

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 25, 2009**

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 25, 2009.

Closed Session

1:30 p.m. Property and litigation

Work Session

2:30 p.m. Council questions/comments

2:45 p.m. LMC amendments and Historic District Design Guidelines P. 7 - 51

(a) Presentation and discussion

(b) Public input

3:00 p.m. Bonanza Drive Reconstruction Project P. 52 - 57

(c) Presentation and discussion

(d) Public input

Planning Commission Interviews

4:00 p.m.

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 11, 2009

P. 58 - 64

V NEW BUSINESS

1. Consideration of an Ordinance approving the 575 Park Avenue Plat Amendment, located at 575 Park Avenue, Park City, Utah P. 65 - 72

(a) Public hearing

(b) Action

2. Consideration of a Resolution authorizing the issuance and confirming the sale of \$2,500,000 Park City, Utah Taxable Water Revenue Bonds, Series 2009A for the purpose of financing the costs of construction and installation of culinary water system improvements; authorizing the execution and delivery of a supplemental Indenture of Trust to secure said bonds, and other documents required in connection therewith; authorizing the taking of all other actions necessary for the consummation of the transactions contemplated by this Resolution

(a) Public hearing P. 73 - 82

(b) Action

3. Consideration of a Resolution adopting the revised Personnel and Policies Manual for Park City Municipal Corporation P. 83 - 88

4. Consideration of a three year contract between Park City Municipal and Summit Land Conservancy in the amount of \$143,833, in a form approved by the City Attorney

P. 89 - 108

5. Consideration of approving the First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with Stantec Consulting Inc., for the design of the Park City Raw Water Infrastructure Project Design in an amount of \$338,260

P. 109 - 122

6. Consideration of a Professional Service Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates for the construction, engineering, management and inspection of the Quinn's Raw Waterline Phase Project in an amount of \$89,792

P. 123 - 142

7. Consideration of a Professional Service Agreement in a form approved by the City Attorney with Stanley Consultants for construction management services related to the construction of Bonanza Drive in the amount of \$147,452

P. 143 - 167

8. Consideration of a construction agreement for the reconstruction of Hillside Avenue with Granite Construction Company for Alternative #1, in a form approved by the City Attorney, in an amount not to exceed \$1,589,210

P. 168 - 195

9. Consideration of an economic development grant contract, in a form approved by the City Attorney, with High West Distillery in the amount of \$11,000

P. 196 - 204

(a) Public hearing

(b) Action

10. Consideration of an economic development grant contract, in a form approved by the City Attorney, with Park City Performances in the amount of \$9,000

P. 196 - 204

(a) Public hearing

(b) Action

11. Consideration of a Letter of Consent, in a form approved by the City Attorney, with the Snyderville Basin Special Recreation District

P. 205 - 228

VI OLD BUSINESS

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

P. 229 - 231

(a) Public hearing

(b) Motion to continue to July 9, 2009

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 2, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will **not** hold its regularly scheduled meeting on Thursday, July 2, 2009.

Posted: 06/22/09

See: www.parkcity.org

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 9, 2009**

TENTATIVE (subject to change)

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, July 9, 2009.

Work Session

- 1:30 p.m. Council questions/comments
- 1:40 p.m. Ironhorse Transit Facility Expansion Design Update
- 2:00 p.m. Municipal Carbon Reduction Action Plan and 2008 Footprint
- 2:30 p.m. Arts-Kids special service contracts – emergency requests
- 2:40 p.m. Community Visioning report findings

- 4:30 p.m. **Planning Commission interview and Board of Adjustment interviews**

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 18, 2009

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. Waiver of building-related fees in the amount of \$___ for the Fairway Hills Pump Station
- 2. Consideration of waiver of building-related fees in the amount of \$___ for the Snow Creek Cottages Housing Project, located at 2060 Park Avenue, Park City, Utah

VI NEW BUSINESS

- 1. Consideration of an Ordinance establishing compensation for the Mayor, City Council and Statutory Officers for Fiscal Year 2009-2010, Park City, Utah
 - (a) Public hearing
 - (b) Action
- 2. Consideration of a professional services agreement with Alliance Engineering for the Fairway Hills finished water line, in the amount of \$___, in a form approved by the City Attorney
- 3. Consideration of an Ordinance amending Title 2, Administration, of the Municipal Code of Park City, Utah
 - (a) Public hearing
 - (b) Action

4. Consideration of an Ordinance amending Title 15 Land Management Code, Chapters 1, 2, 5, 11 and 15 that are related to the adoption of updated Design Guidelines for Park City's Historic Districts and Historic Sites

- (a) Public hearing
- (b) Action

5. Consideration of a Resolution adopting Historic District Design Guidelines for Park City, Utah

- (a) Public hearing
- (b) Action

VII OLD BUSINESS

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

- (a) Public hearing
- (b) Possible action

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

IX ADJOURNMENT

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

Posted: 07/06/09

See: www.parkcity.org

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

July 2009

- 2 **No meeting**
- 3 *4th of July holiday – City offices closed Friday*
- 16 **Roger gone**
Quarterly goal update
7620 Royal Street E, Royal Plaza – Amd to ROS [PL-09-00659] KW
331 McHenry Ave – Plat Amd [PL-09-00702] KC
- 20 *Joint meeting with Summit County Council – Richens Building 9 – 11 a.m.*
- 23 **No meeting**
- 24 *Pioneer Day – City offices closed Friday*
- 30

August 2009

- 6
- 13
- 20
- 22 *Move back to Marsac*
- 27

September 2009

- 3
- 10 **No meeting – City Tour**
- 17
- 24

Pending Items:

Business license policy – late summer
Performance measures - August
For hire vehicles licensing
Ordinance amending Municipal Code Titles 1 and 2
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues

City Council Staff Report



Subject: Historic Preservation
Author: Dina Blaes, Preservation Consultant
Thomas Eddington, Jr., AICP, Planning Director
Date: June 25, 2009
Type of Item: Legislative/Work Session - LMC amendments and updated
Design Guidelines for Historic Districts and Sites.

Summary Recommendations:

SECTION 1 - Staff recommends the City Council discusses the proposed amendments to the Land Management Code (LMC) for Chapters 1, 2 ("H" Districts), 5, 11 and 15 as described in this report and provide specific changes to the amendments if needed.

SECTION 2 - Staff also recommends the City Council discusses the proposed Design Guidelines attached to this report and provide specific changes to the guidelines if needed.

Topic:

Project Name: LMC Amendments and updated Design Guidelines
Applicant: Planning Department
Proposal: Revisions to the Land Management Code and Design Guidelines

SECTION 1 - LAND MANAGEMENT CODE AMENDMENTS

Background:

Staff identified sections of the LMC where the provisions either conflict with the proposed Design Guidelines for Historic Districts and Historic Sites or need to be clarified or expanded to support the intent of the design guidelines. At a February 27, 2008 Work Session, the Planning Commission engaged in the first discussion regarding proposed LMC amendments associated with the draft Design Guidelines. The topics were limited to (1) application of the Design Guidelines outside the H zones, (2) the public comment period for design review applications, and (3) the design review application appeals process. Subsequent discussions on these three topics were held during Planning Commission work sessions on May 14, July 23, and September 24, 2008. In addition to discussions on the LMC amendments, the Planning Commission was updated on the Design Guidelines.

At the work session on September 24, 2008, the Planning Commission directed staff to prepare comprehensive draft LMC amendments associated with the Design Guidelines for review.

The LMC amendments described in this report reflect policy discussions with the Historic Preservation Board on the Guidelines and their impact on the LMC. These meetings were held on June 2, August 4 and 20, September 3, November 5 and 19, December 3, 2008, and on February 18, and March 18, 2009. They also reflect policy discussions held with

the Planning Commission on May 14, July 23, and September 24, 2008 as noted above, and with the City Council on June 26 and August 7, 2008.

On April 8, 2009, the Planning Commission briefly discussed the LMC amendments described in this report and voted to continue the discussion and public hearing at the regularly scheduled meeting on May 13, 2009.

On May 13, 2009, the Planning Commission conducted a public hearing and made changes to the proposed LMC amendments based on both public testimony and on the codified preservation goals of the City. The Planning Commission voted to forward a positive recommendation to the City Council to adopt the LMC amendments.

Discussion of Intent:

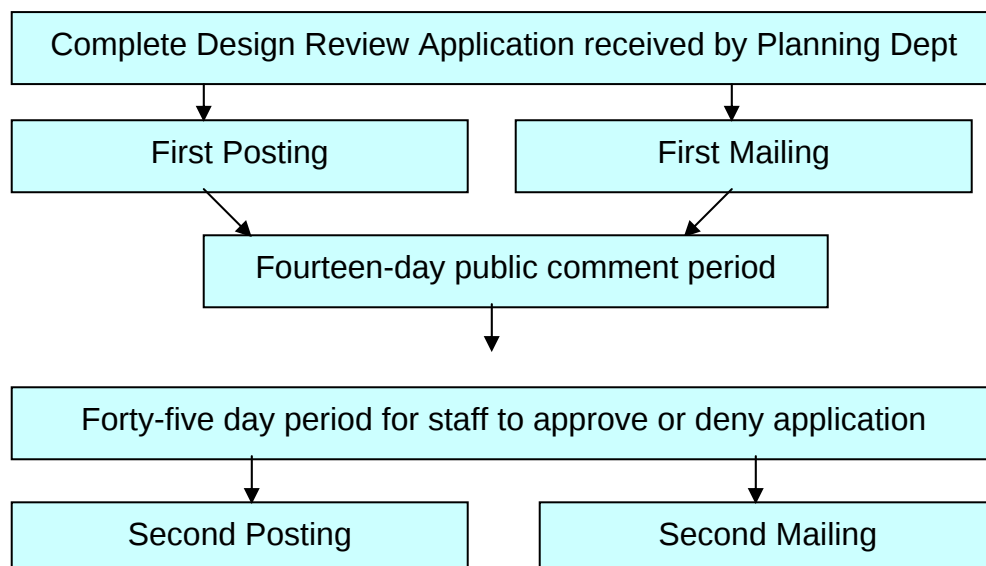
The proposed amendments are intended to update, clarify and expand sections of the LMC that are associated with the draft Design Guidelines for Historic Districts and Historic Sites.

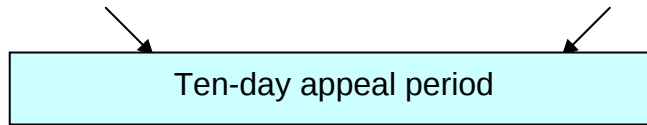
Analysis and Discussion

Proposed Amendments to Chapter 1 - GENERAL PROVISIONS AND PROCEDURES (Exhibit A)

Staff recommends the Council review and discuss proposed amendments to the following sections of Chapter 1:

- **Sections 15-1-8. and 15-1-9.** Amendments replace the term "Historic District Design Guidelines" with "Design Guidelines for Historic Districts and Historic Sites"
- **Section 15-1-18.** Amendments replace the term "Historic District Design Guidelines" with "Design Guidelines for Historic Districts and Historic Sites" and change "Historic District Commission" to "Historic Preservation Board"
- **Section 15-1-21.** Changes are intended to allow public input on design review applications *before* staff determines compliance/non-compliance with the design guidelines. Specifically, staff recommends the Notice Matrix reflect the process outlined in the draft design guidelines as illustrated below:





Proposed Amendments to Chapter 2 'H' Districts (Exhibit B)

Chapter 2.1 - HISTORIC RESIDENTIAL-LOW DENSITY (HRL) DISTRICT

Chapter 2.2 - HISTORIC RESIDENTIAL (HR-1) DISTRICT

Chapter 2.3 - HISTORIC RESIDENTIAL (HR-2) DISTRICT

Chapter 2.4 - HISTORIC RESIDENTIAL-MEDIUM DENSITY (HRM) DISTRICT

Chapter 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT

Chapter 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

Staff recommends the Council review and discuss proposed amendments to the ARCHITECTURAL REVIEW sections of these Chapters. Sections replaced with proposed language to:

- Eliminate minor inconsistencies in the architectural review procedures in six different sections of LMC Chapter 2, and
- Consolidate all design review procedures for the H districts and Historic Sites in Chapter 11.

Proposed Amendments to Chapter 5 - ARCHITECTURAL REVIEW (Exhibit C)

Staff recommends the Council review and discuss proposed amendments to the following sections of Chapter 5.

- **Section 15-5-1.** Currently, the POLICY AND PURPOSE statement includes erroneous information about the National Register of Historic Places and does not mention the existence of locally designated historic resources. Modifications are intended to correct the information regarding the National Register and to emphasize the City's desire to protect locally designated Historic Sites.
- **Section 15-5-2.** Amendments clarify that all sites within the H districts and Historic Sites outside the H districts are subject to design review. Also, specific reference is made to the design review section of LMC Chapter 11.

Proposed Amendments to Chapter 11 - HISTORIC PRESERVATION (Exhibit D)

Staff recommends the Council review and discuss proposed amendments to the following sections of Chapter 11.

- **Sections 15-11-5 and 15-11-6.** Consolidates and clarifies the PURPOSES and ADDITIONAL DUTIES sections. At a regular meeting held March 18, 2009, the HPB asked staff to review these sections and to consolidate those purpose statements that were redundant and to more plainly state the duties of the HPB.

- **Section 15-11-8.** Adds the National Alliance of Preservation Commissions and American Planning Association to the list of organizations that may provide assistance to staff.
- **Section 15-11-9.** Updates the terms used to reflect "Historic Site" and "Design Guidelines for Historic Districts and Historic Sites".
- **Section 15-11-10.** This section is being renumbered from 15-11-12 to 15-11-10.
- **Section 15-11-11.** This section is being renumbered from 15-11-10 to 15-11-11. Also, amendments clarify how the Council adopts Design Guidelines and to update the terms used to reflect "Historic Site" and "Design Guidelines for Historic Districts and Historic Sites".
- **Section 15-11-12.** This section is being renumbered from 15-11-11 to 15-11-12. In addition, amendments are intended to:
 - (A) Provide a statement regarding how conflicts between the LMC and Design Guidelines are resolved.
 - (B) Articulate the city's expectations for applications to comply with the Design Guidelines.
 - (C) Codify the design review process as it is stated in the proposed Design Guidelines.
 - (D) Require applications involving Landmark Sites to be denied if the proposed development would result in the site losing its designation as a Landmark Site (exception for Landmark Sites being Reconstructed).
 - (E) Require applications involving Significant Sites to be denied if the proposed development would result in the site losing its designation as a Significant Site; and
 - (F) Modify the design review application appeal process.
- **Section 15-11-13.** This is a new section intended to provide criteria for the relocation and/reorientation of historic structures.
- **Section 15-11-14.** This is a new section intended to provide criteria for the disassembly and reassembly of historic structures.
- **Section 15-11-15.** This is a new section intended to provide criteria for the reconstruction of existing historic structures.
- **Section 15-11-16.** This section is being renumbered from 15-11-13 to 15-11-16. In addition, the amendments are intended to eliminate the term "remove", in all its forms, from the section. "Remove" is not a defined term in the LMC and Webster's definitions are 1) *to change or shift the location, position,* 2) *to move by lifting, pushing aside, or*

- **Section 15-11-17.** This section is being renumbered from 15-11-14 to 15-11-17. In addition, amendments are intended to eliminate the term "remove" (see explanation above in 15-11-16), reference the recently adopted language on Criteria for Designating a Historic Site, and to update the terms used in the section.
- **Section 15-11-18.** This section is being renumbered from 15-11-15 to 15-11-18.
- **Section 15-11-19.** This section is being renumbered from 15-11-16 to 15-11-19. As stated above, amendments are intended to eliminate "remove" and to update terms used in the section.

Proposed Amendments to Chapter 15 - DEFINITIONS (Exhibit E)

Staff recommends the Council review and discuss proposed amendments to the following sections of Chapter 15.

- Section 1.67. The definition of "Demolish or Demolition" is being modified to allow Historic Sites to be relocated, reoriented, disassembled/reassembled or reconstructed without having to go through a CAD process.

Process:

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. On May 13, 2009 at a regular meeting of the Planning Commission, a positive recommendation was made by the Commission to adopt the proposed LMC amendments.

City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

Department Review:

These LMC amendments have been reviewed by the Planning Department, the Building Department, and the Legal Department.

Notice:

Legal Notice of this work session was posted in the required public spaces.

Public Input:

Public hearings, conducted by the Planning Commission and City Council, are required prior to adoption of Land Management Code amendments. Comment was received during the public hearing portion of the Planning Commission meetings held April 8, 2009 and May 13, 2009.

Significant Impacts:

There are no significant fiscal impacts on the City as a result of these amendments. The amendments provide clarification of procedures, criteria, and definitions and provide expanded criteria and updates in order to function in concert with the Design Guidelines for Historic Districts and Historic Sites. The amendments are consistent with stated historic preservation goals.

Consequences of not taking the Suggested Recommendation:

Consequence of not taking the recommended action may delay the adoption of the proposed LMC amendments.

Recommendation:

Staff recommends the City Council discusses the proposed amendments to the Land Management Code (LMC) for Chapters 1, 2 ("H" Districts), 5, 11 and 15 as described in this report, and provide specific changes to the amendments if needed.

SECTION 2 - DESIGN GUIDELINES FOR HISTORIC DISTRICTS AND HISTORIC SITES

Background:

The Historic Preservation Board is authorized in the Land Management Code (15-11-5 PURPOSES) to make recommendations to the City Council regarding revisions to the Design Guidelines. The process of updating the *Historic District Design Guidelines* began in August 2007 with a comprehensive review of the existing document. The organizational framework of the revised document was then completed which included general provisions, specific chapter "titles", and initial policy statements.

On January 14, 2008, the first draft of the updated Design Guidelines was reviewed and discussed by the HPB during a regular public meeting. The process of review, evaluation and revision of the guidelines occurred at public meetings held by the HPB on the following dates:

In 2008	In 2009
February 25	March 1 & 18
March 17	June 3
April 7 & 21	
May 5 & 19	
June 2 & 16	
July 7	
July 14 & 16 (open houses with design community & public)	
August 4 & 20	
September 3	
November 19	
December 3	

Throughout the process, the HPB members 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 written comments and suggestions were received from the Planning Department staff, the Building Department staff, the HPB, and the public.

Discussion & Issues:

The attached copy of the *Design Guidelines for Historic Districts and Historic Sites* dated June 19, 2009 (Exhibit H) reflects HPB's direction provided at the public meetings noted above, comments received from the public in writing or during public hearings, staff's suggestions regarding the practicality of various provisions, and recognized best practices within the field of historic preservation. In addition, this copy reflects changes resulting from LMC amendments recently recommended by the Planning Commission.

Process:

The Historic Preservation Board is authorized in the Land Management Code (Title 15, Chapter 11-10) to make recommendations to the City Council regarding updates to the Design Guidelines. The City Council has authority to then adopt the Design Guidelines.

Notice:

Legal Notice of this work session was posted in the required public spaces.

The proposed Design Guidelines were posted on the City web site (www.parkcity.org) on June 19, 2009.

Public Input:

Public input on the Design Guidelines has been received in both written and verbal forms.

Significant Impacts:

There are no significant fiscal impacts on the City as a result of adopting the *Design Guidelines for Historic Districts and Historic Sites*.

Consequences of *not* taking the recommended action:

Not taking the recommended action will result in a delay in adopting the updated Design Guidelines. The *Historic District Design Guidelines*, dated June 1983, will remain in effect until the Council adopts updated guidelines.

Recommendation:

Staff also recommends the City Council discuss the proposed Design Guidelines attached to this report and provide specific changes to the guidelines if needed.

Exhibits:

Exhibit A: Proposed Amendments to Chapter 1 - GENERAL PROVISIONS AND PROCEDURES

Exhibit B: Proposed Amendments to Chapter 2 'H' Districts

Chapter 2.1 - HISTORIC RESIDENTIAL-LOW DENSITY (HRL) DISTRICT

Chapter 2.2 - HISTORIC RESIDENTIAL (HR-1) DISTRICT

Chapter 2.3 - HISTORIC RESIDENTIAL (HR-2) DISTRICT

Chapter 2.4 - HISTORIC RESIDENTIAL-MEDIUM DENSITY (HRM) DISTRICT

Chapter 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT

Chapter 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

Exhibit C: Proposed Amendments to Chapter 5 - ARCHITECTURAL REVIEW

Exhibit D: Proposed Amendments to Chapter 11 - HISTORIC PRESERVATION

Exhibit E: Proposed Amendments to Chapter 15 - DEFINITIONS

Exhibit F: Draft Ordinance

Exhibit G: *Historic District Design Guidelines*, 1983.

Exhibit H: *Design Guidelines for Historic Districts and Historic Sites* (dated June 19, 2009).

See city website: <http://www.parkcity.org/government/meetingandagendas/citycouncil.html>

Exhibit I: Draft Resolution

Exhibit A - Proposed amendments to Title 15, Chapter 1

TITLE 15 - LAND MANAGEMENT CODE CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES

15-1-8. REVIEW PROCEDURE UNDER THE CODE.

- (A) No Building Permit shall be valid for any Building project unless the plans for the proposed Structure have been submitted to and have been approved by the Planning, Engineering and Building Departments.
- (B) No new Use shall be valid on any Property within the City unless the Use is allowed.
- (C) No Subdivision shall be valid without preliminary approval of the Planning Commission and final approval by the City Council with all conditions of approval completed.
- (D) Proposals submitted to the Planning Department must be reviewed according to the type of Application filed. Unless otherwise provided for in this LMC, only one (1) Application at a time, per Property, will be accepted and processed.
- (E) The Planning, Engineering and Building Departments review all Allowed Uses, administrative Lot Line Adjustments and Administrative Conditional Use permits.
- (F) Projects in the Historic Districts and Historic Sites Structures outside the Historic Districts are subject to design review under the Historic District Design Guidelines for Park City's Historic Districts and Historic Sites.
- (G) Conditional Uses and Master Planned Developments are initially reviewed by staff and submitted to the Planning Commission for review, final permitting and approval.
- (H) Subdivisions and Plat Amendments are initially reviewed by the Planning Commission and submitted to the City Council for final approval.
- (I) Variances, Non-Conforming Uses and Non-Complying Structures are reviewed by the Board of Adjustment.
- (J) No review may occur until all applicable fees have been paid. Final approval is not effective until all other fees including engineering fees have been paid, and following applicable staff review.

REVIEW (y) and FINAL DECISION (X)					
	Planning Director Department	HBP	Board of Adjustment	Planning Commission	City Council
Allowed	yX				
Allowed-	yX				

Historic					
Allowed-Historic Appeal		X			
Conditional	y			X	
Conditional Admin.	yX				
MPD	y			X	
Non-Conforming	y		X		
Plat Amendment	y			y Recommend to CC	X
Variance	y		X		
Subdivision	y			y Recommend to CC	X
Zoning Appeal	y		X		
LMC Amendments	y			y Recommend to CC	X

*All Applications are filed with the Planning Department. If the Planning Department is not the reviewing body (y), a staff member will make a recommendation to the appropriate decision making body (X).

(Amended by Ord. No. 06-22)

15-1-9. ALLOWED USE REVIEW PROCESS.

(A) An Applicant must file a Complete Application, using the forms established by the Planning Department, and include payment of all fees. On any Application to construct a Building or other Improvement to Property which is defined by this Code as an Allowed Use in the Zone in which the Building is proposed, the Planning Department must review the Application to determine whether the proposal:

- (1) is an Allowed Use within the zone for which it is proposed;
- (2) complies with all applicable Development requirements of that zone, including Building Height, Setback, Front, Side, and Rear Yards, and Lot coverage;
- (3) respects Lot Lines of a legally subdivided Lot;
- (4) meets the applicable parking requirements;

(5) conforms to the Park City Architectural Design Guidelines and/or the ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites, and the architectural review process established for that zone;

(6) can be adequately serviced by roads, and existing or proposed utility systems or lines;
and

(7) pertains to land in which all tax assessments have been paid.

(B) If approved by the Planning Department Planning Staff, the plans must be forwarded to the Engineering Department and Building Department. The plans shall be reviewed for Building Code compliance and permit issuance procedures. Approval of Allowed Uses must be noted by the issuance of a Building Permit in compliance with the provisions of the Uniform Building Code, as adopted by Park City.

(C) If the Application does not comply with the requirements of the zone, the Planning Department shall notify the Owner of the project or his Agent, if any, stating specifically what requirements of the zone have not been satisfied, and also stating whether the project could be reviewed as submitted as a Conditional Use for that zone.

(D) **DISCLAIMER.** No permit issued shall be valid if any of the criteria listed in this section has not been met.

(Amended by Ord. No. 06-22)

15-1 -18. APPEALS AND RECONSIDERATION PROCESS.

(A) **STAFF.** Any decision by the Planning Director regarding Application of this LMC to a Property may be appealed to the Planning Commission. Decisions regarding compliance with the ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites may be appealed to the ~~Historic District Commission~~ Preservation Board. The appeal must be filed with the Planning Department. There shall be no additional notice for appeal of the staff determination other than listing the matter on the agenda, unless notice of the staff review was provided in which case the same notice must be given for the appeal.

(B) **HISTORIC PRESERVATION BOARD (HPB).** Final Actions by the Historic Preservation Board may be appealed to the Board of Adjustment.

(C) **PLANNING COMMISSION.** Final Actions by the Planning Commission on staff appeals may be appealed to the Board of Adjustment. Final Action by the Planning Commission on Conditional Use permits and MPDs may be appealed to the City Council. Only those decisions in which the Planning Commission has applied a land Use ordinance to a particular Application, Person, or Parcel may be appealed to an appeal authority.

(D) **STANDING TO APPEAL.** The following has standing to appeal a Final Action:

- (1) Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;
- (2) The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
- (3) Any City official, Board or Commission having jurisdiction over the matter; and
- (4) The Owner of the subject Property.

(E) **TIMING.** All appeals must be made within ten (10) calendar days of the Final Action. The reviewing body, with the consultation of the appellant, shall set a date for the appeal.

(F) **FORM OF APPEALS.** Appeals to the Planning Commission or Board of Adjustment must be filed with the Planning Department. Appeals to the City Council must be filed with the City Recorder. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the petitioner; his or her relationship to the project or subject Property; and must have a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. The Applicant shall pay the applicable fee established by resolution. The adversely affected party shall present to the appeal authority every theory of relief that it can raise in district court.

(G) **BURDEN OF PROOF AND STANDARD OF REVIEW.** The appeal authority shall act in a quasi-judicial manner. The appellant has the burden of proving that the land Use authority erred. Except for appeals to the Board of Adjustment, the appeal authority shall review factual matters de novo and it shall determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance.

(H) **WRITTEN FINDINGS REQUIRED.** ~~The appellate body~~ appeal authority shall direct staff to prepare detailed written Findings of Fact, Conclusions of Law and the Order:

- ~~(1) Findings of Fact, which explain and support the Staff decision;~~
- ~~(2) Conclusions as to how a contrary decision would violate the provisions of this LMC, other City ordinances, or applicable state or federal laws or regulations.~~

(I) **CITY COUNCIL ACTION ON APPEALS.**

- (1) The City Council, with the consultation of the appellant, shall set a date for the appeal.
- (2) The City Recorder shall notify the Owner of the appeal date. The City Recorder shall obtain the findings, conclusions and all other pertinent information from the Planning Department and shall transmit them to the Council.

(3) The City Council may affirm, reverse, or affirm in part and reverse in part any properly appealed decision of the Planning Commission. The City Council may remand the matter to the appropriate body with directions for specific Areas of review or clarification. City Council review of petitions of appeal shall be limited to consideration of only those matters raised by the petition(s), unless the Council by motion, enlarges the scope of the appeal to accept information on other matters.

(4) Staff must prepare written findings within fifteen (15) working days of the City Council vote on the matter.

(J) **CITY COUNCIL CALL-UP.** Within fifteen (15) calendar days of Final Action on any project, the City Council, on its own motion, may call any Final Action taken by the Planning Commission or Planning Director up for review by the Council. The call-up shall require the majority vote of the Council. Notice of the call-up shall be given to the Chairman of the Commission and/or Planning Director by the Recorder, together with the date set by the Council for consideration of the merits of the matter. The Recorder shall also provide notice as required by Section 15-1 -12 herein. In calling a matter up, the Council may limit the scope of the call-up hearing to certain issues, and need not take public input at the hearing. The City Council, with the consultation of the Applicant, shall set a date for the call-up. The City Recorder shall notify the Applicant of the call-up date. The City Recorder shall obtain the findings, and all other pertinent information and transmit them to the Council.

(K) **NOTICE.** Notice of all appeals to City Council or call-ups shall be given by:

(1) Publishing the matter once at least seven (7) days prior to the hearing in a newspaper having general circulation in Park City; and

(2) By mailing courtesy notice seven (7) days prior to the hearing to all parties who received mailed courtesy notice for the original action.

(L) **STAY OF APPROVAL PENDING REVIEW OF APPEAL.** Upon the filing of an appeal, any approval granted by the Planning Commission will be suspended until the City Council has acted on the appeal.

(M) **APPEAL FROM THE CITY COUNCIL.** The Applicant or any Person aggrieved by City action on the project may appeal from the Final Action by the City Council affecting the project to a court of competent jurisdiction. The decision of the Council stands, and those affected by the decision may act in reliance on it unless and until the court enters an interlocutory or final order modifying the decision.

~~(N) **FINALITY OF ACTION.** Final Action occurs when the deciding body has adopted and executed written findings of fact and conclusions of law.~~

~~(N)~~ **RECONSIDERATION.** The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that

body. The City Council, and any Board or Commission, may reconsider any quasi-judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. Any action taken by the deciding body shall not be reconsidered or rescinded at a special meeting unless the number of members of the deciding body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

(P) (O) No participating member of the appeal panel may entertain an appeal in which he or she acted as the land Use authority.

(Amended by Ord. No. 06-22)

15-1-21. NOTICE MATRIX.

ACTION:	POSTED:	COURTESY MAILING	PUBLISHED
Determination of Historic Significance <u>Designation of Sites to the Historic Sites Inventory</u>	Once 7 days prior to hearing before the Historic Preservation Board	-----	Once 7 days prior to hearing before the Historic Preservation Board.
Historic <u>District or Historic Site</u> Design Review	<u>First Posting:</u> For a 14 day period once Staff=s preliminary determination of compliance has been reached. <u>a Complete Application has been received.</u> <u>Second Posting:</u> For a 14 day period once the <u>Planning Department has determined the proposed Development complies or does not comply with the Design Guidelines for Historic Districts and Historic Sites.</u>	<u>First Mailing:</u> To Owners of adjoining Property within 100 ft. once Staff=s preliminary determination of compliance has been reached. <u>a Complete Application has been received, establishing a fourteen (14) day period in which written public comment on the Application may be taken.</u> <u>Second Mailing:</u> To Owners within 100 ft. of adjoining Property and individuals who provided written comment on the Application during the	Only required upon appeal of the Planning Director's Department's decision. See appeals from Planning Director, Historic Preservation Board, Planning Commission, including City Council Call-Up. <u>Once 7 days prior to hearing before the Historic Preservation Board.</u>

		fourteen (14) day <u>public comment</u> <u>period. The second</u> <u>mailing occurs after a</u> <u>forty-five (45) day</u> <u>period in which once</u> <u>the Planning</u> <u>Department determines</u> <u>the proposed</u> <u>Development complies</u> <u>or does not comply</u> <u>with the Design</u> <u>Guidelines for Park</u> <u>City's Historic Districts</u> <u>and Historic Sites,</u> <u>establishing a 10 day</u> <u>period in which Staff's</u> <u>the Planning</u> <u>Department's</u> decision may be appealed.	
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Exhibit B - Proposed amendments to Title 15, Chapters 2.1-HRL, 2.2-HR-1, 2.3 HR-2, 2.4-HRM, 2.5-HRC and 2.6-HCB

**TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 2.1 HISTORIC RESIDENTIAL-LOW DENSITY (HRL) DISTRICT**

15-2.1-8. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit, including footing and foundation, for any Conditional or Allowed Use within this District, the Planning Department shall review the proposed plans for compliance with Historic District Design Chapter 15.5.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project and the Design Guidelines or Code provisions violated by the Staff determination.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No 06-56)

**TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 2.2 HISTORIC RESIDENTIAL (HR-1) DISTRICT**

15-2.2-8. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit, including footing and foundation, for any Conditional or Allowed Use within this District, the Planning Department shall review the proposed plans for compliance with Historic District Design Guidelines.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and the Design Guidelines or Code provisions violated by the Staff determination.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No. 06-56)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.3 HISTORIC RESIDENTIAL (HR-2) DISTRICT

15-2.3-11. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit for any Conditional or Allowed Use within this District, the Planning Department must review the proposed plans for compliance with the Historic District Design Guidelines, Chapter 15.5.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and the Design Guidelines or Code provisions violated by the Staff determination.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No. 06-56)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.4 HISTORIC RESIDENTIAL-MEDIUM DENSITY (HRM) DISTRICT

15-2.4-10. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit for any Conditional or Allowed Use within this District, the Planning Department must review the proposed plans for compliance with Historic District Design Guidelines.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and the Design Guidelines or Code provisions violated by the Staff determination.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park

City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No. 06-69)

**TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT**

15-2.5-7. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit for any Conditional or Allowed Use within this District, the Planning Department must review the proposed plans for compliance with the Historic District Design Guidelines.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and the Design Guidelines or Code provisions violated by the Staff determination.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No. 06-69)

TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

15-2.6-6. ARCHITECTURAL REVIEW

~~(A) REVIEW. Prior to the issuance of a Building Permit for any Conditional or Allowed Use within this District, the Planning Department must review the proposed plans for compliance with the Historic District Design Guidelines, LMC Chapter 15.5.~~

~~(B) NOTICE TO ADJACENT PROPERTY OWNERS. When the Planning Department determines that proposed Development plans comply with the Historic District Design Guidelines, Staff shall post the Property and provide written notice to Owners immediately adjacent to the Property, directly abutting the Property, and across Public Streets and/or Rights-of-Way.~~

~~The notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines, Chapter 15-5.~~

~~(C) APPEALS. The posting and notice shall include the location and description of the proposed Development project and shall establish a ten (10) day period to appeal Staff's determination of compliance to the Historic Preservation Board. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and the Design Guidelines or Code provisions violated by the Staff determination.~~

~~(D) Building Facades facing residential Property must be designed in such a manner that their presence is minimized through the Use of sound proofing, limited openings, and landscaping. No loading docks, service yards, detached mechanical equipment or trash dumpsters or compounds are permitted to be oriented towards residential Properties.~~

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(Amended by Ord. No. 06-69)

Exhibit C - Proposed amendments to Title 15, Chapter 5

TITLE 15 - LAND MANAGEMENT CODE CHAPTER 5 - ARCHITECTURAL REVIEW

15.5-1. POLICY AND PURPOSE.

As a community dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for the residents and Property Owners of Park City.

It is in the best interests of the general welfare of the community to protect the aesthetic values of the community through the elimination of those architectural styles, and those Building materials which, by their nature, are foreign to this Area, and this climate, and therefore tend to detract from the appearance of the community.

Most of Park City's Main Street and many homes in Park City's older neighborhoods are listed on the National Register of Historic Places District as well as being locally designated as Historic Sites, which is a point of considerable importance to the tourism industry. New Development, while distinct from the surrounding Historic Sites Historic Districts, should not detract from it them. Park City is densely developed due to the shortage of level, buildable land.

