conditions comply with required minimum setbacks.

Parking requirements for the duplex have been met within the site. The parking ratio requirement for a duplex (Section 15-3-6) is two parking spaces per dwelling unit, requiring four total parking spaces. The individual garages for each unit contain two parking spaces each.

As shown on the 601 Deer Valley Drive Subdivision Plat (Exhibit B), Lot 2 has a 20-foot-wide access, snow storage, and parking easement for Lot 1. The Record of Survey

further memorializes the access, snow storage, and parking easement. Another Condominium Record of Survey has been submitted with this application for the adjacent property, 601 Deer Valley Drive Condominium Plat.

The two condominium units vary in floor area. Unit A has 5,044.3 square feet of private ownership and Unit B has 4846.0 square feet of private ownership. Shared entry area and open space are identified as common ownership. The decks are identified as limited common ownership.

Staff finds good cause for this condominium conversion as the units can be sold separately.

Process

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

Department Review

This project has gone through an interdepartmental review. The Building Department raised certain building code requirements dealing with fire separation construction. The applicant was already aware of those same requirements. No other issues were brought up at that time.

Notice

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

Public Input

No public input has been received by the time of this report.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the 605 Deer Valley Drive Condominium Plat as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the 605 Deer Valley Drive Condominium Plat and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on 605 Deer Valley Drive Condominium Plat.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The units could not be sold separately.

Recommendation

Staff recommends the City Council hold a public hearing and consider approving the 605 Deer Valley Drive Condominium Plat based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Condominium Plat

Exhibit B – Original Subdivision Plat

Exhibit C - Correspondence

Exhibit A - Draft Ordinance No. 08-

AN ORDINANCE APPROVING THE 605 DEER VALLEY DRIVE CONDOMINIUM PLAT LOCATED AT 605 DEER VALLEY DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 605 Deer Valley Drive have petitioned the City Council for approval of the 605 Deer Valley Drive Condominium Plat; and

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

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

WHEREAS, the Planning Commission held a public hearing on June 11, 2008, to receive input on the 601 Deer Valley Drive Condominium Plat;

WHEREAS, the Planning Commission, on June 11, 2008, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the 601 Deer Valley Drive Condominium Plat.

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

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 605 Deer Valley Drive Condominium Plat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 605 Deer Valley Drive.
2. The zoning is Residential Medium Density (RMD).
3. The area of the lot is 7,180 square feet in size.
4. The duplex is an allowed use within the RDM zoning district.
5. The duplex at 601 Deer Valley Drive complies with the setback requirements of the RDM zoning district.
6. The LMC requires two parking spaces per unit for a duplex.
7. Each unit has two dedicated parking spaces within the site.
8. The findings within the Analysis section are incorporated within.

Conclusions of Law:

1. There is good cause for this condominium record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.

3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval of the record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Record of Survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The CC&R shall include a tie breaker mechanism.

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

PASSED AND ADOPTED this 26th day of June, 2008.

Attachment 1 – Proposed Condominium Plat

I, Jack Harmon, do hereby certify that I am a Registered Land Surveyor and that I hold certificate No. 7960 as presented before me by the State of Missouri. I further certify that buildings shown on the plat are located on the land shown on the plat and were constructed by the owner or owners of the land shown on the plat. I further certify that a survey has been made of the land shown and described thereon, that this survey is a correct representation of the land surveyed, and that this survey has been prepared in conformity with the minimum standards and requirements of the law.

Jack Harmon L.S. 176966

BOUNDARY DESCRIPTION

[illegible]

Excepting therefrom all coal, gas, mines, metals, gravel and all other minerals of whatsoever kind or nature in subject property excepted by United Park City Mines Company, a Delaware Corporation in that certain warranty deed, dated October 11, 1975, recorded January 28, 1976, as Entry No. 130325 in Book M76 at Page 453 of official records.

Excepting the following:
A. A 20 foot Access, Snow Storage & Parking Easement, together with incidental rights thereto, over the southerly portion of the land as shown on the recorded plat.

