

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 7, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, February 7, 2008.

Closed Session

3:00 p.m. Property and personnel

Work Session *(Times are approximate and may vary. Items are publicly discussed and direction may be given, if appropriate. No formal action is taken)*

5:00 p.m. Council questions/comments

5:10 p.m. Legislative update

5:20 p.m. HPB work program

5:50 p.m. Break

Regular Meeting – City Council Chambers

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 MEETINGS OF JANUARY 24, 2008

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

1. Consideration of approving the appointment of Julie Hopkins and Anita Slevin to the Public Art Advisory Board to fill unexpired terms to July 1, 2008 and July 1, 2009 respectively

2. Consideration of an Ordinance approving a plat amendment at 7888 Aster Lane, Park City, Utah

(a) Public hearing

(b) Motion to continue to March 13, 2008

3. Consideration of approving an amendment to a service provider agreement with FFKR for the Marsac Seismic Upgrade Project, in a form approved by the City Attorney, in an amount not to exceed \$309,541

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

VII ADJOURNMENT

**PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
FEBRUARY 7, 2008**

I ROLL CALL

II PUBLIC INPUT (*Any matter of RDA business not scheduled on agenda*)

III MINUTES OF MEETING OF JANUARY 10, 2008

IV CONSENT AGENDA

Consideration of approving a land transfer agreement with Habitat for Humanity, in a form approved by the City Attorney, for donation of RDA property located at 154 Marsac Avenue, Park City, Utah

(a) Public hearing

(b) Action

V 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: 02/04/08

See www.parkcity.org

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 11, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will attend a breakfast meeting with the Summit County Commission and Park City Board of Education. The meeting is scheduled on Monday, February 11, 2008 at 8 at the Richins Building, 6505 North Landmark Drive.

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

February 2008

- 8 *Management Team quarterly meeting*
- 11 *Inter-agency breakfast meeting – Richins Building – 8 a.m.*
- 14 Legislative update
 Wild land interface issues – work
 Consideration of an Ordinance regulating reckless skiing at ski resorts within
 Park City’s boundaries
 MFL – Queen’s Cup Urban Rail Jam – Main Street closure – February 22
 Consideration of an amendment to the Water Agreement between the City and
 Talisker Corp
- 21 **No meeting**
- 28 Legislative update
 Review of Sundance operations at Racquet Club venue
 Ordinance approving a plat amendment for 154 McHenry Avenue, Park City,
 Utah – KW
 MFL – Park Silly Sunday Market
 Racquet Club feasibility study

March 2008

- 6 Legislative update
- 13
- 20 **No meeting**
- 27

Pending Items:

Consideration of an amendment to the Burbs LLC Annexation Agreement/Affordable
Housing
Update on Eden software
Tour of Silver Star Affordable Housing units
Resolution - Trails Master Plan
Business market analyses – Phases 1 and 2



City Council Staff Report

Subject: Historic Preservation Board Work Program
Author: Patrick Putt, Planning Director
Department: Sustainability
Date: February 7, 2008
Type of Item: Legislative

Summary Recommendations:

Staff recommends that Council discuss and provide direction to the Historic Preservation Board to undertake the additional duties set forth in Land Management Code, Section 15-11-6: Historic Preservation Board—Additional Duties. Staff recommends that Council direct the HPB to undertake the additional duties as identified in LMC Section, 15-11-6, specifically preparing reports on potential acquisition and funding.

Topic/Description:

Role and Duties of the Historic Preservation Board

Background:

On December 13, 2007, Council held a work session pending Historic District Land Management Code amendments. As part of the discussion, Staff asked Council for direction whether or not to expand the role of the Historic Preservation Board. This question stemmed from input Council received as part of recent Historic Preservation Board interviews. During the recent HPB interviews, several candidates expressed the opinion that the HPB should have the responsibility of reviewing all Historic District design review applications.

There was not Council direction to expand the role of the HPB beyond the current Land Management Code responsibilities. This is consistent with previous Council decisions at three previous public hearings and joint work sessions with Planning Commission (February 8, 2007, April 5, 2007, May 9, 2007). However, Councilman Heir suggested that work session time be set aside to discuss whether or not the HPB should be directed to take on specific additional duties as provided in Land Management Code, Section 15-11-6: Historic Preservation Board—Additional Duties. (See *attached staff report and work session minutes from the December 13, 2007 work session*).

Analysis:

Land Management Code, Section 15-11-6: Historic Preservation Board—Additional Duties specifies that in addition to its designated roles, the HPB may be directed by Council to fulfill the following tasks:

- Participate in the design review of any City-owned projects located within the designated Historic District (*The HPB reviewed the Historical Society's*

Museum Expansion last summer. Staff recommends that HPB input be solicited for future City-owned Historic District projects.)

- Recommend to the City Council the purchase of interests in Property for purposes of preserving the City's cultural resources ***(Staff recommends that Council direct the HPB to prepare a report and recommendations on potential cultural resource acquisitions.)***
- 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. ***(Staff recommends that Council direct the HPB to prepare a report and recommendations on potential funding sources, mechanisms, and/or programs aimed at promoting historic preservation.)***
- Recommend to the Planning Commission and the City Council zoning boundary changes for the district to preserve the historical integrity of the Area ***(As part of the HPB's pending Historic District Guidelines update, zoning boundary changes may be specifically considered. The anticipated completion/adoption date Historic District Design Guidelines is Spring 2008);***
- Recommend to the Planning Commission and City Council changes to the park City Land Management Code to reinforce the purpose of historic preservation. ***(The HPB will be providing input on the pending Historic District Land Management Code changes prior to final Planning Commission recommendation to Council.)***
- 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, and Property within the Historic District, or neighboring Property within a two (2) block radius of the Historic District ***(Other than by PCMC, no property owners in the Historic District have requested advice or guidance by the HPB on matters regarding construction, restoration, etc.)***

Recommendation:

Staff recommends that Council discuss and provide direction to the Historic Preservation Board to undertake the additional duties set forth in Land Management Code, Section 15-11-6: Historic Preservation Board—Additional Duties. Staff recommends that Council direct the HPB to undertake the additional duties as identified in LMC Section, 15-11-6, specifically preparing reports on potential acquisition and funding.

Excerpts from December 13, 2007 City Council Work Session

3. Historic District (HR-1) Land Management Code amendments and role of Historic Preservation Board. Patrick Putt explained that the Planning Commission, Historic Preservation Board, and City Council held a joint session in May on Old Town issues. A number of recommendations resulted and accomplishments include adopting the historic building inventory, Planning Commission training, steep slope criteria, etc. Garage elements, building mass, *panelization* of buildings for renovations, and the role of the HPB are important issues to resolve. He added that there are specific recommendations on amending the regulations of the HR-1 properties by establishing a cap on the maximum building footprint and formulating criteria for moving historic structures. The goal today is to introduce the concept before public hearings are held before the Planning Commission.

The Planning Director relayed that the purpose statement for the HR-1 rewrite is intended to reflect current community values by maintaining historic scale and building form. The draft addresses extending access to undeveloped areas, including platted but unbuilt streets, so if the street is extended the plan is characteristic with the area, avoiding building retaining walls. The document encourages no more than two-story structures and establishes parameters on parking. A cap on the maximum building footprint of 1,550 square feet is recommended, which is the number achieved on a two lot equivalent parcel. He spoke about the feedback from the public from the Historic District sessions held and arriving at the 1,550 square foot proposal based on input. He also encouraged regulating height by limiting walls to 22 feet; this approach will provide better flexibility with regard to roof form and may minimize huge excavations. Applying conditional use criteria is proposed for lifting or changing the orientation of historic buildings. Mr. Putt described a new noticing plan which would occur earlier in the review process. There is provision for creating a voluntary peer review pre-application group (VPR) which was suggested by the design community. This could also be a strong educational tool for the planners. Mr. Putt stated that the amendments were received positively by the Planning Commission acknowledging that it is a work in progress. Members liked the VPR committee concept and noticing applications earlier, but were mixed on expanding the role of the HPB.

Discussion ensued regarding the calculation of height and measuring width, specifically on steep slopes. Joe Kernan pointed out that often the original historic structure is lost with the construction of an addition and Pat Putt addressed provisions regulating attaching new construction to historic buildings. Steep slopes are the most challenging. Front and side facades and the roof element must be preserved and the new addition is allowed to attach to 50% of the back façade width. He discussed instances when building a second structure on large historic lots is allowed and deducting the square footage of a detached garage from the total as an incentive for a better plan. Roger Harlan pointed out the high percentage of garages in Old Town that serve as storage units rather than getting cars off the street. Candace Erickson thanked Mr. Putt for listening to Council's comments, but pointed out the atrocious situation of the small house owned by the Whaleys and the huge development very close to them on Park

Avenue. She hoped this scenario could be eliminated in the future. Mr. Putt acknowledged possible problems with developing on the boundaries of zoning districts and an inventory of potential conflicts in interface areas will be explored. Ms. Erickson believed that boundaries could be distinguished by stepping or locating construction so that it doesn't over-shadow existing buildings. Ms. Cone suggested providing for solar easements. The Mayor Pro Tem invited public input.

Ken Marth, HPB Chair, acknowledged that he hasn't fully digested the new draft but encouraged exploring the amendments. He emphasized the importance of updating the Historic District Guidelines to achieve better consistency and cited examples of incompatibility with new construction in the District. He felt it important that applicants provide more information at the time of the plat amendment or at another preliminary stage. Notification to adjacent owners should contain more information on the project. Mr. Marth stated that he was a member of the Historic District Commission and is now serving on the HPB and he felt they could be accomplishing more if they had more to do. Training is essential as well. In response to a question from Joe Kernan, Mr. Marth detailed poor design practices in the District.

Jack Thomas, Planning Commissioner and architect, stated that good design can not be dictated or enumerated upon. He likes the VPR idea not only for feedback but to obtain input earlier in the process. There are professionals willing to donate their time and producing good design in the community is a complicated process. Most planned communities have professional review boards and it works well.

Tom Peek, Old Town property owner, felt that there are good examples of new construction throughout Old Town which has been very vibrant over the past several years. He expressed concerns about the 50% attachment limitation and Mr. Putt explained that the 50% does not mean the addition can only be half the width of the historic structure.