The effect of one Development is felt on the community as a whole. It is the policy of the City to foster good design within the constraints imposed by climate, land ownership patterns, and a Compatible architectural theme. It is also the intent of this section to encourage lighting practices and systems which will minimize light pollution, glare, and light trespass; conserve energy and resources while maintaining night time safety, utility, and security; and curtail the degradation of the night time visual environment. It is recognized that the topography, atmospheric conditions and resort nature of Park City are unique and valuable to the community. The enjoyment of a starry night is an experience the community desires to preserve. The City of Park City, through the provisions herein contained, promotes the reduction of light pollution that interferes with enjoyment of the night sky.

(Amended by Ord. No. 06-56)

15.5-2. HISTORIC DISTRICTS AND HISTORIC SITES.

All Uses within the Historic Districts and on Historic Sites outside the Historic Districts, both ~~permitted~~ Allowed and ~~e~~Conditional, are subject to design review by the Planning Department for compliance with the ~~Architectural~~ Design Guidelines for Park City's Historic Districts and Historic Sites adopted by the City Council in a resolution of ~~June 16, 1983~~ [Date to be determined]. Those guidelines are incorporated into this Code by reference, but may be revised from time to time by resolution of the City Council.

Design review for all Uses, Allowed and Conditional, within the HRL, HR1, HR2, HRM, HRC, HCB districts, and Historic Sites located outside these districts is initially performed by the Planning Department as set forth in LMC Chapter 15-11-12 HISTORIC DISTRICT AND HISTORIC SITE DESIGN REVIEW, with a right of appeal to the Historic Preservation Board. Review by the Historic Preservation Board is limited to matters of design compliance, with all functional review of Conditional Uses performed by the City staff. Decisions regarding design review may be reviewed by the City Council in the manner described in LMC Chapter 15-1.

(Amended by Ord. No. 06-56)

Exhibit D - Proposed amendments to Title 15, Chapter 11

**TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 11 - HISTORIC PRESERVATION**

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 11 - HISTORIC PRESERVATION

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Chapter adopted by Ord. No. 02-07; Chapter Amended in Entirety by Ord. No. 03-34

15-11-1. ESTABLISHMENT OF BOARD.

Pursuant to the Historic District Act, Section 11-18-1, et seq. of the Utah Code, 1953, and other applicable power, there is hereby created a Park City Historic Preservation Board (HPB). The HPB shall be composed of seven (7) members.

(Amended by Ord. No. 06-69)

15-11-2. TERMS AND QUALIFICATIONS OF MEMBERS.

Members of the HPB shall serve terms of three (3) years. No member may serve more than two (2) consecutive terms. The terms shall be staggered. Terms may expire on May 1, however, members of the HPB shall continue to serve until their successors are appointed and qualified.

(A) The Mayor shall appoint a new HPB member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.

(B) It is the first priority of the City Council that the HPB have technical representation in Historic preservation, therefore, when vacancies occur and if appropriate, it shall be the first consideration of the City Council to ensure that there is a licensed architect, or other professional having substantial experience in rehabilitation-type construction, serving on the HPB, and secondly that there is representation from the Park City Historical Society. After being notified by the City of a vacancy, at least two (2) nominations shall be rendered to the City Council by the Park City Historical Society if it desires to participate in the Application process.

(C) In addition, the HPB should include members with the following qualifications, or representing the following interests:

(1) A member recommended by or associated with the Utah State Historical Society or Utah Heritage Foundation.

(2) A member living in the Historic District with demonstrated interest and knowledge of Historic preservation.

(3) A member appointed at large from Park City with demonstrated interest and knowledge of Historic preservation.

(4) A member associated with Main Street Business and commercial interests.

15-11-3. ORGANIZATION.

(A) **CHAIR.** The HPB shall elect one of its members to serve as Chair for a term of one (1) year at its first meeting following the expiration of terms an appointment of new members. The Chair may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the Chair is absent from any meeting where a quorum would otherwise exist, the members may appoint a Chair Pro Tem to act as Chair solely for that meeting.

(B) **QUORUM.** No Business shall be conducted without a quorum at the meeting. A quorum shall exist when the meeting is attended by four (4) of the appointed members, including the Chair or Chair Pro Tem.

(C) **VOTING.** All actions of the HPB shall be represented by a vote of the membership. A simple majority of the members present at the meeting in which action is taken shall approve any action taken. The Chair may vote at the meetings.

(Amended by Ord. No. 07-34)

15-11-4. ABSENCE DEEMED RESIGNATION OR GROUNDS FOR REMOVAL.

Any HPB member who is absent from two (2) consecutive regularly scheduled Board meetings, or a total of four (4) regularly scheduled meetings per calendar year may be called before the City Council and asked to resign or removed for cause by the Council. Members of the HPB are not required to reside within the City limits, however, the majority of the members shall reside in Park City.

15-11-5. PURPOSES.

The purposes of the HPB are:

(A) To preserve ~~diverse and harmonious architectural styles and design preferences reflecting phases of the City's~~ unique historic character history and to encourage ~~complimentary, contemporary~~ compatible design and construction through the creation, and periodic update, of comprehensive ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites, and update as necessary;

~~(B) To protect and enhance the City's Historic appeal to tourists and visitors;~~

~~(C)~~(B) To identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land Uses;

~~(D)~~(C) To provide input to staff, the Planning Commission, and City Council towards safeguarding the heritage of the City in protecting ~~Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects~~ Historic Sites, Buildings, and/or Structures;

~~(E) To promote the private and public Use of Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects;~~

~~(F)~~(D) To ~~make recommendations~~ to the Planning Commission and City Council ~~on policies and ordinances that may encourage Historic preservation~~;

~~(G)~~(E) To communicate ~~and promote~~ the benefits of Historic preservation for the education, prosperity, and general welfare of ~~the people~~ residents, visitors and tourists;

~~(H) To provide input to staff, Planning Commission, and City Council on matters concerning the overall Development of the City's Historic preservation program;~~

~~(I)~~(F) To ~~make recommendations~~ to the City Council ~~on the Development of, and to administer, all City-sponsored preservation incentive programs, either public or private, to encourage the preservation of the City's historic resources~~;

(G) To administer all City-sponsored preservation incentive programs;

~~(J)~~(H) To review all appeals on action taken by the Planning Department regarding compliance with the ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites; and

~~(K)~~(I) To review and take action on all ~~determination of Historic preservation~~ designation of Sites to the Historic Sites Inventory Applications submitted to the City.

15-11-6. ADDITIONAL DUTIES.

In addition to the powers set forth in Section 15-11-5, the HPB may, at the direction of the City Council:

(A) Participate in the design review of any City-owned projects located within the designated Historic District.

(B) Recommend to the City Council the purchase of interests in Property for purposes of preserving the City's cultural resources.

~~(C) Investigate and report to the City Council on the Use of Federal, State, local, or private funding sources and mechanisms available to promote the preservation of the City's cultural resources.~~

~~(D)~~(C) Recommend to the Planning Commission and the City Council zoning boundary changes for the district to preserve the historical integrity of the Area. Subdivision, Conditional Uses and planned unit Development Applications must continue to be acted upon by the Planning Commission.

~~(E) Recommend to the Planning Commission and the City Council changes to the Park City Land Management Code to reinforce the purpose of Historic preservation.~~

~~(F)~~(D) Provide advice and guidance on request of the Property Owner or occupant on the construction, restoration, alteration, decoration, landscaping, or maintenance of any cultural resource, Historic Site, and Property within the Historic District, or neighboring Property within a two (2) block radius of the Historic District.

15-11-7. LIMITATIONS.

The HPB has no authority to waive or increase any requirement of any ordinance of the City.

15-11-8. STAFF ASSISTANCE.

The City may, subject to the approval of the City Manager, provide staff and/or the HPB with such assistance from:

(A) Utah Heritage Foundation.

(B) National Trust for Historic Preservation.

(C) Utah State Division of History.

- (D) Park City Historical Society.
- (E) American Institute of Architects (AIA)
- (F) The National Alliance of Preservation Commissions.
- (G) American Planning Association.

(Amended by Ord. No. 06-35)

15-11-9. PRESERVATION POLICY.

It is deemed to be in the interest of the citizens of Park City, as well as the State of Utah, to encourage the preservation of Buildings, Structures, and Sites of Historic Significance in Park City. These Buildings, Structures and Sites are among the City's most important cultural, educational, and economic assets. In order that they are not lost through neglect, Demolition, expansion or change within the City, the preservation of ~~the remaining Historic Sites, Buildings, and Structures and Site of Historic or community Significance~~ is required based on the level of Significance. This section is intended to provide an incentive for identification and preservation of Historic Buildings, Structures or Sites that may occur within the Park City Historic District, as well as those that may be located outside the Historic District.

(A) **HISTORIC PRESERVATION PLAN.** The Planning Department is authorized to require that Developers prepare a Historic Preservation Plan as a condition of approving an Application for a Building project that affects a Historic Structure, Site or Object. The Planning Director and the Chief Building Official, or their designees, must approve the Historic Preservation Plan.

(B) **GUARANTEE REQUIRED.** The Planning Department is also authorized to require that the Applicant provide the City with a financial Guarantee to ensure compliance with the conditions and terms of the Historic Preservation Plan.

(C) **TERMS OF GUARANTEE.** The Guarantee shall be similar in form to other Guarantees required by this title and shall consist of an Escrow deposit, a cash deposit with the City, a letter of credit or some combination of the above as approved by the City, including but not limited to a lien on the Property.

(D) **AMOUNT OF THE GUARANTEE.** The amount of the Guarantee shall be determined by the Chief Building Official, or his designee. The Building and Planning Departments shall develop standardized criteria to be used when determining the amount of the Historic preservation Guarantee. Such amount may include additional cost or other penalties for the destruction of Historic material(s).

(E) **EFFECT OF NON-COMPLIANCE.** If the Developer does not comply with the terms of the Historic Preservation Plan as determined by the Chief Building Official and the Planning Director, or their designees, the City shall have the right to keep the funds of the Guarantee, including the ability to refuse to grant the Certificate of Occupancy and resulting

in the requirement to enter into a new Historic Preservation Plan and Guarantee. The funds of the Guarantee shall be used, in the City's discretion, for Historic preservation projects within the City.

(F) **RELEASE OF GUARANTEE.** The Guarantee shall not be released prior to the issuance of the final Certificate of Occupancy or at the discretion of the Chief Building Official and Planning Director, or their designees, based on construction progress in compliance with the Historic Preservation Plan.

(Amended by Ord. No. 09-09)

15-11-42 10. PARK CITY HISTORIC SITES INVENTORY

The Historic Preservation Board may designate Sites to the Historic Sites Inventory as a means of providing recognition to and encouraging the Preservation of Historic Sites in the community.

(A) CRITERIA FOR DESIGNATING SITES TO THE PARK CITY HISTORIC SITES INVENTORY.

(1) **LANDMARK SITE.** Any Buildings (main, attached, detached or public), Accessory Buildings, and/or Structures may be designated to the Historic Sites Inventory as a Landmark Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and

(b) It retains its Historic Integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the National Park Service for the National Register of Historic Places; and

(c) It is significant in local, regional or national history, architecture, engineering or culture associated with at least one (1) of the following:

(i) an era that has made a significant contribution to the broad patterns of our history,

(ii) The lives of Persons significant in the history of the community, state, region, or nation, or

(iii) The distinctive characteristics of type, period, or method of construction or the work of a notable architect or master craftsman.

(2) **SIGNIFICANT SITE.** Any Buildings (main, attached, detached or public), Accessory Buildings, and/or Structures may be designated to the Historic Sites Inventory as a Significant Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and

(b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the essential historical form include:

- (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
 - (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
 - (iii) Moving it from its original location to a Dissimilar Location ~~to the original~~, or
 - (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.
- (c) It is important in local or regional history, architecture, engineering or culture associated with at least one (1) of the following:
- (i) An era of Historic importance to the community, or
 - (ii) Lives of Persons who were of Historic importance to the community, or
 - (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

(3) Any Development involving the Reconstruction of a Landmark Site or a Significant Site that is executed pursuant to section 15-11-15 of this Code shall remain on the Park City Historic Sites Inventory and shall be listed as a Significant Site.

(B) PROCEDURE FOR DESIGNATING SITES TO THE PARK CITY HISTORIC SITES INVENTORY.

The Planning Department shall maintain an inventory of Historic Sites. It is hereby declared that all Buildings (main, attached, detached or public), Accessory Buildings, and/or Structures within Park City, which comply with the criteria found in sections 15-11-~~42~~10(A)(1) or 15-11- ~~42~~ 10(A)(2) are determined to be on the Park City Historic Sites Inventory.

Any Owner of a Building (main, attached, detached or public), Accessory Building, and/or Structure may nominate it/them for listing in the Park City Historic Sites Inventory. The Planning Department may nominate a Building (main, attached, detached or public), Accessory Building, and/or Structure for listing in the Park City Historic Sites Inventory. The nomination and designation procedures are as follows:

- (1) **COMPLETE APPLICATION.** The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving a Complete Application for designation, the Planning staff shall schedule a hearing before the Historic Preservation Board within thirty (30) days.

(2) **NOTICE.** Prior to taking action on the Application, the Planning staff shall provide public notice pursuant to section 15-1-21 of this Code.

(3) **HEARING AND DECISION.** The Historic Preservation Board will hold a public hearing and will review the Application for compliance with the "Criteria for Designating Historic Sites to the Park City Historic Sites Inventory". If the Historic Preservation Board finds that the Application complies with the criteria set forth in section 15-11-42 ~~10~~(A)(1) or section 15-11-42 ~~10~~(A)(2) the Building (main, attached, detached or public), Accessory Building and/or Structure will be added to the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(4) **APPEAL.** The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of Historic Preservation Board final action. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board.

(C) REMOVAL OF A SITE FROM THE PARK CITY HISTORIC SITES INVENTORY.

The Historic Preservation Board may remove a Site from the Historic Sites Inventory. Any Owner of a Site listed on the Park City Historic Sites Inventory may submit an Application for the removal of his/her Site from the Park City Historic Sites Inventory. The Planning Department may submit an Application for the removal of a Site from the Park City Historic Sites Inventory. The criteria and procedures for removing a Site from the Park City Historic Sites Inventory are as follows:

(1) CRITERIA FOR REMOVAL.

(a) The Site no longer meets the criteria set forth in 15-11-42 ~~10~~(A)(1) or 15-11-42 ~~10~~(A)(2) because the qualities that caused it to be originally designated have been lost or destroyed, or

(b) The Building (main, attached, detached or public), Accessory Building, and/or Structure on the Site have been demolished and will not be reconstructed, or

(c) Additional information indicates that the Building, Accessory Building, and/or Structure on the Site do not comply with the criteria set forth in 15-11-42 ~~10~~(A)(1) or 15-11-42 ~~10~~(A)(2).

(2) PROCEDURE FOR REMOVAL.

(a) **Complete Application.** The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving a complete Application for ~~designation~~ removal, the Planning staff shall schedule a hearing before the Historic Preservation Board within thirty (30) days.

(b) **Notice.** Prior to taking action on the Application, the Planning staff shall provide public notice pursuant to section 15-1-21 of this Code.

(c) **Hearing and Decision.** The Historic Preservation Board will hear testimony from the Applicant and public and will review the Application for compliance with

the "Criteria for Designating Historic Sites to the Park City Historic Sites Inventory". The HPB shall review the Application "de novo" giving no deference to the prior determination. The Applicant has the burden of proof in removing the Site from the inventory. If the HPB finds that the Application does not comply with the criteria set forth in section 15-11-~~4210~~(A)(1) or section 15-11-~~4210~~(A)(2) the Building (main, attached, detached or public) Accessory Building, and/or Structure will be removed from the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(d) **Appeal.** The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

(Amended by Ord. No. 09-05)

15-11-~~40~~11. DESIGN GUIDELINES FOR PARK CITY'S HISTORIC DISTRICTS AND HISTORIC SITES. DESIGN GUIDELINES.

The HPB shall promulgate and update as necessary ~~Historic District~~ Design Guidelines for Use in the Historic District zones; and for Historic Sites. These guidelines shall, upon adoption by resolution ~~or ordinance~~ by of the City Council, be used by the Planning Department staff in reviewing Historic District/Site design review Applications. The ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites shall address rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. The Design Guidelines are incorporated into this Code by reference. From time to time, the HPB may recommend changes in the ~~Historic District~~ Design Guidelines for Park City's Historic Districts and Historic Sites to Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

15-11-~~44~~12. HISTORIC DISTRICT OR HISTORIC SITE DESIGN REVIEW.

~~(A)~~ The Planning Department shall review and approve, approve with conditions, or deny, all Historic District/Site design review Applications involving an Allowed or Conditional Use associated with a Building Permit to build, locate, construct, remodel, alter or modify any Building, Accessory Building, Structure, ~~Site~~ or other visible element, including but not limited to, signs, lighting fixtures, and Fences located within the Park City Historic Districts or Historic Sites.

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5. Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply to the extent allowed by law.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board.

(A) PRE-APPLICATION CONFERENCE.

(1) The Owner and/or Owner's representative shall be required to attend a pre-Application conference with representatives of the Planning and Building Departments for the purpose of determining the general scope of the proposed Development, identifying potential impacts of the Development that may require mitigation, providing information on City-sponsored incentives that may be available to the Applicant, and outlining the Application requirements.

(2) Each Application shall comply with all of the Design Guidelines for Historic Districts and Historic Sites unless the Planning Department determines, because of the scope of the proposed Development, that certain guidelines are not applicable. If the Planning Department determines certain guidelines do not apply to an Application, the Planning Department staff shall communicate, via electronic or written means, the information to the Applicant. It is the responsibility of the Applicant to understand the requirements of the Application.

(A)(B) COMPLETE APPLICATION.

(1) The Owner and/or Applicant for any Property shall be required to submit a Historic District/Site design review Application for proposed work requiring a Building Permit in order to complete the work.

(2) Planning Department staff shall review all Historic District design review Applications, including those associated with an Allowed or Conditional Use, which upon determining compliance with the guidelines, shall be approved by the department staff without HPB review or hearing.

(B)(C) NOTICE. Upon receipt of a Complete Application, but prior to taking action on any Historic District/Site design review Application, the Planning staff shall provide notice pursuant to Section 15-1-12 and 15-1-21 of this Code.

(C)(D) DECISION. Following the fourteen (14) day public comment notice period noted in Section 15-1-21 of this Code, Upon taking action on the Application, the Planning Department staff shall make, within forty-five (45) days, written findings, conclusions of law, and conditions of approval or reasons for denial, if any, supporting the decision and shall provide the Owner and/or Applicant with a copy. Staff shall also provide notice pursuant to Section 15-1-21 of the Code.

(1) Historic District/Site design review Applications shall be approved by the Planning Department staff upon determination of compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites. If the Planning Department staff determines an Application does not comply with the Design Guidelines, the Application shall be denied.

(2) With the exception of any Application involving the Reconstruction of a Building, Accessory Building, and/or Structure on a Landmark Site, an Application associated with a

will result in the Landmark Site no longer meeting the criteria set forth in 15-11-10(A)(1).

(3) An Application associated with a Significant Site shall be denied if the Planning Department finds that the proposed project will result in the Significant Site no longer meeting the criteria set forth in 15-11-10(A)(2).

~~(D)~~(E) **APPEALS**. The Owner, Applicant, or any Person with standing as defined in Section 15-1-18(D) of this Code may appeal any Planning ~~Director~~ Department decision made on a Historic District/Site design review Application to the ~~Planning Director~~ Historic Preservation Board.

All appeal requests shall be submitted to the Planning Department within ten (10) days of the decision. Appeals must be written and shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and a comprehensive statement of the reasons for the appeal, including specific provisions of the Code and Design Guidelines, that are alleged to be violated by the action taken.

Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-21 of this Code. The appellant shall provide required stamped and addressed notice envelopes within fourteen (14) days of the appeal. The notice and posting shall include the location and description of the proposed Development project. The scope of review by the ~~Planning Director~~ Historic Preservation Board shall be the same as the scope of review at the ~~staff~~ Planning Department level.

(1) The ~~Planning Director~~ Historic Preservation Board shall either approve, approve with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or Applicant with a copy.

~~(2) Any Planning Director decision may be appealed to the HPB. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Planning Director's decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. The scope of review by the HPB shall be the same as the scope of review by the Planning Director.~~

~~(3)~~(2) Any ~~HPB~~ Historic Preservation Board decision may be appealed to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the ~~HPB~~ Historic Preservation Board decision. Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-2021 of this Code. Appeals shall be considered only on the record made before the ~~HPB~~ Historic Preservation Board and will be reviewed for correctness.

15-11-13. RELOCATION AND/OR REORIENTATION OF A HISTORIC BUILDING OR HISTORIC STRUCTURE.

It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the relocation and/or reorientation of Historic Buildings, Structures, and Sites.

(A) CRITERIA FOR THE RELOCATION AND/OR REORIENTATION OF THE HISTORIC BUILDING(S) AND/OR STRUCTURE(S) ON A LANDMARK SITE OR A SIGNIFICANT SITE. In ~~considering~~ approving a Historic District or Historic Site design review Application involving relocation and/or reorientation of the Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site, the Planning Department shall find the project complies with the following criteria:

- (1) A portion of the Historic Building(s) and/or Structure(s) encroaches on an adjacent property and an easement cannot be secured; OR
- (2) The proposed relocation and/or reorientation will abate demolition of the Historic Building(s) and/or Structures(s) on the Site; OR
- (3) The Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation on the existing Site; OR
- (4) The Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation to a different Site.

(B) PROCEDURE FOR THE RELOCATION AND/OR REORIENTATION OF A LANDMARK SITE OR A SIGNIFICANT SITE. All Applications for the relocation and/or reorientation of any Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site within the City shall be reviewed by the Planning Department pursuant to Section 15-11-12 of this Code.

15-11-14. DISASSEMBLY AND REASSEMBLY OF A HISTORIC BUILDING OR HISTORIC STRUCTURE.

It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the disassembly and reassembly of Historic Buildings, Structures, and Sites.

(A) CRITERIA FOR DISASSEMBLY AND REASSEMBLY OF THE HISTORIC BUILDING(S) AND/OR STRUCTURE(S) ON A LANDMARK SITE OR SIGNIFICANT SITE. In ~~considering~~ approving a Historic District or Historic Site design review Application involving disassembly and reassembly of the Historic Building(s) and/or Structure(s) on a Landmark Site or Significant Site, the Planning Department shall find the project complies with the following criteria:

- (1) A licensed structural engineer has certified that the Historic Building(s) and/or Structure(s) cannot reasonably be moved intact; OR
- (2) The proposed disassembly and reassembly will abate demolition of the Historic Building(s) and/or Structure(s) on the Site; OR

(3) The Historic Building(s) and/or Structure(s) are found by the Chief Building Official to be hazardous or dangerous, pursuant to Section 115.1 of the International Building Code; OR

(4) The Planning Director and the Chief Building Official determine that unique conditions and the quality of the historic preservation plan warrant the proposed disassembly and reassembly; ~~AND~~

(5) — Under all of the above criteria, the Historic Structure(s) and/or Building(s) ~~will~~ must be reassembled using the original materials that are found to be safe and/or serviceable or can be repaired to a safe and/or serviceable condition in combination with new materials; AND

(6) — The Building(s) and/or Structure(s) will be reassembled in their original form, location, placement, and orientation.

(B) PROCEDURE FOR THE DISASSEMBLY AND REASSEMBLY OF A LANDMARK SITE OR A SIGNIFICANT SITE. All Applications for the disassembly and reassembly of any Historic Building(s) and/or Structure(s) on a Landmark Site of a Significant Site within the City shall be reviewed by the Planning Department pursuant to Section 15-11-12 of this Code.

(1) If an Application involving the disassembly and reassembly of Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site also includes relocation and/or reorientation of the reassembled Historic Building(s) and/or Structure(s) on the original Site or another Site, the Application must also comply with Section 15-11-13 of this Code.

15-11-15. RECONSTRUCTION OF AN EXISTING HISTORIC BUILDING OR HISTORIC STRUCTURE

It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the Reconstruction of Historic Buildings, Structures, and Sites.

(A) CRITERIA FOR RECONSTRUCTION OF THE HISTORIC BUILDING(S) AND/OR STRUCTURE(S) ON A LANDMARK SITE OR A SIGNIFICANT SITE. ~~In-considering~~ approving an Application for Reconstruction of the Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site, the Planning Department shall find the project complies with the following criteria:

(1) The Historic Building(s) and/or Structure(s) are found by the Chief Building Official to be hazardous or dangerous, pursuant to Section 115.1 of the International Building Code; AND

(2) The Historic Building(s) and/or Structure(s) cannot be made safe and/or serviceable through repair; AND

(3) The form, features, detailing, placement, orientation and location of the Historic Building(s) and/or Structure(s) will be accurately depicted, by means of new construction,

photographs.

(B) PROCEDURE FOR THE RECONSTRUCTION OF THE HISTORIC BUILDING(S) AND/OR STRUCTURE(S) ON A LANDMARK SITE OR A SIGNIFICANT SITE. All Applications for the Reconstruction of any Historic Building and/or Structure on a Landmark Site or a Significant Site within the City shall be reviewed by the Planning Department pursuant to Section 15-11-12 of this Code.

(1) If an Application involving the Reconstruction of Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site also includes relocation and/or reorientation of the Reconstructed Historic Building(s) and/or Structure(s) on the original Site or another Site, the Application must also comply with Section 15-11-13 of this Code.

15-11-13 16. DEMOLITION AND REMOVAL OF HISTORIC BUILDINGS, STRUCTURES AND SITES.

It is the intent of this and succeeding sections to preserve the Historic and architectural resources of Park City, through limitations on Demolition ~~and removal~~ of Historic Buildings, Structures and Sites to the extent it is economically feasible, practical and necessary. The Demolition ~~or removal~~ of Historic Buildings, Structures and Sites in Park City diminishes the character of the City's Historic District and it is strongly discouraged. Instead, the City recommends and supports preservation, renovation, adaptive reuse, Reconstruction and relocation within the Historic District. It is recognized, however, that ~~Structural deterioration~~, economic hardship and other factors not entirely within the control of a Property Owner may result in the necessary Demolition ~~or removal~~ of a Historic Building, Structure or Site.

~~All Applications for Demolition of any Building, Structure, or Site within the City shall be initially reviewed by the Planning staff for Significance pursuant to Section 15-11-12(A) herein, and forwarded with a recommendation for action to the HPB.~~

~~(A) **DETERMINATION OF INSIGNIFICANCE.** If upon review, the HPB concludes that the Building, Structure or Site sought to be Demolished or removed is insignificant, the Planning staff may sign off on the issuance of a Demolition permit.~~

~~(B) **DETERMINATION OF SIGNIFICANCE.** If upon review, the HPB concludes that the Building, Structure or Site sought to be Demolished or removed does possess Significance, the Applicant shall be required to submit a CAD Application pursuant to Sections 15-11-15 through 15-11-17, as appropriate.~~

~~(C)~~**(A) REMOVAL DEMOLITION, RECONSTRUCTION, OR REPAIR OF HAZARDOUS BUILDINGS.** If, upon review, the Chief Building Official determines the subject Building, Structure or Site to be structurally unsound, and a hazardous or dangerous Building, pursuant to Section 115.1 of the International Building Code, the Chief Building Official may order its ~~removal~~ Demolition, Reconstruction, or repair.

~~(D)~~(B) **REQUIREMENT FOR STAY OF DEMOLITION**. In the absence of a finding either of insignificance or of public hazard, the Application for Demolition or removal shall be stayed for 180 days.

(Amended by Ord. No 09-10)

15-11-44 17. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION (CAD).

With the exception of any Building or Structure falling under the purview of Section 115.1 of the International Building Code or undergoing complete renovation/reconstruction in compliance with this Chapter, no Building, other Structure or Site deemed to be ~~Significant~~ Historic, pursuant to the standards of review set forth in Section 15-11-43 10(A)(1) or 15-11-10(A)(2) herein, may be Demolished or removed without the issuance of a Certificate of Appropriateness for Demolition (CAD) by an independent CAD Hearing Board appointed by the City. Application for a CAD shall be made on forms prescribed by the City and shall be submitted to the Planning Department.

(Amended by Ord. No. 06-35; 09-10)

15-11-45 18. PRE-HEARING APPLICATION REQUIREMENTS.

Upon submittal of a CAD Application to the Planning Department, a pre-hearing period of forty-five (45) days shall commence, during which time the Owner shall allow the City to post and sustain a visible sign stating that the Property is “threatened.” Said sign shall be at least three feet by two feet (3’X2’), readable from a point of public Access and state that more information may be obtained from the Planning Department for the duration of the stay. In addition, the Owner shall conduct negotiations with the City for the sale or lease of the Property or take action to facilitate proceedings for the City to acquire the Property under its power of eminent domain, if appropriate and financially possible.

At the end of the forty-five (45) days, the Application will be scheduled for a hearing before the CAD Hearing Board, upon showing that the above requirements have been met and all economic hardship information required has been submitted. The Applicant must also submit fees in accordance with the Park City Municipal fee schedule. The Planning Department staff shall notify the Owner if any additional information is needed to complete the Application.

(A) **CAD HEARING BOARD**. Upon confirmation of receipt of a complete CAD Application, the City shall appoint an independent CAD Hearing Board, consisting of three (3) members, for the purpose of reviewing and taking action upon the Application. The City Manager shall appoint the CAD Board as the need might arise, solely for the purpose of reviewing and taking final action on all CAD Applications.

It is the first priority of the City that the CAD Board has substantial experience in finance, real estate, and commercial business interests. Hence, the Board should possess the following qualifications, or represent the following interests:

- (1) A member appointed at large from Park City with demonstrated knowledge of economics, accounting and finance;

- (2) A member appointed at large from Park City who is an attorney at law; and
- (3) A member appointed from the Board of Adjustment.

15-11-16 ~~19~~. CAD HEARING.

At the hearing, the CAD Hearing Board will review the Application pursuant to the economic hardship criteria set forth in Section 15-11-16-19(A) herein, and consider public input. The CAD Hearing Board may only approve Demolition ~~or removal~~ of a ~~Significant~~ Historic Building, Structure or Site if the Owner has presented substantial evidence that demonstrates that unreasonable economic hardship will result from denial of the CAD Application.

(A) **ECONOMIC HARDSHIP CRITERIA**. In order to sustain a claim of unreasonable economic hardship, the Owner shall provide information pertaining to whether the Property is capable of producing a reasonable rate of return for the Owner or incapable of beneficial Use. The City shall adopt by resolution separate standards for investment or income producing and non-income producing Properties, as recommended by the HPB. Non-income Properties shall consist of Owner occupied Single-Family Dwellings and non-income producing institutional Properties. The information required by the City may include, but not be limited to the following:

- (1) Purchase date, price and financing arrangements;
- (2) Current market value;
- (3) Form of ownership;
- (4) Type of occupancy;
- (5) Cost estimates of Demolition and post-Demolition plans;
- (6) Maintenance and operating costs;
- (7) Costs and engineering feasibility of rehabilitation;
- (8) Property tax information; and
- (9) Rental rates and gross income from the Property.

The CAD Hearing Board, upon review of the CAD Application, may request additional information as deemed appropriate.

(B) **CONDUCT OF OWNER EXCLUDED**. Demonstration of economic hardship by the Owner shall not be based on conditions resulting from:

- (1) Willful or negligent acts by the Owner; or
- (2) Purchasing the Property for substantially more than market value at the time of purchase; or

- (3) Failure to perform normal maintenance and repairs; or
- (4) Failure to diligently solicit and retain tenants; or
- (5) Failure to provide normal tenants improvements.

(D) **DECISION.** The CAD Hearing Board shall make written findings supporting the decision made. The CAD Hearing Board may determine that unreasonable economic hardship exists and approve the issuance of a CAD if one of the following conditions exists:

- (1) For income producing Properties, the Building, Structure or Site cannot be feasibly used or rented at a reasonable rate ~~or~~ of return in its present condition or if rehabilitated and denial of the Application would deprive the Owner of all reasonable Use of the Property; or
- (2) For non-income producing Properties, the Building, Structure or Site has no beneficial Use as a residential dwelling or for an institutional Use in its present condition or if rehabilitated, and denial of the Application would deprive the Owner of all reasonable Use of the Property; and
- (3) The Building, Structure or Site cannot be feasibly ~~moved~~ Reconstructed or relocated.

(D) **APPROVAL.** If the CAD Hearing Board approves the Application, the Owner may apply for a Demolition permit with the Building Department and proceed to Demolish the Building, Structure or Site in compliance with other regulations as they may apply. The City may, as a condition of approval, require the Owner to provide documentation of the Demolished Building, Structure or Site according to the standards of the Historic American Building Survey (HABS). Such documentation may include a complete history, photographs, floor plans, measured drawings, an archeological survey or other information as specified. The City may also require the Owner to incorporate an appropriate memorializing of the Building, Structure or Site, such as a photo display or plaque, into the proposed replacement project of the Property. Approval of a CAD shall be valid for one (1) year.

(E) **DENIAL.** If the CAD Hearing Board denies the Application, the Owner shall not Demolish the Building, Structure or Site, and may not re-apply for a CAD for a period of three (3) years from the date of the CAD Hearing Board's final decision, unless substantial changes in circumstances have occurred other than the re-sale of the Property or those caused by the negligence or intentional acts of the Owner. It shall be the responsibility of the Owner to stabilize and maintain the Property so as not to create a structurally unsound, hazardous, or dangerous Building, as identified in Section 115.1 of the International Building Code. The City may provide the owner with information regarding financial assistance for the necessary rehab or repair work, as it becomes available.

(F) **APPEAL.** The City or any Persons adversely affected by any decision of the CAD Hearing Board may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Officer's decision was arbitrary, capricious, or illegal. The petition is barred unless it is filed within thirty (30) days after the date of the CAD Hearing Board's decision.

(Amended by Ord. No. 09-10)

Exhibit E - Proposed amendments to Title 15, Chapter 15

**TITLE 15 - LAND MANAGEMENT CODE
CHAPTER 15 - DEFINITIONS**

1.67 DEMOLISH OR DEMOLITION.

Any act or process that destroys in part or in whole a Building Landmark or Structure. Excludes Building(s) and/or Structure(s) undergoing relocation and/or reorientation pursuant to Section 15-11-13 of this Code, disassembly pursuant to Section 15-11-14 of this Code, or Reconstruction pursuant to Section 15-11-15 of this Code.

Exhibit F - Draft Ordinance

AN ORDINANCE APPROVING AMENDMENTS TO THE LAND MANAGEMENT CODE OF PARK CITY, UTAH TO ADDRESS REVISIONS TO CHAPTERS 1, 2, 5, 11, AND 15.