B. Questar Right-of-Way Easement:
Entry No. 673873,
Book 1570,
Page 1819.

C. Snowshed Easement Agreement:
Entry No. 795433,
Book 1827,
Page 0032.

OWNER'S CERTIFICATE OF CONSENT TO RECORD

Know all men by these presents, that the undersigned, Colette C. Singleton and Eric C. Singleton, wife and husband, are the owners of the hereon described tract of land known hereafter as 605 DEER VALLEY DRIVE CONDOMINIUMS, having caused this CONDOMINIUM RECORD OF SURVEY PLAT to be prepared, further consent to the recordation of the same in accordance with Utah Law.

in witness whereof, the undersigned set their hands on this _____ day of _____, 2008.

ACKNOWLEDGEMENT

State of Utah }
County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2008 by Colette C. Singleton and Eric C. Singleton, owners of this condominium project as described above.

Notary Public
Residing at _____

605 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE
4 EAST, SALT LAKE BASE AND MERIDIAN

TABLE 1

- LEGEND:**
- | | |
|---|---|
|  | STREET MONUMENT |
|  | SET REBAR & CAP L# 173736
(UNLESS OTHERWISE NOTED) |
|  | WATER VALVE |
|  | WATER MANHOLE |
|  | SANITARY SEWER MANHOLE |

ENGINEERS' CERTIFICATE

JACK HARMON LAND SURVEYING

EAST REDDEN ROAD
CITY, UTAH 84098
(435) 649-6511

17-09 C:\DOD\NUNO\NUNO\471\NUNO\NUNO\09 ACAD-ENE CDE AT OMG

APPROVAL AS TO FORM

ADMINISTRATIVELY APPROVED BY AUTHORITY OF THE PARK CITY
COUNCIL THIS _____ DAY OF _____ 2008 A.D.

BY _____

PLANNING COMMISSION

APPROVED BY THE PARK CITY PLANNING COMMISSION

THIS _____ DAY OF _____, 2008 A.D.

BY _____

RECORDED

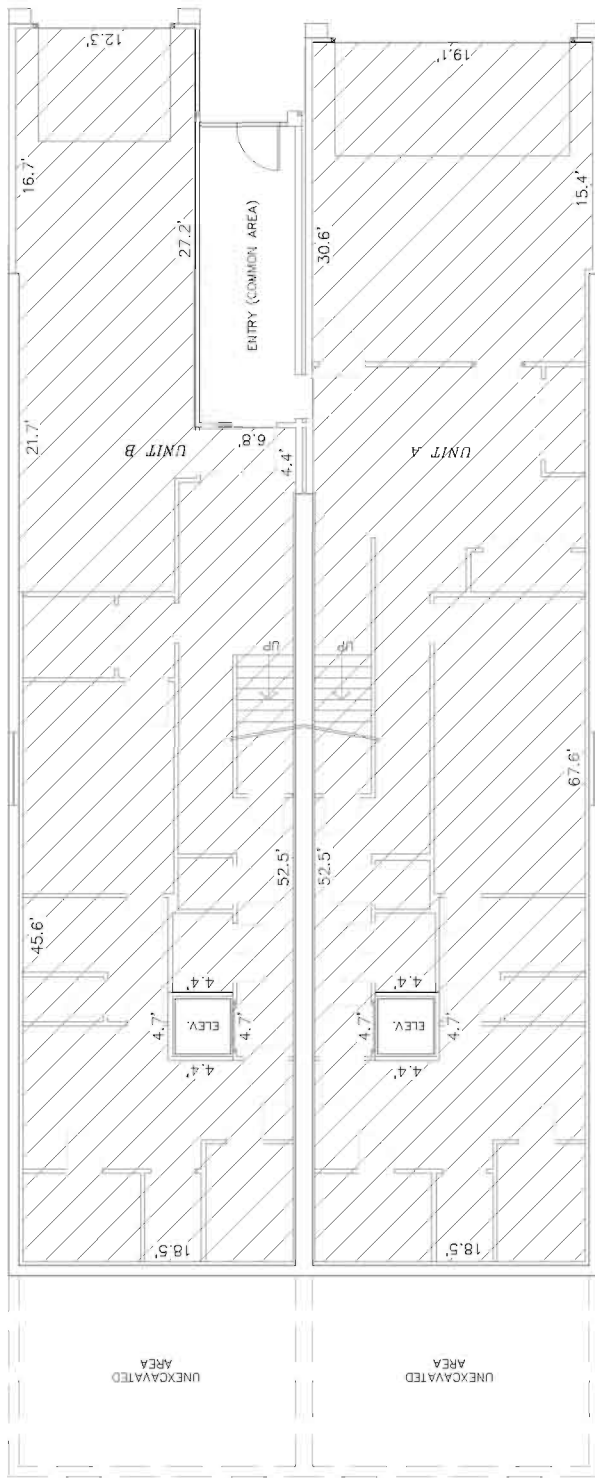
STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____ TIME _____ BOOK _____ PAGE _____