Kevin King, Old Town resident and architect, cautioned not to amend the Code in a knee-jerk reaction mode and pointed out the 50% provision is not clear and every single site is unique. The process should be somewhat predictable with provision for exceptions. He warned against subjectivity prompting legislation and emphasized that owners have property rights. Applicants should not be *processed to death* and the property owner should have the final choice. Giving the HPB more discretion tramples the individual rights of owners. He pointed out that if the perimeter of the building design jogs for the sake of architectural interest, the project could be penalized in terms of size. Adequate time should be devoted to develop the Code amendments and he expressed his support of the VPR Committee. Mr. King reiterated the importance of consistency.

Jeff Love, Woodside resident, explained that two of his neighbors have properties equivalent to four Old Town lots with an existing footprint of about 2,400 square feet. Unless there is a way to subdivide the properties, the City is significantly affecting the value of the properties. Both parties acquired the land thinking they had the ability to

build a certain sized house. Kevin King agreed and suggested reconsidering a sliding scale concept entertained years ago.

Candace Erickson acknowledged that the VPR idea scares her somewhat and Mr. Putt emphasized that it is not a design review board, but a group of professionals available to help solve challenges early in the process. The results or recommendations are not binding. She believes that owners will want every square foot available because of the high prices in Old Town and prefers to stick with the current Guidelines. The timing of releasing the draft was discussed again and it was explained that public hearings will be held in January. Mr. Putt expressed his willingness to meet separately with local designers in town. Joe Kernan brought up grandfathering applications or properties by way of establishing a future effective date. The Planning Director recommended adopting a clear code after a public process. Joe Kernan felt that providing applicants with an additional 90 days to process an application within the zone under the current code is reasonable. Jim Hier stated he concurs with the stated role of the HPB. He felt there will be adequate time for public input as it will take a couple months to refine the document, and if property values become an expressed issue in the hearings, he is willing to address it. Marianne Cone stated that she has been the HPB liaison for four years and there is valuable talent on the board. The more the City uses them, the better. Members thanked the Planning Director for his work on this project.



City Council Staff Report

Subject: Historic District (HR-1) Land Management Code Amendments
Author: Patrick Putt
Department: Sustainability
Date: December 13, 2007
Type of Item: Legislative

Summary Recommendations:

Staff seeks specific direction whether or not Council wishes to revise the proposed HR-1 Land Management Code amendments to include mandatory Historic Preservation Board of all, or a portion of, design review applications in the Historic District. The current draft does not include such a provision. Staff does not recommend broadening the role of the Historic Preservation Board to include mandatory design review at this time.

Topic/Description:

Preliminary Council review and input on proposed HR-1 District Land Management Code amendments.

Background:

At the May 9, 2007 joint work session, Staff presented Council and the Planning Commission with an overview, analysis, and recommendations for enhancements to the City's Historic District/Historic Preservation initiatives. The recommendations included:

- ✓ Completion and adoption of the Historic Building Inventory
- ✓ Planning Commission training relating to the review and application of the Land Management Code Steep-Slope Conditional Use Permit
- ✓ Establishment of greater clarity in the Historic District Design Guidelines for design elements including garages, exterior materials, building scale, form and proportion, additions, and "panelization" of Historically Significant Buildings
- ✓ Establishment of Land Management Code limits/caps on the Maximum Building Footprint achievable for any lot or lot combination.
- ✓ Establishment of a process and standards/criteria relating to when and how it may be appropriate to move, lift, or turn a historic building.

At that time, Council directed Staff to proceed with the recommendations.

Since the May 9, 2007, Council/Planning Commission joint work session:

- ✓ Staff has conducted Planning Commission training on Steep-Slope Conditional Use Permit criteria and Plat Amendment standards (*training/checklist tools are attached to this staff report*)
- ✓ The Historic Preservation Board approved HPB Resolution 07-01 approving the Historic Building Inventory on October 1, 2007
- ✓ Contracted with Dina Blaes to develop revised Historic District Guidelines (A preliminary working document is scheduled to be presented to the Historic Preservation Board for discussion on December 17, 2007)
- ✓ Draft of proposed HR-1 District Land Management Code Amendments has been prepared for consideration, public input, and possible adoption. The Planning Commission held a work session on the proposed HR-1 amendments on December 12, 2007 (*Staff will apprise Council on the Planning Commission comments at the December 13, 2007 work session*).

Staff would appreciate a specific discussion of Council's policy goals for the Historic District to determine if the changes address those goals.

Analysis:

Attached to this staff report is a draft of the proposed HR-1 District Land Management Code amendments. The fundamental modifications to the document include:

- ✓ A complete rewrite of the Purpose Statements to better emphasize:
 - * Maintaining historic building scale and building form
 - * Plat amendments that result in building scale that respects historic building size
 - * Plat amendments that create new streets/access which respect topography and neighborhood building patterns
 - * Average two-story building masses
 - * Minimizing visual impacts of garages and off parking
- ✓ Caps Maximum Building Footprint at two-lot equivalent
- ✓ Allows second dwelling on lot if a Historically Significant Structure is restored and limited in addition size to no more than additional 50% Floor Area

- ✓ Building Height measured to a maximum of a 22 ft. Average Wall Height
- ✓ Steep Slope Height Exception Eliminated
- ✓ Conditional Use Permit requirement for lifting or reorienting Historic Buildings
- ✓ Steep-Slope Conditional Use Permit criteria for additions to Historic Buildings
- ✓ Early posting requirements when applications are submitted
- ✓ Creation on a Pre-Application Volunteer Peer Review Committee
- ✓ Reduced overall number of words in the document.

Staff will present the proposed amendments at Thursday's work session and update the Council on the Planning Commission's December 12th feedback on the draft. Staff finds that the above-listed amendments directly target Council's May 9, 2007 policy direction. The amendments emphasize earlier public notification of pending Historic District design review projects, a voluntary peer review pre-application process, more quantifiable standards for building bulk, and clarified steep-slope conditional use permit criteria.

Staff is seeking Council input and direction on the document. This matter is will be scheduled for a public hearing and possible action by the Planning Commission on January 9, 2008.

During Council's recent Historic Preservation Board interviews, several HPB candidates expressed the opinion that the HPB should have the responsibility of reviewing all Historic District design review applications. This issue has been discussed by Council at three previous public hearings and joint work sessions with Planning Commission (February 8, 2007, April 5, 2007, May 9, 2007); however, there was not been majority Council support to the assign HPB design review authority.

Land Management Code Section 15-11-5 and 15-11-6: Historic Preservation establishes the roles for the Historic Preservation Board listed below. The statements in **bold** represent HPB actions in the last 1-2 years for each role.

- Preserve diverse and harmonious architectural styles and design preferences reflecting phases of the City's history and to encourage complimentary, contemporary design and construction through the creation of comprehensive Historic District Design Guidelines and to make recommendations to the City Council on policies and ordinances that may encourage Historic preservation; **(The HPB is currently scheduled commence its formal review and recommendation process the draft Historic District Guidelines update at the December 17, 2007 meeting);**

- Protect and enhance the City's Historic appeal to tourists and visitors (***This is an on-going responsibility of the HPB as best demonstrated by its Historic District Grant program***);
- Identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land Uses; and promote the private and public Use of Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects; (***These roles are best demonstrated by HPB's input on the Watts property redevelopment, Preservation of the Sandridge sheds, and the Historical Society Museum expansion***);
- Provide input to City Council towards safeguarding the heritage of the City in protecting Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects; and review and take action on all Determination of Historic Significance Applications submitted to the City (***The HPB reviews Determinations of Historical Significance requests and adopted the Historic Building Inventory on October 1, 2007***);
- Communicate and promote the benefits of Historic preservation for education, prosperity, and general welfare of the people; to make recommendations to the City Council on the Development of, and to administer, all City-sponsored preservation incentive programs; and provide input to staff, Planning Commission, and City Council on matters concerning the overall Development of the City's Historic preservation program (***The HPB reviews, evaluates and takes action on on-going requests for Historic District Grants. In the two years, the HPB has distributed over \$90,000 in matching grants which directly promote the preservation of Historically Significant buildings for the benefit of the owners, community, and visitors***); and
- Review all appeals on action taken by the Planning Department regarding compliance with the Historic District Design Guidelines. (***This is an on-going responsibility of the HPB and most recently demonstrated by the review of appeals for projects at 64 Chambers Avenue, 420 Main Street, and 221 Main Street. Each of the aforementioned appeals was filed by the project applicants. In the past year, no design review appeals have been filed by adjacent property owners***).

In addition to the HPB responsibilities defined above, the City Council may direct the Board to:

- Participate in the design review of any City-owned projects located within the designated Historic District (***The HPB reviewed the Historical Society's Museum Expansion***).

- Recommend to the City Council the purchase of interests in Property for purposes of preserving the City's cultural resources (***Council has not recently requested such HPB input***);
- 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 (***The HPB has not been directed by Council to conduct this research***);
- Recommend to the Planning Commission and the City Council zoning boundary changes for the district to preserve the historical integrity of the Area (***As part of the HPB's pending Historic District Guidelines update, zoning boundary changes may be specifically considered***);
- 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, and Property within the Historic District, or neighboring Property within a two (2) block radius of the Historic District (***Other than by PCMC, no property owners in the Historic District have requested advice or guidance by the HPB on matters regarding construction, restoration, etc.***)

Staff seeks specific direction whether or not Council wishes to revise the proposed amendments to include mandatory Historic Preservation Board of all, or a portion of, design review applications in the Historic District. The current draft does not include such a provision. Staff does not recommend broadening the role of the Historic Preservation Board to include mandatory design review at this time. Staff suggests proceeding with the proposed amendments to see if Council's policy goals can be attained that way.

Recommendation:

Staff seeks specific direction whether or not Council wishes to revise the proposed HR-1 Land Management Code amendments to include mandatory Historic Preservation Board of all, or a portion of, design review applications in the Historic District. The current draft does not include such a provision. Staff does not recommend broadening the role of the Historic Preservation Board to include mandatory design review at this time.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JANUARY 24 2008**

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jerry Gibbs, Public Works Director; Sharon Bauman, Analyst

Absent: Mayor Dana Williams

1. Council questions/comments. Liza Simpson commented on the friendly attitude of Sundance patrons this year and Joe Kernan pointed out the number of employees working the Festival every day. Jim Hier reported on the Interagency Meeting held during the week. He advised that there is a bill being proposed which would eliminate the restaurant tax and accounting for the loss in revenue by increasing sales tax. The redistribution proposal would negatively impact tourist-based counties and he encouraged diligence in monitoring the bill's status. Mr. Hier discussed meeting with Wasatch County on SR224 in the near future. He shared information about the Chamber's incentive program for film makers and a new resource available to subscribers to obtain pricing reports from other communities. He encouraged Council and the public to attend the Chamber's economic forecast event on January 30. Candace Erickson reported on RAB business, specifically the Racquet Club remodel project, dog park, and renaming the old water treatment plant site. She pointed out the number of parked cars on Aspen Springs Road because of the amount of snow, and she urged staff to take a look at it to ensure emergency vehicle access. Ms. Erickson commented on PSAs she is airing on KPCW on the recycling center and another message strongly urging residents to install CO² detectors in their homes. Roger Harlan reported on the School District meeting and the appointment of Carol Potter as Chair of WALC. He commented on the celebrity hockey exhibition last weekend which was a great event and activities at the new Sundance event facility on the Anderson Lumber site.