WHEREAS, the Land Management Code is designed and enacted to implement the objectives of the Park City General Plan; to protect the general health, welfare, and safety of Park City's citizens and property owners; to maintain the quality of life and experience for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the General Plan and Land Management Code and identifies necessary amendments to address planning and zoning issues that arise and to address specific LMC issues raised by Staff and the Planning Commission; and

WHEREAS, the City Council goals include protecting the City's historic and cultural resources by encouraging sound preservation practices; and

WHEREAS, Chapter 1 - GENERAL PROVISIONS AND PROCEDURES provides regulations and procedural requirements for Land Use in Park City and the City desires to update the terms used throughout the chapter as well as to revise the procedures to allow for greater public input on design review applications; and

WHEREAS, Chapter 2 - "H" DISTRICTS provides regulations and procedural requirements for architectural review within the six Historic Districts of Park City and the City desires to revise these regulations to clarify the architectural review procedures; and

WHEREAS, Chapter 5 - ARCHITECTURAL REVIEW provides regulations and procedural requirements for maintaining and enhancing the aesthetic qualities of Park City and the City desires to revise these regulations to correct erroneous information, to emphasize the City's desire to protect its cultural resources, and to clarify how these regulations are applied; and

WHEREAS Chapter 11 - HISTORIC PRESERVATION provides regulations and procedural requirements for Historic Preservation in Park City and the City desires to substantially revise these regulations as outlined in the staff report; and

WHEREAS Chapter 15 - DEFINITIONS defines terms used throughout the Land Management Code and the City desires to revise the definition of "demolish" to accommodate a broader range of development options; and

WHEREAS, these amendments represent changes identified by the City Council during discussions held in 2008 and 2009. Amendments to update terms used throughout the Code, to clarify the architectural review procedures, to expand and

define Historic Preservation activities in Park City, and to codify policies and procedures that benefit the public are consistent with City Council goals to protect historic and cultural resources; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at regular meetings held April 8 and May 13, 2009, and forwarded a recommendation to the City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on July 9, 2009; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Utah State Code and the Park City General Plan, and to be consistent with the values and identified goals of the Park City community and City Council to protect the health, safety, and welfare, and to maintain the quality of life for its residents, and to preserve the community's unique character.

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

Section 1. AMENDMENTS TO CHAPTER 1 OF THE LAND MANAGEMENT CODE. Chapter 15-1 is hereby amended as attached hereto as Exhibit A. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 1.

Section 2. AMENDMENTS TO CHAPTER 2 OF THE LAND MANAGEMENT CODE. Chapter 15-2 is hereby amended as attached hereto as Exhibit B. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 2.

Section 3. AMENDMENTS TO CHAPTER 5 OF THE LAND MANAGEMENT CODE. Chapter 15-5 is hereby amended as attached hereto as Exhibit C. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 5.

Section 4. AMENDMENTS TO CHAPTER 11 OF THE LAND MANAGEMENT CODE. Chapter 15-11 is hereby amended as attached hereto as Exhibit D. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 11.

Section 5. AMENDMENTS TO CHAPTER 15 OF THE LAND MANAGEMENT CODE. Chapter 15-15 is hereby amended as attached hereto as Exhibit E. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15.

Section 6. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 9th day of July 2009

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Jan M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Exhibit H - Draft Resolution

Resolution No. _____

**A RESOLUTION ADOPTING THE DESIGN GUIDELINES
FOR HISTORIC DISTRICTS AND HISTORIC SITES**

WHEREAS, Chapter 15-11 of the Land Management Code provides for the adoption of comprehensive design guidelines by resolution, which will supplement the Code; and

WHEREAS, the adoption of comprehensive design guidelines will give the design community notice of the design objectives of the City;

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

1. Section 1. REVISIONS TO THE DESIGN GUIDELINES FOR HISTORIC DISTRICTS AND HISTORIC SITES. The attached Design Guidelines are hereby adopted by the City Council as the official design guidelines for Historic Districts and Historic Sites pursuant to the provisions of Chapter 15-11 of the Land Management Code.

2. EFFECTIVE DATE. The guidelines shall become effective upon passage of this resolution.

PASSED AND ADOPTED this 9th day of July 2009

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Jan M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney



City Council Staff Report

Subject: Design Discussion for
Bonanza Drive Reconstruction Project
Author: Matthew Cassel, P.E., City Engineer
Department: Engineering
Date: June 25, 2009
Type of Item: Informational and Direction

Summary Recommendations:

City Council should provide direction regarding the design of Bonanza Drive specifically for the location of the drive(s) into the Park City Health Care Clinic.

Background:

The final design for Bonanza Drive is nearing completion, and prior to construction staff wanted City Council to review the design to ensure that it is consistent with policy objectives.

In August 2007 H. W. Lochner was hired by Park City to develop a corridor and pedestrianization plan for Bonanza Drive in anticipation of a critical waterline project that would necessitate major reconstruction in the roadway. The purpose of the plan was to outline and prioritize short-term and long-term improvements for roadway, bicycle and pedestrian facilities along Bonanza Drive and find the appropriate balance of the sometimes competing modes of transportation. The plan aimed to improve traffic flow, improve intersection operations throughout the corridor and provide bicycle/pedestrian access and safety. The plan provided short-term recommended improvements (2009 – 2016) and long-term recommended improvements (2016 – 2030). This project addresses the short-term recommended improvements.

The design includes sections of raised medians along Bonanza Drive, installation of conduits and wiring for a traffic signal at the Bonanza Drive/Iron Horse intersection, acceleration lanes at Prospector Avenue, “no left turn” restrictions, Bicycle lanes, a northbound bus pull-out, trail connection including a pedestrian tunnel at the Iron Horse intersection, pedestrian crossing at Munchkin, consistent 6 foot wide sidewalks, speed limit feedback signs, right turn lane at Iron Horse and lengthened southbound left turn lane at Deer Valley Drive. As part of this work, the existing sewer line will be relocated due to the pedestrian tunnel and replaced to SR-248, the existing water line will be relocated due to the pedestrian tunnel and a new distribution water line will be installed. Additionally, the intersection of Monitor and Kearns will be realigned allowing a consistent biking shoulder to be established along the length of Monitor Drive, adjacent to the cemetery (which was a specific WALC project).

On October 30 2008, H. W. Lochner was approved to start and complete the design of the recommended elements from the Plan as outlined below. Because of the size and complexity of this project, it was decided early in the design process to break the project

into two construction seasons. The first construction season includes the installation of the transmission waterline from Deer Valley Drive to Kearns Boulevard and the reconstruction of Bonanza Drive from Deer Valley Drive to a point just north of Upper Iron Horse Drive. The second construction season would complete the utilities, construct the pedestrian tunnel and reconstruct the rest of Bonanza Drive and its associated facilities. The project was originally anticipated to be bid as one complete project in June of 2009.

Numerous issues remain unresolved on the project and UDOT indicated they would not proceed with bidding until those issues are resolved. All of the unresolved issues pertain to the second season of construction. To keep the project moving forward, staff decided to split the project into two biddable phases. The first phase is all work associated with the first season of construction (2009) and the second phase is all work associated with the second season of construction (2010). The Prospector Street intersection/Health Clinic Drive will be affected by the transmission waterline construction occurring this summer and the road construction occurring during the 2010 construction season.

Project Status:

The design kick-off meeting was held on December 17, 2008 and has progressed close to schedule. The design is now approximately 85% complete and is scheduled to be completed in June 2009 except for a few unresolved design issues that are currently being addressed.

Analysis:

This staff update provides additional discussion concerning the existing drives servicing the Park City Health Clinic.

Per the current design direction for Bonanza Drive, existing drives servicing businesses along the Bonanza corridor are proposed to remain in their current location. The Whimsy, No Place Like Home and Park City Health Clinic are currently serviced by two drives as shown on the attached Drawing 1. These drives are also utilized by Buggy Bath and Maverick gas station. With the addition of raised medians along Bonanza Drive, the south drive will operate similarly to its current utilization (left and right turns are allowed when entering and exiting the drive). The north drive, on the other hand, will be restricted to only right turns entering and exiting the drive (left turns will be restricted).

Recently, Park City Health Clinic approached the City concerned with the proposed changes to the north drive accessibility. Their concerns are the inability for emergency vehicles and people with health need to turn left when coming from Deer Valley Drive or Main Street and the possible inability for a helicopter to land at the intersection of Bonanza Drive and Prospector Drive once the medians are installed. In discussion between the Clinic and City staff, an alternative drive was developed. This drive would be located approximately 100 feet to the south of the existing north drive as shown on the attached Drawing 2. It was proposed to eliminate the existing north and south

drives so only one drive would service this business area. Two trees would need to be removed to install this proposed drive, but could be replaced elsewhere in the corridor.

Fire District Position – Assistant Chief Scott Adams walked the site on June 8, 2009 with City staff to evaluate the existing and proposed location of drives servicing the Park City Health Clinic. The Fire District does not share the same concerns as the Health Clinic. With some adjustments to parking in the existing parking lot, the south drive would be an acceptable access point. Additionally, the District realizes that the medians are low and mountable, and their emergency vehicles can easily cross the median at the north drive if required.

In Summary:

The current design direction does restrict left turn movements entering and exiting the north drive, but still allows left turn movements at the south drive. Additionally with some modifications to parking, the south drive does provide an acceptable entrance for emergency vehicles. The location of existing business signage may need modifications to accommodate the change in turning movements (additional Health Clinic sign near the south drive) and the helicopter landing spot would need to be reevaluated. Most importantly though, this direction will preserve the design modifications for the Prospector Drive and Bonanza Drive intersection and should realize more efficient left turn movements from Prospector Drive due to the intersection's betterments.

Although the proposed drive relocation will reduce by one the number of drives into the complex, staff recognizes numerous other serious negative consequences ensuing. These include the removal of existing trees and the need to reevaluate the helicopter's landing spot. The more serious consequence, though, is the proposed relocation of the drive, which will severely compromise the efficiency and functionality of the improved Prospector Drive and Bonanza Drive intersection by creating left turn conflicts just south of the intersection.

Council has shown continued support of the goals outlined by the Corridor and Pedestrianization Plan for Bonanza Drive and committed to finding the appropriate balance of the sometimes competing modes of transportation. The goals are to improve traffic flow, improve intersection operations throughout the corridor and provide bicycle/pedestrian access and safety. It is staff's recommendation to continue with the location of the drives into the Health Clinic as currently shown on the attached Bonanza Drive Improvements Drawing #1 for the following reasons:

1. Goal of corridor plan to improve traffic flow and reduce curb cuts,
2. Preserves design of intersection,
3. Safety goals – Accident counts in this area were the highest, and
4. Level of service for EMS is not reduced

Staff finds that continual modification to the construction design will begin to erode at the goals of the project and may ultimately compromise the initial intentions of improving traffic and pedestrian safety.

Department Review:

This report has been reviewed by City Manager, Planning, Public Works, Building, and Legal. All issues have been resolved.

Significant Impacts:

Delays to the project - Because construction on this section of road will not occur until the summer of 2010, delays should not occur due to the possible relocation of the drive.

Anticipated design costs – Because the design is nearing completion, additional costs should be anticipated for this drive relocation.

Federal Funding – The existing funding is relatively stable and should not be vulnerable to a delay, but requested future federal funds, especially possible stimulus money, may not be available if our project is not “shovel ready” (start construction within three months).

Recommendation:

City Council should provide direction regarding the design of Bonanza Drive specifically for the location of the drive(s) into the Park City Health Care Clinic.

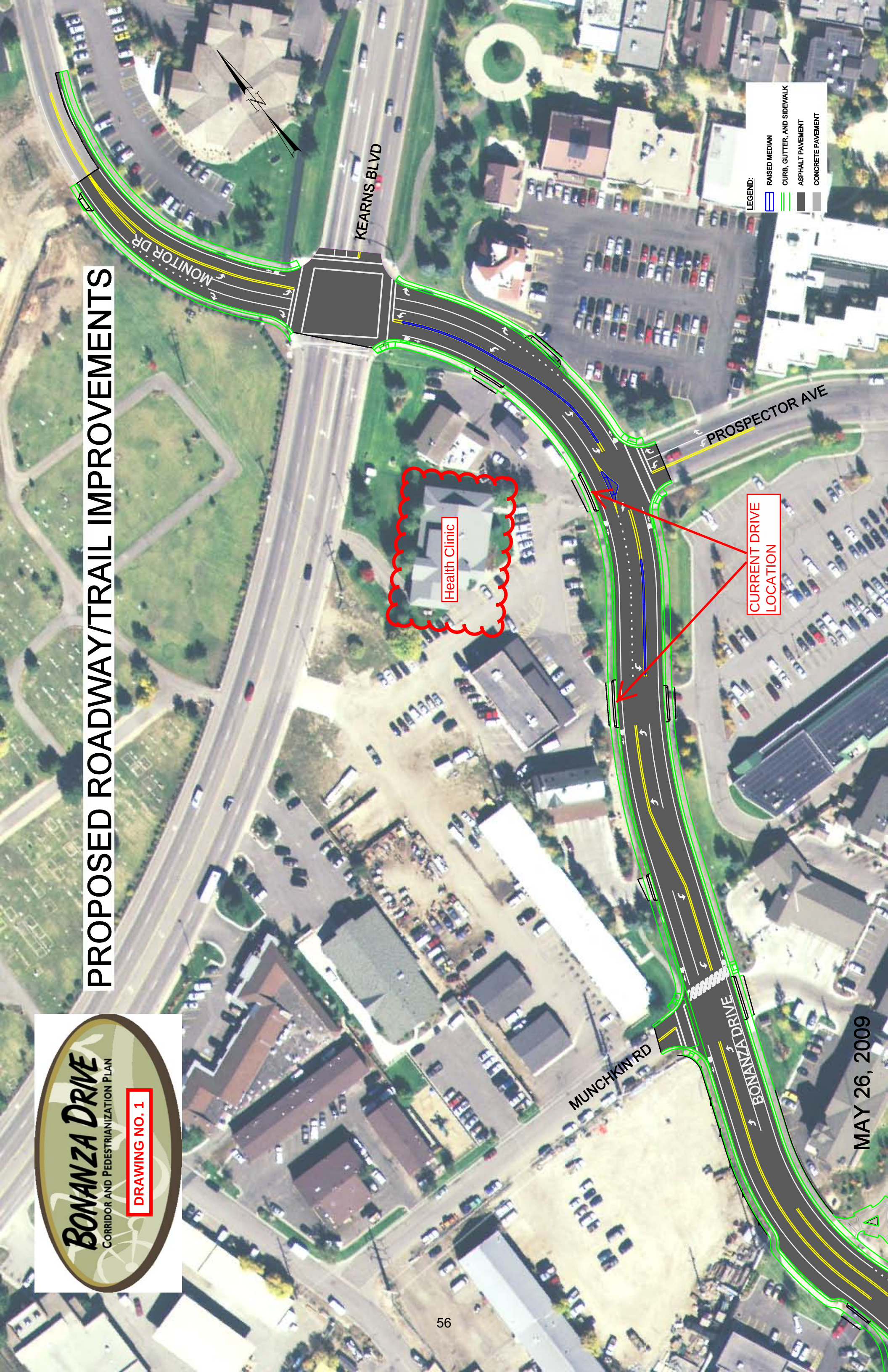
Exhibits – Bonanza Drive Improvements Drawing 1
 Bonanza Drive Improvements Drawing 2

BONANZA DRIVE

CORRIDOR AND PEDESTRIANIZATION PLAN

DRAWING NO. 1

PROPOSED ROADWAY/TRAIL IMPROVEMENTS

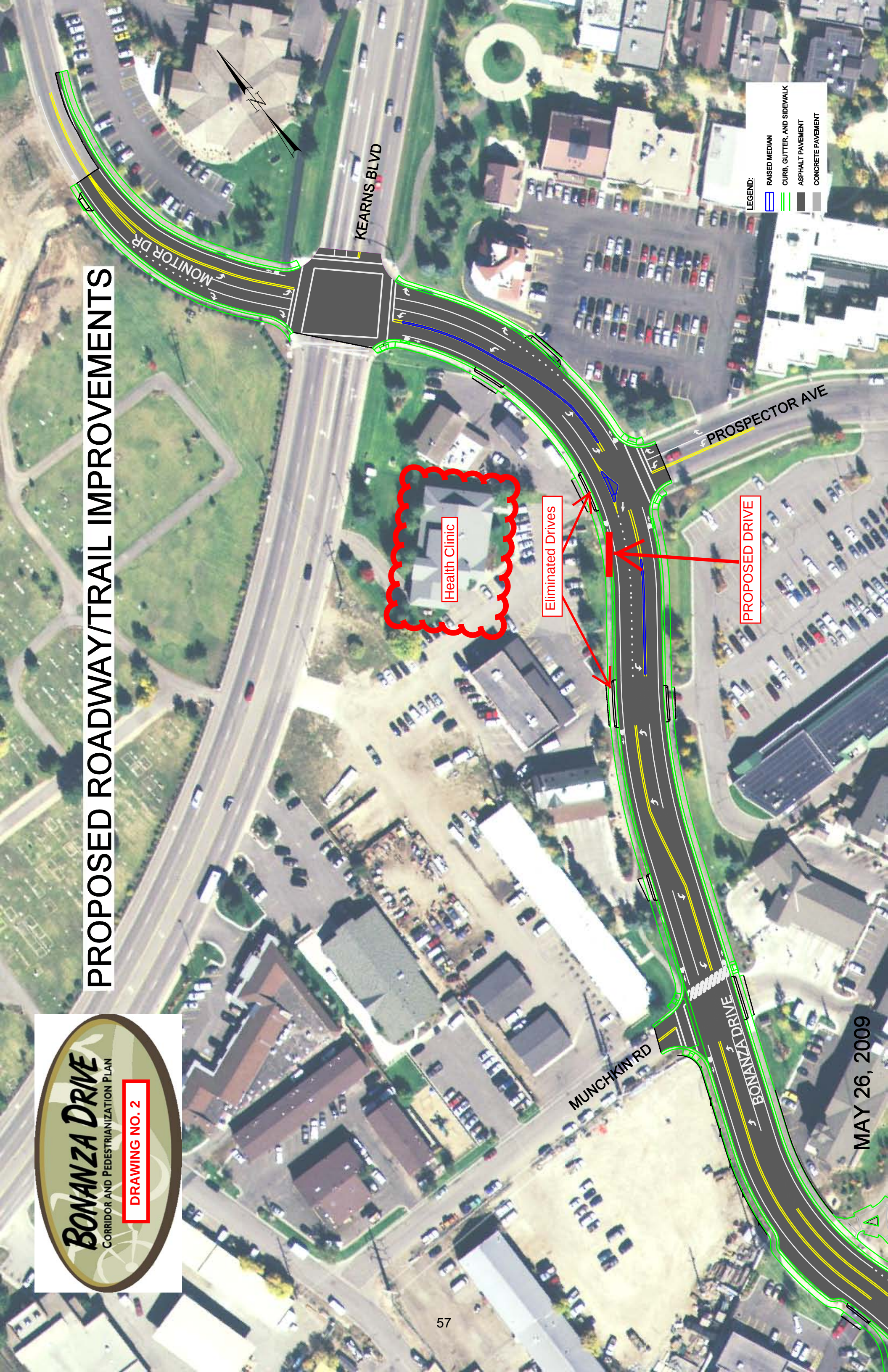


BONANZA DRIVE
CORRIDOR AND PEDESTRIANIZATION PLAN

DRAWING NO. 2

57

MAY 26, 2009



PROPOSED DRIVE

Eliminated Drives

Health Clinic

MUNCHKIN RD

KEARNS BLVD

An aerial photograph of a road with the text "MONITOR DR" written on it. The road has a yellow center line and green edge lines, which are highlighted with a green and yellow border.

LEGEND:

RAISED MEDIAN

CURB, GUTTER, AND SIDEWALK

ASPHALT PAVEMENT

CONCRETE PAVEMENT

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 11, 2009**

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Craig Sanchez, Director of Golf; Pace Erickson, Operations Manager; Darren Davis, Transit Supervisor; and Bret Howser, Budget Manager

David Smith, Esq., Talisker

Absent: Liza Simpson

1. Council questions/comments. Jim Hier reported on the Uniform Building Code Commission meeting. Candace Erickson directed staff to draft a resolution encouraging sunshine. Roger Harlan commented on the well-attended Air Force band performance at the Egyptian Theater, the Public Art Advisory Board and the Mountainlands Community Housing Trust meetings. The Mayor spoke about attending the open space event at the Junction and agreed that the Air Force band was phenomenal. He thanked staff members serving on the 125th B-Day Bash committee and commented on participating in the Western Governors Conference. He relayed that the Park City Market has a cloth bag loaner program available for shoppers. Discussion ensued on the labyrinth project proposed at the fountain area at Miners Hospital. The Mayor reported on the mosquito abatement board meeting where the mosquito population is estimated to double this season because of the rain; the board adopted its annual budget.

2. Budget review. Mr. Howser explained that on May 28, Council was presented with a study and a recommendation for an adjustment to the administrative portion of the business license fees. The recommendation is to redistribute cost recovery between business types, new licenses and renewals. In order to attain full cost recovery on new businesses, the administrative fee would be in the \$200 range. He noted that there was discussion about moving the 40% cost recovery level toward full cost recovery over a number of years. The Lodging Association relayed that most of the board agrees with the staff recommendation with a reminder of the financial support the lodging industry already contributes to the City. All members in attendance expressed that 40% is a good compromise.

Bret Howser explained that the Library reciprocal borrowing program costs \$25,000 to move to Phase B to expand free services to County residents working in Park City. It was hoped that Summit County would share the cost equally as was done for the student program. Mr. Howser stated that he attended the Summit County Council meeting where this was discussed and members indicated interest but would prefer to pursue a long term plan of regionalization of the library function. The County may

financially participate but would like to understand the costs better and the two library boards will be meeting on this issue.

Jim Hier expressed that after hearing an excerpt from the County Council meeting on the radio, it seemed as if the Council felt that Park City has an ulterior motive for asking to cover its proportional cost of the program. He emphasized that he does not care one way or another about the program, but the proposal was initiated as an outreach effort to County residents. Candace Erickson interpreted comments to reflect that the County is already contributing \$13,000 for the student program and another \$12,000 for workers would total \$25,000 which may be better spent improving Summit County's library program. She understood Mr. Hanrahan's position to be that a regional plan should be in place before considering a contribution toward an expanded program. Craig Sanchez explained that 243 cards were issued for County students and 4,150 books checked out during the past two years the expanded student program has been in place. Roger Harlan expressed concerns that the County is not committed to the proposal. The Mayor suggested leaving the borrowing program in the budget with the proviso that a contribution from the County is necessary in order for the program to be implemented. Mr. Harlan explained that anyone can purchase a library card and the library is open to anyone who walks through the door, i.e., use of computers, reading room, etc.

Mr. Howser stated that changes to budget policies are addressed in the staff report and recent changes include modifying the revenue shortfall plan to reference the reserve policy and the special service policy now clarifies that the 1% allocation excludes capital, inter-fund transfers and any loans for all funds combined. The monthly budget report has been updated as requested.

He referred to the Park and Ride project where staff was directed to explore a limited operation without a transit component. Elements of the operation of the facility include security, public safety response, daily operations, snow removal, trash removal, and lighting. Bret Howser stated that staff continues to recommend that the Park and Ride not be opened this year due to the financial and operating impacts, and the lack of a well defined user. If Council decides to open the Park and Ride on a limited basis this year, the annual operating costs would be about \$46,000 and staff will return with a budget option to include in the final document next week.

Jim Hier felt that making a paved lot available to the ski resort and Talisker workers is worthwhile and believed all of these elements are required to obtain an occupancy permit from the County. It would be a shame not to make a paved lot available and important to begin to encourage use as a park and ride for large employers, not for the general public. He felt the \$46,000 would be money well spent. Candace Erickson pointed out that PCMR already runs shuttles and discussions with the resorts should have occurred earlier, but suggested budgeting it in the event it could work this year. In response to a question from the Mayor, David Smith from Talisker reported that there were two break-ins in the dirt lot last season and he felt the paved lot would be used.

The Mayor agreed to add this item in the budget and felt the Park and Ride lot could also be used for special events. Mr. Smith interjected that The Montage workers will be coming on line. Roger Harlan added his support. Joe Kernan expressed concern about the \$35,000 cost estimated for security which he felt was really high. Pace Erickson strongly recommended investing in security and explained that the success of the lot will depend on people feeling safe there, especially women. Candace Erickson pointed out the remoteness of the lot and would rather have a good security plan in place. Darren Davis pointed out that the security cost is based on 12 hours a day of service but the larger employers may be willing to participate in an expanded security plan. The City Manager noted that staff will follow-up with contacting resorts and businesses.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 11, 2009**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, June 11, 2009. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Liza Simpson was excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; and Max Paap, Special Events Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Joe Kernan disclosed that Talisker is among his recycling customers.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF MAY 28, 2009

Roger Harlan corrected roll for work session, "I move that we approve the work session notes and minutes of May 28th with the correction noted". Jim Hier seconded. Motion carried.

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

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

1. Consideration of a Resolution adopting a budget for fiscal year 2010 for Park City Municipal Corporation and its related agencies – The Mayor opened the public hearing; there were no comments from the audience and the hearing was closed. The Mayor requested a motion to continue to June 18, 2009. Roger Harlan, "I so move". Joe Kernan seconded. Motion carried.

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

2. Consideration of a Master Festival License for The Gallery Stroll Music in the Park, as conditioned, on June 26, July 31, and August 28, 2009 to be held in Miner's Park on Main Street – Max Paap explained that The Gallery Association and Mountain Town Stages submitted an application requesting an MFL in Miners Park to compliment the existing Friday evening gallery strolls by incorporating a live music element to get more movement on the street. The events will run from 6 p.m. to 8:30 p.m. on the Fridays indicated and a MFL is required because of the request for amplified music and the use of City property. Discussion ensued on the availability of parking, specifically on July 31. The Mayor opened the public hearing; there was no input. The hearing was closed. Jim Hier, "I move we approve the Master Festival License for The Gallery Stroll Music in the Park, as conditioned in the staff report". Roger Harlan seconded. Motion carried.

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

VI OLD BUSINESS

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and approving a Water Agreement, and amending the Official Zoning Map of Park city to zone the property in the Community Transition Zoning District (CT) – Mark Harrington referred to the update in the staff report regarding the on-going discussions between staff and the applicants of the Park City Heights Annexation. He stated that the annexation has undergone extensive discussions to finalize remaining details, most in relation to the water system, capital infrastructure, cost sharing and some issues associated with transportation and traffic improvements. Concurrently, Talisker has been exploring an alternative in terms of removing all of its density from the project in exchange for the purchase of some additional existing units and/or construction in combination with a land contribution to the City. Those alternatives continue to be explored by Talisker and are not formalized and therefore not public. Staff felt it appropriate to come to Council in open session to ensure that Council is comfortable with exploring those options prior to moving forward with the entire annexation.

Mr. Harrington asked if Council is supportive of the concept of exploring the swap of as-built units in combination with a land contribution in satisfaction of some or all of the remaining approximate 86 AUEs. If yes, he asked if Council is comfortable with a third party holding a portion of the remaining land in a conservation easement. The third point is authorizing staff to further explore terms of City participation in the infrastructure within the existing pending MPD and the fourth is authorizing staff to explore and further

negotiate City development partnership in the project as a whole (limited to city affordable housing development) in a reconfigured MPD, including some minor modifications to density apportionment provided overall density remains within the CT zone limits. The fifth issue is to provide direction to prioritize and target finalizing the annexation approval within a specified time frame and Mr. Harrington indicated that staff's recommendation is to complete the annexation within the next 30 days. The Planning Commission will be updated and have the ability to provide input, but the application will not formally return to the Commission. This is a fundamental dramatic change, but one that has the possibility of a win-win for all parties involved.

All members in attendance were willing to explore the options presented. Jim Hier suggested that a weekly standing meeting be scheduled on the project with the parties, staff and Council representatives. Jim Hier and Roger Harlan were assigned as liaisons to the meetings. The Mayor opened the public hearing; there were no comments from the public and the public hearing was closed. Joe Kernan, "I move we continue the Park City Heights annexation to June 25, 2009". Roger Harlan seconded. Motion carried.

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

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VIII 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 5 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Liza Simpson was excused. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss personnel". Jim Hier seconded. Motion carried. The meeting opened at approximately 5:15 p.m. Roger Harlan, "I move to open the meeting". Jim Hier seconded. Motion carried.

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

Liza Simpson

Absent

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

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

City Council Staff Report

Subject: 575 Park Avenue
Author: Kayla Sintz, AIA
Date: June 25, 2009
Type of Item: Administrative – Plat Amendment



Summary Recommendation

Staff recommends the City Council hold a public hearing for the 575 Park Avenue plat amendment and consider approving the plat amendment based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the attached ordinance.

Topic

Applicant: Fairy Isles Limited Company
Location: 575 Park Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Residential

Background

On April 2, 2009 the City received a completed application for a plat amendment at 575 Park Avenue. The subject property is located in the Historic Residential (HR-1) zoning district. The proposed plat combines Lot 19 with the south half of Lot 20, Block 5 of the Park City Survey, into one lot of record. The proposed lot will be 2,813 square feet. The existing structure on the property is listed as Landmark on the Park City Historic Sites Inventory.

The historic structure straddles the lot line between Lot 19 and Lot 20. The minimum lot width in the HR-1 zoning district is twenty-five (25) feet. This plat amendment creates a lot width of 37.5 feet and does not create a sub-standard lot with the remaining portion of Lot 20, which is part of the 581 Park Avenue Amended Plat and also 37.5 feet wide. An existing recorded reciprocal encroachment easement with Lot 18 has also been identified, which documents steps and retaining walls existing between Lot 18 and Lots 19 and Lot 20.

This is an existing non-conforming historic structure due to footprint size and non-compliance with side yard setbacks. The applicant wishes to combine the lots into one lot of record to facilitate a rear, second story expansion of the house which will meet all current side and rear setbacks and will not be increasing footprint or degree of non-conformity. A building permit cannot be issued for construction across a lot line.

There is also a Historic District Design Review application under consideration by staff

for this addition.

This item was heard by the Planning Commission on May 27, 2009 without any modifications. A positive recommendation was forwarded at that time.

Analysis

Staff finds good cause for this plat amendment as it cleans up the property lines and facilitates a possible proposed addition.

Home located at 575 Park Avenue with proposed addition:

	Permitted	Proposed
Front setback	10'	8.5' (existing non-conforming historic structure)
Rear setback	10'	15.5' (existing, no change)
Side setbacks	3' minimum, 6' total	0' to 1.9' on north, 1.7' to 2.1' on south = 3.6' to 4' total (existing non-conforming with no modification)
Footprint	1,201 square feet maximum	1460.5 square feet existing (non-conforming; no new footprint to be added)

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. Staff review of a Building Permit is not publicly noticed nor subject to review by the City Council.

Department Review

This project has gone through an interdepartmental review. All issues identified during the meeting have been addressed by the applicant.

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 575 Park Avenue plat amendment as conditioned or amended; or
- The City Council may deny the 575 Park Avenue plat amendment and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on 575 Park Avenue plat amendment.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The lot lines would remain where they currently stand and the proposed addition at 575 Park Avenue could not take place.

Recommendation

Staff recommends the City Council hold a public hearing for the 575 Park Avenue Plat Amendment and consider approving the attached ordinance based on the Findings of Fact, Conclusions of Law and Conditions of Approval.

Exhibits

Exhibit A – Ordinance with Proposed Plat

Exhibit B – Survey of existing conditions

Ordinance No. 09-

**AN ORDINANCE APPROVING THE 575 PARK AVENUE PLAT AMENDMENT
LOCATED AT 575 PARK AVENUE, PARK CITY, UTAH**

WHEREAS, the owner of the property located at 575 Park Avenue have petitioned the City Council for approval of the 575 Park Avenue plat amendment; 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 May 27, 2009, to receive input on the 575 Park Avenue plat amendment;

WHEREAS, the Planning Commission, on May 27, 2009, forwarded a positive recommendation to the City Council; and,

WHEREAS, the City Council held a public hearing on June 25, 2009, to receive input on the 575 Park Avenue plat amendment;

WHEREAS, it is in the best interest of Park City, Utah to approve the 575 Park Avenue plat amendment.

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 575 Park Avenue plat amendment as shown in attachment is approved subject to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 575 Park Avenue in the Historic Residential (HR-1) zoning district.
2. There is an existing historic structure on the property. The structure is listed as 'Landmark' on the Park City Historic Sites Inventory.
3. The subject property encompasses Lot 19 and portions of Lot 20, Block 5 of the Park City Survey.
4. A recorded Reciprocal Encroachment Easement Agreement for steps and retaining walls exists between owners of Lot 18 and owners of Lots 19 and 20, Entry No. 638805 in Book 1489 at Page 1705 of the official records.

5. The proposed amended plat would result in one lot of record of 2,813 square feet.
6. The maximum footprint for a lot of this size is 1,201 square feet. The existing non-conforming footprint is 1,460.5 square feet.
7. The proposed plat amendment will not create substandard lots on the neighboring lots.
8. The applicant is proposing the combination of the lots in order to facilitate an expansion/addition to the second story of part of the house at the rear.
9. A Historic District Design Review application has been submitted to the Planning Department for this property.

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. No additional building footprint is allowed on this lot.
4. A 10 foot wide snow storage easement will be provided along Park Avenue.

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

PASSED AND ADOPTED this __ day of __, 2009.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

[illegible]

SURVED BY: TM/BO	DATE: OCTOBER 2006
CREATED BY: MM	

**RECORD OF SURVEY & AS-BUILT MAP
BLOCK 6, LOTS 19 & SOUTH HALF OF LOT 20
PARK CITY SURVEY**

STOKES

BLKS L18-20 ROS-ASB-DVC

WILLIAMS, G. W.

RECORD OF SURVEY & AS-BUILT MAP
LOT 19 AND THE SOUTH HALF OF LOT 20,
BLOCK 5, PARK CITY SURVEY
LYING WITHIN THE NORTHWEST QUARTER OF
SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST
SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH



SCALE 1" = 10'

LEGEND

- | | |
|--|--|
| POUND STREET MONUMENT | |
| POUND ON SET RETURN W/ CAP
(AS DESCRIBED) | |
| WATER MANHOLE | |
| Gas METER | |
| SPOT ELEVATION | |
| RETAINED WALL (AS DESCRIBED) | |

THE UNIVERSITY OF CHICAGO PRESS

1

CALL NUMBER

THE PURPOSE OF THIS SURVEY IS TO LOCATE THE BOUNDARY LINES AND EXISTING CONDITIONS OF THE SUBJECT PROPERTY.

EXTENDING SURVEY MONUMENTS ON ADJACENT LOTS/ACRES/WIS WERE USED TO REESTABLISH THE PROPERTY CORNERS.

NOTE: A¹ LARGE STONE IN EACH CORNER. 7¹ FOUND MAY HAVE AT ONE TIME BEEN A¹ BUT THE ADJACENT LOTS HAVE BEEN CORRECTED AT THE REASONING THAT THE CORNER WAS NOT CORRECT AT THE ORIGINAL LOT CORNER AND THE STONE WAS MOVED AT A LATER DATE.

THE BARS OF REBARAS IN BETWEEN FOUND LOT CORNERS, REBARAS AND DISTANCES SHOWN HEREON ARE PER SUBDIVISION PLAT OF RECORD.

THE S&B OFFICIAL ASSURED PLAY OF PARK CITY SURVEY PLAT FOR ANY ELEMENTS, ERECTOR REQUIREMENTS, BUILDING CODES AND BUILDING LOT REQUIREMENTS.

[illegible]

LEGAL DESCRIPTION:
ALL OF LOT 19 AND THE SOUTH HALF OF LOT 20, BLOCK 8, AMENDED PLAT OF PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD AT THE HANBURY COUNTY RECORDS OFFICE.