BY _____

SHEET 1 OF 3
SNYDERVILLE BASIN WATER RECLAMATION DISTRICT

REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2008 A.D.

100



BASEMENT FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1523.9 SF	7094.00
UNIT B	1363.5 SF	7094.00



605 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE MERIDIAN.

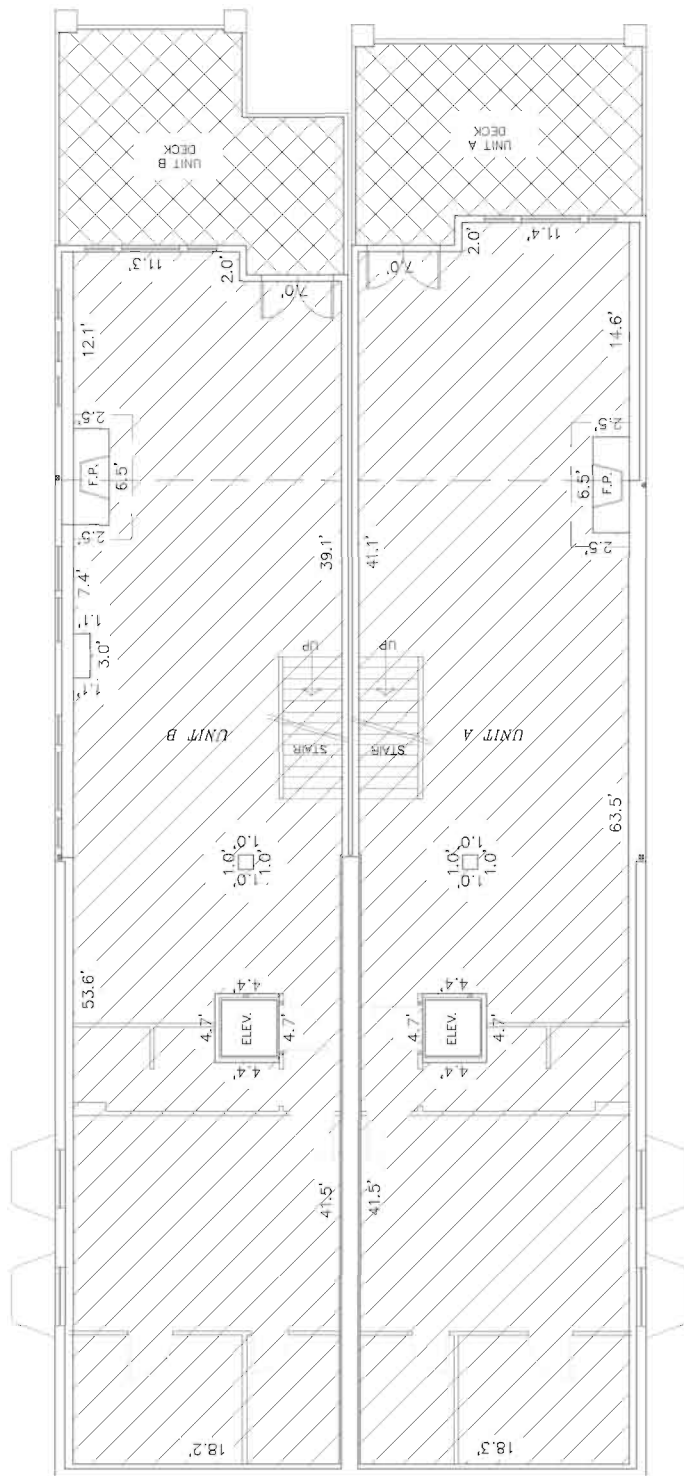


SHEET 5 OF 8

RECORDED

STATE OF UTAH COUNTY OF SALT LAKE FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____
 REC. _____ RECORD _____