2. Quarterly goal update. Tom Bakaly explained the meaning of the color coding and changes made since Council's Visioning Session held earlier this month. With regard to water, Council member Kernan suggested exploring water rates to better encourage conservation. The City Manager noted that restructuring rates was not contemplated this year, but Jim Hier felt that irrigation is worth looking at again. Jerry Gibbs stated that staff is still in the process of refining applications of Eden software which was installed last summer and it may not be possible to implement new rates as early as next summer. Jim Hier requested an update on the performance of Eden software; it was a significant expense. In response to a comment made by Mr. Hier, Jerry Gibbs clarified that Kent Cashel is planning on hiring an engineering consultant to consolidate the studies made on the SR248 corridor.

3. Art Board interviews. Council members interviewed three applicants for two positions on the board. Sharon Bauman explained the status of the vacancies and stated for the benefit of Candace Erickson that all applications met the deadline.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JANUARY 24, 2008**

I ROLL CALL

Mayor Pro Tem Roger Harlan called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, January 24, 2008. Members in attendance were Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Mayor Dana Williams was absent and excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Gary Hill, Budget Manager, Kirsten Whetstone, Planner; Matt Twombly, Project Manager; Max Paap, Special Events Manager; Eric DeHaan, City Manager; and Katie Cattan, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Legislative update – Gary Hill updated Council on bills tracked by staff. HB290 would eliminate the ability for cities to impose an inspection fee on rental units and exempting owners of buildings with two or fewer rental units from regulatory business licensing. This would prohibit Park City from licensing nightly rentals and the City is very interested in monitoring this bill. HB293 allows an individual to proceed with obtaining a building permit through an independent inspector which is another concern. SB20 is the forms of municipal government bill which has not been heard by committee. HB51, water right forfeiture protection, is being closely monitored. HB54, property taxes revision bill, would allow counties to reassess properties every year and there are several bills relating to government privatization. Mr. Hill described the proposed oversight committees formed to make recommendations on municipal services viewed as competing with the private sector. Mr. Hier again described his concerns about the restaurant tax bill brought up in work session and Gary Hill assured him that staff will work with the Chamber and other resort communities to strategize on opposing the bill.

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

Swearing-in of Police Officer Dustin Brewer – Chief Lloyd Evans introduced Officer Brewer and the Mayor Pro Tem administered the oath of office.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JANUARY 10, 2008

Jim Hier, “I move approval of the work session notes and minutes of the meeting of January 10, 2008”. Liza Simpson seconded. Motion unanimously carried.

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

Candace Erickson, "I move approval of the Consent Agenda, Items 1 and 2". Joe Kernan seconded. Motion unanimously carried.

1. Consideration of approval of the D'Juice Concession Contract Addendum at the Park City Ice Arena – See staff report.

2. Consideration of acceptance of the Mayor's and City Council members' disclosure statements for 2008 – See staff report.

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

1. Consideration of approving an Ordinance approving a plat amendment at 154 McHenry Avenue, Park City, Utah – Kirsten Whetstone explained that this application was continued by the Planning Commission and recommended a motion to continue to February 28, 2008. The Mayor Pro Tem opened the public hearing and with no comments from the audience, closed the hearing. Jim Hier, "I so move". Liza Simpson seconded. Motion unanimously carried.

2. Consideration of approving a second addendum to the Rail-Central Encroachment Permit – Matt Twombly explained that the second addendum is proposed to allow for a time extension for the pedestrian connection. The applicant has requested three years or December 31, 2010. This element is addressed in the Landmark study and staff recommends the approval of the time extension since a final location and design has not been determined. Mr. Hier suggested delaying amending the encroachment permit until there is an integrated plan. Mark Harrington explained that this action creates the expressed avenue for the applicant to request a bridge at a later date, but Council has full discretion to pursue either option. He felt there is purpose to amending the encroachment permit to better facilitate a preferred design in the future. Joe Kernan, "I move we approve a second addendum to the Rail-Central encroachment permit". Jim Hier seconded. Motion carried unanimously.

3. Consideration of approving a Master Festival License for the International Pedigree Stage-Stop Dog Sled Race to be held at the Park City Recreation Complex on February 2, 2008 – Max Paap stated that Bob Kollar of the Chamber is the applicant. The event is the final leg of the seven day sled dog race beginning at Jackson Hole and ending in Park City for the fourth year. The race will be held in Round Valley and Bob Kollar described involving the schools. The Summit Land Conservancy and Mountain Trails Foundation support the event. NAC agreed to share its parking, if needed. The Mayor Pro Tem opened the public hearing.

Carol Potter, Mountain Trails Foundations, expressed her support and noted the excellent grooming in Round Valley this year.

With no further no comments, the public hearing was closed. Jim Hier made a correction to Finding No. 1. Jim Hier, "I move we approve the Master Festival License for the International Pedigree Stage-Stop Dog Sled Race (as corrected)". Liza Simpson seconded. Motion unanimously carried.

4. Consideration of approving an Ordinance approving the record of survey plat for the Tahoma Condominiums located at 650 Rossi Hill, Park City, Utah – Planner Katie Cattan explained the application for a condominium conversion for a proposed triplex and approval would allow for each unit to be sold separately. Staff finds that all Code requirements have been met and the Planning Commission forwards a unanimous positive recommendation. There was no public input before the Commission and staff recommends approval based on the Ordinance. The Mayor Pro Tem opened the public hearing and with no comments from the audience, closed the hearing. Candace Erickson, "I move approval of an Ordinance approving the record of survey plat for the Tahoma Condominiums located at 650 Rossi Hill, Park City, Utah". Jim Hier seconded. Motion unanimously carried.

5. Consideration of approving an Ordinance approving the 61 Thaynes Canyon Drive Subdivision, a plat amendment of Lots 75 and 75A of the Thaynes Canyon Subdivision, Park City, Utah – Planner Kirsten Whetstone explained that the application proposes combining two lots into one lot of record. The interior lot line will be removed and a plat note added that construction is prohibited on the remnant parcel without a CUP and the structure can not be a dwelling unit. The Planning Commission forwarded a positive recommendation on January 9. The Thaynes Canyon HOA President made comments at the meeting regarding the rear setback and Ms. Whetstone explained that the plat amendment was driven by remodeling plans. In response to a question from Jim Hier, she stated that a similar plat amendment was approved in 1994 for Stein Eriksen who constructed a garage on Hidden Splendor Court. Jim Hier felt that the intent of the subdivision was to create open space with a restricted lot attached to an existing lot and allowing the construction of a non-dwelling structure like a garage seems reasonable. Related conditions are included in the conditions of approval. In response to a question from Candace Erickson regarding increasing house size because the lot is larger, the City Attorney explained that it is possible. The Mayor Pro Tem opened the public hearing and hearing no input, closed the hearing. Jim Hier, "I move we approve the Ordinance approving the 61 Thaynes Canyon Drive Subdivision, a plat amendment of Lots 75 and 75A based on the findings of fact, conclusions of law and conditions of approval as outlined in the staff report". Joe Kernan seconded. Motion unanimously carried.

6. Consideration of approving an Ordinance approving the First Amended Anderson Re-Plat, a re-plat of Lot 1 of the Anderson Replat of Lots 24 of Block 55 of the Park City Survey, 439 Ontario Avenue, Park City, Utah – Kirsten Whetstone explained that there are three Old Town lots, and it is proposed to combine two lots and maintain one single lot. A house was built on the double lot and it is now desired to designate it as the single lot and convert the other two lots into one lot. In other words, it is a change in configuration and the development of Lot 2 requires a steep slope CUP and Historic

District Design review. She explained the area to the south served by an existing driveway and the plat dedicates the easement for public access. There are findings and conditions of approval addressing the shared driveway. She reported that adjacent property owners rendered input at the Planning Commission level regarding access to their properties and were pleased with the condition to dedicate it to the City. Mayor Pro Tem Harlan opened the public hearing and with no comments, closed the hearing. Joe Kernan, "I move we approve an Ordinance approving the First Amended Anderson Re-Plat, a re-plat of Lot 1 of the Anderson Replat of Lots 24 of Block 55 of the Park City Survey, 439 Ontario Avenue, Park City, Utah". Jim Hier seconded. Motion unanimously carried.

7. Consideration of approving a Resolution adopting a 20 year corridor and pedestrian plan for Bonanza Drive, Park City, Utah – Eric DeHaan explained that this plan was reviewed by Council members two weeks ago. He discussed the extensive public input process designed to include a variety of stakeholders over the past several months. Mr. DeHaan pointed out the intent to maintain capacity while providing a safe roadway for all users. WALC recommends the expenditure of \$1.15 million from the \$15 million walkability bond to construct a tunnel under Bonanza Drive. This project is identified in the Landmark Study as well. The tunnel, however, will not fit within the 66 foot right-of-way and affected property owners have been contacted about the possibility of acquiring additional space. There is conceptual agreement from affected property owners to cooperate on the alignment for the tunnel. Mr. DeHaan spoke about some pedestrians choosing the tunnel and some the at-grade surface intersection with the hawk beacon signal.

He suggested that the traffic signal infrastructure be installed in 2009 but not the signal until it is explored further with UDOT. Bi-lingual directional signs are proposed for the Poison Creek Trail and sidewalks on both sides of Bonanza Avenue. The document is purposely specific for coordination with the 2009 water line construction project while the 20 year plan provides a great deal of flexibility. Mr. DeHaan emphasized that capacity is a major concern and new driveways will be prohibited and left-hand turns restricted on Bonanza Drive. He expressed that approving the resolution will help keep the City on track with the 2009 project and the potential redevelopment of the area.