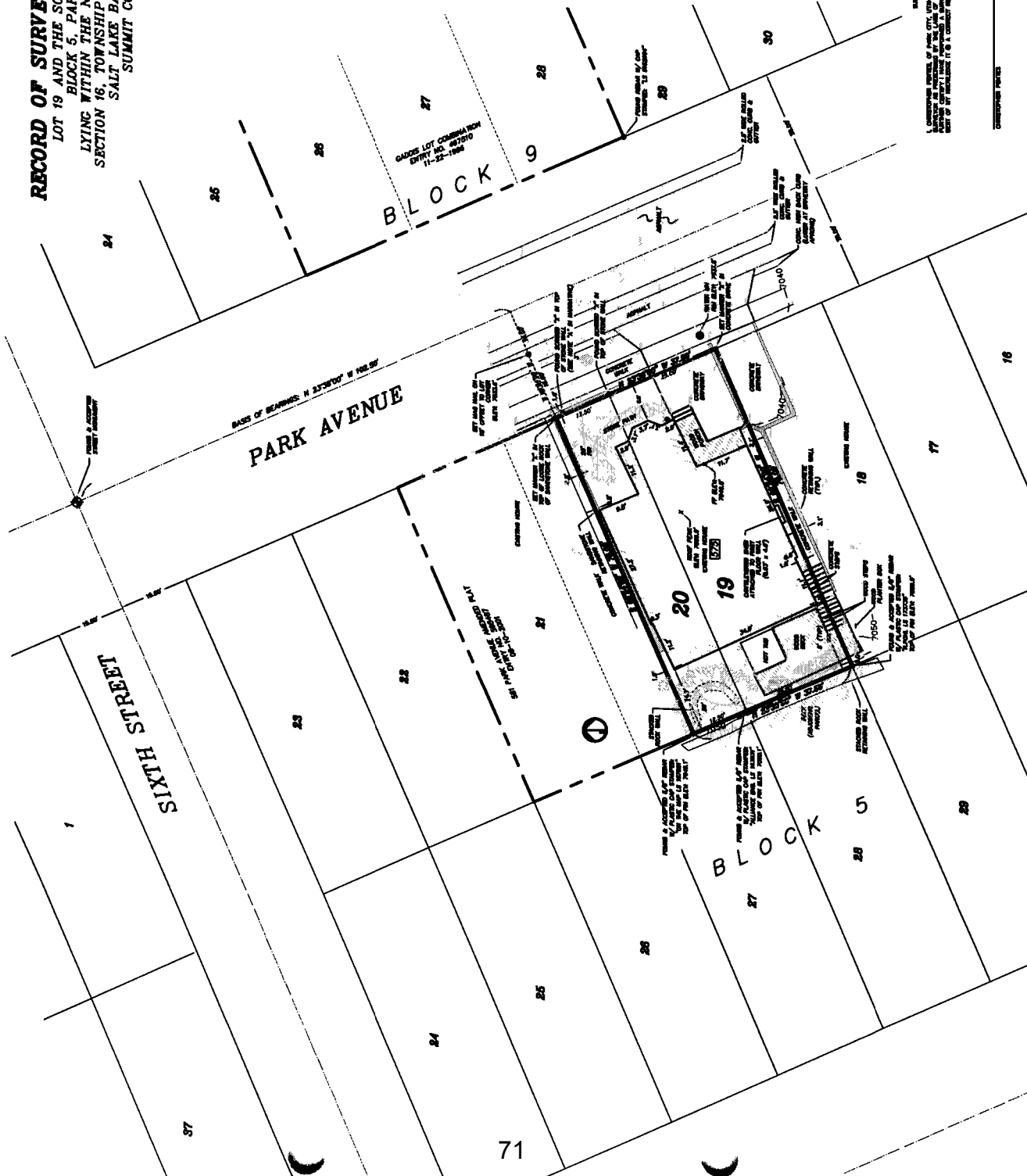
1

References

CHRISTOPHER PORTER, OF PARK CITY, UTAH, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AS PROVIDED BY THE LAWS OF THE STATE OF UTAH, HOLDING LICENSE NO. 64866. I FURTHER CERTIFY I HAVE RECORDED A MAP OF THE HEREIN DESCRIBED PROPERTY AND THAT TO THE BEST OF MY KNOWLEDGE IT IS A CORRECT REPRESENTATION OF THE LAND SURVEYED.

1

Abstract



575 PARK AVENUE PLAT
 LOT 19 AND THE SOUTH HALF OF LOT 20,
 BLOCK 5, PARK CITY SURVEY
 LYING WITHIN THE NORTHWEST QUARTER OF
 SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST
 SALT LAKE BASE & MERIDIAN
 SUMMIT COUNTY, UTAH

PLAT NOTES

1. THE PURPOSE OF THIS PLAT IS TO CORRECT ALL OF LOT 19 AND THE SOUTH HALF OF LOT 20 FROM THE LOT.
2. ALL NOTES AND COMMENTS OF PARK CITY SURVEY PLAT NUMBER IN EFFECT ON THIS PLAT.
3. LOTS 19 AND 20 WERE SUBMITTED TO THE CITY ENGINEER FOR REVIEW AND APPROVAL. THE CITY ENGINEER HAS REVIEWED THE PLAT AND HAS DETERMINED THAT THE PLAT IS CORRECT AND THAT THE PLAT IS IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.
4. THE PLAT IS A REPRODUCTION OF THE ORIGINAL PLAT AND IS NOT A REPRODUCTION OF THE ORIGINAL PLAT.
5. THE PLAT IS A REPRODUCTION OF THE ORIGINAL PLAT AND IS NOT A REPRODUCTION OF THE ORIGINAL PLAT.

LEGAL DESCRIPTION

ALL OF LOT 19 AND THE SOUTH HALF OF LOT 20, BLOCK 5, SURVEY PLAT OF PARK CITY SURVEY, ACCORDING TO THE ORIGINAL PLAT NUMBER ON FILE AND OF RECORD AT THE SUMMIT COUNTY RECORDER'S OFFICE.

CITY ENGINEER'S COMMENT TO SECTION

ALL THE CITY ENGINEER HAS REVIEWED THE PLAT AND HAS DETERMINED THAT THE PLAT IS CORRECT AND THAT THE PLAT IS IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS. THE CITY ENGINEER HAS REVIEWED THE PLAT AND HAS DETERMINED THAT THE PLAT IS CORRECT AND THAT THE PLAT IS IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.

BY _____

ADMINISTRATIVE

On this _____ day of _____, 2004, I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements.

BY _____

LEGAL DESCRIPTION COMMENT TO SECTION

The undersigned hereby certifies that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements. The undersigned hereby certifies that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements.

BY _____

ENGINEER'S CERTIFICATE

I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements. I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements.

DATE _____

Park City
Surveying

PAGE 1 OF 1

COUNCIL APPROVAL AND ACCEPTANCE

APPROVED AND ACCEPTED BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2004.

ENGINEER'S CERTIFICATE

I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements. I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements.

CERTIFICATE OF ATTEST

I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements. I, _____, County of _____, State of _____, do hereby certify that the above described plat is correct and that the plat is in accordance with the City Engineer's requirements.

PARK CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____ DAY OF _____, 2004.

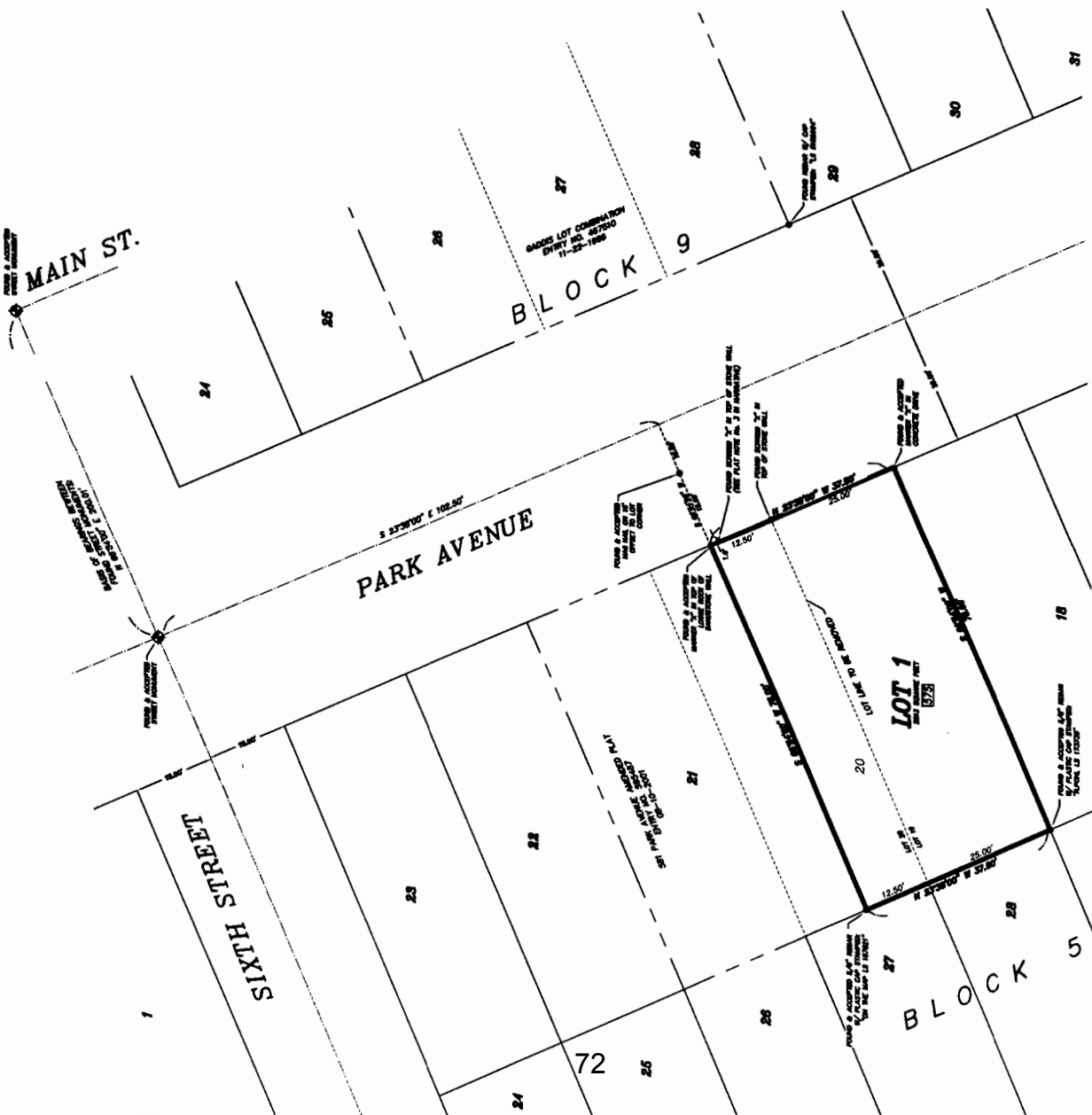
PARK CITY
 PLANNING DEPT.



GRAPHIC SCALE
 1 INCH = 100 FEET

LEGEND

- ◆ PLANNED STREET ALIGNMENT
- PLANNED LOT CORNER
- PLANNED LOT CORNER





City Council Staff Report

Subject: 2009 Water Revenue Bond Final Bond Resolution
Author: Bret Howser
Department: Budget, Debt, & Grants
Date: June 25, 2009
Type of Item: Legislative

Summary Recommendations:

Staff recommends that Council hold a public hearing and approve the attached final bond resolution related to the sale of \$2.5 million of Water Revenue bonds for water infrastructure projects.

Topic/Description:

Water Revenue Bond Parameters Resolution

Background:

Council approved in last year's budget a series of water infrastructure projects, including importation lines, water treatment plants, and storage tanks. These projects are necessary to provide adequate water for the current and projected future needs of Park City residents. It was anticipated that these projects would be funded through water service fees, impact fees, and bonds. A financial model was created for the Water Fund which takes into consideration future operating, capital, and debt expenses and sets water rates and impact fee rates accordingly.

On May 21, 2009, Council approved a Parameters Resolution in preparation to issue no more than \$22 million in Water Revenue Bonds during 2009. \$2.5 million was to be financed through a direct sale to the State Division of Drinking Water at 0% interest. The City also has approval through the Board of Water Resources to receive sufficient financing to buy down the interest on a publicly offered bond to 4%. Staff expects to issue another \$16 million on the private market later this year.

Public notice was published in the Park Record on May 27, 2009, and June 3, 2009 announcing a public hearing to be held on June 25, 2009. The parameters resolution initiated a 30 day period in which interested parties may contest the legality of the resolution or the bonds.

Analysis:

The attached resolution would approve the sale of \$2.5 million of bonds backed by water service fees. The bonds would be sold directly to the State Division of Drinking Water at 0% interest. The borrowed funds would be repaid in equal payments of \$125,000 over 20 years, beginning in July 2010. The City would also agree to pay a one-time fee of 1% (or \$25,000) to DDW plus legal costs in lieu of an underwriting fee. The City would also fund a debt service reserve of \$125,000 over 10 years with surplus

funds. The financing would not count against the \$30 million threshold for bank qualification.

The purpose or allowable expenditure of the bond proceeds is described as follows:

...financing the cost of acquisition, construction and installation of culinary water system improvements, including a water treatment plant, a pump station, transmission lines and related facilities...

Should Council approve the final bond resolution, staff will move forward to close on the bond sale on July 14, 2009.

Department Review:

Budget, Debt & Grants; City Manager; Legal

Alternatives:

A. Approve:

Staff recommends that Council hold a public hearing and approve the attached final bond resolution approving the sale of a \$2.5 million water revenue bond.

B. Deny:

So doing could impact the timing and funding of related projects and purchases

C. Modify:

D. Continue the Item:

This may impact the timing of projects and purchases.

E. Do Nothing:

This would have a similar impact as B.

Significant Impacts:

The final bond resolution is the final step in initiating a bond issuance. This bond issuance is anticipated in the FY 2010 budget as the funding source for planned water infrastructure projects. The funding would allow staff to continue with the current timing of the projects.

Consequences of not taking the recommended action:

The identified water infrastructure projects could be delayed until Council decides to move forward with the bond issuance or identify alternate funding sources.

Recommendation:

Staff recommends that Council hold a public hearing and approve the attached final bond resolution related to the sale of \$2.5 million of Water Revenue bonds for water infrastructure projects.

Attachments:

A – Final Bond Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ISSUANCE AND CONFIRMING THE SALE OF \$2,500,000 PARK CITY, UTAH TAXABLE WATER REVENUE BONDS, SERIES 2009A FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION AND INSTALLATION OF CULINARY WATER SYSTEM IMPROVEMENTS; AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL INDENTURE OF TRUST TO SECURE SAID BONDS, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY FOR THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION

*** *** ***

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 considers it necessary and desirable and for the benefit of the City and the users of the System (as hereinafter defined) to issue water revenue bonds as hereinafter provided for the purpose of financing the cost of acquisition, construction and installation of culinary water system improvements, including a water treatment plant, a pump station, transmission lines and related facilities (collectively, the “Project”).

Whereas, pursuant to and in accordance with the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Act”), the General Indenture of Trust, dated as of December 1, 2002 (the “General Indenture”), between the City and Zions First National Bank, as trustee (the “Trustee”), as amended and supplemented (the copy of which is attached hereto as *Exhibit A*), and the Fourth Supplemental Indenture of Trust, dated as of July 1, 2009 (the “Supplemental Indenture” and, together with the General

Indenture, the “*Indenture*”), between the City and the Trustee (the form of which is attached hereto as *Exhibit B*), the City has determined that it is in the best interest of the City (a) to issue its \$2,500,000 Taxable Water Revenue Bonds, Series 2009A (the “*Bonds*”) pursuant to this Resolution and the Indenture to provide funds for the purpose of (i) paying a portion of the costs of the Project and (ii) paying costs of issuance relating to the issuance, sale and delivery of the Bonds, (b) to sell the Bonds to the State of Utah, Department of Environmental Quality, Drinking Water Board (the “*State Agency*”), and (c) to cause the proceeds of the sale of the Bonds to be applied in accordance with the Indenture; and

Whereas, the City is authorized by the Act to enter into the Indenture and to issue the Bonds;

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

Section 1. Issuance of Bonds. (a) (a) For the purpose of financing a portion of the costs of the Projects and paying costs of issuance of the Bonds, the execution, issuance, sale and delivery of the Bonds is hereby authorized and approved. The Bonds shall be dated as of their date of original issuance and delivery, and shall bear interest at the rate of 0.00% per annum, calculated on the basis of a year of 360 days consisting of twelve 30-day months, as provided in the Supplemental Indenture. The Bonds shall be issued in authorized denominations and shall be executed and payable as provided in the Supplemental Indenture.

(b) The Bonds shall mature on July 15, 2030, shall be subject to optional redemption as provided in the Supplemental Indenture, and shall be paid in annual sinking fund installments, payable on July 15 of each of the years and in the principal amounts, as follows:

REDEMPTION DATE (JULY 15)	PRINCIPAL AMOUNT
2011	\$125,000
2012	125,000
2013	125,000
2014	125,000
2015	125,000
2016	125,000
2017	125,000
2018	125,000
2019	125,000
2020	125,000
2021	125,000
2022	125,000
2023	125,000
2024	125,000
2025	125,000
2026	125,000
2027	125,000
2028	125,000
2029	125,000
2030	125,000*

* Final Maturity

The Bonds shall be in authorized denominations, executed and payable all as provided in the Indenture. The Bonds shall be subject to optional redemption prior to maturity as provided in the Indenture.

(c) The form of the Bonds set forth in the Supplemental Indenture, subject to appropriate insertion and revision in order to comply with the provisions of the Indenture, is hereby approved.

(d) The Bonds shall be special obligations of the City, payable from and secured by a pledge and assignment of the Net Revenues (as defined in the Indenture) derived by the City from the operation of its System (as defined in the Indenture) for the distribution of water, and

certain funds established under the Indenture, subject to the application of the Net Revenues upon the terms and conditions set forth in the Indenture. The Bonds shall not be obligations of the State of Utah or any other political subdivision thereof, other than the City, and neither the faith and credit nor the taxing or appropriation power of the State of Utah or any political subdivision thereof, including the City, is pledged to the payment of the Bonds. The Bonds shall not constitute general obligations of the City or any other entity or body, municipal, state or otherwise.

Section 2. Approval of General Indenture and Approval and Execution of Supplemental Indenture. The General Indenture and the Supplemental Indenture, in substantially the forms attached hereto as *Exhibits A* and *B*, respectively, are hereby authorized and approved, and the Mayor is hereby authorized, empowered and directed to execute and deliver the Supplemental Indenture on behalf of the City, and the City Recorder is hereby authorized, empowered and directed to attest such execution and to countersign, and to affix the seal of the City to the Supplemental Indenture, with such changes to the Supplemental Indenture from the form attached hereto as are approved by the Mayor, his execution thereof to constitute conclusive evidence of such approval. The provisions of the General Indenture and the Supplemental Indenture, as executed and delivered, are hereby incorporated in and made a part of this resolution. The General Indenture and the Supplemental Indenture shall constitute a “system of registration” for all purposes of the Registered Public Obligations Act of Utah.

Section 3. Sale of the Bonds. The Bonds authorized to be issued herein are hereby sold to the State Agency at par, as contemplated in the Supplemental Indenture. The City shall also pay a loan origination fee in the amount of \$25,000 to the State Agency.

Section 4. Other Actions With Respect to the Bonds. The officers and employees of the City shall take all action necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all action necessary in conformity with the Act to carry out the issuance of the Bonds, including, without limitation, the execution and delivery of any documents required to be delivered in connection with the sale and delivery of the Bonds. If (a) the Mayor or (b) the City Recorder shall be unavailable to execute or attest and countersign, respectively, the Bonds or the other documents that they are hereby authorized to execute, attest and countersign the same may be executed, or attested and countersigned, respectively, (i) by the Mayor pro tempore or (ii) by any Deputy City Recorder.

Section 5. Resolution Irrepealable. Following the execution and delivery of the Indenture, this resolution shall be and remain irrepealable until the Bonds and the interest thereon shall have been fully paid, cancelled, and discharged.

Section 6. 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 7. 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 25th day of June,
2009.

PARK CITY, UTAH

Mayor

ATTEST:

City Recorder

[SEAL]

EXHIBIT A

[GENERAL INDENTURE OF TRUST]

EXHIBIT B

[FOURTH SUPPLEMENTAL INDENTURE OF TRUST]



City Council Staff Report

Human Resources Department

Author: Kim Leier
Subject: Personnel Policies & Procedures Manual
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendations:

Adopt a resolution (attached) revising the Personnel Policies and Procedures Manual dated July 1, 2009 for Park City Municipal Corporation.

Description:

Topic: Recommendations for revisions to the Personnel Policies and Procedures Manual.

Background: The recommendation for revisions to the employee Policies and Procedure Manual results from input provided by the City Manager, Legal Department, Management Team, Policies and Procedures Committee, Technical Services, Human Resources and City Council. The Policies and Procedures Committee consisted of employees from each department and/or team throughout the organization.

Analysis: Each year, the City Council adopts by resolution, revisions to the Personnel Policies and Procedures Manual. Policy requires the manual be updated once every calendar year through this revision process and approved by City Council. The manual was last updated on July 1st of 2008.

Department Review: City Manager, Legal Department, Management Team, Policies and Procedures Committee, Technical Services and Human Resources. Recommendations for policy changes can be found as listed below.

Summary of Recommendations for Revision

Please note: *Policy clarification or change in sentence structure that did not change policy has not been listed. Changes in State or Federal Regulations such as the Family Medical Leave Act have been updated to insure compliance.*

Domestic partner, step parents, and step children have been included in applicable language throughout the document.

Section Two Employment

2.1 Equal Employment Opportunity

Language now includes "without regard to sexual orientation".

Section Two - Employment

2.2 Appointments

a. Probationary Appointment

This appointment represents the first six months of a non-Public Safety full-time regular job appointment whether resulting from an initial hire, a promotion, a demotion or a transfer. A full-time regular probationary appointment for all Public Safety (sworn and non-sworn personnel) represents the first twelve months of a full-time regular job appointment whether resulting from an initial hire, a promotion, a demotion or a transfer.

By request of the Chief of Police, his administrative team and the support of the P & P committee it is recommended that the probationary period for Public Safety personnel be extended from six to twelve months of employment.

2.2 Appointments

b. Full-Time Regular Appointment

Full-time regular: A full-time regular non-exempt employee is expected to work a 40 hour work week. Full-time regular exempt employees are expected to work whatever hours are necessary to accomplish the job duties and standards of their exempt position without the availability of overtime or administrative leave.

All full-time regular employees must work no less than an average of 32 hours per week during the course of any fiscal year (July 1 – June 30) to qualify for full-time regular status and therefore remain eligible for the City's core benefits.

This clarifies definitions of exempt and non-exempt employees under the Fair Labor Standards Act. It also gives the City the flexibility to continue core benefits for full-time regular employees in the event of furlough or voluntary or involuntary hour reductions.

Section Three (3) Change in Employment Status

3.4 Department Reorganization

The policies by which a department may request a reorganization are included.

3.7 Reduction in Force

The City Manager may discharge any employee at any time in accordance with implementation of a Reduction in Force strategy as part of a reorganization or as provided in the City budget Recession/Revenue Shortfall Plan, after consultation with the Legal Department.

Section Five (5) – Classification Plan

5.4 Position (Job) Description

What must be included in a job description and the process of approval are described.

Section Six (6) – Pay Plan and Administration

6.16 Holiday Pay and Premium Pay

The City provides 12 paid holidays each year for full-time regular employees. Most eligible employees will have the day off and receive eight hours of holiday pay. Holiday pay hours are not considered productive time so are not used in the calculation of overtime.

To date unworked holiday pay has been figured into overtime calculations.

6.18 On-Call Pay

On-call employees shall receive \$15.00 per day and a two hour minimum pay per call out. Travel time to and from work is considered non-productive time and therefore is not paid.

Currently employees receive \$100.00 for each seven day period they are on call. The change will allow our new payroll software to accurately track on-call pay per day.

6.19 Employee Pay

Overpayment of wages or benefits will be deducted from upcoming employee's pay checks. Depending on the size of the overpayment of wages or benefits, a re-payment schedule and timeline may be approved by the Finance Manager.

Section Seven (7) Performance Reviews

7.2 Types of Reviews - b. Semi-Annual Performance Reviews

Clarifies review periods and no longer allows an employee to compile the results of their own performance review.

Section Eight (8) City Rules

8.5 Use of City Vehicles

A personal vehicle used by an employee for City business and eligible for mileage reimbursement must be properly licensed, registered and insured.

8.7 Personal Conduct & Hygiene

Personal Hygiene is clarified

8.8 Rules of Conduct

- Lack of cooperation with or impeding a department, City or Police investigation
- Lack of proper hygiene, clothing inappropriate for the workplace. Failure to maintain uniforms to department standards.

8.9 Harassment

b. Display of offensive, pornographic, racist language, signs, and/or images from any personal communications device while on duty.

8.10 Retribution and/or Retaliation

Definitions of retribution and/or retaliation are included

8.18 b. Internet/Intranet

Language recommended by Technical Services includes definitions, prohibited activities, compliance, violation and employee and management accountability.

Section Nine (9) Procedures form Employee Complaints, Discharge, and Transfer Appeals

9.3 ETDAB Appeal Rights and Procedure

Pursuant to Utah Code Annotated Section 11095, the ETDAB appeal right provided herein do not apply to (1) an officer appointed by the Mayor or City Council, which includes the City Manager, the City Attorney, the City Recorder and the City Treasurer (2) the Chief of Police

Nothing in this section or other sections may be construed to limit a municipality's ability to define cause for an employee termination or reduction in force.

Language is in compliance with Utah Code

Section Ten (10) Employee Benefits

10.5 Light Duty

Due to increases in Workers Compensation costs a formal light duty policy is recommended. This will allow the City to greater utilize employees on light duty and realize some premium cost recovery.

10.28 Physical Wellness Assistance (Release Time)

New language clarifies the objective of paid release time and the wellness program is to promote employee health by supporting their efforts to attain and maintain physical fitness.

10.32 Educational Assistance

Employees seeking reimbursement for educational expenses must agree in writing to repay the last calendar year's reimbursements if they leave the City within one year from the date of the last reimbursement.

The current policy requires an employee to repay only the last reimbursement if they leave the City within one year from the date of the last reimbursement. It was the view of the committee that the City should re-coup a longer period of reimbursements should an employee choose to leave employment shortly after receiving educational reimbursement.

Alternatives:

A. Approve: The recommendations and revisions to the Policies and Procedures Manual will go into effect July 1st upon Council approval for all employees (unless otherwise specified in the manual). Employees will be issued a copy of the new manual in either hard copy or e-format. They will be required to sign that they have received a copy or understand how to open the e-copy format of the updated manual and that they are accountable for reviewing and understanding the policies within it.

B. Deny: The recommendations and revisions will not go into effect and may result in noncompliance with federal and/or state regulations, which will diminish the City's ability to provide direction and/or enforce employee policies and procedures.

C. Modify: Council could give staff direction to modify Policies and Procedures.

D. Continue the Item: If Council would like additional information the item could be continued.

E. Do Nothing: The recommendations and revisions will not go into effect and may result in noncompliance with federal and/or state regulations, which will diminish the City's ability to provide direction and/or enforce employee policies and procedures.

Significant Impacts: If Policies and Procedures are not adopted, the recommendations and revisions will not go into effect and may result in noncompliance with federal and/or state regulations, which will diminish the City's ability to provide direction and/or enforce employee policies and procedures.

Consequences of not taking the recommended action: The recommendations and revisions will not go into effect and may result in noncompliance with federal and/or state regulations, which will diminish the City's ability to provide direction and/or enforce employee policies and procedures.

Recommendation: Adopt resolution approving recommendations and revisions to the Personnel Policies and Procedures Manual of Park City Municipal Corporation.

Attachments:

A-Personnel Policies and Procedures Manual (under separate cover)

B-Resolution

Resolution No.

**A RESOLUTION ADOPTING THE REVISED PERSONNEL POLICIES
AND PROCEDURES MANUAL, DATED JULY 1, 2009 FOR
PARK CITY MUNICIPAL CORPORATION**

WHEREAS, personnel policies and procedures may be adopted and amended at the discretion of the City Council and are subject and subordinate to applicable federal and state laws, rules, and regulations, and local ordinances; and

WHEREAS, purpose of the manual is to provide for guidance regarding the fair and consistent administration of city personnel, but neither any contract nor implied contract rights are created hereby; and

WHEREAS, the City Manager, Legal Department, Human Resources Department, management team and the Policies and Procedures Committee has reviewed the proposed amendments of the Revised Personnel Policies and Procedures and recommends adoption by the City Council; and

WHEREAS, the City Council deems it in the best interest of the employees of Park City Municipal Corporation to formally adopt them;

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

SECTION 1. ADOPTION. The Personnel Policies and Procedures Manual, dated July 1, 2009 attached hereto, is hereby adopted and the 2008 version is hereby repealed including any temporary amendments thereto adopted by the City Manager

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect on July 1, 2009.

PASSED AND ADOPTED this 25th day of June, 2009.

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: Contract for Conservation Easement Monitoring
Author: Diane Foster
Department: Sustainability
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendation:

Authorize the City Manager to enter into a three year contract between Park City Municipal and Summit Land Conservancy in the amount of \$143,833 in a form approved by the City Attorney.

Topic/Description:

This contract is for the monitoring of the City's existing conservation easements as well as for baseline studies and monitoring for new conservation easements that the City may acquire in the next three years.

Background:

Park City has nearly 2,000 acres of property with conservation easements. Additionally, the City has acquired new properties that require new baselines to be established as well as ongoing monitoring.

Summit Land Conservancy currently holds all of the conservation easements on City property. They are paid for their services through a Special Services Grant.

The City wishes to pay for baseline and conservation easement monitoring services through a Professional Services Agreement, because it is more appropriate to pay for this very specific service that both desired by the City required by law. As such, the City issued a Request for Proposal on May 28, 2009.

The City is aware of five organizations that read through the RFP and had considered submitting a proposal; however, only two organizations submitted responses to the RFP.

A Selection Committee was formed and that group evaluated the two proposals. The primary factors that resulted in the Selection Committee recommending a contract with Summit Land Conservancy were experience, available resources, and a high level of satisfaction with the services they currently provide to the City including, site inspections, accurate baseline and monitoring documentation, reserved rights and legal coordination, and Board of Directors reviews and authorization. While the other responding organization has completed resource evaluations for private companies, they are different from the type of monitoring required by the City, and they have never monitored a conservation easement. Additionally, the other proposal did not include baseline studies for easements on recently acquired parcels are required by the RFP or consider for additional property acquired within the contract period to

be placed under easements not stated in the RFP. Although their proposal was considerably less it was determined to be significantly incomplete.

Summit Land Conservancy not only has significant experience in conservation easement monitoring, they have documented their monitoring protocol and are in compliance with monitoring policy standards set by The Land Trust Alliance.

Because there was a significant differential in the two cost proposals, the Budget Department evaluated the Summit Land Conservancy proposal and found it to be very detailed and reasonable for the services required as part of the RFP..

Analysis:

The three year cost for the contract with Summit Land Conservancy totals \$143,833, averaging \$47,944 annually. This represents an increase of \$40,000 annually over the amount the City paid for these services for the last two years. Budget and Sustainability staff met with Summit Land Conservancy to discuss this issue and discovered that one of the main causes for the change in cost was that in 2007, when the City received the last Special Service Contract request, Summit Land Conservancy did not have an accounting system that allowed them to completely understand all the costs associated with monitoring the City's conservation easements. Thus, requested funds for the Special Service Contract application (2007) were vastly underestimated. This, coupled with the increased level of service, (i.e., increased number of easements, GIS systems, more professional staff, increased administrative costs, etc) has resulted in a substantial increase for the total cost of service. Having met with Summit Land Conservancy's Executive Director, staff is comfortable that the recommended contract sum represents an appropriate level of cost for baseline studies and monitoring of the City's easements. It should also be noted that the contract amount does not include any profit margin or charitable contribution to Summit Land Conservancy.

The contract includes the monitoring of existing properties as well as costs associated with baseline establishment and ongoing monitoring of Clissold (half, the County pays the other ½), Iron Mountain, the new Round Valley parcel, and the Gambel Oak, Hope & White Acre parcels.

During the three year contract period, should the City acquire additional open space, that requires a conservation easement, Summit Land Conservancy conduct a baseline study at the current rate of \$6,898 per easement and \$15.24 per acre. This does not include conservation easements where the property owner specifies that he or she desires that the conservation easement be held by another organization.

Staff did conduct a web search to find comparable cost per acre figures for conservation easement monitoring, however the costs per acre varied so widely, with stewardship costs of \$15, \$45, and even \$2,600 per acre, that it did not appear that an accurate comparable figure could be established.

If the City were to hire one person to manage our conservation easement, the salary plus benefits, based on similar positions in other communities, would be in the \$60,000 - \$70,000 range (although some communities paid much higher salaries).

Based on the proposals submitted, the selection committee recommends the award of the contract to Summit Land Conservancy.

Department Review:

Report reviewed by the Sustainability, Budget and Legal departments.

Alternatives:

- A. Approve:** Authorize the City Manager to enter into a three year contract between Park City Municipal and Summit Land Conservancy.
- B. Deny:** Do not authorize the City Manager to enter into a three year contract between Park City Municipal and Summit Land Conservancy.
- C. Modify:** Change the agreement.
- D. Continue the Item:** Continue the item to another time.
- E. Do Nothing:** This would have the same result as a denial.

Significant Impacts:

None.

Consequences of not taking the recommended action:

Park City Municipal would not enter into an agreement with Summit Land Conservancy. Summit Land Conservancy would continue to hold the conservation easements and be required by law to either monitor the easements or ensure that the easements were monitored, however, with no funding at all from the City, Summit Land Conservancy's ability to meet this legal requirement would be compromised.

Summary Recommendation:

Authorize the City Manager to enter into a three year contract between Park City Municipal and Summit Land Conservancy in the amount of \$143,833 in a form approved by the City Attorney.

Exhibit:

Contract between Park City Municipal and Summit Land Conservancy.

PARK CITY MUNICIPAL CORPORATION MINOR SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____, 2009, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and _____, a _____ ("Service Provider").

WITNESSETH:

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

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

WHEREAS, the service provided exposes the City to minimal insurance risk; and

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

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

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). Fees shall be calculated pursuant to the Fee Schedule, attached hereto and incorporated herein as "Exhibit B". The total fee shall not exceed ____ **Thousand Dollars (\$____)**.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on _____, unless extended by mutual written agreement of the Parties.

3. COMPENSATION AND METHOD OF PAYMENT.

- A. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- B. For all "extra" work the City requires, the City shall pay the Service Provider for work performed under this Agreement as subsequently agreed to by both parties in writing.
- C. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter.