MAIN LEVEL FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1511.0 SF	7103.15
UNIT B	1473.1 SF	7103.15



605 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE MERIDIAN.

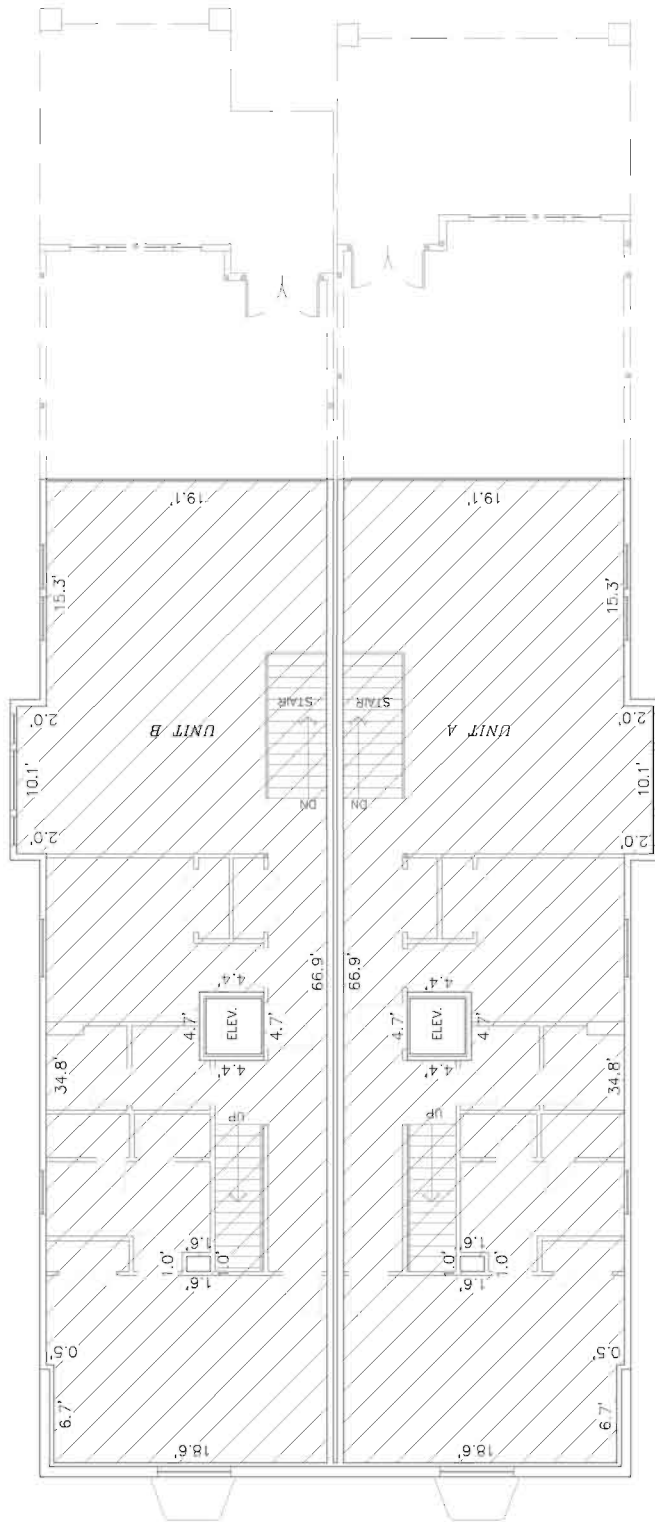


SHEET 3 OF 8

RECORDED

STATE OF UTAH COUNTY OF SALT LAKE FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____
 REC. _____ RECORDED _____



SECOND LEVEL FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	1271.8 SF	7112.29
UNIT B	1271.8 SF	7112.29



605 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE MERIDIAN.