At this point in the meeting, the Mayor returned to preside. There was discussion about the pull-out on Bonanza Drive which will remove buses out of the flow of traffic. Jim Hier felt that eliminating truck traffic on Bonanza Drive may solve problems and Mr. DeHaan pointed out the difficulty in enforcing the prohibition. Candace Erickson expressed her support of the plan but does not agree with bi-lingual signs in Spanish and English. There are many demographics in the community and she strongly prefers not to select one language over another. Liza Simpson and Jim Hier agreed. Mr. DeHaan explained that the recommendation came from count information; he didn't feel it is a critical element to the plan. Mayor Williams stated that a quarter of the population is Spanish speaking. In this instance, Joe Kernan stated that he did not feel that bi-lingual signs are necessary but agreed that Spanish speaking people represent a

significant portion of our community. Roger Harlan believed that signs have not been an issue to this point. Mayor Williams opened the public hearing.

Mike Sweeney, representing property owner Mark Fisher, stated that Mr. Fisher is willing to donate needed land for the tunnel project but has problems with the 2030 realignment plan.

Eric DeHaan explained that it is not a plan but a concept because it would be ideal to line up Munchkin Road with Prospect Avenue. It is also an effort to move Prospect Avenue further away from Kearns Boulevard.

Carol Potter, Share the Road, Mountain Trails Foundation and WALC stated that the diagonal tunnel is brilliant and well supported. She thanked staff for the great job of clearing sidewalks during Sundance.

With no further input, the public input session was closed. Candace Erickson, "I move to approve a Resolution adopting a 20 year corridor and pedestrian plan for Bonanza Drive, Park City, Utah (as amended)". Roger Harlan seconded. Motion unanimously carried.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Mayor Dana Williams was absent. Staff present was Tom Bakaly, City Manager; and Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss property and litigation". Liza Simpson seconded. Motion carried unanimously. The meeting opened at approximately 4:15 p.m. Jim Hier, "I move to open the meeting". Roger Harlan seconded. Motion unanimously carried.

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

Prepared by Janet M. Scott

**PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
JANUARY 10, 2008**

I ROLL CALL

Chairman Dana Williams called the regular meeting of the RDA to order at approximately 6:30 p.m. at the Marsac Municipal Building on Thursday, January 10, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; and Mark Harrington, City Attorney.

II PUBLIC INPUT

None.

III MINUTES OF MEETING OF JUNE 21, 2007

Liza Simpson stated that she will be abstaining from voting. Joe Kernan, "I move approval of the minutes of June 21, 2007". Roger Harlan seconded. Motion carried.

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

IV CONSENT AGENDA

Resolution establishing a regular meeting date, time, and location for 2008 meetings and appointing officers of the Board of Directors of the Park City Redevelopment Agency - The Chairman requested a motion to approve. Roger Harlan, "I so move". Jim Hier seconded. Motion unanimously carried.

V ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned. The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

City Council Staff Report



Authors: Dave Gustafson
Alison Butz
Subject: Marsac Seismic Upgrade - Design Contract with FFKR
Architects
Date: February 7, 2008
Type of Item: Addendum to existing Contract

Summary Recommendation - City Council should authorize the City Manager to amend an existing service provider contract with FFKR Architects, in a form approved by the Legal Department, for the Marsac Seismic Upgrade. The amended contract amount would add \$309,541 to the existing approved contract amount of \$968,396 for a new total of \$1,277,937.

Topic: Addendum to FFKR's existing contract

Background:

The fees in the original contract with FFKR for the Marsac Seismic Upgrade were based upon the original Marsac Renovation/ Seismic Retrofit scope of work defined and estimated by Park City in 2004. Through the discussions with the City Council and resulting decisions in August 2007 the scope of the Upgrade includes the City's new sustainable building design policies, rearrangement of building user groups, and HVAC system.

FFKR Architects, through a RFQ/RFP process in August 2004 was chosen to perform the design services for four Downtown City projects: Parking Structure, Police Headquarters, Marsac Renovation and the Town Plaza. On August 26, 2004 City Council approved a Phase 1 design contract for schematic design in the amount of \$188,786 with FFKR Architects for these four projects.

On December 2, 2004 Council approved the Phase 2 & 3 contract (for construction documents & construction administration) in the amount of \$548,417 for the Parking Structure, Town Plaza, and Marsac Renovation. On April 13, 2006, the Phase 2 and 3 contract was updated to include the Police Facility design and construction administration fees. The contract amount represented approximately 7.5% of the estimated costs of construction.

On January 11, 2007, Council approved an amendment to the contract with FFKR for the Shell Space project. The amended contract and associated fees represented approximately 9.5% of the estimated costs of construction for the Shell Space.

Analysis:

The original agreement for phase II & III services, for the Marsac Seismic Upgrade, established design fees of 5.75% for Design Development and Construction Documents and 2.5% for Construction administration services. The total Phase II and III fees being 8.25% of the construction budget.

FFKR proposes that design fees be based upon a cost estimate performed by the Construction Manager at the end of the Design Development phase.

At this time staff seeks approval from Council to amend the existing contract architectural with FFKR to state that the design and construction management fees be calculated upon a cost estimate at the end of the Design Development phase. The resulting fees would be 8.25% of the Design Development cost estimate less the unbilled fees of \$127,050 remaining from the original contract for Construction Documents and Construction Administration phases of the work for Marsac.

The Design Development phase is complete and the estimated cost of construction \$5,292,014. The cost estimate is coming in higher than anticipated, however the project still has not gone out for bid to establish a GMP (Gross Maximum Price). Staff will return during the budget review process with the GMP to discuss budget allocation.

8.25% Design Fees	\$436,591
less the unbilled fees	<u>\$127,050</u>
Total Marsac Upgrade Design Fees =	\$309,541

The City, per the contract, can cancel the contract with FFKR and rebid the totality of the project. The contract requires a (30) day notification, and along with the time to rebid the contract and then completion of the Construction Documents by the company awarded the bid would push back the Marsac Remodel project approximately 90 days. Staff does not recommend this alternative. Staff believes the bids would return higher than the amendment to the contract as written.

Department Review: This report was reviewed by representatives of the Sustainability, Budget, Legal and City Manager's Office.

Alternatives:

- A. Approve the Requests:** Staff recommends approving the request allowing the architect to proceed with the construction drawings which will get the City to a point to receive bids and a GMP for the final price for the upgrade.
- B. Deny the Request:** Deny the request and halt the Seismic Upgrade process while the City goes out to rebid the project. Staff anticipates costs to increase if the project were to go out for a new bid.
- C. Continue the Item:** Request additional information from Staff.

Staff Recommendations:

City Council should authorize the City Manager to amend an existing service provider contract with FFKR Architects, in a form approved by the Legal Department, for the

Marsac Seismic Upgrade. The amended contract amount would add \$309,541 to the existing approved contract amount of \$968,396 for a new total of \$1,277,937.

Attachments:

Attachment A –	Amended Service Provider Contract – FFKR Architects
Attachment B –	Original Service Provider Agreement – FFKR Architects (December, 2004) and subsequent addendums

THIRD ADDENDUM TO SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT WITH FFKR ARCHITECTS

This THIRD ADDENDUM is made and entered into in duplicate this _____ day of February 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), and FFKR ARCHITECTS, a Utah corporation ("Service Provider" or "Architect") to amend the SERVICE PROVIDER AGREEMENT TO PERFORM PHASE 2 DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENT DEVELOPMENT PLUS PHASE 3 CONSTRUCTION PERIOD CONTRACT ADMINISTRATION SERVICES FOR THE CITY'S DOWNTOWN PROJECTS AND POLICE FACILITY signed and executed by the Parties, and recorded on April 20, 2006.

WITNESSETH;

WHEREAS, the original August 2004 Downtown Projects RFP Scope of Work estimated the total cost of the Marsac Seismic Upgrade to be \$2,000,000; and

WHEREAS, the parties entered into SERVICE PROVIDER AGREEMENT TO PERFORM PHASE 2 DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENT DEVELOPMENT PLUS PHASE 3 CONSTRUCTION PERIOD CONTRACT ADMINISTRATION SERVICES FOR THE CITY'S DOWNTOWN PROJECTS AND POLICE FACILITY (hereinafter "Original Agreement"); and

WHEREAS, the Design Development Cost Estimates the cost of the Seismic Upgrade to total \$5,292,014; and

WHEREAS, The original agreement for phase II & III services established design fees of 5.75% for Design Development and Construction Documents and 2.5% for Construction administration services. The total Phase II and III fees being 8.25% of the construction budget. This fee proposal requests that FFKR's fees be based upon that same structure.

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. Exhibit A – Scope of Services - Section IV. Breakdown of Fees

1. Total Fees including Addendum #1 not to exceed.....\$1,277,937
2. Section 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.

3. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue to apply.

4. **ENTIRE AGREEMENT.** This First Addendum is a written instrument pursuant to Section 23 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

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

DATED this _____ day of February, 2008.

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
P.O. Box 1480
Park City UT 84060-1480

Dana Williams, Mayor

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

FFKR ARCHITCTS

Address: Bogue Building
730 Pacific Avenue
Salt Lake City, Utah 84104

Tax ID#: _____

Richard K. Frerichs, Principal

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this _____ day of February 2008, personally appeared before me Richard K. Frerichs, 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 Principal) of

FFKR Architects by Authority of its Bylaws/Resolution of the Board of Directors, and said Principal acknowledged to me that said Corporation executed the same.

Notary Public

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

THIS AGREEMENT is made and entered into in duplicate this ____ day of April, 2006, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (“City”), and FFKR ARCHITECTS, a Utah corporation (“Service Provider” or “Architect”).

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 “Exhibit A” and incorporated herein (the “Project”). The “Scope of Services” attached in Exhibit A is a plan of how the Service Provider intends to deliver the “Scope of Services” required for Phase II and III planning of the Downtown Projects and Police Facility. It represents the Service Provider’s Basic Services; however variances to the hours, personnel, or resources required shall not be considered a basis for compensation for additional services unless they are a result of the following:

1. Change in instructions or approvals given by the City that necessitate significant revisions to previously prepared design documents;
2. Enactment of revisions of codes, laws or regulations which necessitate changes to previously approved design documents;
3. Decisions of the City not rendered in a timely manner; and
4. Significant change in the project including size, quality, complexity, City schedule, or budget.

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The total fee for the services per this Agreement shall not exceed eight hundred forty five thousand four hundred and seventeen dollars (\$845,417).