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

4. REPORTS AND INSPECTIONS.

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

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

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

7. HOLD HARMLESS INDEMNIFICATION.

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

- B. Service Provider does hereby remise, release, forever discharge and covenant not to sue PARK CITY MUNICIPAL CORPORATION, its agents, servants, employees, officers, successors and assigns, and/or heirs, executors and administrators, and also any and all other persons, associations and corporations, whether herein named or referred to or not, and who, together with the above named, may be jointly and severally liable to the Service Provider, of and from any and all, and all manner of, actions and causes of action, rights, suits, covenants, contracts, agreements, judgments, claims and demands whatsoever in law or equity, including claims for contribution, arising from and by reason of any and all KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN bodily and personal injuries or death, damage to property, and the consequences thereof, which heretofore have been, and which hereafter may be sustained by the Service Provider or by any and all other persons, associations and corporations, whether herein named or referred to or not, from all liability arising out of, in connection with, or incident to the execution of this Agreement
- C. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

The City agrees to waive insurance requirement upon Service Provider's agreement to hold the City harmless pursuant to Paragraph 7 (B) above. Service Provider hereby acknowledges that their insurance policy is the primary coverage.

9. TREATMENT OF ASSETS.

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

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

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

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

14. MAINTENANCE AND INSPECTION OF RECORDS.

- A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

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

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

16. PROHIBITED INTEREST.

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

17. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. NOTICE.

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

20. ATTORNEYS FEES AND COSTS.

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

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

21. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. SEVERABILITY.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision, which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. ENTIRE AGREEMENT.

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

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

PARK CITY MUNICIPAL CORPORATION

Park City Municipal Corporation Provider/Professional Services Agreement- (SERVICE PROVIDER)

Post Office Box 1480
Park City UT 84060-1480

Thomas B. Bakaly, City Manager

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

(address)
Park City UT 84060-1693
Tax ID#: _____

Name, Title

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 2007, personally appeared before me _____, 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 (title) ____ of _____, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a ____ corporation.

Notary Public

ADDENDUM "A"

SCOPE OF SERVICES

Proposal for Contract to Monitor Conservation Easement Compliance Submitted by the Summit Land Conservancy

Experience:

The Summit Land Conservancy has been working to protect open space in and around Park City through permanent conservation easements since its inception as COOL (Conserving Our Open Lands) in 1998. We currently hold over 847 acres of City-owned property in conservation easements and we co-hold with Park City Municipal another 1052 acres that represent the open space portion of the Flagstaff/Empire Pass Development.

These acres are held in 14 separate easements, each of which was drafted with input from the Summit Land Conservancy. The Summit Land Conservancy has also prepared baseline studies for each of these properties and monitors them annually. Copies of all baseline studies and monitoring reports have been given to the City's staff in charge of overseeing easement lands. The Summit Land Conservancy's staff meets regularly with the City's legal and sustainability staffs to address issues that our annual monitoring reveals.

The Summit Land Conservancy is proud to be a member of the Land Trust Alliance, a national educational and representative organization of over 1500 land trusts across the country. We follow the Alliance's Standards and Practices, striving for state of the art stewardship and conservation programs. This diligence has allowed us to do a better job monitoring easement properties.

In 2006 and 2007, we converted all of our monitoring documents to digital formats with GPS telemetry, and delved into other ownership issues, such as title reports. This work revealed that the acreage listed on one of the Round Valley easements was off by 90 acres. We also found that a parking lot had encroached on part of the Rail Trail easement. Finally, we discovered that the county recorder does not show the City as the owner of the entire UP&L parcel on lower Main Street. Our staff has documented these issues in each monitoring report and followed up with a series of meetings with city staff. Some of these issues have been resolved, but we are still pursuing others.

In addition our work for Park City, the Summit Land Conservancy has been granted conservation easements by private landowners, including developers. On July 1, 2009, we expect to close on our first purchase of a conservation easement from an Eastern County landowning family. We are also working with Summit County to place conservation easements on land purchased by BOSAC.

Services & Deliverables:

Monitoring:

Existing Easements:

The Summit Land Conservancy will visit each property annually once it is free of snow and perform a thorough inspection of its conservation values. Written reports for each property will be submitted to the City by December 31 of each year that this contract is in place.

The Summit Land Conservancy will monitor each of the following easement properties in 2009, 2010, and 2011:

Empire (Flagstaff Annexation Agreement), 4 easements: Ski Area, Lady Morgan, Prospect Ridge, as well as the Warren Claims on Iron Mountain, and
Round Valley, 5 easements: Ed Gilmore, Bilogio, Cranbrook, Grover, McMillian, and
Virginia Mine Claims
Rail Trail
Richards Ranch
McPolin Farmlands
UP&L Parcel

New Easements:

At this point, we expect to monitor the Clissold/Quarry Mountain and Iron Mountain properties in 2010 and 2011.

If the other new easements are completed before the estimated dates below, they will be added to the annual monitoring schedule sooner than is currently planned.

The Summit Land Conservancy will provide the City with written monitoring reports for each easement or group of easements. Conservancy staff will meet with the appropriate city staff to resolve any issues that the monitoring reveals. If the issues are not resolved by the next monitoring session, the Conservancy staff will take the issue to the City Manager and/or City Council.

Additionally, we will include these easements in our Adopt An Easement program to insure that more eyes and ears are attending to the conditions of the properties. Each monitoring report will also be archived both in our office safe and in a secure, off-site location.

Conserving New Properties:

The Summit Land Conservancy will complete baseline studies and conservation easements for the following properties:

Clissold/Quarry Mountain: The Summit Land Conservancy has already completed the baseline study for this property and drafted the easement. This baseline study features an expanded wildlife study. Conservancy staff has forwarded easement drafts to both County and City legal departments. Both the County and the Summit Land Conservancy are ready to sign the easement. We are currently waiting for final approval from the City's legal department. We expect this easement to be signed and recorded before the end of 2009. Copies of the baseline document will be supplied to the City.

Iron Mountain: The Summit Land Conservancy has already done preliminary work for the baseline of the Iron Mountain parcel, since it surrounds the easement we already hold on

the Warren Claims. The Conservancy will prepare a baseline study, and the conservation easement by the end of 2009.

New Round Valley: The Summit Land Conservancy will complete a baseline study of the City's new purchase in Round Valley. Staff will also draft the easement and follow it through the appropriate processes at City Hall. Copies of the baseline and recorded easements will be provided to the City no later than December 2010. The Summit Land Conservancy will also keep archive copies of these documents in both our in-office safe, and at a secure off-site archival location.

White Acre/Hope Parcels: The City purchased the Hope Parcel with COSAC II funds, and has been working with Congress to have the White Acre parcels granted to the City. Once this has been finalized, the Summit Land Conservancy will prepare one baseline study and one conservation easement for the entire area. These will be finalized by December 2010, if the congress grants the land to the city by June 2010. Again, copies of all documents will be provided to the city and archives will be kept in two separate and secure locations.

Factors:

Four unique factors give the Summit Land Conservancy an important advantage in meeting the City's needs:

1. The Summit Land Conservancy is based in Park City. Our staff and board live here and are intimately familiar with the lands that we protect. People don't have to call Salt Lake or somewhere else to get hold of us. The Board of Directors and staff understand and are honored by the trust that Park City has placed in us by granting conservation easements on tax-payer purchases and on the community benefit-open space components of local developments. We take this charge very seriously and strive to insure that the interests of the government and the citizens are well protected.
2. The Summit Land Conservancy mobilizes volunteers from the community. Our Adopt An Easement program asks locals to pay special attention to what they see on easement properties – good and bad – and let us know. We have a simple form for people to fill out on our website, or they can always call us. This increases our ability to watch these properties for compliance.
3. The Summit Land Conservancy focuses its efforts only on lands within Summit County. While we recognize and applaud efforts to protect other areas of this beautiful state and nation, the scope of our organization is strictly local. Our board believes that the development pressures faced by Summit County combined with the economic need to protect open space justifies the existence of an organization like the Summit Land Conservancy that works every day to insure that the open spaces that have been preserved, remain so. Our staff is readily available by phone and email to members of the local governments and their staff, as well as the citizens of Summit County.
4. The Summit Land Conservancy is committed to maintaining the highest standards of excellence as measured by the national Land Trust Alliance. Our policies and procedures for conservation and stewardship are based on the best practices as defined by the national organization. We are also a member of the Utah Nonprofits Association.

Other Factors/Limitations:

This proposal represents our best efforts to calculate the actual costs of stewardship and new conservation over the next three years. Like any non-profit organization, we strive to keep overhead and administrative costs to a minimum. We realize, however, that in order to perform our obligations in a professional manner, we may need to hire additional staff and move to a slightly larger office space within the next three years. Nevertheless, the financial figures in this report are based on our budget for 2009.

Monitoring Policy:

Please see appendix A

References:

1. Mayor Dana Williams 435-901-8135
2. Chris Donaldson, Chair of BOSAC, chris.donaldson@cushwake.com
3. Jan Wilking, co-Chair COSAC I, COSAC III liaison to BOSAC janwilking@gmail.com
4. Richard Sheinberg, Board Chair, Summit Land Conservancy 435-901-9163

Compliance:

The Summit Land Conservancy will comply with Park City Municipal's standard contract so long as nothing in that agreement modifies, amends or limits our rights under any of the conservation easements.

Detailed Cost Proposal:

Land Conservation for City

New Easements 2009-2011

New Easements	acres
Clissold	180 split cost between City and County
Round Valley	340 approximate
Iron Mountain	600 approximate
Hope/White Acre	200 estimated acreage

New Easement Expenses - direct costs

total new easements	6 new in 2009
total 09 Land Conserv budget	\$ 34,700 excludes purchases & prof developmnt
reductions for city	20% no fund raising, no prof services
direct costs per easement	\$ 5,783
less 20%	\$ 1,167
direct costs for city	\$ 4,617 cost per easement

Burden

Total 09 Admin budget	\$ 42,670 Does not include fund raising costs
Total 09 programs	\$ 108,160 Conservation, Stewardship, Education
Conserv % of all programs	32%
Conserv burden on Admin	\$ 13,689
burden per easement	\$ 2,282

Total costs for 1 new easement	\$ 6,898
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Total cost for 3 1/2 new easements (half of Clissold)

\$ 24,144

\$ 22,900 excluding endowment funds
\$ 42,670 Does not include any fund raising costs
\$ 108,160 excludes purchase funds and prof developmt.
21%
\$ 9,034 21% of Admin
\$ 4.31 2095 acres

\$ 22,900
\$ 11 2095 acres

\$ 15.24 total per acre costs

acres

847.43

1537.43 add 1/2 Clissold & Iron Mt. 600 acres

2077.43 add Round Valley & Hope/White Acre

Stewardship

based on cost per acre

	2009	2010	2011
City Owned esmts	\$ 12,917	\$ 23,435	\$ 31,666
4- Empire/Warren	\$ 16,074	\$ 16,074	\$ 16,074
Total	\$ 28,991	\$ 39,509	\$ 47,740

Land Conservation

based on cost per new easement

	2009	2010	2011
1/2 Clissold	\$ 3,449		
Iron Mt	\$ 6,898		
Round Valley		\$ 6,898	
White Acre/Hope		\$ 6,898	
Total	\$ 10,347	\$ 13,796	

Yearly Totals

\$ 49,686	\$ 46,407	\$ 47,740
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TOTAL 3-YEAR REQUEST***\$ 143,833**

* if the city acquires other new easements not included here,
we will submit additional invoices for those baseline and easements.

ADDENDUM "B"

PAYMENT SCHEDULE FOR "EXTRA" WORK

Summit Land Conservancy will establish a baseline and provide ongoing monitoring for any additional open space acquisition that the City requests to add to this contract for an incremental cost of \$6,898 per property and \$15.24 per acre for ongoing monitoring services.

City Council Staff Report



Author: Kathy Lundborg
Subject: PARK CITY RAW WATER
INFRASTRUCTURE PROJECT DESIGN CONTRACT
AMENDMENT 1
Department: Public Works
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute the First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with Stantec Consulting Inc., for the design of the Park City Raw Water Infrastructure Project Design in an amount of \$338,260.

Description:

Water Strategic Plan: Source Strategies & Policies

- Maximize the availability of Park City's water from the Rockport Importation project

Topic:

Park City Raw Water Infrastructure Project including raw water line from Promontory to Quinn's Junction Water Treatment Plant, continuation of raw water line to Park City Municipal Golf Course, raw water tank(s), and Judge Tunnel line extensions.

Background:

Last Fall, City Council authorized the City Manager to execute the Professional Services Agreement (PSA) with Stantec to design the Park City Raw Water Infrastructure Project (PCWIP) Phase 1 (Promontory to Quinn's Junction), and the preliminary design of Phase 2 (Quinn's to PC Golf Course) and the Judge Tunnel pipeline. The original scope of work was based on following the rail trail alignment for which the preliminary design was completed in the Snyderville Basin Water Transport Study.

As the design progressed last fall, issues were identified that raised concern about following this alignment. These issues included:

- Data received from EPA's consultant showed shallow contaminated groundwater along the rail trail. This would create significant constructability issues in that once the groundwater was pumped out of the trench to allow for pipe installation, the ground water would have to be treated prior to being discharged to the ground again or would have to be trucked offsite.
- Since the remediation plan for Lower Silver Creek is yet to be defined, the pipeline would have to be installed within native soils, below existing tailings, and deep enough so that future remediation work (heavy excavation equipment) would not damage the pipe in the future.

- EPA had told Staff that in areas of water infiltration, which was a large portion of the length of pipe along the rail trail, a clean trench would be required to be left. This means that all soil excavated from the trench could potentially be required to be hauled offsite.
- State lease of rail trail alignment

Given the risk that these issues posed and council direction to construct the raw waterline to Quinn's by next year, Staff decided to study other alignment alternatives. Several were analyzed, all with their own issues, but each had less than the rail trail alignment. This basically left the project at a point of starting over with respect to design.

New topographic survey, geotechnical surveys, and alignment study had to be completed. This was scope not included in the original Agreement. Additionally, starting the design from scratch was additional scope. To keep the project going, we used budgeted money for the Phase 2 design to cover the Phase 1 additional scope, knowing we would be coming back with an Amendment to cover the Phase 2 scope.

Other modifications to the design scope included:

- Analysis of alternative alignments to avoid concerns with the Rail Trail Alignment.
- Accommodation of trails and incorporation of trail design for the Quinn's alignment.
- Analysis of additional alignments to meet property easement, EPA superfund and regulatory wetlands concerns in the Lower Silver Creek section.
- Environmental permitting for the Lower Silver Creek Segment through Summit County, EPA and Corps of Engineers.
- Environmental document coordination/FONSI and public hearing for DDW funding.
- Environmental document coordination with USACE for funding on Phase 2,3,4
- Creation of three bidding packages (Promontory, Lower Silver Creek and Quinns) to facilitate bidding, construction schedule and federal, state grant funding.
- Analysis of US-40 casing (existing versus new)
- Additional easements required with new alignment.

For additional reference, the attached Project Matrix shows all of the water projects for this construction season and the corresponding contracts and Professional Services Agreements. With all of the construction contracts and PSA's being brought to Council for Authorization, Staff hoped the matrix could be useful in seeing the big picture of water projects.

Analysis:

The proposed First Amendment captures additional cost for design, bidding services, construction engineering services, and Phase 2 environmental documents and Phase 2 preliminary design. As the attached spreadsheet shows, the bulk of the Amendment is for Final Design. However, all of the preliminary design for the new alignment alternatives including surveying, geotechnical investigation for the Quinn's segment, and constructability alternatives through Lower Silver Creek were all lumped into the Final Design line item.

A Division of Drinking Water (DDW) 0% interest loan was authorized for PCWIP Phase 1, excepting the Promontory segment (since ownership will be transferred to MRWSSD under the City's current Agreement with MRWSSD, the DDW loan cannot be applied to it, but Staff is investigating the possibility of PCMC owning the segment). The DDW loan was funded through the Federal SRF loan program which carries federal requirements with it that add to the Administrative scope of the construction project. DDW requires a Professional Engineer to sign off on some of that paperwork and is typically the design engineer for the project. Therefore, additional scope was added for engineering services during construction to cover all three pipeline segments.

For Phase 2, several alignment alternatives are being looked at that may end in the Judge Tunnel pipeline and raw water pipeline being in different areas. Originally, it was assumed they would be running in parallel alignments from the Park City Municipal Golf Course to the Quinn's water treatment plant. Under the parallel alignment scenario, Staff had assumed one Environmental Assessment (EA) could cover both projects. In the event that the chosen alignments are in different areas, either separate EA's would be completed or a programmatic EA is also being investigated. Two agencies are involved due to funding. The Judge Tunnel project has STAG funds which are administered by EPA, and any potential federal funding for Phase 2 of PCWIP would be administered by the ACOE through Park City's 219 Authorization. Additional scope was added to cover the possibility of multiple EA's.

The Phase 2 preliminary design fee was kept the same as it was in the original Agreement, but since it had been moved into Phase 1, the fee needed to be added back in to cover Phase 2.

All of the previous change orders are also attached for reference.

Department Review:

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

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

Staff recommends Council authorize the City Manager to execute the First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with

Stantec Consulting Inc., for the design of the Park City Raw Water Infrastructure Project Design in an amount of \$338,260.

B. Deny the Request:

Council could deny Staff's request. Denying the request would delay the design of the time-critical project as described above.

C. Continue the Item:

Council could continue the request. Continuing the request would delay the design of the time-critical project as described above.

D. Do Nothing:

Staff does not recommend this alternative. Doing nothing would also delay the design of the time-critical project as described above.

Significant Impacts:

The City will need to borrow money through Revenue Bonds to fund the design and construction of this project. DDW has authorized \$2.5M in a 0% interest loan for a term of 20 years. This loan will close in mid-July. The proceeds will be used to fund the Quinn's segment and anything left will carryover to the Lower Silver Creek segment. Division of Water Resources also committed funds to an interest buy down to 4% that equates to a maximum of \$1.13M to be used towards the Lower Silver Creek segment, the water treatment plant, the Boothill Transmission Line, Hillside waterline replacement, the Fixed Base meter reading system, and the finished waterline from the water treatment plant to the existing Quinn's Recreation Complex distribution system. The remaining balance of the projects will be funded through market loans, water impact fees, and water user fees.

Recommendation:

Staff recommends Council authorize the City Manager to execute the First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with Stantec Consulting Inc., for the design of the Park City Raw Water Infrastructure Project Design in an amount of \$338,260.

Water Project Matrix 2009

Project	Task	Contractor/ Consultant	Contract/ Agreement Authorized by Council?	Amount
PCWIP				
1. Promontory	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. MRWSSD c. Counterpoint	Y In Progress Y	\$460,610 (plus \$338,260) Hourly rate \$1,147,569
2. Quinn's	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. BCA c.	Y 6/25/09	\$460,610 (plus \$338,260) \$89,792 \$2,255,000 (estimate)
3. Lower Silver Creek	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. Not chosen	Y N	\$460,610 (plus \$338,260) \$1,940,000 (estimate)
4. Phase 2, 3, 4	a. Preliminary Design Construction begins 2010	a. Stantec	Y	\$460,610 (plus \$338,260)
Judge Tunnel Waterline	a. Preliminary Design Construction begins 2010	a. Stantec	Y	\$460,610 (plus \$338,260)
Fairway Hills Finished Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. BCA b. Alliance	Y 7/9/09	\$78,000 \$39,115 \$573,011 (estimate)
Water Treatment Plant	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. Carollo b. Not chosen	Y	\$795,000 \$8,100,000 (estimate)
Boothill Transmission Line Phase 2 and 3	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. BCA b. City Staff (ph2), Stanley (ph3)	Y	\$72,600 \$29,410 (phase 3) \$1,372,000 (estimate)
Hillside Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. BCA b. Ward Engineering	Y	\$22,300 \$150,678 (estimate)
HR Loop Rd Irrigation Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. Jack Johnson b. City Staff	NA	 \$337,814 (estimate)

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

THIS FIRST ADDENDUM is made and entered into in duplicate this ____ day of _____, 2009, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), and STANTEC CONSULTING INC., an Arizona corporation having offices located at Salt Lake City, Utah ("Service Provider") to amend the Service Provider Agreement signed and executed by the Parties on October 16, 2008.

WITNESSETH:

WHEREAS, the parties entered into a Professional Services Agreement on October 16, 2008 (hereinafter "Original Agreement"); and

WHEREAS, both parties to the Original Agreement desire to amend the Original Agreement to include additional scope, fees and time to complete additional projects of similar scope to those described in the Scope of Services in the Original Agreement; and

WHEREAS, the parties desire to amend the Original Agreement to provide sufficient time for such performance.

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

1. **INCREASE of \$338,260.** Park City shall pay Service Provider for professional services in an amount not to exceed \$797,870, which is an increase to the Original Agreement for additional professional services. The amended Scope of Services is attached hereto as Exhibit A.

EXTENSION OF TERM. The term of the Original Agreement shall be extended to a termination date of December 31, 2010, or upon such later date as agreed to in writing by City and Service Provider, as provided for in Paragraph 23 of the Original Agreement.

2. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue in full force and effect and shall not be affected by this First Addendum.
3. **ENTIRE AGREEMENT.** This First Addendum is a written instrument pursuant to Paragraph 23 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by both parties.

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

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

Thomas B. Bakaly, City Manager

EXHIBIT A

PROJECT NAME: **PARK CITY RAW WATER**
 PROJECT NUMBER: 186200851
 PROJECT MANAGER: **FRED DUBEROW**
 PROJECT TEAM:

CLIENT: PCMC
 CLIENT CONTACT: KATHY LUNDBORG
 NTP:
 DATE DUE:
 CONTRACT TYPE: TMU

	Task Description	Responsible Person	Budget (\$)	Change Order	Revision Scope (2/09)	Revision Scope (5/09)	Change Order	New Budget	Start Date	Finish Date
101	Phase 1 --Prelim Design		\$58,535					\$58,535	10/22/2008	2/9/2009
102	Phase 1- Final Design		\$67,403		\$102,032	\$35,000	\$73,251	\$277,686	12/1/2008	7/15/2009
103	Phase 1 --Bid Services		\$18,621				\$17,466	\$36,087	2/13/2009	7/15/2009
104	Phase 1 Eng. Services during Const		\$21,342			-\$21,342	\$58,222	\$58,222	5/15/2009	12/31/2009
105	Phase 1 Post Const Services		\$5,416				\$10,910	\$16,326	10/1/2009	12/31/2009
106	Phase 2 EA		\$24,975			-\$24,975	\$33,378	\$33,378	7/1/2009	9/1/2009
107	Phase 2 Eng & Proc. Eval		\$34,836					\$34,836	5/1/2009	7/1/2009
108	Phase 2 Prelim Design		\$145,032		-\$145,032		\$145,032	\$145,032	8/1/2009	12/1/2009
109	Aerial Mapping		\$6,446	\$5,610				\$12,056	10/22/2008	11/15/2008
110	Geotechnical Service		\$10,000		\$14,000			\$24,000	10/22/2008	6/15/2009
111	Survey		\$9,241		\$4,000			\$13,241	10/22/2008	7/15/2009
112	Wetland Delineation		\$12,067			\$5,000		\$17,067	10/22/2008	7/15/2009
113	Soils Report		\$10,086		\$10,000			\$20,086	11/15/2008	7/15/2009
114	Environmental Support			\$10,000	\$15,000	\$6,317		\$31,317	10/22/2008	7/15/2009
115	Alignment Study		\$20,000					\$20,000	10/22/2008	2/9/2009
			\$444,000	\$15,610	\$0	\$0	\$338,259	\$797,869		

SUMMARY OF FEES

Summary of Preliminary Engineering	\$78,535	
Summary of Phase 1 Design Fees	\$437,618	This design fee represents 10.05% of the estimated Phase 1 construction costs of \$4,400,000.
Summary of Phase 1 Environmental Fees	\$68,470	
Total Phase 2 Preliminary Design and Environmental Servi	\$213,246	
	\$797,869	

PARK CITY RAW WATER INFRASTRUCTURE PROJECT
6/19/09 Professional Consulting Services - Fee Amendment

TASK COST REPORT

Owner: PARK CITY MUNICIPAL CORPORATION
Project: Design of Park City Raw Water Infrastructure
Description: Phase I and Phase II

PERSONNEL CATEGORIES:
1 Technical Advisor 6
2 Project Manager 7
3 Project Engineer 8
4 Designer
5 Land Surveyor

Personnel: FCD KKN BC JS CB SAY JH MD
Billing Rate: \$162 \$157 \$86 \$102 \$122 \$100 \$102 \$94

		LABOR HOURS BY PERSONNEL CATEGORY								Total Hours	Labor Charges
No.	Task	1	2	3	4	5	6	7	8		
102	Phase I Preliminary and Final Design -LSC										
	Construction Documents	60	20	120	240				40	480	\$51,456
	EOPCC	8		16						24	\$2,676
	Summit County permit	8	40	8				40	16	112	\$13,865
	DDW Submittal	8	2	40						50	\$5,055
	Subtotal	84	62	184	240	0	0	40	56	666	\$73,051
103	Phase I Bidding Services- Quinns/LSC										
	Prepare Bid Documents	16		16					16	48	\$5,480
	Attend Pre-Bid Meeting	4		8					4	16	\$1,714
	Assist with questions during Bidding	8		40					8	56	\$5,492
	Attend Bid opening	4		4				4	4	16	\$1,778
	Prepare bid evaluation	4		16					4	24	\$2,402
	Subtotal	36	0	84	0	0	0	4	36	160	\$16,866
104	Phase 1 Engineering Services during construction										
	Attend Pre-Con Meeting	4		8					4	16	\$1,714
	Conduct Submittal Review	40		88		40			16	184	\$20,452
	Address RFI's	40		88		40			16	184	\$20,452
	Conduct 18 Site Visits (6 per segment)	18		40		40			8	106	\$11,997
	Conduct Final Inspection 3 visits (1 per segment)	12		6		3			4	25	\$3,208
	Subtotal	114	0	230	0	123	0	0	48	515	\$57,822
105	Phase I Post Construction Services										
	Provide Operator Training									0	\$0
	Provide Record Drawings (3 segments)	8		40	60					108	\$10,860
	Provide O & M's									0	\$0
	Assist with Operating Permit									0	\$0
	Subtotal	8	0	40	60	0	0	0	0	108	\$10,860
106	Phase II Environmental Assessment										
	Raw Water Line-	8	8	4				24	16	60	\$6,855
	Finished Water Line-	8	8	4				24	16	60	\$6,855
	Judge Tunnel Line-Submit doc to EPA	8	20	4				60	16	108	\$12,414
	Raw Water Tank-	8	8	4				24	16	60	\$6,855
	Subtotal	32	44	16	0	0	0	132	64	288	\$32,978
108	Phase II Preliminary Design										
	Survey/Geotech for WTP to WA, KB to PMGC Pond, JT L	16		40	80	16	120		8	280	\$28,904
	Plan and Profile drawings	84		160	320				40	604	\$63,810
	Raw Water Tank (1)	16		16	40					72	\$8,056
	Raw Water Process Flow Diagram	16		24	16				8	64	\$7,048
	Wetlands Delineation		8	8				80	16	112	\$11,611
	Subtotal	132	8	248	456	16	120	80	72	1132	\$119,428
	Total	406	114	802	756	139	120	256	276	2869	\$ 311,005

Previous Scope Revisions and Change Orders



AUTHORIZATION FOR ADDITIONAL SERVICES

Consultant: STANTEC CONSULTING INC.
3995 South 700 East, Suite 300
Salt Lake City, UT 84107
Ph: (801) 261-0090 Fx: (801) 266-1671
email: mike.kobe@stantec.com

Client: PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue, P.O. Box 1480
Park City, UT 84060
Ph: (435) 615-5332 Fx: (435) 615-4904
email: klundborg@parkcity.org

Project Name and Location: PCMC Water Infrastructure Phase 2

Date: 29 October 2008

Stantec Project # 186200851

Stantec Opportunity Pipeline # 309971

Client Project #

Change Order # 1

This is authorization for STANTEC to perform additional services on the project as noted above.

- A. STANTEC agrees to perform the following additional service(s):

Task 109 Aerial Mapping (Additional Services)

This additional aerial work is for the mapping of the WTP sites and the finished water line to Quinn's, and for the orthophoto for Spencer.

- B. CLIENT agrees to compensate STANTEC for such additional services in accordance with the terms of the initial agreement for additional amount(s) stated below:

Not to Exceed \$5,610

- C. All other terms and conditions of the original Agreement shall remain in full force and effect.

Effect on Schedule: n/a

By signing below, the parties agree and affirm that each has reviewed and understands the provisions set out above and that each party shall be bound by each and all of said provisions. A copy of this agreement shall serve and may be relied upon as an original.

PARK CITY MUNICIPAL CORPORATION

Per: Kathy Lundborg
Name: Water Manager
Title: Kathy Lundborg
Date Signed: 10-31-08

STANTEC CONSULTING INC.

Per: [Signature]
Name: Michael P. Kobe, PE
Title: Senior Associate
Date Signed: 10/31/08



AUTHORIZATION FOR ADDITIONAL SERVICES

Consultant:	STANTEC CONSULTING INC. 3995 South 700 East, Suite 300 Salt Lake City, UT 84107 Ph: (801) 261-0090 Fx: (801) 266-1671 email: mike.kobe@stantec.com	Date:	25 November 2008
Client:	PARK CITY MUNICIPAL CORPORATION 445 Marsac Avenue, P.O. Box 1480 Park City, UT 84060 Ph: (435) 615-5332 Fx: (435) 615-4904 email: klundborg@parkcity.org	Stantec Project #	186200851
Project Name and Location:	PCMC Raw Water Project	Stantec Opportunity Pipeline #	309971
		Client Project #	
		Change Order #	2

This is authorization for STANTEC to perform additional services on the project as noted above.

- A. STANTEC agrees to perform the following additional service(s):

Task 114 Environmental Support

This task will cover additional environmental support services related to potential EPA requirements for expanded Consent Order for Richardson Flats.

- B. CLIENT agrees to compensate STANTEC for such additional services in accordance with the terms of the initial agreement for additional amount(s) stated below:

Not to Exceed \$10,000

- C. All other terms and conditions of the original Agreement shall remain in full force and effect.

Effect on Schedule: n/a

By signing below, the parties agree and affirm that each has reviewed and understands the provisions set out above and that each party shall be bound by each and all of said provisions. A copy of this agreement shall serve and may be relied upon as an original.

PARK CITY MUNICIPAL CORPORATION

Per:

Name:

Title:

Date Signed:

Kathy Lundborg
Kathy Lundborg, P.E.
12/1/08

STANTEC CONSULTING INC.

Per:

Name:

Title:

Date Signed:

Michael P. Kobe
Michael P. Kobe, PE
Senior Associate
11/26/08


Stantec

AUTHORIZATION FOR ADDITIONAL SERVICES

		Date:	24 February 2009
Consultant:	STANTEC CONSULTING INC.	Stantec Project #	186200851
	3995 South 700 East, Suite 300	Stantec Opportunity	309971
	Salt Lake City, UT 84107	Pipeline #	
	Ph: (801) 261-0090 Fx: (801) 266-1871		
	email: niko.kobe@stantec.com		
Client:	PARK CITY MUNICIPAL CORPORATION	Client Project #	
	445 Marsac Avenue, P.O. Box 1480	Change Order #	3
	Park City, UT 84060		
	Ph: (435) 615-5332 Fx: (435) 615-4904		
	email: klundborg@parkcity.org		
Project Name and	PCMC Raw Water Project		
Location:	Park City and Summit County, UT		

This is authorization for STANTEC to perform additional services on the project as noted above.

A. STANTEC agrees to revise the following service(s):

Task 102 Phase 1 Final Design- add additional alternative alignment services, phase bidding services, cost analyses	+ \$102,032
Task 108 Phase 2 Preliminary Engineering—delete	- \$145,032
Task 110 Geotechnical—add services to include Quinn's alignment	+ \$ 14,000
Task 111 Design Survey—additional services	+ \$ 4,000
Task 113 Soils Report- additional services to evaluate plan	+ \$ 10,000
Task 114 Environmental-additional services to complete ER w/DDW; USACE	+ \$ 15,000

B. CLIENT agrees to compensate STANTEC for such additional services in accordance with the terms of the initial agreement for additional amount(s) stated below:

Effect on Budget: n/a

C. All other terms and conditions of the original Agreement shall remain in full force and effect.

Effect on Schedule: n/a

By signing below, the parties agree and affirm that each has reviewed and understands the provisions set out above and that each party shall be bound by each and all of said provisions. A copy of this agreement shall serve and may be relied upon as an original.

PARK CITY MUNICIPAL CORPORATION

Per: Kathy Lundborg
 Name: Kathy Lundborg
 Title: Water Manager
 Date Signed: 2/27/09

STANTEC CONSULTING INC.

Per: Karen K. Nichols
 Name: Karen K. Nichols
 Title: Senior Associate
 Date Signed: Feb 27, 2009



Stantec

AUTHORIZATION FOR ADDITIONAL SERVICES

Consultant:	STANTEC CONSULTING INC. 3995 South 700 East, Suite 300 Salt Lake City, UT 84107 Ph: (801) 261-0090 Fx: (801) 266-1671 email: karen.nichols@stantec.com	Date:	29 May 2009
		Stantec Project #	186200851
		Stantec Opportunity	309971
		Pipeline #	
Client:	PARK CITY MUNICIPAL CORPORATION 445 Marsac Avenue, P.O. Box 1480 Park City, UT 84060 Ph: (435) 615-5332 Fx: (435) 615-4904 email: klundborg@parkcity.org	Client Project #	
		Change Order #	4
Project Name and Location:	PCMC Raw Water Project Park City and Summit County, UT		

This is authorization for STANTEC to perform additional services on the project as noted above.

A. STANTEC agrees to revise the following service(s):

Task 104 Phase 1 Construction Services—defer	- \$ 21,342
Task 106 Phase 2 Environmental Document—defer	- \$ 24,575
Task 102 Phase 1 Final Design services	+\$ 35,000
Task 112 Wetland Services	+\$ 5,000
Task 114 Phase 1 Environmental Support	+\$ 6,317

Final Design Services has been expanded to include the following: creating three construction packages for the Phase 1 pipeline; realignment of rail trail section and geotechnical services to the Quinn's alignment; design of the Quinn's alignment pipeline to accommodate PC Trails; alignment and construction methodology alternatives for Lower Silver Creek to accommodate EPA, USACE and constructability; create easements for Phase 1; additional design survey services; hydraulic analyses to support design changes(alignment and size); coordination with WTP.

Additional wetland and environmental support services include: WTP and Phase 1 alignment wetland delineations, USACE meeting to discuss funding and environmental document preparation associated with the DDW funding.

B. CLIENT agrees to compensate STANTEC for such additional services in accordance with the terms of the initial agreement for additional amount(s) stated below:

Effect on Budget: n/a

C. All other terms and conditions of the original Agreement shall remain in full force and effect.

Effect on Schedule: n/a

By signing below, the parties agree and affirm that each has reviewed and understands the provisions set out above and that each party shall be bound by each and all of said provisions. A copy of this agreement shall serve and may be relied upon as an original.

PARK CITY MUNICIPAL CORPORATION

Per:

Name:

Title:

Date Signed:

Kathy Lundborg
Kathy Lundborg
Water manager
May 29, 2009

STANTEC CONSULTING INC.