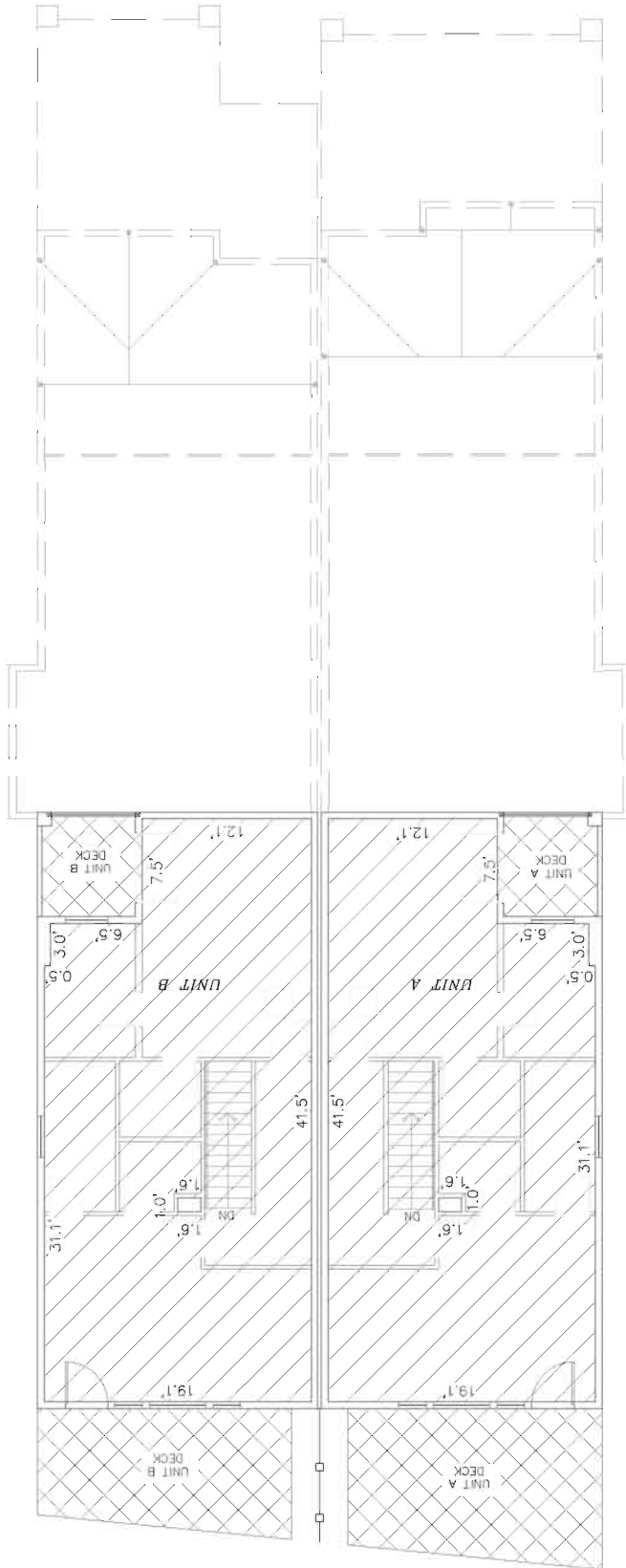


SHEET 4 OF 8

RECORDED

STATE OF UTAH: COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____
 REC. _____ RECORDED _____