2. **TERM.**

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on December 31, 2008 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 (including “extra” work required by the City).
- 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 “Exhibit 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

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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 the negligent acts, errors or omissions or intentionally wrongful conduct of the Service Provider or its agents, employees or officers in the performance of the services and / or tasks 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

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sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

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

8. INSURANCE.

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

- A. General Liability insurance written on an occurrence basis with limits no less than one million dollars (\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) aggregate for personal injury, bodily injury and property damage.
- B. Automobile Liability insurance with limits no less than five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury and property damage.
- C. Professional Liability (Errors and Omissions) insurance written on a claims made basis with limits no less than one half million dollars (\$500,000) combined single limit per claim.
- D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.
- E. The City shall be named as an additional insured on the insurance policies except that required by 8.C, 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 include provisions that the City shall receive thirty (30) days advance notice of

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cancellation. The City reserves the right to request certified copies of any required policies.

- F. The Service Provider's insurance, except that required by paragraph 8.C, 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). The City shall indemnify the Service Provider against claims arising out of use of the drawings and specifications on a different project or modifications or changes to the drawings and specifications made without consultation or approval of the Service Provider.

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, applicable to the performance of the services and tasks of this Agreement, and other standards or criteria as described in this Agreement, all as interpreted and enforced by the governmental authorities with jurisdiction of the City's Downtown Area Projects.

- 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,

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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.

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- 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

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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.

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

Dana Williams, Mayor

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

FFKR ARCHITCTS

Address: Bogue Building
730 Pacific Avenue
Salt Lake City, Utah 84104

Park City Municipal Corporation
Provider/Professional Services Agreement – FFKR Architects

Tax ID#: _____

Richard K. Frerichs, Principal

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of December, 2004, personally appeared before me Richard K. Frerichs, 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 Principal) of FFKR Architects by Authority of its Bylaws/Resolution of the Board of Directors, and said Principal acknowledged to me that said Corporation executed the same.

Notary Public

Exhibit “A” – Scope of Services

- I. Services & Deliverables - The Service Provider will perform Phase 2 Design Development and Construction Document Development plus Phase 3 Construction Period Contract Administration services for the City’s Downtown Projects and Police Facility. Services and deliverables will include:
- 1) Design Development, Construction Documents, and Contract Administration Service
 - 2) At the end of the construction document phase, provide and update of the computer generated rendering provided under the Phase I Services.
 - 3) Contracting and management of all engineering disciplines and subconsultants.

II. Identified Procedures to Complete Service

- 1) Sub-Consultants & City Consultants
 - a. The following are sub-consultants to the Service Provider:
 - i. Civil Engineering: Stantec
 - ii. Structural Engineering: Reaveley
 - iii. Landscape: ASWN
 - iv. Mechanical: Van Boreum & Frank
 - v. Electrical: BNA

It is understood that the above listed Sub-consultants have been selected by the Service Provider and have been approved by the City. Any substitutions of these identified Sub-consultants must be approved in writing by the City

- b. City Consultants
 - i. Traffic Engineering: Fehr & Peers
 - ii. Geotechnical Investigation: AMEC Earth and Environmental
 - iii. Environmental Soils Investigation: AMEC Earth and Environmental
 - c. The Service Provider will be responsible for reviewing and coordinating the work of its consultants as well as coordinating the Service Provider’s work with the City’s identified consultants. However, the Service Provider shall have no responsibility or liability with respect to the quality of the City Consultant’s work.
 - d. All contracts between the Service Provider and its Sub-consultants shall incorporate the terms of this agreement.
 - 2) Meetings
 - a. The Service Provider shall attend public hearings and meetings as is appropriate to their work.
 - 3) Update Planning Guidelines
 - a. The Service Provider shall update guidelines for all permanent design features.
 - b. The Service Provider shall update as a deliverable to the City a matrix organized by major program elements showing spaces, use functions, and parameters of major program elements.
 - 4) Inventory
 - a. Based on as-built records provided by the City and upon personal on-site

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observations, the Service Provider shall update an inventory of existing facilities, noting the existing opportunities and limitations on site relative to the program criteria.

- 5) List of Required Permits and Approvals
 - a. The Service Provider shall, with the assistance of the City, update a list of required approvals and permits and a schedule for submittal and projected approvals. Submittal recipients shall be identified.
 - b. The Service Provider shall update as a deliverable to the City a List of Required Approvals and Permits and Schedule in tabular form. The Service Provider shall not be required to warrant that the list is inclusive of all governmental agencies that may have an interest in the project.
- 6) List of Potential Issues, Impacts on the Project, and Potential Mitigation
 - a. The Service Provider shall, with the assistance of the City, update a list of issues that may arise which may impact the Project, such as environmental, geotechnical, constructability, landscape demolition and restoration, and soil export. Identify impacts of such issues and potential mitigation methods. As stated in the City Request for Qualifications / Proposals, the City shall be responsible for providing environmental reports relevant to this project. The site is known to contain soils contaminated with mining byproducts. The City has recent experience on construction projects near this site with similar soils. The City shall be responsible for ascertaining mitigation and other requirements of authorities having jurisdiction, and for obtaining approval from such agencies regarding these soils, and for filling the required applications and reports. The Service Provider's opinions regarding the Potential Issues, Impacts on the Project, and Potential Mitigation related to the soils shall be based on the soils information, and acceptable mitigation methods furnished by the City. The Service Provider shall be allowed to rely on the soils information furnished by the City in preparation of the required Design Development and Construction Documents. The City shall indemnify and hold harmless the Service Provider for the Service Provider's use of soils and environmental reports and information provided by the City.
 - b. The Service Provider shall update as a deliverable to the City a List of Potential Issues and Mitigation Methods as described in Item 6. The Service Provider shall not be required to warrant that the list is inclusive of all potential issues which may impact the project.
- 7) Recommendations, Conclusions, Summaries
 - a. The Service Provider shall provide as a deliverable to the City an Executive Brief summarizing recommendations and conclusions.
- 8) Design Development Requirements
 - a. Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

- 9) Construction Document Development
 - a. Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.
 - b. The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.
 - c. The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- 10) Bidding or Negotiation Phase
 - a. The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.
- 11) Construction period Contract Administration Requirements
 - a. The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the initial Contract for Construction and terminates at the earlier of the issuance to the Owner of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.
 - b. The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.
 - c. Duties, responsibilities and limitations of authority of the Architect under this Paragraph 11 shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent will not be unreasonably withheld.
 - d. The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment.
 - e. The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a

manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

- f. The Architect shall report to the Owner in writing known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.
 - g. The Architect shall at all times have access to the Work wherever it is in preparation or progress.
 - h. Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.
- 12) Certificates for Payment
- a. The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts within five (5) days from Contractor Draw Request.
 - b. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.
 - c. The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

- d. The Architect shall advise the Owner's Representative when the Architect, based on periodic observations, observes work which does not conform to the Contract Documents. Whenever the Owner considers it necessary or advisable, the Owner shall have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.
- e. The Architect shall review and document review or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- f. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.
- g. The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents.
- h. The Architect shall conduct inspections with AIA limited definition to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract

Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

- i. The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- j. Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.
- k. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.
- l. The Architect's decisions on claims, disputes or other matters in question between the Owner and Contractor, except for those relating to aesthetic effect, shall be subject to mediation and arbitration as provided in this Agreement and in the Contract Documents.

12) Owner's Responsibilities

- a. The Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project.
- b. The Owner shall furnish construction cost estimating services. The Owner shall establish and periodically update an overall project budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.
- c. The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.
- d. The Owner shall furnish the services of geotechnical engineers. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

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- e. The Owner shall furnish structural, mechanical, and chemical tests; tests for air and water pollution; tests for hazardous materials; and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.
 - f. The Owner shall furnish for use by the Contractor a Contaminated Soils Management Plan which will provide the Contractor with the necessary requirements to properly handle and /or dispose of contaminated soils in accordance with the requirements of authorities having jurisdiction.
 - g. The Owner shall furnish for use by the Contractor a Worker Health and Safety Plan which describes the procedures which must be followed by the Contractor's forces while working with or around contaminated soils.
 - h. The Owner shall review and comment on the Storm Water Management Plan prepared by the Contractor for compliance with Park City Municipal Corporation requirements and standards.
 - i. The Owner shall furnish all legal, accounting and insurance services that may be necessary at any time for the Project to meet the Owner's needs and interests. Such services shall include auditing services that the Owner may require to verify the Contractor's Application for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.
 - j. The services, information, surveys and reports required by Paragraphs 12.a through 12.i shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.
 - k. The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.
- 13) Communications
- a. Communications by and with the Service Providers Sub-consultants shall be through the Service Provider.
 - b. The City representative will be Colin Hilton, who will act on the City's behalf. This representative will be empowered to issue instructions to the Service Provider; to approve the work performed, to authorize additional services, and to suspend or terminate the Service Provider's services. This representative or his/her designee shall attend the regularly scheduled meetings.
 - c. The Service Provider's representative will be Rick Frerichs, who will act on the Service Provider's behalf.
- 14) Dispute Resolution
- a. Mediation
 - a.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply

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with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

a.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

a.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

b. Arbitration

b.1 Any claim, dispute or other matter in question arising out of or related to this Agreement may, upon agreement of both parties, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Paragraph 11.a.

b.2 Claims, disputes and other matters in question between the parties that are not resolved by mediation and which may be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.

b.3 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

b.4 No arbitration arising out of or relating to this agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

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b.5 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law or any court having jurisdiction thereof.

b.6 Prior to submissions of any dispute to arbitration or litigation, the parties hereto agree to first initiate good faith negotiations to amicably solve such dispute. Only following reasonable efforts of the parties to negotiate in good faith to resolve such disputes shall the parties be entitled to submission of matters to arbitration, as provided in this Article 11, or to litigation.

b.7 In the event that arbitration is commenced or a legal action is brought by either party against the other arising out of this Agreement, the prevailing party shall be reimbursed by the other for the prevailing party's reasonable attorney's fees and reasonable costs to defense, in addition to whatever other judgments, if any, may be due.

c. Claims for Consequential Damages

The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Section 18 of the Agreement.