Per:

Name:

Title:

Date Signed:

Karen Nichols
Karen K. Nichols
Principal
29 May 2009

City Council Staff Report



Author: Todd Touchard
Subject: QUINN'S RAW WATERLINE
PROJECT, CONSTRUCTION ENGINEERING MANAGEMENT
AND INSPECTION CONTRACT
Department: Public Works
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute a Professional Service Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates (BC&A) for the Construction Engineering Management and Inspection of the Quinn's Raw Waterline Phase Project in an amount of \$89,792.

Description:

Water Strategic Plan: Source Strategies & Policies

- Maximize the availability of Park City's water from the Rockport Importation project

Topic:

Park City Raw Water Infrastructure Project for the Quinn's Phase of the raw water line from Promontory to Quinn's Junction Water Treatment Plant. The three segments of this raw waterline are as follows: Promontory Phase, Silver Creek Phase, and Quinn's Phase.

Background:

Design of the raw waterline from the Signal Hill reservoir to proposed location of new treatment plant began in the fall of 2008. Stantec Consulting, Inc. was contracted to provide design, environmental, and engineering evaluation services. The raw waterline was broken into three phases. Each phase has a unique set of issues that controls the schedule to complete the design.

This project includes the construction of a new 24" to 28" High Density Polyethylene Pipe (HDPE) water line approximately 13,500 feet in length. We anticipate that approximately 6,000 feet of the pipeline alignment will require rock excavation equipment. The project will also include three borings with 36" steel casings, two under Highway 248 and one under US40. The project will also include the construction of approximately 6,200 lineal feet of 12' wide bike and pedestrian trail which will connect Silver Summit to the Park City Recreation Complex.

Construction management and inspection is required for all construction projects. The inspector verifies contractor compliance with construction documents. The construction

manager (CM) coordinates all project paperwork between the contractor and the owner and engineer. The CM verifies contractor pay requests, prepares change orders, and prepares non-compliance notices among other tasks discussed in detail in the attached Scope of Work. For this project, the CM and inspection work will be performed by the same individual which provides some cost savings.

For additional reference, the attached Project Matrix shows all of the water projects for this construction season and the corresponding contracts and Professional Services Agreements (PSA's). With all of the construction contracts and PSA's being brought to Council for Authorization, Staff hoped the matrix could be useful in seeing the big picture of water projects.

Analysis:

The City's purchasing policies exempts professional service contracts from any requirement for competitive bidding. According to this policy contractors are chosen by selecting the firm whose experience, capabilities, and past performance best meet the needs of the project. The selection committee, comprised of Public Works, Engineering, Building, Snyderville Basin Reclamation District, and other representatives, used the following criteria as guidance in evaluating the RFP's:

- Experience with applicable construction of project: membrane treatment plant, HDPE pipe, raw water lines, ductile iron pipe, directional drilling, etc
- Knowledge of local regulations: Park City Standards, MRWSSD, Promontory, Summit County Soils Ordinance, Wetlands, DDW, Federal, AWWA, APWA
- Cost effectiveness in providing the desired services/product
- Quality of example daily reports and logs, process of providing service, organization
- Experience for with type of construction, availability of staff, ability to be responsive

Ten consultants submitted Statements of Qualifications for the RFP. The cost of construction management and inspection had the following ranges:

- Construction Management: \$189/hr to \$90/hr
- Inspection: \$125/hr to \$60/hr

Based on the selection criteria, the committee unanimously agreed to recommend Bowen Collins & Associates for the Construction Engineering Management and Inspection services for this project. Their Construction Manager, Lowell Williams, has 20 years of experience working on water related projects.

Staff has provided the Scope of Work and negotiated the fee with Bowen Collins & Associates. This is included as Addendum A in the Professional Services Agreement and is an amount of \$89,792. Staff feels that the fee is usual and customary with projects of this type and scope.

Department Review:

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

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

Staff recommends Council authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for the Construction Engineering Management and Inspection in an amount of \$89,792.

B. Deny the Request:

Council could deny Staff's request. Denying the request would delay the design of the time-critical project as described above.

C. Continue the Item:

Council could continue the request. Continuing the request would delay the design of the time-critical project as described above.

D. Do Nothing:

Staff does not recommend this alternative. Doing nothing would also delay the design of the time-critical project as described above.

Significant Impacts:

The fee associated with this const manage PSA is included in the project CIP budget.

If Council does not authorize the execution of the Agreement with BC&A, the delivery of the raw water to the new treatment plant will be delayed.

Recommendation:

Staff recommends Council authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for the design of the Park City Raw Water Infrastructure Project Design in an amount of \$89,792.

Project	Task	Contractor/ Consultant	Contract/ Agreement Authorized by Council?	Amount
PCWIP				
1. Promontory	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. MRWSSD c. Counterpoint	Y In Progress Y	\$460,610 (plus \$338,260) Hourly rate \$1,147,569
2. Quinn's	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. BCA c.	Y 6/25/09	\$460,610 (plus \$338,260) \$89,792 \$2,255,000 (estimate)
3. Lower Silver Creek	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. Stantec b. Not chosen	Y N	\$460,610 (plus \$338,260) \$1,940,000 (estimate)
4. Phase 2, 3, 4	a. Preliminary Design Construction begins 2010	a. Stantec	Y	\$460,610 (plus \$338,260)
Judge Tunnel Waterline	a. Preliminary Design Construction begins 2010	a. Stantec	Y	\$460,610 (plus \$338,260)
Fairway Hills Finished Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. BCA b. Alliance	Y 7/9/09	\$78,000 \$39,115 \$573,011 (estimate)
Water Treatment Plant	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. Carollo b. Not chosen	Y	\$795,000 \$8,100,000 (estimate)
Boothill Transmission Line Phase 2 and 3	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. BCA b. City Staff (ph2), Stanley (ph3)	Y	\$72,600 \$29,410 (phase 3) \$1,372,000 (estimate)
Hillside Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009)	a. BCA b. Ward Engineering	Y	\$22,300 \$150,678 (estimate)
HR Loop Rd Irrigation Waterline	a. Design b. Construction Mgmt/Inspection c. Construction (2009/2010)	a. Jack Johnson b. City Staff	NA	 \$337,814 (estimate)

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____, 2009, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Bowen Collins and Associates, a Utah corporation ("Service Provider").

WITNESSETH:

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

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

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

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

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Addendum A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed **Eighty nine thousand seven hundred ninety two (\$89,792) dollars.**

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on December 31, 2010 or earlier, unless extended by mutual written agreement of the Parties.

3. COMPENSATION AND METHOD OF PAYMENT.

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.

- C. For all "extra" work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as "Addendum B," or if none is attached, as subsequently agreed to by both parties in writing.
- D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.
- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. REPORTS AND INSPECTIONS.

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

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

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

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

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

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

7. HOLD HARMLESS INDEMNIFICATION.

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's negligent performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.
- B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

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

- A. General Liability insurance written on an occurrence basis with limits no less than 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.

The Service Provider 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. Professional Liability (Errors and Omissions) insurance written on claims made basis with limits no less than one million dollars (\$1,000,000) combined single limit per occurrence.
- D. 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
- E. The City shall be named as an additional insured on the insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies.
- F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

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

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

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

national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

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

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

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

14. MAINTENANCE AND INSPECTION OF RECORDS.

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

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

15. POLITICAL ACTIVITY PROHIBITED.

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

16. PROHIBITED INTEREST.

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

17. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an "extra" pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for

cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. NOTICE.

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

20. ATTORNEYS FEES AND COSTS.

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

21. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. SEVERABILITY.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. **ENTIRE AGREEMENT.**

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

Eden Construction Contract No. _____

Project: Quinn's Raw Waterline
Construction Engineering Management & Inspection
Page 10

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

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
Post Office Box 1480
Park City UT 84060-1480

Tom Bakaly, City Manager

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

SERVICE PROVIDER

Address:

Tax ID#: _____

Signature

Printed name

Title

Eden Construction Contract No. _____

Project: Quinn's Raw Waterline
Construction Engineering Management & Inspection

Page 11

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 2009, personally appeared before me _____, 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 _____ Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (*title*) for _____, a _____ corporation.

Notary Public

ADDENDUM "A"

SCOPE OF SERVICES

Fairway Hills Finished Waterline Construction Engineering Management & Inspection SCOPE OF SERVICES (Exhibit "A")

Based on the 90% Stantec drawings furnished to BC&A by the City for the Raw Waterline Phase 1 – Quinn's Junction, it is our understanding that the construction will include approximately 13,500 feet of 20-Inch ID HDPE IPS DR13.5 raw waterline running from the new water treatment plant site located on the southeast corner of SR 248 and Richardson Flats Road near Quinn's Junction, crossing west under SR 248, running north through City property to the U.S. Highway 40 right-of-way where it will continue north to the point of connection with an adjacent phase. Project also includes three borings, two under SR 248, and one under US40.

Scope of Work

Task 1.0 PRE-CONSTRUCTION SERVICES

1.01 Plans and Specifications – Review construction documents including: project plans, general, special, and technical specifications, addenda and permits.

1.02 Preconstruction Conference – Coordinate and attend the pre-construction conference prior to the start of any field activities. Prepare minutes of the meeting and distribute to Park City Municipal Corporation (CITY), CONTRACTOR, all attendees and others as requested by CITY.

Task 2.0 CONSTRUCTION ENGINEERING MANAGEMENT SERVICES

2.01 Construction Administration Procedures- Log-in and track the CONTRACTOR'S requests for clarification/requests for information, shop drawings, samples, submittals, contract schedule adjustments, change order proposals, written proposals for substitutions, payment applications and permits. CONSTRUCTION ENGINEERING MANAGER shall forward to ENGINEER for review any requests for clarification/information, shop drawings, samples, or other submittals and shall coordinate such requests the CITY. CONSTRUCTION ENGINEERING MANAGER shall review ENGINEER'S comments on shop drawings, samples and other submittals, and coordinate transmittals to the CONTRACTOR, including all information provided by the ENGINEER. Maintain the following documents at the job site: correspondence files; contract addenda; copy of the contract documents and progress reports. Keep record of the names, addresses, and telephone numbers of the CONTRACTOR'S and all

subcontractor's emergency contact personnel. Maintain reports of job site conferences, meetings and discussions between CITY and CONTRACTOR.

2.02 Change Order Preparation, Negotiation and Processing- Establish, implement and coordinate systems for processing contract change orders. Prepare independent cost estimates for contract change orders. Negotiate contract change orders with the CONTRACTOR. Coordinate negotiations with the CITY and preparation of all contract change order documents for execution by the CONTRACTOR and CITY. Prepare other related correspondence for CITY and ENGINEER review and approval of change orders as required.

2.03 Permits, Bonds and Insurance- Verify that the required permits, bonds and insurance, have been obtained. Ensure that the conditions of permits are adhered to by the CONTRACTOR. Such action by CONSTRUCTION ENGINEERING MANAGER shall not relieve the CONTRACTOR of its responsibility to comply with the provisions of the Contract Documents.

2.04 Construction Schedule- Review the CONTRACTOR'S construction schedule and updates and verify that the schedule is prepared in accordance with the requirements of the contract documents. Require the CONTRACTOR to prepare and submit a recovery schedule if progress falls behind schedule. Maintain an approved schedule to track the CONTRACTOR'S work efforts during construction and provide current schedule information to CITY.

2.05 Progress Meetings and Reporting- Conduct weekly progress meetings attended by CITY, CONTRACTOR, utility companies, outside agencies, and other participants. Such meetings shall serve as a forum for the exchange of information concerning the PROJECT and the review of construction progress. Prepare and distribute agenda and minutes of these meetings to CITY, CONTRACTOR and other PROJECT participants.

2.06 Progress Payments- Review the applications submitted by the CONTRACTOR and determine whether the amount requested reflects the actual progress of the CONTRACTOR'S work. Make appropriate adjustments to each payment application, and prepare and forward to CITY a progress payment report. The report shall state the total contract price, payments to date, current payment requested, retainage and actual amounts owed for the current period.

2.07 Quality Review- Monitor the quality of construction, and assist in guarding the PROJECT against defects and deficiencies in the work of the CONTRACTOR. Coordinate third-party inspections and any required special inspections and review these inspection reports. Review the work for compliance with the contract documents. The CONSTRUCTION ENGINEERING MANAGER will maintain daily reports/field logs detailing the progress of the work, manpower and equipment assigned to the PROJECT, and schedule of activities. Reject work and transmit to CITY and CONTRACTOR a notice of nonconforming work when it does not conform to the requirements of the contract documents. Maintain a daily diary of events at the jobsite, including but not limited to the following: CONTRACTOR and subcontractor's personnel and equipment,

observed delays and causes, weather conditions, daily activities and progress by stationing, data relative to claims for extras or deductions, material received on site, and test results.

2.08 Third Party Inspections and Testing- Coordinate with third party inspection and testing. Review reports and obtain ENGINEERS recommendations as needed. CONTRACTOR will provide third party inspection and testing as outlined in the project specification. Verify and report flushing, pressure and leak tests.

2.09 Photographs & Video- Provide to CITY photographic documentation (both still and video) of both PROJECT sites prior-to and during construction.

2.10 Site Visits- Maintain a sign-in log for visitors.

2.11 Coordination with City Divisions and Other Agencies – Coordinate and communicate with the CITY's Representative to keep informed of the PROJECT status, field encounters, field meetings, and other pertinent information. Coordinate with the CONTRACTOR for the technical inspection, testing, and work required by outside agencies. This shall include utility companies and the COUNTY.

2.12 Detailed Sketches- Provide detailed sketches to ENGINEER clarifying construction conflicts and/or design changes as requested by CITY.

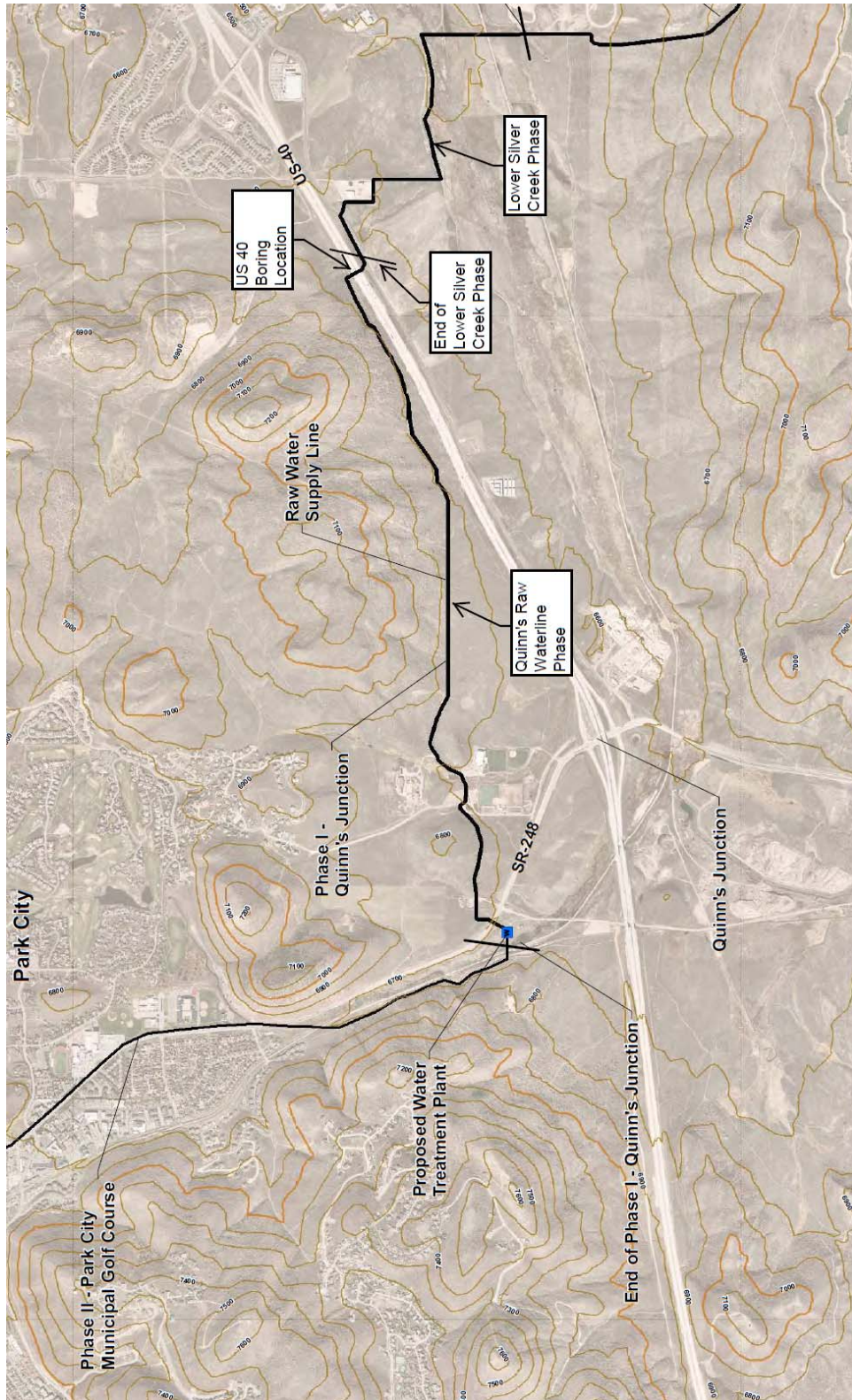
2.13 Dispute Resolution- Make recommendations and implement procedures for reducing the likelihood of disputes and claims. Assist CITY in gathering applicable data, reviewing CONTRACTOR'S documents, substantiating disputes or claims, and resolving construction disputes. Make recommendations for Alternate Dispute Resolution methods, as required.

2.14 Project Observation - For the 120 day (17 week) construction period, CONSTRUCTION ENGINEERING MANAGER has assumed a part time inspector (about 20 hours per week) during 11 weeks of the construction period, and full time (40 hours per week) for 6 weeks.

Task 3.0 POST CONSTRUCTION SERVICES

3.01 Project closeout- Complete and deliver all PROJECT files and documents to CITY. All submittals, RFIs, O&M manuals, daily reports, photos, shall be submitted to the CITY in a digital format (CD or DVD).

3.02 Final Inspection and Punchlist- Conduct final inspection with CITY and other PROJECT participants to prepare a list of construction deficiencies for resolution by CONTRACTOR. Make recommendations to CITY regarding CONTRACTOR'S final progress payment request. Prepare final progress payment report for submission to CITY.



Project Location Map



City Council Staff Report

Subject: Professional Service Agreement for
Bonanza Drive Construction Management
Author: Matthew Cassel, P.E., City Engineer
Department: Engineering
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendations:

The Council should authorize the City Manager to execute the Professional Service Agreement in a form approved by the City Attorney with Stanley Consultants for construction management services related to the construction of Bonanza Drive in the amount of \$147,452.

Topic/Description:

In January 2008, H. W. Lochner completed the Bonanza Drive Corridor and Pedestrianization Plan. City Council reviewed and approved this concept plan during their January 24, 2008 meeting. The design will include raised medians along sections of Bonanza Drive, acceleration lanes at Prospector Avenue, "no left turn" restrictions, Bicycle lanes, northbound bus pull-out, trail connection including a pedestrian tunnel at the Iron Horse intersection, pedestrian crossing, consistent 6 foot wide sidewalks, speed limit feedback signs, right turn lane at Iron Horse and lengthened southbound left turn lane at Deer Valley Drive. As part of this work, the existing sewer line will be relocated due to the pedestrian tunnel and replaced to SR-248, the existing water line will be relocated due to the pedestrian tunnel and a new transmission water line will be installed.

The waterline has been designed by Bowen, Collins & Associates through their contract with the City's Water Department and incorporated into the construction plans. The sewer has also been designed by Bowen, Collins and Associates in a separate contract with Snyderville Basin Water Reclamation District (SBWRD) and incorporated in the construction plans.

Because of the size of this project, it was decided early in the design process to break the project into two construction seasons. The first construction season includes the installation of the transmission waterline from Deer Valley Drive to Kearns Boulevard and the reconstruction of Bonanza Drive from Deer Valley Drive to a point just north of Upper Iron Horse Drive. The second construction season would complete the utilities, construct the pedestrian tunnel and reconstruct the rest of Bonanza Drive and its associated facilities. The project was originally anticipated to be bid as one complete project in June of 2009.

Numerous issues remain unresolved on the project and UDOT indicated they would not proceed with bidding until those issues are resolved. All of the unresolved issues

pertain to the second season of construction. To keep the project moving forward, staff decided to split the project into two biddable phases. The first phase is all work associated with the first season of construction and the second phase is all work associated with the second season of construction. If we do not use the encumbered federal money for the project until the second phase of construction, we are able to streamline the bidding process and the paperwork/UDOT requirements for construction.

This contract is with Stanley Consultants to provide construction management services for only the first phase of the Bonanza Drive reconstruction. The second phase will be a separate construction management contract and will go through UDOT's process.

The Council has approved funding for this project as follows:

Capital Project cp0097 (Bonanza Drive Reconstruction) will contain \$1,757,671 for the project and our Water Department will provide funding for the new transmission waterline. Additional monies in the amount of \$1,072,616 have been encumbered through UDOT's STP Small Urban Funds Program and up to \$1,150,000 have been allocated in the walkability bond. These additional monies will be used on the second phase of the project. SBWRD will also provide funding for the replacement of their sewer line.

Background:

In August 2007 H. W. Lochner was hired by Park City to develop a corridor and pedestrianization plan for Bonanza Drive. The purpose of the plan was to outline and prioritize short-term and long-term improvements for roadway, bicycle and pedestrian facilities along Bonanza Drive. The plan aimed to improve traffic flow, improve intersection operations throughout the corridor and provide bicycle/pedestrian access and safety. The plan provided short-term recommended improvements (2009 – 2016) and long-term recommended improvements (2016 – 2030). This phase of the project starts to address the short-term recommendations.

Analysis:

Because this project as a whole was to be administered by UDOT, the process to select the consultant was through the use of UDOT's Consultant Pool. This pool is operated similar to the State Contract where Park City is allowed to purchase items directly. The pool comprises of 27 different categories including construction management, material testing and survey services. The consultants in UDOT's pool are required to submit a Statement of Qualification (SOQ) every two years. These SOQs are then stringently evaluated by UDOT to determine which consultants are qualified to perform in each category. This process was used to select H. W. Lochner for the design phase of the project. Because they qualified highly in the construction management category, Stanley Consultant was determined to be the best choice for providing construction management services to the City on this project. The scope and fee for their services were in negotiations prior to splitting the construction phase of the project.

With the project now being separated into two distinct and biddable projects, Stanley Consultant's contract will also be divided. For this first phase of construction, Stanley Consultant would contract with Park City directly. The second phase of construction will have Stanley contract through UDOT. Because the first phase is designed and will be constructed per UDOT's specifications, staff believes it is important to use a consultant from the UDOT pool that has a strong familiarity with the UDOT process. Staff believes the Park City procurement process has been satisfied by using the UDOT pool for selection of a consultant for construction management services. The final scope of services and fee were negotiated with Stanley Consultants.

Department Review:

This report has been reviewed by City Manager, Planning, Public Works, Sustainability, and Legal. All issues have been resolved.

Alternatives:

A. Approve the Request:

This is the staff's recommendation.

B. Deny the Request:

The construction of the project is currently going through the bidding process and by not commencing with the construction management contract now could possibly lead to having the construction start without adequate City over-site.

C. Continue the Item:

If the Council needs more information the item can be continued, but this would cause the same consequence as denying the request.

D. Do Nothing:

This option would make it impossible to properly provide the over-site of the construction.

Significant Impacts:

The construction of Bonanza Drive will heavily impact the adjacent businesses. These impacts will be minimized through appropriate detour routing of traffic and implementation of an aggressive public involvement program to warn businesses and address their issues and concerns. The funds for the construction management contract have been appropriated, and there are no budget impacts which the Council hasn't already considered in the FY2009 budget.

Consequences of not taking the recommended action:

Bonanza Drive is an important commuter link for the City, but is seeing a significant increase in traffic congestion. The construction of the project is currently going through the bidding process and by not commencing with the construction management contract now could possibly lead to having the construction start without adequate City over-site.

Recommendation:

The Council should authorize the City Manager to execute the Professional Service Agreement in a form approved by the City Attorney with Stanley Consultants for

construction management related to the construction of Bonanza Drive in the amount of \$147,452.

Exhibit - Professional Service Agreement

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____, 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Stanley Consultants, an Iowa corporation ("Service Provider").

WITNESSETH:

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

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

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

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

1. **SCOPE OF SERVICES.**

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Addendum A" and incorporated herein (the "Project").

The total fee for the Project shall not exceed **\$147,452** Dollars.

2. **TERM.**

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on December 31, 2010 or earlier, unless extended by mutual written agreement of the Parties.

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

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.

- C. For all “extra” work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as “Addendum B,” or if none is attached, as subsequently agreed to by both parties in writing.
- D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.
- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. REPORTS AND INSPECTIONS.

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

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

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

performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

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

7. HOLD HARMLESS INDEMNIFICATION.

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

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

8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the

Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

- A. General Liability insurance written on an occurrence basis with limits no less than 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.

The Service Provider 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. Professional Liability (Errors and Omissions) insurance written on claims made basis with limits no less than one million dollars (\$1,000,000) combined single limit per occurrence.
- D. 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
- E. The City shall be named as an additional insured on the insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies.
- F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

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

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

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

14. MAINTENANCE AND INSPECTION OF RECORDS.

- A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

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

16. PROHIBITED INTEREST.

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

17. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an "extra" pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. NOTICE.

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

20. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from

the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

21. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered within the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. SEVERABILITY.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. ENTIRE AGREEMENT.

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

This agreement supersedes other agreements for this project including Utah Department of Transportation's (UDOT) Local Government Contract.

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

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
 Post Office Box 1480
 Park City UT 84060-1480

 Tom Bakaly, City Manager

Attest:

 City Recorder's Office

Approved as to form:

 City Attorney's Office

SERVICE PROVIDER

Address:

Tax ID#: _____

 Signature

 Printed name

 Title

STATE OF UTAH)
) ss.
 COUNTY OF SUMMIT)

On this ____ day of _____, 2008, personally appeared before me _____, 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 _____ Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a _____ corporation.

 Notary Public

ADDENDUM "A"

SCOPE OF SERVICES

See attached Scope of Services.

ADDENDUM “B”

PAYMENT SCHEDULE

See attached Cost Proposal/Payment Schedule.

BRIEF DESCRIPTION OF WORK PERFORMED

Stanley Consultants will manage the construction of the Phase 1 Bonanza Drive Between SR-224 (Deer Valley Dr) & Iron Horse Drive with waterline replacement project a Park City sponsored project. Phase 2 will have FHWA oversight and is not associated with this scope.

Stanley Consultants will mobilize staff and resources to manage aspects of the construction project including the pre-construction conference, construction survey verification, construction inspection, maintenance of traffic, weekly construction project meetings, monthly pay estimates, contract change orders, , substantial completion, final acceptance and contract finalization. Stanley Consultants will sub consult **Alliance Engineering, a local firm**, to utilize various services that they can provide including their knowledge of the City and City's specifications to inspect specific City utilities. Alliance will provide survey verification as well.

Stanley Consultants will manage the construction contract consistent with ***Park City's Design Standards Construction Specifications and the Project's Standard Drawings***. Stanley Consultants will provide construction oversight in the form of inspection for the construction project. Stanley Consultants with our team will partner with all stakeholders including working with the City and City Staff, local residents and businesses, utilities as well as with the contractor.

PROJECT UNKNOWNNS

Unknowns or issues beyond the control of Stanley Consultants for the Bonanza Drive project include the construction project schedule and duration. The completion of the design followed by successful bidding will control the timing of the Contractor's Notice to Proceed (NTP) and start of construction. It is anticipated that construction will commence through two construction seasons however this scope includes services for Phase 1 only. Substantial completion for Phase 1 is anticipated in the fall of 2009. The contractor will control the actual construction schedule and duration. Stanley Consultants estimates that the project duration will be approximately **88 working days from July through October**. Stanley Consultants will complete all identified activities in a timely manner after the contractor has completed the necessary construction.

PROJECT PHASING

Mobilize and prepare for construction NTP

- Setup construction management project office
- Participate in Public Involvement, Public Meetings

Manage the construction project

- Conduct pre-construction meeting
- Manage the construction project
- Survey verification
- Inspect the construction project
- Issue notice of substantial completion
- Issue notice of final acceptance

FEE TYPE

Fee type will be time and materials.

PROJECT TEAM

Stanley Consultants will sub-consult with Alliance Engineering to provide a complete team of professionals who have UDOT, local government project experience and Park City specific knowledge. Below is our project team that will work on the project at various stages to provide the highest level of service for the Bonanza Drive project.

Stanley Consultants

Brett Hadley – Client Liaison

Aaron Larsen – Resident Engineer

Emilie LeLaCheur – Documents Control

Ron Keller – Lead Inspector

Alliance Engineering

John Demkowicz – Project Liaison

Michael Demkowicz – Field Engineer

Kyle Avery – Water Inspector

Fehr & Peers

Maria Vyas – Project Manager

Julie Bjornstad – Planner

Mardi Pearson – Public Involvement

Steve Rhyne – Senior Technician

Aspen Perry – Administrative

ACTIVITIES

Setup construction management project office:

Construction management will occur on the construction site and in the project office. Stanley Consultants will setup and maintain a project office at the offices of Alliance Engineering. The project office will be equipped with standard office and communication equipment. Documentation will be filed at Stanley Consultant's I-80 Office located in Salt Lake City.

Participate in Public Involvement, Public Meetings:

Stanley Consultants and Alliance Engineering will partner with **Fehr & Peers** to assist in the City with public information processes, before and after the contractor selection. Our team recognizes that a requirement to achieving a successful project is to partner with the public and local business by participating in open houses, and continually keeping everyone informed. We will assist, Fehr & Peers by facilitating project updates and other relevant information in a timely manner so that information and the upcoming construction schedule and information on impacts are distributed to the public accurately and often.

Our Team will be part of one public meeting coordinated with the City, public and all relevant stakeholders. It is anticipated that the public meetings will take place in July of 2009.

A major goal our team wishes is to bolster is the relationships with the local businesses and the Contractor and to encourage and enforce cooperative efforts through direct Business Access signage and ease of access to the business's along Bonanza.

Conduct Preconstruction Meeting:

Stanley Consultants will plan, conduct and document the Preconstruction Meeting for all necessary parties. This meeting will be held at a predetermined local public facility prior to the NTP. At the Preconstruction Meeting, a predetermined agenda will be issued. During the meeting, the contract requirements will be reviewed including the Contractor's tasks, the schedule, working limitations such as hours of operation, holidays and local events, public involvement issues, traffic limitations, materials certification requirements and safety items. The initial construction schedule will be collected from the Contractor at that time. Contact information will also be shared and lines of communication will be established.

Specific project items will be discussed and addressed such as local residential and business aspects that need to be adhered to.

Manage the construction project:

Stanley Consultants will review the Contractor submitted baseline schedule and compare it to the envisioned schedule for phasing and constructability. Stanley Consultants will work with city officials and identify any discrepancies or "unrealistic" milestones proposed by the Contractor. If discrepancies are identified, we can then work with the Contractor to adjust their schedule to meet the specific needs of the project. Throughout the project, the Contractor will be required to provide updated schedules based on their performance and adjusted outlook. Stanley Consultants will review each update with the same review criteria as the initial baseline schedule.

Stanley Consultants and Alliance Engineering will take responsibility of the construction contract documents and will be accountable for the maintenance and storage during the project including the construction contract, the plans, specifications, utility agreements and all correspondence.

Stanley Consultants and Alliance Engineering will review Contractor submitted test results to determine compliance with the project specifications. The Contractor and City will immediately be notified of failed tests and nonconformance reports issued to the Contractor for corrective action.

Stanley Consultants will receive and submit Contractor schedules to the City and relevant affected parties for review and comment.

Pay quantities will be tracked on a monthly basis. Monthly pay estimates will be reviewed with the Contractor, approved by the City and distributed for approval and payment within the following week.

Stanley Consultants will track pay quantities and will promptly notify the City of any anticipated overruns and approve change orders only if they are within the original scope of work.

Stanley Consultants will hold weekly construction coordination meetings with the Contractor and other parties involved.

Stanley Consultants' lead inspector will be on site to inspect the road construction and as needed and will document construction.

Stanley Consultants will manage the construction utilizing our Resident Engineer (RE) and Field Engineer (FE) on a part-time basis, construction inspectors from Stanley or Alliance Engineering for the duration of the project as required and a document administrator on an as needed basis.

Alliance Engineering will provide inspection and documentation for the waterline replacement in accordance to the plans and specification as well as ensuring Park City's Design Standards Construction Specifications and Standard Drawings are properly adhered.

Our Team will partner with the original designer, Lochner to ensure that the original vision is met and to resolve design issues early as they arise to avoid conflicts and change orders.

Lochner's Soil Management Plan will be enforced to ensure proper handling and disposal of contaminated soils encountered.

Survey verification:

Work consists of verification of layout provided by the construction Contractor and finish improvement survey to identify significant deviations, if any, from the project plans.

Alliance Engineering will save initial staking data in GPS field files electronically and then transfer it to computer files for verification and determine pay quantities.

Subconsultant, Alliance Engineering, will coordinate all surveying with the project Contractor's work schedule. Survey verification will begin following the placement of construction notification signing by the Contractor. All survey personnel will be equipped with safety gear as required for protection while working within the existing travel roadways.

Inspect the construction project:

All work will be inspected and accepted on the basis of the contract requirements. Any deviations will be noted on the as-built plans.

The maintenance of traffic plan will be reviewed and will adhere to MUTCD, contract terms and Park City's Design Standards, Construction Specifications and Standard Drawings. The Contractor will be required to follow all safety and health requirements and will be required to obtain all necessary permits for construction.

Issue notice of substantial completion:

Stanley Consultants will notify all affected parties of Contractor's substantial completion in writing and request their attendance for Final Inspection. Punch-list items will be identified and recorded for Contractor repair.

Issue notice of final acceptance:

Stanley Consultants will monitor the Contractor's completion of all punch-list items. Stanley will recommend that UDOT issue a Notice of Final Acceptance after all items have been completed,

Close-out construction contract and deliver construction management documentation to Park City

Stanley Consultants will prepare the final Contractor pay estimate. Once completed the project can be finalized and closed out in a timely manner.

Provide Asbuilt Drawings:

Asbuilt plans will be provided as required by the City.

STAFFING PLAN

Stanley Consultants will use the following Staffing Plan. Proposed personnel assigned to the project are those shown with associated hours.

STAFFING PLAN

Name	Firm Name	Title / Category	Utah License/ Certification No.	Education Level	Hours (Estimated number of project hours)	Categorical Rate of Pay (Includes markup)
Aaron Larsen P.E.	Stanley Consultants, Inc	Resident Engineer	323879-2202	B.S.C.E. -1997	170	111.44
Kurt Miller P.E.	Stanley Consultants, Inc	Project Oversight Manager	276398-2203	B.S.C.E. - 1994	24	140.50
Emilie LeLaCheur	Stanley Consultants, Inc	Documents Control	N/A	B.S.C.E.	70	71.06
Ron Keller	Stanley Consultants, Inc	Lead Inspector	N/A	High School	345	83.09
John Demkowicz P.E., P.L.S.	Alliance Engineering	Project Oversight	154491-2202,2201	B.S.C.E	16	129.20
Michael Demkowicz P.E.	Alliance Engineering	Field Engineer	4857264-2202	B.S.C.E – 2002	218	93.75
Kyle Avery	Alliance Engineering	Water / Sewer Inspector	N/A	B.S.C.E – 2008	240	57.10
Maria Vyas	Fehr & Peers	Project Manager	014062	B.S. Urban Planning	160	*
Julie Bjornstad	Fehr & Peers	Planner	N/A	B.S. math, M.S. Regional Planning	16	*
Mardi Pearson	Fehr & Peers	Public Involvement	N/A	N/A	120	*
Steve Rhyne	Fehr & Peers	Senior Technician	N/A	N/A	2	*
Aspen Perry	Fehr & Peers	Administrative	N/A	N/A	14	*

*As per Fehr & Peers Work Plan

COST PROPOSAL

Including anticipated sub-consultant fees, the anticipated cost for our services is approximately **\$ 147,452**.