THIRD LEVEL FLOOR PLAN

UNIT #	NET SF	ELEVATION
UNIT A	737.6 SF	7121.44
UNIT B	737.6 SF	7121.44



TOTAL NET SQUARE FOOTAGE

UNIT #	NET SQUARE FEET
UNIT A	6044.3 SF
UNIT B	4846.0 SF

SHEET 3 OF 8

RECORDED

STATE OF ILLINOIS COUNTY OF SANGAMOND FILED AT THE REQUEST OF

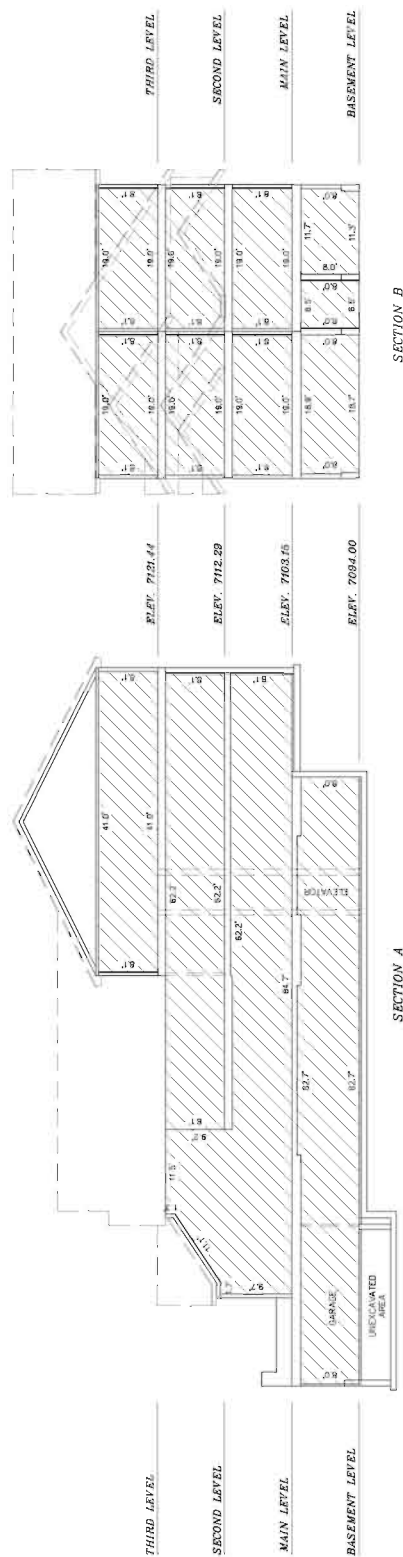
DATE _____ TIME _____ BOOK _____ PAGE _____
REC. _____ RECORD _____

605 DEER VALLEY DRIVE CONDOMINIUMS

CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST
QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE
4 EAST, STATE OF ILLINOIS.





LEGEND:



APPENDIX 2 (continued)

RECORDED

STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF

DATE _____ TIME _____ BOOK _____ PAGE _____

FEE _____ REC'D COMPANY _____

605 DEER VALLEY DRIVE CONDOMINIUMS

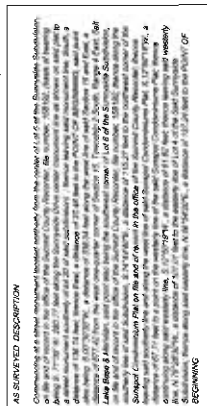
CONDOMINIUM RECORD OF SURVEY PLAT

A CONDOMINIUM PROJECT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE, AND MERIDIAN

4 EAST, SALT LAKE BASIN, AND MEGALAN

4 EAST, SALT LAKE BASIN, AND MEGALAN

SCALE: 1/16" = 1"



NOTES:
1. All sewer lateral stubs have not been provided for these lots.
2. Lot owners must extend private wastewater laterals to the existing public wastewater main line located in Deer Valley Drive per Snyderville Basin Wastewater Collection District standards and specifications.