III. Summary of the Work of this Agreement

Attachment A of this agreement describes Phase II and III design development, construction document, bidding or negotiation, and construction administration phase services to be performed by the Service Provider. Unless modified, the scope of this agreement applies to the portions of the Downtown Projects known as the Marsac Renovation, the China Bridge Parking Structure Expansion, Town Plaza, and Police Facility at Snowcreek

IV. Breakdown of Fees

1. Total Fees not to exceed \$845,417

The contract amount is a not to exceed amount that includes all services necessary to perform Phase 2 and Phase 3 services as described in this agreement.

Should adjustments be necessary to the overall scope of services, tasks, and fees, the two Parties will address this through written correspondence.

Park City Municipal Corporation
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Exhibit “B” – Hourly Rates for added Work

Hourly rates for FFKR and FFKR’s Consultants shall be as follows. Architectural

Senior Principal	\$185.00
Principal Architect	\$125.00
Associate Architect	\$85.00
Project Architects	\$65.00
Cadd Tech	\$55.00

Landscape Architect

Architect	\$100.00
Drafter	\$45.00

Civil Engineer

Senior Project Manager	\$128.00
Project Manager	\$118.00
Senior Designer	\$96.00
Senior Cadd Operator	\$71.00

Structural Engineer

Senior Principal Engineer	\$110.00
Senior Engineer	\$85.00
Cadd Tech	\$60.00

Mechanical Engineer

Senior Engineer	\$125.00
Design Engineer	\$85.00
Cadd Tech	\$60.00

Electrical Engineer

Principal Engineer	\$105.00
Project Manager	\$71.00
Designer	\$60.00
Cadd Tech	\$40.00

FIRST ADDENDUM TO SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT WITH FFKR ARCHITECTS

This FIRST ADDENDUM is made and entered into in duplicate this _____ day of January, 2007, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), and FFKR ARCHITECTS, a Utah corporation ("Service Provider" or "Architect") to amend the SERVICE PROVIDER AGREEMENT TO PERFORM PHASE 2 DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENT DEVELOPMENT PLUS PHASE 3 CONSTRUCTION PERIOD CONTRACT ADMINISTRATION SERVICES FOR THE CITY'S DOWNTOWN PROJECTS AND POLICE FACILITY signed and executed by the Parties, and recorded on April 20, 2006.

WITNESSETH;

WHEREAS, the original August 2004 Downtown Projects RFP Scope of Work Section II(E) stated Park City's goal was to develop an "integrated series of projects that complements and adds to the ambience of the downtown area;" and that the Design Team, "shall provide PCMC with creative design alternatives for meeting the project's functional and aesthetic requirements." ; and

WHEREAS, the August 2004 RFP Scope of Services Section IV(1) clarified that development of design alternatives through coordination with PCMC, user groups, and other programming consultants was anticipated during schematic design (Phase I); and

WHEREAS, on October 14, 2004, during the Phase I Schematic Design and planning process, the Council provided direction to create a permanent shell space at the north end of the parking garage; and

WHEREAS, the parties entered into SERVICE PROVIDER AGREEMENT TO PERFORM PHASE 2 DESIGN DEVELOPMENT AND CONSTRUCTION DOCUMENT DEVELOPMENT PLUS PHASE 3 CONSTRUCTION PERIOD CONTRACT ADMINISTRATION SERVICES FOR THE CITY'S DOWNTOWN PROJECTS AND POLICE FACILITY (hereinafter "Original Agreement"); and

WHEREAS, a portion of the original Phase I schematic design included a shell space on the north end of the new parking structure as part of the integrated downtown projects; and

WHEREAS, FFKR requires additional hours to provide schematic design, complete construction documents, and provide construction administration for the Shell Space building.

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. Section I - 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"). The "Scope of Services" attached in Exhibit A is a plan of how the Service Provider intends to deliver the "Scope of Services" required for completing schematic design of the shell space, and Phase II and III planning of the Downtown Projects and Police Facility. It represents the Service Provider's Basic Services; however variances to the hours, personnel, or resources required shall not be considered a basis for compensation for additional services unless they are a result of the following:

1. Change in instructions or approvals given by the City that necessitate significant revisions to previously prepared design documents;
2. Enactment of revisions of codes, laws or regulations which necessitate changes to previously approved design documents;
3. Decisions of the City not rendered in a timely manner; and
4. Significant change in the project including size, quality, complexity, City schedule, or budget.

The total fee for the services per this Agreement shall not exceed Nine hundred sixty eight thousand three hundred ninety six dollars (\$968,396).

2. Exhibit A – Scope of Services – Section I – Services and Deliverables

The Service Provider will perform Phase 1 Programming, Planning, and Schematic Design; and Phase 2 Design Development and Construction Document Development; plus Phase 3 Construction Period Contract Administration services for the City's Downtown Projects, including the Shell Space and Police Facility. Services and deliverables will include:

- 1) Schematic Design for the Shell Space.
- 2) Design Development, Construction Documents, and Contract Administration Service for the downtown projects including the shell space and police facility.
- 3) At the end of the construction document phase, provide and update of the computer generated rendering provided under the Phase I Services.
- 4) Contracting and management of all engineering disciplines and subconsultants.

3. Exhibit A – Scope of Services - Section III Summary of the Work of this Agreement

Attachment A of this agreement describes Phase 1 Programming, Planning, and Schematic Design for the Shell Space; and Phase 2 and 3 design development, construction document, bidding or negotiation, and construction administration phase services for Downtown Projects to be performed by the Service Provider. Unless modified, the scope of this agreement applies to the portions of the Downtown Projects known as the Marsac Renovation, the China Bridge Parking Structure Expansion, Town Plaza, Shell Space Building and Police Facility at Snowcreek.

4. Exhibit A – Scope of Services - Section IV. Breakdown of Fees

1. Total Fees including Addendum #1 not to exceed.....\$968,396

5. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue to apply.

6. **ENTIRE AGREEMENT.** This First Addendum is a written instrument pursuant to Section 23 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

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

DATED this _____ day of January, 2007.

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
P.O. Box 1480
Park City UT 84060-1480

Dana Williams, Mayor

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

FFKR ARCHITCTS

Address: Bogue Building
730 Pacific Avenue
Salt Lake City, Utah 84104

Tax ID#: _____

Richard K. Frerichs, Principal

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this _____ day of January, 2007, personally appeared before me Richard K. Frerichs, 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 Principal) of FFKR Architects by

Authority of its Bylaws/Resolution of the Board of Directors, and said Principal acknowledged to me that said Corporation executed the same.

Public Notary

PARK CITY REDEVELOPMENT AGENCY
Staff Report



Subject: Habitat for Humanity Land Donation Request
Author: Phyllis McDonough Robinson
Department: Sustainability
Date: February 7, 2008
Type of Item: Disposal of Property

Summary Recommendations: Staff recommends that the City Council convene as the Park City Redevelopment Agency, conduct a public hearing and authorize the Mayor to enter into a land transfer agreement with Habitat for Humanity of Summit and Wasatch County for the parcels located at 154 Marsac Avenue in a form approved by the City Attorney under the terms and conditions outlined below in this staff report.

Topic/Description: Affordable Housing/Land Donation

Background:

Habitat for Humanity (HFH) of Summit and Wasatch County has submitted a request (Attachment A) for the donation of city-owned property at 154 Marsac Avenue (commonly referred to as the Pechnik property) for the development of ownership housing for modest income households. HFH has a successful track record of working with other local municipalities in Coalville, Kamas and Heber. In the past year HFH has stepped up its development efforts increasing the number of units from seven to 10 with two additional units in the planning stage in Heber City.

The Park City RDA acquired the property in 1999 (located across from the Sandridge parking lot) for use as affordable housing. The purchase price was \$205,000. The site consists of three parcels bifurcated by platted Marsac Avenue. The property survey is included as Attachment B. The land is zoned HR-1. Under the Park City Land Management Code, 15-6-7, a Master Planned Affordable Housing Development allows a maximum of 20 units/acre. Based upon the affordable MPD, the maximum number of units that could be permitted is four. It has not been determined whether four units could be accommodated on the site. The site is also very steep – from the base of Marsac Avenue as constructed to the rear property line is approximately a 35' – 40' change in elevation.

Council discussed this request in work session on December 3 and provided direction to staff regarding the terms of the transfer. The terms are outlined in the Conditions of Approval and the Property Transfer Agreement (Attachment E).

Analysis:

The Strategic Plan for City Owned Property identified the recommended use for the Pechnik Parcel as Sell/Trade for affordable housing. The small size of the parcel limits its use in most projects. In Spring 2007, staff prepared a development feasibility analysis for that site. While the site could potentially incorporate two duplexes, it would

require a substantial amount of terracing and/or substantial structural foundation and retaining walls in the back yards to handle the steep terrain. Two single family homes would be a more feasible option requiring less penetration into the hillside, less structural landscaping and more flexibility in design.

Staff supports HFH request and believes the organization to be ideally situated to be the developer on this parcel because of the volunteer and community nature of the program. HFH's ability to secure volunteer labor and donated materials, together with their zero percent simple interest financing would allow the construction of units to reach households of more modest means than anticipated in other affordable housing developments. In Summit County HFH targets households earning between \$25,000 and \$42,000. HFH provides a zero interest mortgage to the household. Mortgage payments are placed in a revolving loan fund that helps support mortgages for new families. A single parent family must provide at minimum 200 hours of sweat equity in constructing the home. A two-adult household must provide at minimum 400 hours of sweat equity in constructing the home.

HFH is aware of the development challenges of this site. It has completed a subsurface soils report and is prepared to undertake the necessary remediation on this site. HFH has also prepared a concept sketch and floor plans for the house design which are included as Attachment C.

While the parcel potentially could be sold to a private entity and the funds directed to another affordable housing project, the site does provide a unique opportunity to provide in-town, affordable ownership for local families. HFH's community-based development model can overcome the cost constraints associated with the City's development of this site. Staff supports HFH's request subject to the terms and conditions below:

Conditions of Approval

- (1) The City will provide Habitat for Humanity with an Affirmation of Sufficient Interest. This will allow HFH to submit the necessary applications to the Planning Department for the development of housing in keeping with the Habitat for Humanity model without transferring ownership of the property. City Council also will extend an affirmation of sufficient interest to allow HFH to request a vacation of platted Marsac Avenue in conjunction with a subdivision application.
- (2) All costs associated with required applications, studies, tests, reports or professional services will be the sole responsibility of HFH regardless of the decision made by the Planning Commission on its application.
- (3) The land transfer would be contingent upon HFH receiving all necessary approvals including, but not limited to Subdivision, Planning Commission and Historic District Design Review. Until such time as approvals are received the City would retain ownership of the land. Staff and HFH will work diligently towards obtaining such approvals in order to transfer the property in the shortest amount of time.