Direct costs for Stanley Consultants include vehicle costs, cell phone usage and documentation setup.

The following includes our breakdown of services for the project.

Roadway Direct Labor (assume 88 day project)		Hours	Pay Rate	Amount
Name/ Category	Roles / Responsibilities		\$/hr.	\$
Aaron Larsen Resident Engineer	Overall Project Management	162	\$ 111.44	\$ 18,054
Michael Demkowicz /Field Engineer	Onsite Project Management and Inspection	138	\$ 103.13*	\$ 14,232
Kurt Miller / Project Oversight Manager	Project / Staff Oversight Management / Conflict Resolution	24	\$ 140.50	\$ 3,372
Emilie LeLaCheur / Documents Control	Project Documentation	70	\$ 71.06	\$ 4,975
Ron Keller / Lead Inspector	General Inspection	345	\$ 83.09	\$ 28,667
Total Labor:				\$ 69,299

Waterline Direct Labor (assume 30 day portion)		Hours	Pay Rate	Amount
Title / Category	Roles / Responsibilities		\$/hr.	\$
Aaron Larsen Resident Engineer	Overall Project Management	8	\$ 111.44	\$ 892
Subtotal:				\$ 892
John Demkowicz / Project Oversight	Overall Project Management / Conflict Resolution	16	\$ 129.20	\$ 2,067
Michael Demkowicz /Field Engineer	Onsite Project Management and Inspection	80	\$ 93.75	\$ 7,500
Kyle Avery / Water Inspector	Inspect Waterline in accordance to City Standards	240	\$ 57.10	\$ 13,704
Subtotal:				\$ 23,271
10% Sub consultant Markup (on subconsultant personnel) **				\$ 2,327
Total Labor:				\$ 26,490

*Includes a 10% Markup for subconsultant services

**Markup not required for Fehr & Peers due to their services being different in nature, therefore insurance risk is not a factor.

Direct Expenses

Description	Rate	Number	\$ Amount	Note
Mileage for Vehicles	\$ 0.80	12,000 mi	\$ 9,600	Anticipated mileage rate includes lease rate.
Phones (equivalent Month)	\$ 70.00	4 mo	\$ 280	Anticipated number of equivalent full months for all phones.
Office and file setup	\$ 2000.00	1 ls	\$ 2,000	
Direct Expenses:			\$ 11,880	

Public Involvement

Description	Rate	Number	\$ Amount	Note
Fehr an Peers PI Services	\$ 47,358	1 ls	\$ 39,783	As per Fehr and Peers submitted Work Plan
Public Involvement:			\$ 39,783	

Project Totals Summary:

Totals for Phase 1 Project are as follows:

Description	Rate	
Manage and Inspect Bonanza Drive from Deer Valley Drive to Iron Horse Drive	\$	69,229
Manage and Inspect Waterline Construction from Deer Valley Drive to Kearns Blvd.	\$	26,490
Direct Expenses:	\$	11,880
Public Involvement:	\$	39,783
All Services Total:	\$	147,452



City Council Staff Report

Subject: Hillside Avenue Reconstruction
Project Construction Agreement
Author: Matthew D. Cassel, P.E., City Engineer
Date: June 25, 2009
Type of Item: Administrative

Summary Recommendations:

The City Council should authorize the City Manager to execute a construction agreement for the reconstruction of Hillside Avenue with Granite Construction Company for Alternative #1 in a form approved by the City Attorney and in an amount not to exceed \$1,589,209.40.

Topic/Description:

The City Council adopted the Old Town Improvement Study (OTIS) in 2002. This was actually the second study, as the City has been steadily improving infrastructure in Old Town since an earlier study in 1992 made similar recommendations. Street projects which have been accomplished so far include portions of Swede Alley, Empire Avenue, King Road, Ontario Avenue, Marsac Avenue, Woodside Avenue south of 12th Street, Upper Park Avenue, Prospect Street, Upper Norfolk and lower Woodside/Norfolk. In the FY2009, budget, the City Council included funds for this latest OTIS project, namely the road and utility improvement of Hillside Avenue.

The Council has approved funding for this project as follows:
Capital Project cp0004 contains \$600,000 for the project and Capital Project cp0155 contains additional money for the project.

Background:

On October 2, 2008, City Council approved a design and project management contract with Ward Engineering to prepare construction documents for the reconstruction of Hillside Avenue. Over the winter Ward Engineering and staff members have been meeting with residents, affected utility companies, and the Snyderville Basin Water Reclamation District (SBWRD). Ward Engineering completed a design for Hillside Avenue, which incorporates the needs of SBWRD regarding the reconstruction of sewer lines and the needs of the other utility providers. The City also has agreed with SBWRD as to costs related to sewer improvements which SBWRD will reimburse to Park City. The City's water lines in Hillside Avenue will also be reconstructed and paid for from the water fund.

On February 26, 2009, City Council provided direction to build a 15.5 foot wide road with a 2.0 foot wide edge support on the uphill side of the road, 2.5 foot wide curb and gutter on the downhill side and a 3.0 foot wide shoulder between the curb and gutter and the start of the proposed retaining wall. The final designed road section is per City Council's direction.

Analysis:

Ward Engineering and staff advertised to obtain competitive bids for the reconstruction of Hillside Avenue. The project was advertised in the Park Record and the Salt Lake Tribune. Bids were received on June 16, 2009 and four bids were received. The bids included two alternatives. Alternative #1 is the original retaining wall finish and is a horizontal cedar wood finished retaining wall. This alternative was supported by the Planning Commission. Alternative #2 is for a board formed and stained concrete. Concerned with possible high bids, alternative #2 was inserted into the bid package as an alternate retaining wall finish during the waning moments of bidding. Engineer's construction estimate for the project, which consisted of alternative #1, was \$1,901,528.

<u>COMPANY</u>	<u>ALT. #1 BIDS</u>	<u>ALT. #2 BIDS</u>
Harper Construction	\$2,251,669.69	\$2,043,682.69
SCI	\$1,865,604.00	\$1,857,429.00
Acme Construction	\$1,605,249.09	\$1,412,699.09
Granite Construction	\$1,589,209.40	\$1,440,121.90

All bids submitted were reviewed and compliant with the terms of the Contract Documents.

Department Review:

This report has been reviewed by Budget, Public Works, Legal, and the City Manager's office. All issues have been resolved.

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

This is the staff's recommendation.

B. Deny the Request:

This would make it impossible to complete the design in time for 2009 construction.

C. Continue the Item:

If the Council needs more information the item can be continued, but this would probably impact the contractor's ability to complete the reconstruction this season.

D. Do Nothing:

This option would make it impossible to complete the construction in a timely manner.

Significant Impacts:

The construction of Hillside Avenue will heavily impact the adjacent residents and access to and from the Main Street corridor. Coordination before and during construction with the adjacent residents and appropriate detour signage will not eliminate the impacts but should help the situation. The funds for the 2009 construction have already been appropriated, as mentioned above, so there are no budget impacts which the Council hasn't already considered in the FY2009 budget.

Consequences of not taking the recommended action:

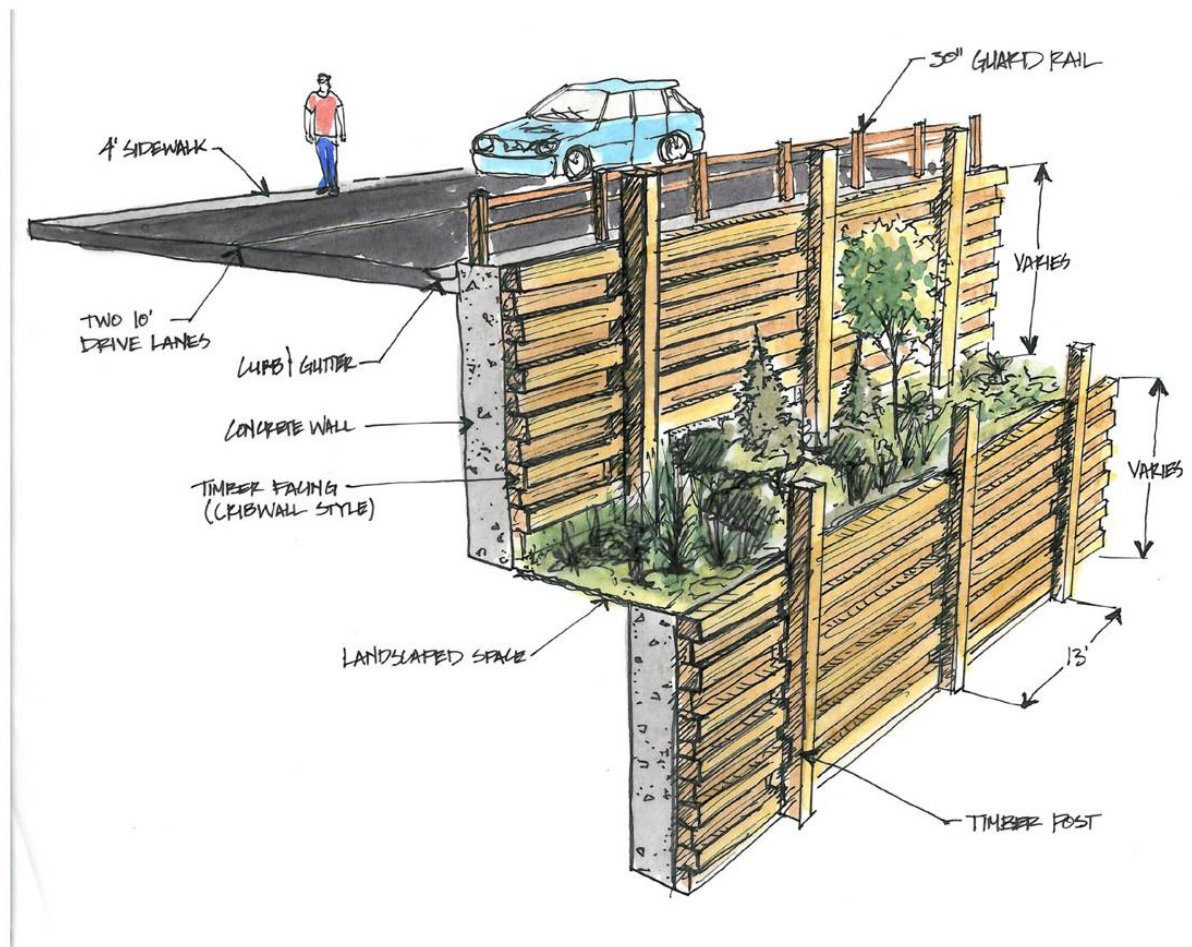
The retaining wall along Hillside Avenue has progressively eroded and really needs to be replaced, along with the associated utility work recommended in OTIS. Not commencing with the construction will expose the City to risk of increased construction costs as the economy recovers and building activity increases.

Recommendation:

The City Council should authorize the City Manager to execute a construction agreement for the reconstruction of Hillside Avenue with Granite Construction Company for Alternative #1 in a form approved by the City Attorney and in an amount not to exceed \$1,589,209.40.

Exhibit – Retaining Wall Finish Examples
 Hillside Bid Recommendation
 Bid Abstract
 Construction Contract

CEDAR WOOD FINISH EXAMPLE



BOARD FORM CONCRETE FINISH EXAMPLES





Ward Engineering Group

Planning • Engineering • Surveying

231 West 800 South, Suite A Salt Lake City, UT 84111

Phone: 801.487.8040 Fax: 801.487.6888

www.wardeng.com

June 17, 2009

Matt Cassell
Park City Municipal Corporation
1255 Iron Horse Drive
Park City, Utah 84060

Dear Mr. Cassell

Re: Historic Hillside Avenue Reconstruction Project - Bid Recommendation

We have finished our review of bids for the Historic Hillside Avenue Reconstruction Project, for which bids were opened on June 17, 2009 at 10:00 am. Our review included checking bid documentation, bonding, references, sub-consultants, etc. We have determined that both bids are responsive to the terms and conditions of the contract documents and that both bidders appear to be reputable in the scope of work comprising this bid. The bids for this project present two apparent low bidders as follows:

Granite Construction Company is the apparent low bidder for the project if Bid Alternative D is selected together with Bid Schedules A, B and C. Bid Alternative D proposes a rough-sawn timber façade for the concrete retaining wall. Granite Construction's bid for the work described in these bid schedules and alternative bid schedule is **\$1,589,209.40**.

ACME Construction is the apparent low bidder for the project if Bid Alternative E is selected together with Bid Schedules A, B and C. Bid Alternative E proposes a board-formed, colored concrete retaining wall finish. Several arithmetic errors were noted in ACME's bid and therefore the following dollar figure represents a corrected summation of bid schedules and alternates, using individual bid unit prices to arrive at a total. ACME's bid for the work described in these bid schedules and alternative bid schedule is **\$1,412,699.09**.

Section C-410, Article 5.02 states the following regarding Park City's privileges regarding bid selection:

"The selection of all bid schedules and alternative bid schedules will be at the Owner's sole discretion."

As such, as we have determined that both submissions are responsive to the conditions of the bid, Ward Engineering recommends that either Granite Construction Company or ACME Construction be awarded the contract for this project, subject to Park City's decision regarding which Bid Alternate to award.

Respectfully,
WARD ENGINEERING GROUP

Brendan Thorpe, P.E.
Project Manager

PARK CITY - HILLSIDE AVENUE BID SCHEDULE A: GENERAL REQUIREMENTS				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
1	Temporary Controls	LUMP	1	\$18,000.00	\$18,000.00	\$30,750.00	\$30,750.00	\$30,600.00	\$30,600.00	\$20,500.00	\$20,500.00	\$24,962.50
2	Quality Control	LUMP	1	\$7,500.00	\$7,500.00	\$18,900.00	\$18,900.00	\$16,100.00	\$16,100.00	\$8,040.00	\$8,040.00	\$12,635.00
3	Mobilization	LUMP	1	\$74,500.00	\$74,500.00	\$64,000.00	\$64,000.00	\$141,150.00	\$141,150.00	\$104,000.00	\$104,000.00	\$95,912.50
4	Special Inspections	LUMP	1	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00	\$8,050.00	\$8,050.00	\$6,137.50
5	Public Information Services	LUMP	1	\$1,200.00	\$1,200.00	\$1,000.00	\$1,000.00	\$4,750.00	\$4,750.00	\$3,000.00	\$3,000.00	\$2,487.50
6	Maintenance of Traffic and Pedestrian Access	LUMP	1	\$30,000.00	\$30,000.00	\$8,250.00	\$8,250.00	\$12,200.00	\$12,200.00	\$25,000.00	\$25,000.00	\$18,862.50
7	Storm Water Pollution Prevention Plan	LUMP	1	\$5,000.00	\$5,000.00	\$5,150.00	\$5,150.00	\$33,470.00	\$33,470.00	\$1,000.00	\$1,000.00	\$11,155.00
8	Finishing and Cleanup	LUMP	1	\$3,500.00	\$3,500.00	\$1,500.00	\$1,500.00	\$7,200.00	\$7,200.00	\$10,000.00	\$10,000.00	\$5,550.00
9	Clear and Grub	SQ YD	1600	\$3.50	\$5,600.00	\$3.40	\$5,440.00	\$5.21	\$8,336.00	\$9.18	\$14,688.00	\$5.32
10	Remove Existing Rock Retaining Wall	LUMP	1	\$850.00	\$850.00	\$925.00	\$925.00	\$4,740.00	\$4,740.00	\$1,500.00	\$1,500.00	\$2,003.75
11	Remove Existing Small Foundation	EACH	3	\$250.00	\$750.00	\$350.00	\$1,050.00	\$1,280.00	\$3,840.00	\$300.00	\$900.00	\$545.00
12	Excavation Wasted	CU YD	460	\$27.00	\$12,420.00	\$40.00	\$18,400.00	\$20.00	\$9,200.00	\$29.25	\$13,455.00	\$29.06
13	Excavation In Place	CU YD	555	\$25.00	\$13,875.00	\$40.00	\$22,200.00	\$51.00	\$28,305.00	\$57.00	\$31,635.00	\$43.25
14	Structure Excavation	LUMP	1	\$150,000.00	\$150,000.00	\$158,152.50	\$158,152.50	\$274,600.00	\$274,600.00	\$489,500.00	\$489,500.00	\$268,063.13
15	Shoring	LUMP	1	\$150,000.00	\$150,000.00	\$190,000.00	\$190,000.00	\$144,820.00	\$144,820.00	\$269,325.00	\$269,325.00	\$188,536.25
16	Remove Existing Timber Crib Wall	LUMP	1	\$11,000.00	\$11,000.00	\$3,675.00	\$3,675.00	\$11,200.00	\$11,200.00	\$42,420.00	\$42,420.00	\$17,073.75
17	Stabilize Existing Timber Crib Wall (Cementitious Grout or Flowable Fill)	CU YD	10	\$435.00	\$4,350.00	\$170.00	\$1,700.00	\$530.00	\$5,300.00	\$550.00	\$5,500.00	\$421.25
18	Untreated Aggregate Base Course, 1" Max	CU YD	445	\$55.00	\$24,475.00	\$41.80	\$18,601.00	\$51.00	\$22,695.00	\$50.51	\$22,476.95	\$49.58
19	3" Thick, Plant Mix Bituminous Pavement AC-10, 3/4" Max	SQ YD	1725	\$16.00	\$27,600.00	\$16.06	\$27,703.50	\$16.00	\$27,600.00	\$24.03	\$41,451.75	\$18.02

PARK CITY - HILLSIDE AVENUE BID SCHEDULE A: GENERAL REQUIREMENTS CONT'D				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
20	1/2" Thick, Plant-Mix Bituminous Seal Coat, Type A	SQ YD	1725	\$5.00	\$8,625.00	\$5.34	\$9,211.50	\$6.00	\$10,350.00	\$9.34	\$16,111.50	\$6.42
21	Removed (See Alternative Bid Schedules D and E), (Addendum 2)											
22	Storm Drain Penetration thru Concrete Retaining Wall	EACH	1	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$8,500.00	\$8,500.00	\$5,000.00	\$5,000.00	\$6,125.00
23	Colored Concrete Wing Wall Structure	CU YD	2.5	\$2,500.00	\$6,250.00	\$1,115.00	\$2,787.50	\$1,500.00	\$3,750.00	\$3,000.00	\$7,500.00	\$2,028.75
24	Removed (See Alternative Bid Schedules D and E), (Addendum 2)											
25	Temporary Concrete Construction Barrier	LUMP	1	\$8,500.00	\$8,500.00	\$16,500.00	\$16,500.00	\$13,200.00	\$13,200.00	\$26,000.00	\$26,000.00	\$16,050.00
26	High-Back Curb and Gutter (Type A)	LN FT	278	\$26.50	\$7,367.00	\$18.25	\$5,073.50	\$23.00	\$6,394.00	\$28.00	\$7,784.00	\$23.94
27	4.0-ft Wide Drain Gutter	LN FT	60	\$45.00	\$2,700.00	\$40.50	\$2,430.00	\$36.00	\$2,160.00	\$30.36	\$1,821.60	\$37.97
28	Roll Gutter	LN FT	270	\$29.50	\$7,965.00	\$19.00	\$5,130.00	\$22.00	\$5,940.00	\$30.00	\$8,100.00	\$25.13
29	Curb and Gutter (Type F)	LN FT	44	\$41.00	\$1,804.00	\$20.35	\$895.40	\$27.00	\$1,188.00	\$30.00	\$1,320.00	\$29.59
30	2.0-ft Wide Concrete Shoulder	LN FT	353	\$40.00	\$14,120.00	\$16.50	\$5,824.50	\$19.00	\$6,707.00	\$28.80	\$10,166.40	\$26.08
31	Concrete Transition	EACH	4	\$575.00	\$2,300.00	\$88.50	\$354.00	\$180.00	\$720.00	\$1,000.00	\$4,000.00	\$460.88
32	4.0-ft Wide Sidewalk	LN FT	11	\$46.00	\$506.00	\$52.00	\$572.00	\$31.00	\$341.00	\$25.92	\$285.12	\$38.73
33	Handicap Ramp	EACH	1	\$850.00	\$850.00	\$820.00	\$820.00	\$870.00	\$870.00	\$850.00	\$850.00	\$847.50
34	Topsoil	CU YD	147	\$45.00	\$6,615.00	\$37.13	\$5,458.11	\$84.00	\$12,348.00	\$57.50	\$8,452.50	\$55.91
35	Ontario Grass Seed Mix	SQ YD	688	\$0.50	\$344.00	\$3.60	\$2,476.80	\$1.25	\$860.00	\$2.27	\$1,561.76	\$1.91
36	Wiltoni Juniper, 1 Gallon	EACH	43	\$28.00	\$1,204.00	\$19.80	\$851.40	\$13.00	\$559.00	\$13.22	\$568.46	\$18.51
37	Grow Low Sumac, 5 Gallon	EACH	10	\$46.00	\$460.00	\$60.50	\$605.00	\$39.00	\$390.00	\$41.40	\$414.00	\$46.73
38	Straw or Coconut Erosion Control Blanket	SQ YD	600	\$2.75	\$1,650.00	\$3.74	\$2,244.00	\$5.50	\$3,300.00	\$3.45	\$2,070.00	\$3.86
39	Rip-Rap	CU YD	9	\$100.00	\$900.00	\$60.00	\$540.00	\$118.00	\$1,062.00	\$150.00	\$1,350.00	\$107.00

PARK CITY - HILLSIDE AVENUE BID SCHEDULE A: GENERAL REQUIREMENTS CONT'D				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
40	Temporary Underground Irrigation System	LUMP	1	\$3,450.00	\$3,450.00	\$2,475.00	\$2,475.00	\$6,100.00	\$6,100.00	\$1,955.00	\$1,955.00	\$3,495.00
41	Remove Existing Asphalt Concrete Pavement	SQ YD	1420	\$7.00	\$9,940.00	\$5.25	\$7,455.00	\$13.00	\$18,460.00	\$20.00	\$28,400.00	\$11.31
42	Remove Existing Water Line	LN FT	151	\$12.70	\$1,917.70	\$3.30	\$498.30	\$28.00	\$4,228.00	\$50.89	\$7,684.39	\$23.72
43	Remove Existing Sewer Cleanout	EACH	1	\$1,000.00	\$1,000.00	\$385.00	\$385.00	\$1,640.00	\$1,640.00	\$550.00	\$550.00	\$893.75
44	Remove Existing Sewer Line	LN FT	181	\$1.00	\$181.00	\$3.30	\$597.30	\$25.00	\$4,525.00	\$6.06	\$1,096.86	\$8.84
45	Remove Existing Gas Line	LUMP	1	\$1,000.00	\$1,000.00	\$1,573.00	\$1,573.00	\$4,600.00	\$4,600.00	\$6,875.00	\$6,875.00	\$3,512.00
46	Remove Existing Storm Drain Line	LN FT	75	\$42.00	\$3,150.00	\$15.07	\$1,130.25	\$38.00	\$2,850.00	\$54.27	\$4,070.25	\$37.34
47	Adjust Sewer Manhole to Grade	EACH	1	\$660.00	\$660.00	\$500.00	\$500.00	\$1,320.00	\$1,320.00	\$1,650.00	\$1,650.00	\$1,032.50
48	Adjust Valve Box to Grade	EACH	1	\$230.00	\$230.00	\$300.00	\$300.00	\$610.00	\$610.00	\$550.00	\$550.00	\$422.50
49	Sawcutting	LN FT	160	\$1.65	\$264.00	\$2.50	\$400.00	\$4.50	\$720.00	\$3.50	\$560.00	\$3.04
50	Raised Pavement Markers	EACH	30	\$70.00	\$2,100.00	\$78.65	\$2,359.50	\$72.00	\$2,160.00	\$45.00	\$1,350.00	\$66.41
51	4" White Acrylic Water-based Paint	LN FT	126	\$3.20	\$403.20	\$3.85	\$485.10	\$4.00	\$504.00	\$4.00	\$504.00	\$3.76
52	Merritt Parkway Guiderail	LN FT	285	\$78.00	\$22,230.00	\$73.70	\$21,004.50	\$94.00	\$26,790.00	\$113.82	\$32,438.70	\$89.88
53	W-Beam Guardrail	LN FT	95	\$30.00	\$2,850.00	\$25.85	\$2,455.75	\$25.00	\$2,375.00	\$57.37	\$5,450.15	\$34.56
54	W-Beam Guardrail Anchor	EACH	2	\$740.00	\$1,480.00	\$7.15	\$14.30	\$2,090.00	\$4,180.00	\$4,597.00	\$9,194.00	\$1,858.54
55	Removed (See Alternative Bid Schedules D and E), (Addendum 2)											
56	15-inch RCP Storm Drain Line	LN FT	180	\$65.00	\$11,700.00	\$47.85	\$8,613.00	\$88.00	\$15,840.00	\$86.43	\$15,557.40	\$71.82
57	36-inch RCP Storm Drain Line	LN FT	20	\$195.00	\$3,900.00	\$98.84	\$1,976.80	\$267.00	\$5,340.00	\$325.00	\$6,500.00	\$221.46
58	Storm Drain Cleanout Box	EACH	2	\$5,000.00	\$10,000.00	\$4,180.00	\$8,360.00	\$6,100.00	\$12,200.00	\$4,200.00	\$8,400.00	\$4,870.00
59	Single Gutter-Inlet Box	EACH	2	\$2,750.00	\$5,500.00	\$1,700.00	\$3,400.00	\$3,100.00	\$6,200.00	\$2,915.00	\$5,830.00	\$2,616.25

PARK CITY - HILLSIDE AVENUE BID SCHEDULE A: GENERAL REQUIREMENTS CONT'D				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
60	Remove Existing W-Beam Guardrail	LN FT	80	\$1.70	\$136.00	\$1.65	\$132.00	\$35.00	\$2,800.00	\$14.00	\$1,120.00	\$13.09
61	Construction Survey	LUMP	1	\$2,300.00	\$2,300.00	\$3,250.00	\$3,250.00	\$28,600.00	\$28,600.00	\$18,000.00	\$18,000.00	\$13,037.50
62	Quaking Aspen, 1 1/2" Calliper	EACH	5	\$260.00	\$1,300.00	\$264.00	\$1,320.00	\$210.00	\$1,050.00	\$214.00	\$1,070.00	\$237.00
63	Trench Excavation for New Natural Gas Line (Addendum 2)	LN FT	500	\$6.40	\$3,200.00	\$2.20	\$1,100.00	\$8.50	\$4,250.00	\$12.00	\$6,000.00	\$7.28
BID SCHEDULE A TOTAL =				\$713,171.90		\$714,955.51		\$1,032,087.00		\$1,380,602.79		\$960,204.30

BID SCHEDULE B: SEWER IMPROVEMENTS				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
1	Temporary Sewer Bypass	LUMP	1	\$1,450.00	\$1,450.00	\$2,200.00	\$2,200.00	\$8,200.00	\$8,200.00	\$6,930.00	\$6,930.00	\$4,695.00
2	8" DR-17 HDPE Sewer Line	LN FT	177	\$80.00	\$14,160.00	\$45.10	\$7,982.70	\$82.00	\$14,514.00	\$192.09	\$33,999.93	
3	4.0' Diameter Sanitary Sewer Manhole	EACH	1	\$3,600.00	\$3,600.00	\$2,640.00	\$2,640.00	\$5,100.00	\$5,100.00	\$4,400.00	\$4,400.00	
4	Reconnect Existing Sewer Lateral	EACH	2	\$1,200.00	\$2,400.00	\$825.00	\$1,650.00	\$2,126.00	\$4,252.00	\$2,035.00	\$4,070.00	
5	New Sewer Lateral	EACH	1	\$1,850.00	\$1,850.00	\$770.00	\$770.00	\$2,258.00	\$2,258.00	\$2,200.00	\$2,200.00	
6	Reconnect to Existing Manhole (Addendum 2)	EACH	1	\$2,250.00	\$2,250.00	\$880.00	\$880.00	\$3,150.00	\$3,150.00	\$1,650.00	\$1,650.00	
7	Quality Control (Addendum 2)	LUMP	1	\$2,000.00	\$2,000.00	\$1,320.00	\$1,320.00	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00	
BID SCHEDULE B TOTAL =				\$27,710.00		\$17,442.70		\$39,974.00		\$58,249.93		\$35,844.16

PARK CITY - HILLSIDE AVENUE BID SCHEDULE C: WATER IMPROVEMENTS				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
1	Temporary Above Ground Bypass Water Service to Existing Connections	LUMP	1	\$4,950.00	\$4,950.00	\$4,400.00	\$4,400.00	\$7,400.00	\$7,400.00	\$4,400.00	\$4,400.00	\$5,287.50
2	10" Ductile Iron CL 350 Waterline	LN FT	496	\$90.00	\$44,640.00	\$64.68	\$32,081.28	\$103.50	\$51,336.00	\$69.80	\$34,620.80	\$82.00
3	Connect to Existing 10" DI Waterline Including Fittings and Valves	LUMP	1	\$5,300.00	\$5,300.00	\$1,798.50	\$1,798.50	\$5,450.00	\$5,450.00	\$6,000.00	\$6,000.00	\$4,637.13
4	Install 10" Gate Valve	EACH	1	\$2,450.00	\$2,450.00	\$2,117.50	\$2,117.50	\$3,025.00	\$3,025.00	\$2,400.00	\$2,400.00	\$2,498.13
5	Remove & Replace Existing Fire Hydrant Including Ductile Iron Pipe, Fittings, and Valve	EACH	1	\$5,500.00	\$5,500.00	\$4,758.60	\$4,758.60	\$7,600.00	\$7,600.00	\$9,900.00	\$9,900.00	\$6,939.65
6	Connect to Existing 6" DI Waterline Including Fittings and Valves	LUMP	1	\$5,500.00	\$5,500.00	\$2,860.00	\$2,860.00	\$6,160.00	\$6,160.00	\$3,300.00	\$3,300.00	\$4,455.00
7	Connect to Existing 8" and 10" DI Waterline Including Fittings and Valves	LUMP	1	\$8,300.00	\$8,300.00	\$5,445.00	\$5,445.00	\$10,982.00	\$10,982.00	\$8,800.00	\$8,800.00	\$8,381.75
8	Reconnect Existing Service Connection Back to Existing Meter and Replace Meter Box with 1-1/2" Meter Vault	EACH	1	\$1,300.00	\$1,300.00	\$2,970.00	\$2,970.00	\$5,250.00	\$5,250.00	\$5,500.00	\$5,500.00	\$3,755.00
9	Reconnect Existing Service Connection to 10" Waterline	EACH	1	\$5,000.00	\$5,000.00	\$1,760.00	\$1,760.00	\$2,450.00	\$2,450.00	\$2,750.00	\$2,750.00	\$2,990.00
10	Relocate Existing Dual Service Connection and Existing Meters, Replace Meter Box with 1-1/2" Meter Vault, Extend Laterals to Existing Junction Box	EACH	1	\$10,000.00	\$10,000.00	\$3,718.00	\$3,718.00	\$22,950.00	\$22,950.00	\$20,000.00	\$20,000.00	\$14,167.00
11	Install Irrigation Service Connection Including 1-1/2" Curb Stop Valve	EACH	1	\$3,000.00	\$3,000.00	\$3,520.00	\$3,520.00	\$2,550.00	\$2,550.00	\$5,500.00	\$5,500.00	\$3,642.50
12	Asphalt Pavement - Trench Restoration on Sandridge Avenue	SQ YD	25	\$70.00	\$1,750.00	\$49.50	\$1,237.50	\$63.80	\$1,595.00	\$72.00	\$1,800.00	\$63.83
13	Remove and Reinstall Concrete Curb and Gutter to Match Existing	LN FT	10	\$85.00	\$850.00	\$61.95	\$619.50	\$90.00	\$900.00	\$60.00	\$600.00	\$74.24
14	Revegetation	LUMP	1	\$2,000.00	\$2,000.00	\$275.00	\$275.00	\$1,000.00	\$1,000.00	\$100.00	\$100.00	\$843.75
15	Quality Control (Addendum 2)	LUMP	1	\$1,300.00	\$1,300.00	\$3,740.00	\$3,740.00	\$4,800.00	\$4,800.00	\$5,000.00	\$5,000.00	\$3,710.00
BID SCHEDULE C TOTAL =				\$101,840.00		\$71,300.88		\$133,448.00		\$110,670.80		\$104,314.92

PARK CITY - HILLSIDE AVENUE ALTERNATIVE BID SCHEDULE D: CONCRETE RETAINING WALL W/ ROUGH SAWN TIMBER FAÇADE				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
1	Concrete Retaining Wall (Addendum 2)	CU YD	580	\$800.00	\$464,000.00	\$880.00	\$510,400.00	\$751.00	\$435,580.00	\$557.15	\$323,147.00	\$747.04
2	Precast Concrete Cap (Addendum 2)	LN FT	560	\$30.00	\$16,800.00	\$15.00	\$8,400.00	\$44.00	\$24,640.00	\$50.00	\$28,000.00	\$34.75
3	Rough Sawn Timber Façade (Concrete Wall Covering), (Addendum 2)	SQ FT	4875	\$54.50	\$265,687.50	\$58.00	\$282,750.00	\$41.00	\$199,875.00	\$72.00	\$351,000.00	\$56.38
ALTERNATIVE BID SCHEDULE D TOTAL =				\$746,487.50		\$801,550.00		\$660,095.00		\$702,147.00		\$727,569.88

ALTERNATIVE BID SCHEDULE E: COLORED, BOARD FORMED CONCRETE RETAINING WALL				GRANITE CONSTRUCTION COMPANY INC		ACME CONSTRUCTION		SCI INC		HARPER CONTRACTING INC		
Item No.	Description	Unit	Estimate Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Average
1	Colored, Board-Formed Concrete Retaining Wall (Addendum 2)	CU YD	580	\$1,030.00	\$597,400.00	\$1,050.00	\$609,000.00	\$1,124.00	\$651,920.00	\$852.00	\$494,160.00	\$1,014.00
ALTERNATIVE BID SCHEDULE E TOTAL =				\$597,400.00		\$609,000.00		\$651,920.00		\$494,160.00		\$588,120.00

												Average
GRAND TOTAL OF BID SCHEDULES A, B, C and D =					\$1,589,209.40		\$1,605,249.09		\$1,865,604.00		\$2,251,670.52	\$1,827,933.25
GRAND TOTAL OF BID SCHEDULES A, B, C and E =					\$1,440,121.90		\$1,412,699.09		\$1,857,429.00		\$2,043,683.52	\$1,688,483.38

EDEN CONTRACT NO. _____

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2009, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Granite Construction Company, which is a (check one) ____ corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the Historic Hillside Avenue Reconstruction Project (hereinafter "Project"), which consists of roadway reconstruction, retaining walls, and utilities along Hillside Avenue from Daly Avenue to Prospect Avenue (approximately 450 feet). The project also includes a new parking lot at the intersection of Daly Avenue.