PARK CITY PLANNING COMMISSION APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS 15 TH DAY OF <u>July</u> A.D. 2004.	CERTIFICATE OF ATTEST I HEREBY MAKE RECORD OF THE PARK CITY MAP WAS APPROVED BY PARK CITY COMMISSION ON THIS 15 TH DAY OF <u>July</u> A.D. 2004. BY <u>[Signature]</u> PARK CITY RECORDER	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REQUESTED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS 12 TH DAY OF <u>July</u> A.D. 2004. BY <u>[Signature]</u> S.B.W.R.D.	ENGINEERS CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 22 ND DAY OF <u>July</u> A.D. 2004. BY <u>[Signature]</u> PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS 27 TH DAY OF <u>July</u> A.D. 2004. BY <u>[Signature]</u> PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 27 TH DAY OF <u>July</u> A.D. 2004. BY <u>[Signature]</u> MAYOR	# 706170 RECORDED STATE OF UTAH COUNTY OF SUMMIT AND FILED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT DATE 7-30-2004 TIME 10:00AM BOOK PAGE \$30.00 RECORDED
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Exhibit C - Correspondence

June 9, 2008

Park City Planning Commission
Marsac Building
Park City, Utah 84060

Commissioners,

I am writing in opposition to the proposed condominium conversion of the duplexes located at 601 and 603 Deer Valley Drive. I am unable to attend the meeting at which this proposal is being reviewed. My concern is that this conversion would further encourage nightly rentals of these units and increase disturbances in the neighborhood. My residence is located at 634 Sunnyside Drive on a lot that borders the lot on which these duplexes are situated. I live in Sunnyside Subdivision which has been rezoned to exclude nightly rentals. Our subdivision has experienced numerous late night disturbances from nightly rentals using the decks located on the back of the Sunspot Condominiums and other nightly rentals in the neighborhood. The noise from outside decks is particularly pronounced in the canyon in which we live along Deer Valley Drive.

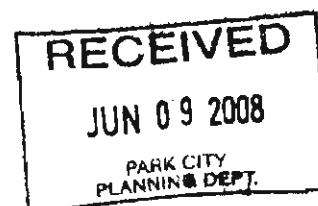
Before these duplexes received initial Planning Commission approval I received verbal assurances from the Building Department that there would not be decks placed on the back of these duplexes bordering the front of our property. When I received the initial notification for this project prior to the Planning Commission review of the original proposal a few years ago I contacted the Planning Department to voice my concern that rear decks not be part of the project. Planning department staff informed me that I needed to register my concern with the Building Department, which I did. They assured me that because rear decks were not part of the original plans that no decks could be constructed without prior notification of the neighbors and subsequent approval of the Building Department. This summer four decks were constructed on the back of these units and hot tubs have been installed on each deck without prior notification of the neighbors.

Should these duplexes be converted to condominiums it would further enable and encourage nightly rentals of these units and the subsequent noise and disturbances which occur. Although maintaining the existing status of these units would not prohibit nightly rentals, my neighbors and I believe that the existing status would encourage the use of the duplexes as single family dwellings which is our preference. Our experience with single family dwellings is that they are not nearly as noisy as nightly rental units and enhance the cohesiveness of the neighborhood. Thank you for your consideration of my concerns.

Respectfully,



Rick Anderson
634 Sunnyside Drive
Park City, UT 84060 - 1955





City Council Staff Report

Subject: Amended Water Agreement between Park City Municipal Corporation (PCMC) and Talisker / United Park City Mines Company (UPCMC)
Author: Deputy City Attorney
Department: Legal
Date: June 26, 2008
Type of Item: Administrative

Summary Recommendations:

Authorize the mayor to execute an amended water agreement with UPCM.

Topic/Description:

Water agreement.

Background:

On March 1, 2007, PCMC and UPCM entered into a Water Agreement which was incorporated by reference into the then recently approved Amended Development Agreement for UPCM's Empire Pass Project. The Water Agreement provided that UPCM would pay PCMC \$4,208,600 for infrastructure and water to serve that project. The Water Agreement further provided that an independent expert or experts would furnish a non-binding opinion as to which entity – PCMC or UPCM – would be required to obtain a UPDES permit for Judge Tunnel water discharge should a regulating agency require such a permit.

The Water Agreement also addresses the reservation of additional PCMC water by UPCM; UPCM's option to move water rights into wells that it constructs or to purchase PCMC's share of those same water rights; and UPCM'S potential contribution to PCMC's treatment of Judge Tunnel water.