- (4) A subordinate deed of trust would be placed on the property reflecting the current appraised value of the land. This would be required to comply with the “prudent man” rule. The note can be structured in such a way that so long as the unit(s) remain in the HFH program, no payment would be required. The note could be assumed by subsequent qualified buyers. Should the property ever be sold to a non HFH qualified buyer, the note would be immediately due and payable in full.
- (5) Priority in initial and subsequent family selection would be given first to persons employed in Park City who are first time homebuyers as defined by the US Department of Housing and Urban Development. Should no qualified household be available, the geographic limits would be expanded to include persons employed within the Park City School District boundaries.
- (6) A regulatory agreement that runs with the land will be filed that details initial and subsequent family selection and resale processes including but not limited to appreciation caps.
- (7) A deed restriction giving the City a right of first refusal at the deed restricted price shall be provided. The right of first refusal could be exercised only at such time as the unit(s) no longer qualified for the HFH program. Should the City not exercise its right of first refusal, the unit(s) would be sold at market value and the second mortgage would be repaid.

Next Steps

Should Council support the request for a land donation, staff would work with HFH to address any other concerns raised by Council and incorporate them into the transfer agreement and/or regulatory agreement as appropriate. Habitat for Humanity will submit the necessary Planning Department applications and begin the entitlement process with the Planning Commission.

Land Use/Regulatory Approval Process

Nothing in this report or the Council's action pre-supposes any public approvals. Any application will need to be evaluated and either approved or denied with the applicable Land Management Code (LMC) criteria. In supporting the request for a land donation by HFH, the City Council would be acting solely in its capacity as property owner.

Department Review:

This report was reviewed by Planning, Engineering, Finance, Legal and the City Manager.

Alternatives:

- A. Approve the Request:** Staff recommends that the Council approve the request for a donation of the land located at 154 Marsac Avenue to Habitat for Humanity.

- B. Deny the Request:** Council could provide Staff with the direction to defer the donation, sale or development of the site to a date uncertain.
- C. Continue the Item:** Council could direct staff to return with additional information prior to taking formal action on the request.
- D. Do Nothing:** Doing nothing would have the same effect as denying the request.

Significant Impacts:

The Park City RDA acquired the property in 1999 with the expressed intent of the acquisition as affordable housing. Donation of the site would result in the creation of up to four units of affordable housing concurrent with City-sponsored development on other sites. Donation of the land will would result in very affordable home ownership opportunities in town. The property was acquired for \$205,000 but likely has appreciated significantly since that time. A donation of the site would remove the option of Council selling the property for private development and using the funds to offset construction costs at other city-sponsored projects. At present there are adequate funds in the Affordable Housing Fund for planned city-sponsored developments. Accordingly, staff's analysis of this matter confirms that the direct and indirect benefits to the City exceed the raw land value.

Consequences of not taking the recommended action:

The City would continue to own the property and Staff would return to Council at a later date with a development or sale proposal for the site.

Recommendation Staff recommends that the City Council convene as the Park City Redevelopment Agency, conduct a public hearing and authorize the Mayor to enter into a land transfer agreement with Habitat for Humanity of Summit and Wasatch County for the parcels located at 154 Marsac Avenue in a form approved by the City Attorney under the terms and conditions outlined below in this staff report.

Attachment A:	Request Letter
Attachment B:	Survey
Attachments C1-C5:	Conceptual Unit Design
Attachment D1 – D3:	Organizational Information
Attachment E:	Property Transfer Agreement

ATTACHMENT A

1. REQUEST LETTER



August 14, 2007

Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

Re: Request to consider awarding the Pechnik Parcel to Habitat for Humanity for Affordable Home Development

To: Park City Municipal Corporation

This purpose of this letter is to formally request that the Park City Municipal Corporation consider donating an area of unused land known as "the Pechnik Parcel" to Habitat for Humanity - Summit & Wasatch Counties. A nonprofit corporation dedicated to providing simple, decent, and affordable housing for low-income families in need, Habitat for Humanity will put this generous award to good use in the development of housing for deserving families from Park City.

Habitat for Humanity has successfully worked with other local municipalities to build affordable housing in Kamas and Heber. In recent years, Habitat for Humanity has put 9 families into homes throughout our area. Our efforts have improved the quality of life for our recipient families, as well as the host communities. Through enhanced market exposure, extensive community outreach, and a board augmented with influential community leaders and activists, Habitat has already helped two needy families in 2007, with the opportunity to possibly aid 4 more before the year is out.

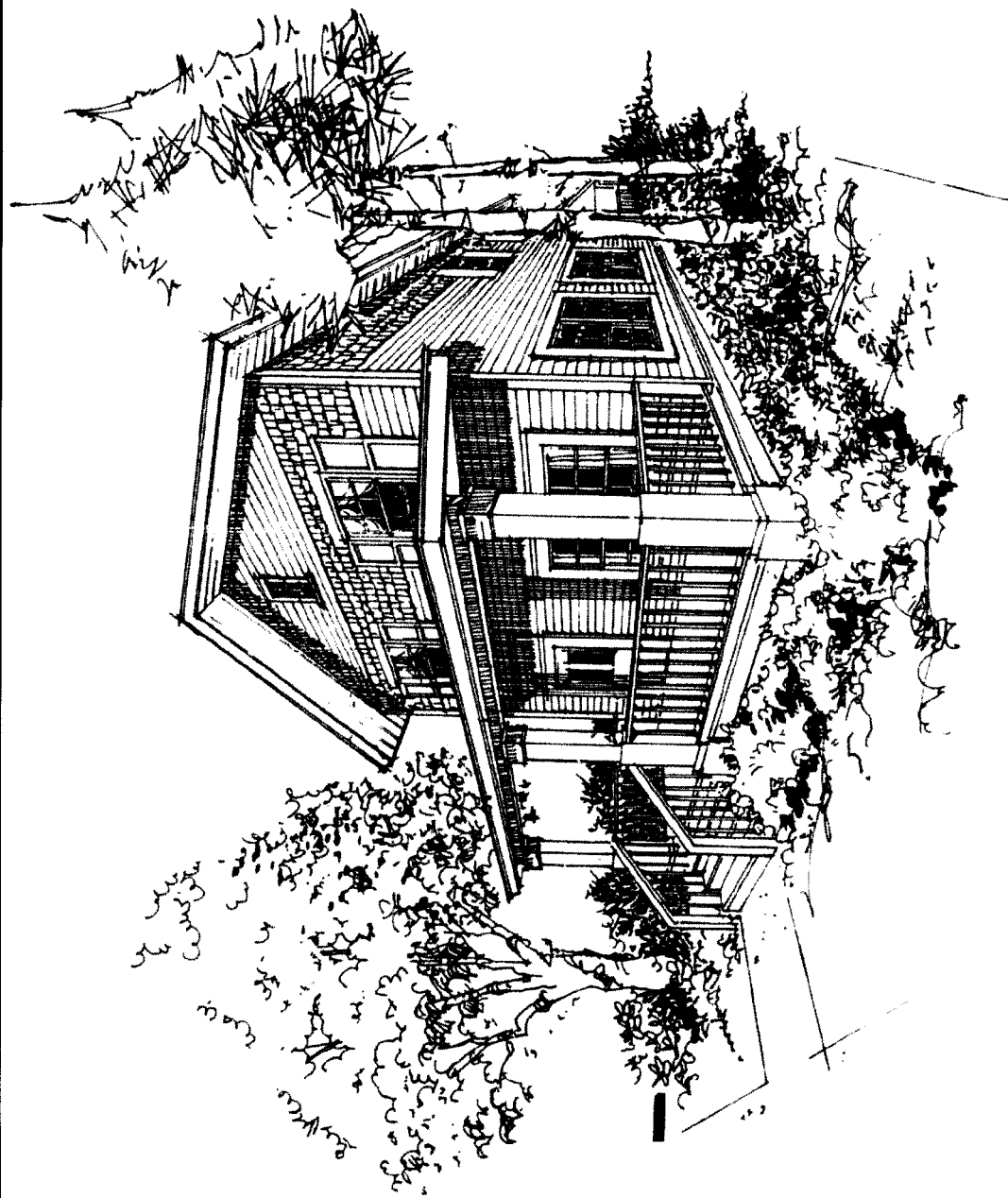
We have been successful in gaining the financial and volunteer support needed to make our donated properties into attractive, high-function homes that fit well into their host communities. For example, the Park City Board of Realtors and affiliates raised over \$100,000 and scheduled all volunteer labor for the recent project in Kamas.

The Pechnik Parcel is located near the intersection of Ontario and Marsac Avenues and is already zoned appropriately for the intended use by Habitat for Humanity. We are eager for your support and will work diligently with you on deed restrictions, code density requirements (2-4 units), plans, and other details.

Please feel free to contact me if you need any additional information or have any questions. We thank you in advance for your kind consideration and look forward to hearing from you soon.