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: _____, 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 Engineering 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.

EDEN CONTRACT NO. _____

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

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

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

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

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

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

(1) year following the date of substantial completion of the Project under the terms of the performance bond or as provided in the project specifications and construction documents, whichever is longer.

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

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

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

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

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

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

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

Park City Municipal Corporation shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be

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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 one million five hundred and eighty nine thousand two hundred and nine dollars and 40 cents (\$1,589,209.40) 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 **November 15, 2009**. Substantial Completion (as defined in the Bid Form, C-410) shall be completed by **October 15, 2009**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **Eight Hundred Dollars**

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(\$800.00), which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

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

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

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

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the

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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 Ward Engineering Group or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

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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:

Eden Construction Contract No. _____
Project: _____

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City Attorney's Office

CONTRACTOR

Address

Address

Address

Signator, Title

Utah Contract License No.

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 2009, 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

Author: Marin Decker, City Manager Intern

Subject: Economic Development Grants

- High West Distillery
- Park City Performing Arts Foundation

Date: June 25, 2009

Type of Item: Award of Economic Development Grants

Summary Recommendation – Staff recommends approval of an Economic Development Grant, in a form approved by the City Attorney, in the amount of \$11,000 to High West Distillery.

Staff also recommends approval of an Economic Development Grant, in a form approved by the City Attorney, in the amount of \$9,000 to the Park City Arts Foundation to fund its Not-Quite-Genius Supply Store, on condition that commitment of a lease of 3 years or longer for the Store location is provided.

Topic: Consideration of Award of Economic Development Grants

Background

This staff report is supplemental to the previous Economic Development Grants staff report of June 18, 2009. This matter was discussed at a work session on June 18, 2009, when the City Council directed staff to prepare contracts to award grant monies to High West Distillery and Park City Performing Arts Foundation. Council requested that staff prepare contracts for the award of \$11,000 to High West Distillery, and \$9,000 to the Park City Performing Arts Foundation, on condition that on condition that commitment of a lease of 3 years or longer for the Not-Quite-Genius Store location is provided.

Department Review: This report was reviewed by the Acting City Manager.

Alternatives:

- A. **Award the Grants as described (Staff recommendation).**
- B. Continue the Item to another date. Provide direction regarding additional information if necessary.
- C. Deny one request, award the other request.
- D. Deny both requests.
- E. Adjust the amounts of Grant Awards, and provide direction to staff for a revised contract.

Staff Recommendations:

Staff recommends approval of an Economic Development Grant, in a form approved by the City Attorney, in the amount of \$11,000 to High West Distillery.

Staff also recommends approval of an Economic Development Grant, in a form approved by the City Attorney, in the amount of \$9,000 to the Park City Arts Foundation to fund its Not-Quite-Genius Supply Store, on condition that the City Council receives a copy of the lease agreement for the Store location.

Attachments:

Attachment A – Draft Economic Development Grant Contract: High West Distillery

Attachment B – Draft Economic Development Grant Contract: Park City Performing Arts Foundation

Economic Development Grant Contract



ECONOMIC DEVELOPMENT GRANT CONTRACT BETWEEN HIGH WEST DISTILLERY AND PARK CITY MUNICIPAL CORPORATION

THIS AGREEMENT is made and entered into this 25th day of June, 2009, by and between **HIGH WEST DISTILLERY** (hereinafter referred to as "Distillery") and **PARK CITY MUNICIPAL CORPORATION** (hereinafter "City").

WITNESSETH:

WHEREAS, as part of the budget process, the City Council appropriates Economic Development funds to contract with organizations who meet the economic development grant program requirements outlined by the City's Budget Policy; and

WHEREAS, organizations must meet certain criteria in order to be eligible for an Economic Development Grant Contract; and

WHEREAS, applicants are eligible to apply for an Economic Development Grant Contract year round, the City will award Contracts through an application process administered by the Economic Development Grant Program Committee; and

WHEREAS, pursuant to Sections 10-8-2 and 10-2-84 of the Utah Code Annotated, the City Council hereby finds that the provision of City funds herein is consistent with the Park City General Plan, and provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the City; and

WHEREAS, notwithstanding the recitals above, the City desires to provide grant funds in exchange for positive economic impact benefit at least equal to the current fair market value to the City's contribution; and

WHEREAS, the Economic Development Grant program committee evaluated and approved the Economic Development grant request by the Distillery for assistance towards business start-up costs.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the sufficiency of which is hereby acknowledged, that parties agree as follows:

ARTICLE I
TERM AND ALLOCATION

The Distillery shall have an Economic Development Grant contract with a term of three years. The City will allocate the full grant amount upon execution by both parties.

TOTAL amount available for allocation: \$11,000

ARTICLE II
SERVICES TO THE COMMUNITY

In exchange for the City's contribution, the Distillery agrees to:

- Operate the Distillery in Park City for a minimum of three years.

Both parties agree that the above service provided to the community represents a good faith exchange of current fair market value for the City's contribution.

ARTICLE III
HOLD HARMLESS/NO AGENCY

The Distillery agrees to defend, indemnify, and hold harmless City, its officers, agents, and employees from and against all losses and expenses, including costs and attorney's fees, resulting from any injury, including death, to any person or damages to property of others arising out of the acts or omissions of the Distillery in the performance of work under this agreement. The Distillery is an independent entity and nothing herein shall be construed to create any agency, nor employee relationship with the City.

ARTICLE IV
DISSOLUTION

On dissolution of the organization or project prior to three years any remaining funds attributable to the City shall revert to the City in a prorated amount.

ARTICLE V
RECORD KEEPING/AUDIT

The Distillery agrees to keep accurate books and records of expenditures related to its operation. The City or its independent auditor reserves the right to conduct its own audit of books and records at reasonable times and places during ordinary business hours. If the grant money has not been used as agreed herein, the City shall be entitled to a full or partial refund of the grant.

ARTICLE VI
AMENDMENT

Attachment A

This Agreement may be amended with the approval of the City Council and The Distillery.
This Agreement may not be amended, except by an instrument in writing signed on behalf of each of the parties hereto.

ARTICLE VII
EFFECTIVE DATE

The effective date of this Agreement is the date first written above.

PARK CITY MUNICIPAL CORPORATION

Thomas B. Bakaly, City Manager

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

High West Distillery

David Perkins, Manager

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this day of , 2009, before me, the undersigned notary, personally appeared David Perkins, personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that he signed it voluntarily for its stated purpose as Manager of the High West Distillery.

Notary Public

Economic Development Grant Contract



ECONOMIC DEVELOPMENT GRANT CONTRACT BETWEEN HIGH WEST DISTILLERY AND PARK CITY MUNICIPAL CORPORATION

THIS AGREEMENT is made and entered into this 25th day of June, 2009, by and between **PARK CITY PERFORMING ARTS FOUNDATION** (hereinafter referred to as "Foundation") and **PARK CITY MUNICIPAL CORPORATION** (hereinafter "City").

WITNESSETH:

WHEREAS, as part of the budget process, the City Council appropriates Economic Development funds to contract with organizations who meet the economic development grant program requirements outlined by the City's Budget Policy; and

WHEREAS, organizations must meet certain criteria in order to be eligible for an Economic Development Grant Contract; and

WHEREAS, applicants are eligible to apply for an Economic Development Grant Contract year round, the City will award Contracts through an application process administered by the Economic Development Grant Program Committee; and

WHEREAS, pursuant to Section 10-8-2(1)(e) of the Utah Code Annotated and after public hearing, the City Council authorizes the provision of City services/facilities herein to a non-profit entity, regardless of the consideration Park City receives in return; and

WHEREAS, pursuant to Sections 10-8-2 and 10-2-84 of the Utah Code Annotated, the City Council hereby finds that the provision of City funds herein is consistent with the Park City General Plan, and provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the City; and

WHEREAS, notwithstanding the recitals above, the City desires to provide grant funds in exchange for positive economic impact benefit at least equal to the current fair market value to the City's contribution; and

WHEREAS, the Economic Development Grant program committee evaluated and approved the Economic Development grant request by the Foundation for assistance towards business start-up costs.

Attachment B

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the sufficiency of which is hereby acknowledged, that parties agree as follows:

ARTICLE I **TERM AND ALLOCATION**

The Foundation shall have an Economic Development Grant contract with a term of three years. The City will allocate the full grant amount upon execution by both parties.

TOTAL amount available for allocation: \$9,000

ARTICLE II **SERVICES TO THE COMMUNITY**

In exchange for the City's contribution, the Foundation agrees to:

- Operate the Not-Quite-Genius Supply Store in Park City for a minimum of three years.

Both parties agree that the above service provided to the community represents a good faith exchange of current fair market value for the City's contribution.

ARTICLE III **HOLD HARMLESS/NO AGENCY**

The Foundation agrees to defend, indemnify, and hold harmless City, its officers, agents, and employees from and against all losses and expenses, including costs and attorney's fees, resulting from any injury, including death, to any person or damages to property of others arising out of the acts or omissions of the Foundation in the performance of work under this agreement. The Foundation is an independent entity and nothing herein shall be construed to create any agency, nor employee relationship with the City.

ARTICLE IV **DISSOLUTION**

On dissolution of the organization or project prior to three years any remaining funds attributable to the City shall revert to the City in a prorated amount.

ARTICLE V **RECORD KEEPING/AUDIT**

Attachment B

The Foundation agrees to keep accurate books and records of expenditures related to its operation. The City or its independent auditor reserves the right to conduct its own audit of books and records at reasonable times and places during ordinary business hours. If the grant money has not been used as agreed herein, the City shall be entitled to a full or partial refund of the grant.

**ARTICLE VI
AMENDMENT**

This Agreement may be amended with the approval of the City Council and The Foundation. This Agreement may not be amended, except by an instrument in writing signed on behalf of each of the parties hereto.

**ARTICLE VII
EFFECTIVE DATE**

The effective date of this Agreement is the date first written above.

PARK CITY MUNICIPAL CORPORATION

Thomas B. Bakaly, City Manager

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Park City Performing Arts Foundation

Teri Orr, Executive Director

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

Attachment B

On this _____ day of _____, 2009, before me, the undersigned notary, personally appeared Teri Orr, personally known to me/proved to me through identification documents allowed by law, to be the person whose name is signed on the preceding or attached document, and acknowledged that she signed it voluntarily for its stated purpose as Executive Director of the Park City Performing Arts Foundation.

Notary Public



City Council Staff Report

Subject: Regional Ice Interlocal Agreement
Author: Ken Fisher, Recreation Manager
Department: Recreation & Library
Date: June 25, 2009
Type of Item: Legislative

Summary Recommendations:

Staff recommends Council approve the Letter of Consent, in a form approved by the City Attorney, with Snyderville Basin Recreation District (District).

The Letter of Consent (Attachment 1) outlines a re-distribution of annual contribution from the District as follows:

- The existing fund balance of \$25,000 in the Expansion Fund, plus interest accrued, shall be reserved and restricted for the master plan and conceptual design specific to future expansion of the facility.
- Allocation of the annual District contribution will go to the Capital Facilities Replacement Reserve Fund (CRRF).
- The District Board reserves the right to modify the distribution at the time of the three year review in 2012.

Topic/Description: Regional Interlocal Ice Agreement 3-year review

Background:

The Interlocal Cooperative Agreement for Regional Ice Facility (ILA) between Park City and the Snyderville Basin Recreation District (District) was approved August 31, 2004 (Attachment 2). The Ice Arena opened in February, 2006. The ILA identified intent and commitment for both parties for: planning, design, construction, operation (including necessary subsidization), potential expansion, and on-going capital replacement.

This review is intended to fulfill obligations of the parties with respect to Article 4, "Operation of the Ice Facility" and specifically Section 4.3 "Operating Contributions".

- v. The District and the City agree to review the amount of annual contributions and Use Guidelines every third year following the opening of the Ice Facility and to mutually agree upon allocations to the Ice Facility Reserve Fund, the CRRF and the Expansion Fund.
 - (a) The review will include a specific evaluation of the allocation to the Ice Facility Reserve Fund, and the allocation to the CRRF to verify growth in the CRRF through an annual transfer to be specified as a line item in the Ice Facility budget. It is the long-term goal of the District for their annual contribution to go to the CRRF and Expansion fund.

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

Analysis:

The previous Ice General Manager met with the District Board on April 1, 2009 to review the amount of annual contributions and Use Guidelines and to mutually agree upon allocations to the Ice Facility Reserve Fund, the CRRF and the Expansion Fund pursuant to ILA Article 4, Section 4.3, Item 2, Paragraph V). The District currently allocates \$50,000 in contributions to the three funds outlined below:

The ***Ice Facility Reserve Fund*** was set up with the intent of covering operating deficits. In other words if the Ice Arena had a net operating surplus the surplus would go into this fund to cover a deficit potential deficit in future years. This fund currently has a zero dollar balance since the Ice Arena has not operated profitably.

The ***Capital Replacement Reserve Fund (CRRF)*** is set up to fund capital equipment replacement and capital improvements as needed for the long-term upkeep of the Ice Facility. This fund currently has a balance of approximately \$69,200. The current ILA allocates \$37,500 to this fund.

The ***Expansion Fund*** is set up to fund future Ice Facility expansion. This fund has a current balance of approximately \$25,000. The current ILA allocates a \$12,500 annual contribution to this fund.

Because of the limited annual amount contributed to the Expansion Fund, it would take years and years to be able to pay for a new ice rink. The District was supportive of the staff recommendation to change the current allocation of the \$50,000 contribution from \$12,500 to the Expansion Fund and \$37,500 to the CRRF to \$50,000 going to the CRRF. Furthermore, the District was supportive of staff's recommendation to leave the fund balance of approximately \$25,000 in the Expansion Fund to be reserved and restricted for the master plan and conceptual design specific to future expansion of the facility and City-owned land at Quinn's Junction – which is consistent with direction received during the 2009 Council Visioning session.

As per the ILA the District Board has the ability to modify future distributions at the time of the second, three year review in 2012.

Department Review: This report has been reviewed and/or received input from the City Manager, Recreation & Library, Sustainability, Legal and Budget Departments.

Alternatives:

A. Approve the Request:

Staff recommends Council approve the Letter of Consent, in a form approved by the City Attorney, with Snyderville Basin Recreation District (District). The Letter of Consent

(Attachment 1) outlines a re-distribution of annual contribution from the District as follows:

- The existing fund balance of \$25,000 in the Expansion Fund, plus interest accrued, shall be reserved and restricted for the master plan and conceptual design specific to future expansion of the facility.
- Allocation of the annual District contribution of \$50,000 will go to the Capital Facilities Replacement Reserve Fund (CRRF).
- The District Board reserves the right to modify the distribution at the time of the three year review in 2012.

B. Deny the Request:

Council may deny the request to change the distribution of the Districts annual contribution.

C. Continue the Item:

Council may ask for more information and continue the item to a later date.

D. Do Nothing:

Council may do nothing resulting in a lack of clarity and direction on the Letter of Consent.

Significant Impacts: By redistributing the District Contribution to the Ice Facility so that it all goes into the CRRF will allow the replacement of necessary infrastructure in the facility. It will increase the fund balance in the CRRF giving greater flexibility in replacing facility infrastructure.

Consequences of not taking the recommended action: This will result in staff having to return to the District to discuss the distribution of the District's contribution to the facility.

Recommendation:

Staff recommends Council approve the Letter of Consent, in a form approved by the City Attorney, with Snyderville Basin Recreation District (District). The Letter of Consent (Attachment 1) outlines a re-distribution of annual contribution from the District as follows:

- The existing fund balance of \$25,000 in the Expansion Fund, plus interest accrued, shall be reserved and restricted for the master plan and conceptual design specific to future expansion of the facility.
- Allocation of the annual District contribution will go to the Capital Facilities Replacement Reserve Fund (CRRF).
- The District Board reserves the right to modify the distribution at the time of the three year review in 2012.

Attachment 2: The Interlocal Cooperative Agreement for Regional Ice Facility (ILA)

LETTER OF CONSENT

Purpose:

The Interlocal Agreement between Park City and the District was approved August 31, 2004, and the Ice Arena opened in February, 2006. This letter is intended to fulfill obligations of the parties with respect to Article 4, "Operation of the Ice Facility" and specifically Section 4.3 "Operating Contributions" paragraph (a)(2)v.

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

Definitions:

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

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

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

Consent to re-allocate between Funds:

This letter is intended to document direction and consent given by the Snyderville Basin Special Recreation District Board at their regularly scheduled meeting on April 1, 2009 for the following re-distribution of the District's contribution between the Funds.

- The existing fund balance of \$25,000 in the Expansion Fund, plus interest accrued, shall be reserved and restricted for the master plan and conceptual design specific to future expansion of the facility.
- Allocation of the annual District contribution will go to the Capital Facilities Replacement Reserve (CRRF).

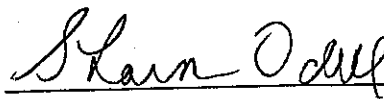
The District Board reserves the right to modify the distribution at the time of the 3rd year review in 2012.

This Letter of Consent is dated May 6, 2009.

Acknowledgment:

Acknowledgment:

Park City Municipal Corporation



Chairman
Snyderville Basin Special Recreation District

Interlocal Cooperative Agreement for Regional Ice Facility

THIS INTERLOCAL COOPERATIVE AGREEMENT (this "*Agreement*") is entered into effect August 26, 2004 by **SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT** (the "*District*"), and by **PARK CITY MUNICIPAL CORPORATION** (the "*City*"), each political subdivisions of the State of Utah (collectively referred to herein as the "*Parties*"), for the purpose of outlining responsibilities associated with the cooperative construction and operation of a recreational ice facility.

RECITALS:

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

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

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

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

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

F. Park City voters, via special bond election held November 6, 2001, authorized the City to issue general obligation bonds in an amount not to exceed Four Million Dollars (\$4,000,000.00) to construct an ice facility and make park improvements (\$2,000,000.00 to be used for the Ice Facility and \$2,000,000.00 for use towards other park improvements). The City's use of such bond proceeds to construct, maintain, own, and operate the Ice Facility pursuant to this Agreement is intended to fulfill the City's obligations to construct an ice facility pursuant to said bond election.

G. District voters, in a special bond election held on November 6, 2001, authorized the District to issue general obligation bonds ("the Bonds") for the purpose of acquiring, constructing and equipping an ice rink and other recreation facilities, and the District intends to use funds received as proceeds from the sale of the Bonds for the District share of the cost of the initial construction of the Ice Facility subject to this Agreement to fulfill the obligation of the District to provide the Ice Facility authorized in the special bond election.

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

AGREEMENT:

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

ARTICLE 1 DEFINITIONS; INTERPRETATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Definitions include both singular and plural;
- (b) Pronouns include both singular and plural and cover both genders; and
- (c) The captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, article or section of this Agreement.

ARTICLE 2

DESIGN, PLANNING AND CONSTRUCTION RESPONSIBILITIES

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

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

- (a) Complete all preliminary planning steps, to include site surveys, wetland studies, environmental reviews, and regulatory compliance coordination.
- (b) Complete all action steps related to annexing the City-owned property into the City limits.
- (c) Prepare and administer all RFP’s, professional service contracts, and construction agreements necessary to complete the design and construction of the Ice Facility.
- (d) Select and retain the services of an ice facility consultant who will be available for consultation during design and construction phases of the Ice Facility. The City will also actively seek to hire a General Manager of the overall recreation complex who has a background in ice facility management. It will be the City’s desire to select and phase in the hiring schedule of the General Manager so as to allow involvement in the planning and construction phases.

- (e) Prepare project and construction budgets that will define the anticipated costs associated with the Ice Facility.
- (f) Contribute all necessary land and \$2 million dollars towards the capital costs of designing, constructing and outfitting the Ice Facility.
- (g) Invite the District to participate and add recommendations in each of the above steps in an advisory capacity.
- (h) Budget annually and contribute a minimum of \$50,000 a year to the Operating Subsidies outlined in Section 4.3.
- (i) Provide to the public reasonable access to the ice rink located at the Park City Recreation Complex, which it operates and maintains. The City will make best efforts to balance local programming with tourist related revenue producing events. Efforts will be made to track direct and indirect benefits of hosting events. As a guideline, the City will look to reduce the operating deficit by promoting and hosting events. Local programming should not be negatively interrupted for events that do not see a net profit through direct and indirect revenues.

Section 2.3. District Responsibilities: The District will:

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

Section 2.4. If after thirty (30) days written notice from the District and opportunity to cure, the City fails to budget and contribute the funds committed under the terms of this Agreement, then the District shall have the right to terminate this Agreement as provided in Articles 6 and 8 herein.

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

ARTICLE 3 FACILITY DESCRIPTION; FINANCIAL ISSUES

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

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

- (a) **Breakdown of Initial Capital Allocations** - The Parties agree that with the known funds available, the initial capital contributions will be divided as follows:
 - 1. Construction Costs = \$3.5 million
 - 2. Design & Outfitting Costs = \$.5 million
 - Total = \$4 million
- (b) **Review Period** – The City and District will meet upon completion of design development drawings to review cost estimates and options given the project budget of \$4 million dollars. Discussions at this time will evaluate the ability to deliver the project within budget or whether an amendment to this Agreement is necessary.
- (c) The Parties agree to address projected shortfalls prior to construction bid advertisement through reduction in scope and/or through capital campaign efforts. Amendments to this Agreement pursuant to Section 9.12 may be necessary.
- (d) In the event cost estimates exceed available funds, the Parties agree to value engineer the project, which may include further reductions in scope.

ARTICLE 4 OPERATION OF THE ICE FACILITY

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

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

Section 4.3. Operating Contributions.

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

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

(2) Annual Operating Subsidies.

- i. City Responsibilities. The City will annually budget for and contribute a minimum of \$50,000 per fiscal year into the Funds in accordance with Subsection v. below. The City will track and report on the Ice Facility's budget performance.
- ii. District Responsibilities. The District will budget for and contribute a minimum of \$50,000 per fiscal year into the Funds, in accordance with Subsection v. below. It is understood by the Parties that the District intends to generate contributions through RAP tax grant applications by the SBSRD in the first two years of operation. In the event that RAP tax proceeds exceed \$50,000 in the first two years of operation, the SBSRD will commit an additional 50% of any RAP receipts in excess of the \$50,000 minimum. In subsequent years, the District's contribution will not be more or less than \$50,000 per year even with fluctuations in the Ice Facility budget, unless amended pursuant to item v. set forth below. It is also understood by the Parties that should RAP tax grants be unavailable to the District, then the District will contribute their minimum \$50,000 annual payment through other funding mechanisms.
- iii. The allocation of the District contribution will be distributed based on the "District's Annual Payment Distribution Schedule" as outlined within Exhibit B pursuant to the following order of priority in the three basic categories of:
 1. Ice Facility Reserve Fund
 2. Capital Replacement Reserve Fund
 3. Expansion Fund
- iv. The District and City commit to making funding contributions under the following schedule, or as otherwise agreed to by the Parties with the intent that the contributions generally occur during the first two years of Ice Facility operations:

- a. First Payment – December 15, 2005, or 6 months prior to scheduled facility completion date, whichever comes later.
 - b. Second payment – by December 15, 2006
 - c. Subsequent years – by December 15th of each subsequent year
 - v. The District and the City agree to review the amount of annual contributions and Use Guidelines every third year following the opening of the Ice Facility and to mutually agree upon allocations to the Ice Facility Reserve Fund, the CRRF and the Expansion Fund.
 - a. The review will include a specific evaluation of the allocation to the Ice Facility Reserve Fund, and the allocation to the CRRF to verify growth in the CRRF through an annual transfer to be specified as a line item in the Ice Facility budget. It is the long-term goal of the District for their annual contribution to go to the CRRF and Expansion fund.
 - b. Any withdrawal from the CRRF by the City will require notice to the District. Fund activity and balance will be reported annually as a part of the City's annual independent audit.
- (3) Ongoing Maintenance. The Parties anticipate that the City will recover (to the extent possible) the Ice Facility's maintenance costs through user fees, as assisted by the Parties' annual contributions and the accumulated Ice Facility Reserve Fund. The Parties Agree that the CRRF may be used for Ice Facility replacement items that carry a useful life of more than one year and have a minimum cost of \$1,000.
- (4) The City will set fees and program activities for the Ice Facility in conformance with the terms of this Agreement and utilizing Exhibit C – "Use Guidelines" as a tool to assist in determining the right mix and balance of operating fees and activity schedules.
- (5) Fundraising. In addition to revenue generation through traditional user fees and concessions, the City & District shall endeavor to increase revenues through efforts to obtain sponsorships, individual donations, and various charitable contributions. Acceptable means of revenue generation include, but are not limited to, dasher board and program advertising, sponsorships and grant writing.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

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

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

Section 5.3. Residents of the District shall not be charged any cost for the use of the Ice Facility in excess of the cost paid by residents of the City for the use of the Ice Facility. City residents shall not be granted discounts or any other economic reduction in the cost of use not equally available to residents of the District for use of the Ice Facility. The intent of this provision is to make access to and use of the Ice Facility for residents of the District equal to the costs and terms for access to and use of the Ice Facility for City residents during the period this Agreement is in force.

ARTICLE 6 TERM; TERMINATION

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

Section 6.2. **Termination.** Unless terminated pursuant to the default provisions at Sections 2.4 and 2.5 and Article 8 herein, or upon expiration of the term of this Agreement pursuant to Section 6.1 herein, this Agreement may be terminated only via amendment to this Agreement duly executed by the Parties pursuant to Section 9.12 herein.

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

ARTICLE 7 INDEMNIFICATION; INSURANCE

Section 7.1. **Indemnification.** The Parties are governmental entities under the "Utah Governmental Immunity Act" (UTAH CODE ANN. § 63-30-1, *et seq.*) (the "*Immunity Act*") and shall enjoy all of the immunities, benefits and protections thereunder. Consistent with the terms of the

Immunity Act, and as provided herein, the District, the City each are responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees.

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

ARTICLE 8 DEFAULT

A Party shall be in default under this Agreement if it fails to perform any obligation hereunder within thirty (30) days after written demand by the other Party. Upon a Party's uncured default hereunder, the non-defaulting Party shall be entitled to pursue any and all remedies available at law or in equity. Prior to terminating this Agreement for default pursuant to Section 2.4 or 2.5 herein, the non-defaulting Party shall deliver written notice of its intent to terminate the Agreement to the Party in default. If the Party in default fails to cure the default within thirty (30) days of such notice, this Agreement shall automatically terminate.

ARTICLE 9 GENERAL PROVISIONS

The following provisions also are integral to this Agreement:

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

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

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

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

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

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

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

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

Section 9.9. **Exhibits.** All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

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

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

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

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

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

8-26-2004

If to the District:

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

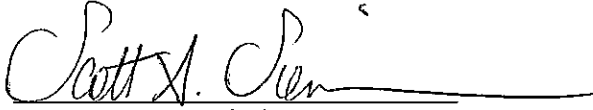
If to the City:

Park City Municipal Corporation
Attention: City Manager
P.O. Box 1480
Park City, UT 84060

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

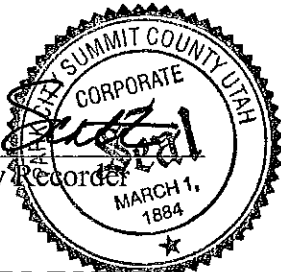
ATTEST:

SNYDERVILLE BASIN SPECIAL
RECREATION DISTRICT


Scott Siemon, Clerk

 8/31/04
Tim Douglas, Board Chair

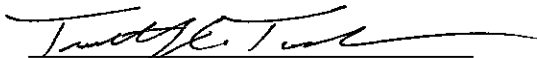

Janet M. Scott City Recorder



PARK CITY MUNICIPAL
CORPORATION


Dana Williams, Mayor

APPROVED AS TO FORM:


Timothy C. Twardowski,
Assistant Park City Attorney

PARSONS, ~~DAVIES~~, KINGHORN & ~~PETERS~~ ^{HARRIS}

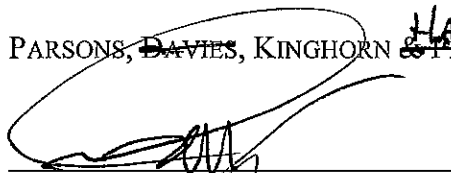

Gerald H. Kinghorn,
Attorney for the Snyderville Basin
Special Recreation District

Exhibit A

Ice Facility Area Description, Components, Concept Drawing

I. Area Description:

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

II. Ice Facility Components:

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

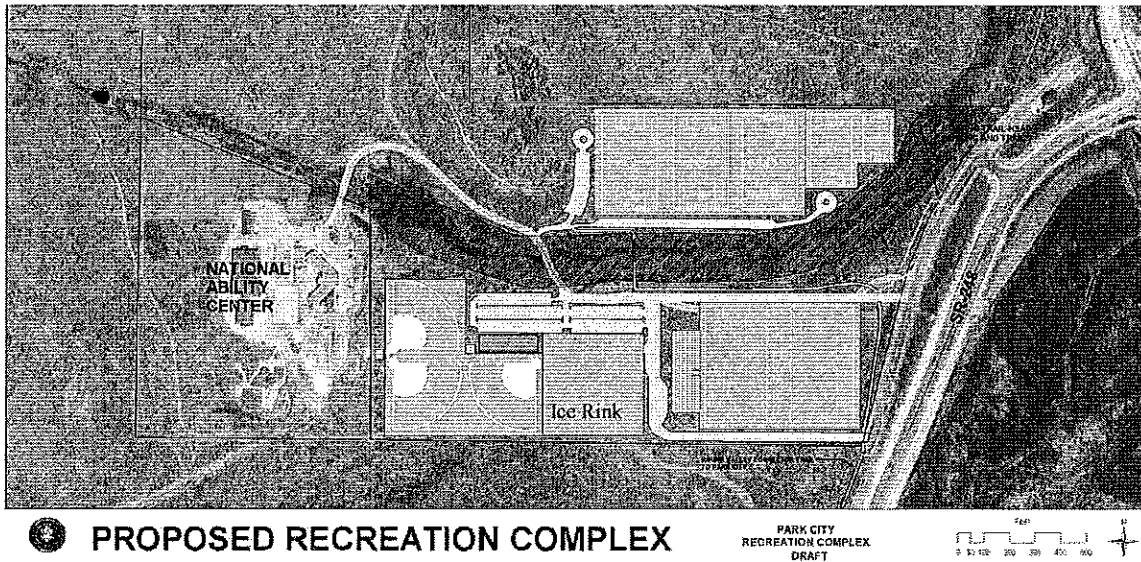


Exhibit B

Estimated Initial Furnishings, Fixtures & Equipment

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

Estimated Capital Replacement Lifespans per Equipment Type

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

Estimated Capital Replacement Costs by Year

(based on 40-year life cycle)

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

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

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Hockey Nets	\$1,500	
Ice Edger	\$4,000	
Zamboni	\$90,000	\$393,000

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

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

District's Annual Payment Distribution Schedule

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

* May be amended per Section 4.3.2.v.

Exhibit C

Use Guidelines

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

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

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

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

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

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

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

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

8-26-2004

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

9. Maintenance, Repairs and Utilities. The City shall arrange and pay all costs for the janitorial, utilities, garbage collection, repairs and maintenance on the Ice Facility.

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

City Council Staff Report



Subject: Park City Heights Annexation
Author: Thomas Eddington, AICP
Kirsten A. Whetstone, AICP
Date: June 25, 2009
Type of Item: Legislative

Summary Recommendation

Staff recommends that the City Council review the Park City Heights Annexation at the regular meeting, conduct a public hearing, and provide Staff and the applicants direction regarding the Annexation Agreement and Water Agreement.

The purpose of this meeting is to:

- Conduct a public hearing and continue to July 9, 2009; and
- Give staff and the applicants direction regarding alternative locations and/or land contribution for all of the UPCM/Talisker affordable housing units; and
- Give staff and the applicants direction regarding City participation in infrastructure development in the Annexation area and development partnership within the Master Planned Development for City affordable housing; and
- Confirm preliminary direction regarding maximum density of city built/financed affordable housing and unit types.

Description

Project Name: Park City Heights Annexation
Applicant: Boyer Plumb Park City L.L.C.; Talisker
Location: South West corner of the intersection of Highways 248 and 40
Proposed Zoning: Community Transition (CT-MPD)
Adjacent Land Uses: Municipal open space; City Ice Arena and Fields Complex;
Reason for Review: Annexations require a recommendation from the Planning Commission with final action by the City Council

Background

This staff report is supplemental to the previous Park City Heights Annexation staff reports dated April 24, May 22, June 5, June 19, July 17, August 28, September 11, September 18, October 16, 2008, and December 18, 2008. This matter was continued without substantive comment from several meetings over the past several months and discussed at a work session on April 30, 2009. A public hearing was held June 11, 2009 and continued until June 25, 2009.

Updated site plans will be reviewed at the meeting.

Analysis

At the June 11th meeting, the City Council confirmed the following, with modification as underlined in bold:

1. Directed staff to consider alternative location(s) or other satisfaction of all of Talisker's remaining affordable housing obligation, with the City taking title to the Talisker property within PC Heights with the ability to build some reduced number of affordable housing (otherwise will remain as open space).
2. Confirmed that Council is conceptually comfortable if some portion of the property is held by a conservation entity other than the City at the outset as deed restricted/conservation easement open space, **but stated a preference that fee title is retained by the City.**
3. Authorized staff to further explore terms of City participation in the infrastructure within the existing, pending MPD.
4. Authorized staff to explore and further negotiate City development partnership in the project as a whole (limited to city affordable housing development) in a reconfigured MPD, including some minor modifications to density apportionment provided overall density remains within the CT zone limits.
5. Provide direction to prioritize and target finalizing the annexation approval within the **next 30 days**, if possible. **Designated Council members Heir and Harlan to participate as liaisons in meetings with the applicants.**

All such terms would be subject to formal approval by the City Council.

Update:

Staff and Council member Hier met with Boyer representatives on June 17th. Revisions to the site plan and cost sharing were discussed. The intent is to pull the site plan density off the western open space boundary and off the Talisker property on the other side of the northwest ridge (the 20 acre proposed to be transferred to the City) most visible from HW 248.

Talisker spend the week attempting to finalize options/closing matters on its preferred alternative site(s). Staff anticipates that Talisker will be able to update and disclose the location and unit types/numbers specific to its proposal on or before Thursday's hearing.

Upon receipt of the Talisker information, the Council should be able to direct staff regarding the preferred range of density, location and type of City affordable housing AUEs that the Council would like to pursue.

Staff and Council liaisons will continue to meet with the parties early this week and provide updated information as warranted. Water, planning and sustainability teams are reviewing information provided late last week and will provide additional comment at the hearing.

Requested Action(s):

Receive verbal updates and handouts at the hearing and confirm direction as requested.

Alternatives:

- A. Direct staff and the applicants to maintain the status quo and conclude the current pending Annexation application, prior to consideration of any alternative development or affordable housing scenarios.
- B. Provide other direction or plan modifications to staff and the applicants.