Analysis:

The draft amended water agreement, a copy of which is attached hereto, acknowledges PCMC's recent repayment of UPCM's capital contribution. While the parties initially intended that PCMC would collect impact fees for the Empire Pass project and repay UPCM with seven equal annual installments, PCMC has since determined that it is in its best interest to return the \$4,208,600 to UPCM and retain the impact fees collected.

The draft amended water agreement further adjusts the deadlines for certain actions to accommodate the schedules of the experts who are implementing the terms of the 2007 Water Agreement by working toward a determination of which entity – if either – is responsible to obtain a UPDES permit.

The remaining provisions of the water agreement remain in effect as intended and are unchanged by the draft amended water agreement.

Department Review:

The amended water agreement has been reviewed by Legal and Gary Hill.

Alternatives:**A. Approve the Request:**

This is staff's recommendation.

B. Deny the Request:

Denying the request would adversely impact PCMC's debt ratio and would leave both parties outside of the terms of the March 1, 2007 Water Agreement. Furthermore, PCMC's obligation to deliver water to UPCMC's developments and its ability to retain impact fees would be uncertain.

C. Continue the Item:

While continuing the item for a short period of time would not have serious ramifications, there is no benefit in doing so. Additionally, PCMC has already returned UPCMC's capital contribution to UPCMC and so it is recommended that PCMC execute an agreement reflecting that payment and the other deadline adjustments as soon as possible.

D. Do Nothing:

This is not recommended, as PCMC has already returned UPCMC's capital contribution to UPCMC and the deadlines for the completion of the experts' work have passed.

Significant Impacts:

PCMC will not be using UPCMC's capital contribution to pay for the construction of the infrastructure and acquisition of water used to serve UPCMC's development.

Consequences of not taking the recommended action:

PCMC will be out of contract with UPCMC with regard to water. Without an amended water agreement, the terms by which PCMC will provide water to Empire Pass and other UPCMC developments would be uncertain.

Recommendation:

Authorize the mayor to execute an amended water agreement with UPCMC.

WATER AGREEMENT AMENDMENT (2007)

This Water Agreement Amendment ("Amendment") is effective as of June 30, 2008, and amends and modifies that certain Water Agreement (2007) ("Agreement") made and entered into effective as of the 2nd day of March, 2007, by and between United Park City Mines Company, a Delaware corporation ("UPK") and Park City Municipal Corporation, a Utah municipal corporation (the "City"). UPK and the City are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties". All capitalized terms utilized herein that are not otherwise defined shall have the definitions set forth in the Agreement.

For good and valuable consideration, the Parties acknowledge and agree that the Agreement is hereby modified and amended as follows:

- A. The date of "October 1, 2007" in the fourth line of the second paragraph of Section 3 of the Agreement (regarding the date for a written option to reserve additional water) is hereby changed to October 1, 2008.
- B. The phrase "Within sixty (60) days of the date of this Agreement" in the first sentence of Section 7(a) of the Agreement (regarding the date for selecting a mutually acceptable third party to make the Determination) is hereby changed to "Not later than August 31, 2008". The date of "December 31, 2007" in the second sentence of Section 7(a) of the Agreement (regarding the deadline for the Determination) is hereby changed to "December 31, 2008".

Except at expressly modified and amended as provided above, all other terms and conditions of the Agreement remain as written.

The Parties acknowledge and agree that the City has prepaid and satisfied all of its obligations under Section 2 of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands effective as of the day and year set forth above.

**PARK CITY MUNICIPAL
CORPORATION**, a municipality
of the State of Utah

**UNITED PARK CITY MINES
COMPANY**, a Delaware corporation
authorized to do business in Utah

By: _____
Dana Williams, Mayor

By: _____
David J. Smith
Authorized Signing Officer

Attest: _____

Attest: _____

Approved as to Form:

City Attorney's Office

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 2008, personally appeared before me David J. Smith, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Authorized Signing Officer of United Park City Mines Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he signed it voluntarily for its stated purpose as Authorized Signing Officer for United Park City Mines, a Delaware corporation.

Notary Public