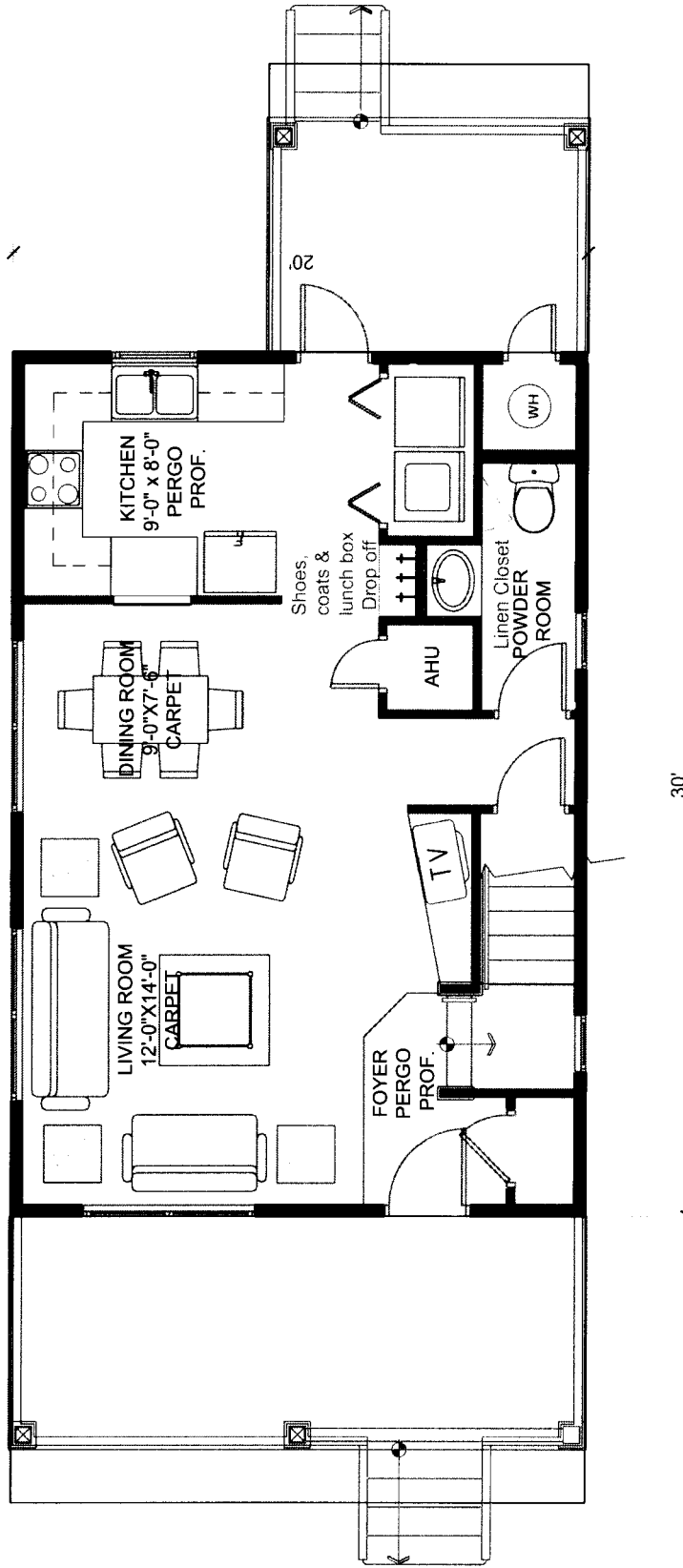
Regards,
Julie Bernhard
Executive Director
Habitat for Humanity, Summit & Wasatch Counties
P.O. Box 682704, Park City, Utah 84068
[435.640.5119](tel:435.640.5119); bernfam1@xmission.com

ATTACHMENT C.1



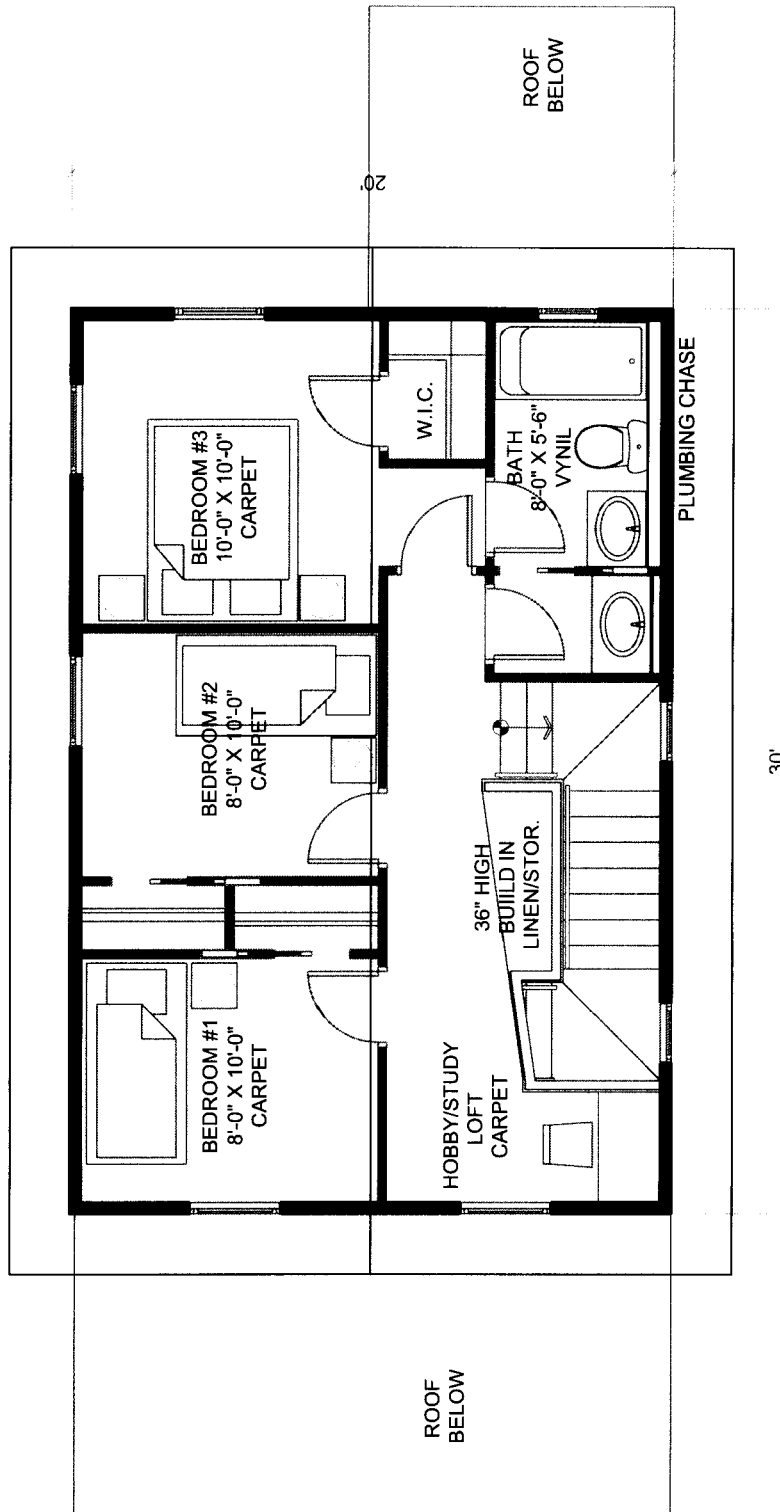
	D3T-01HW 3 Bedroom 2-Story Detached House	Perspective Scale: 1/4" = 1'-0"	 Copyright 2001. Habitat for Humanity International, Inc. All rights reserved.	Revisions:	Page No.:
				01 2011/2001 	A - 1.0.

ATTACHMENT C.2



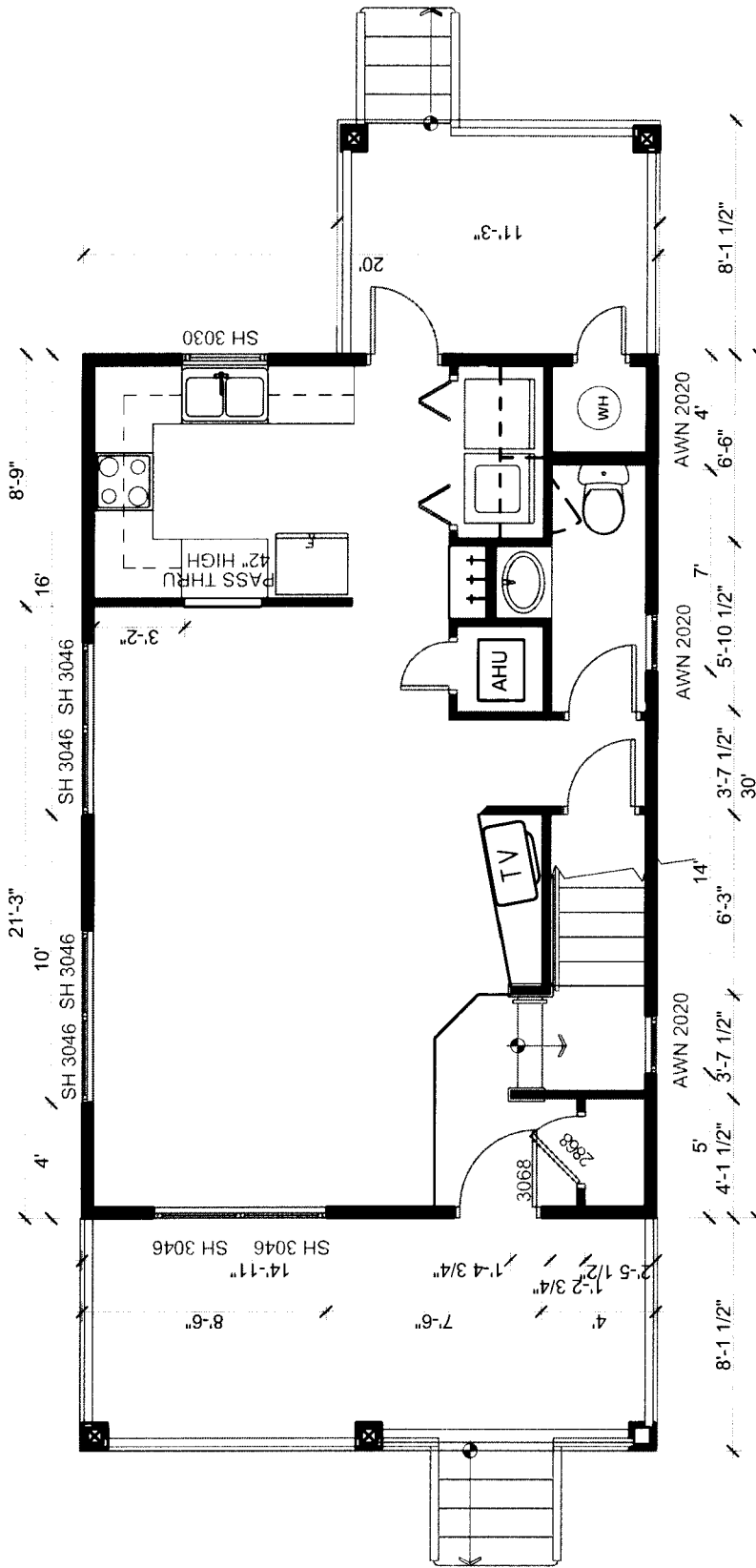
	D3T-01HW 3 Bedroom 2-Story Detached House	Schematic Plan First Floor	 Habitat for Humanity[®] International Copyright 2001. Habitat for Humanity International, Inc. All rights reserved. Revisions: DT 2011/2001 Page No.: A - 1.1.
	Scale: 1/4" = 1'-0"		

ATTACHMENT C3



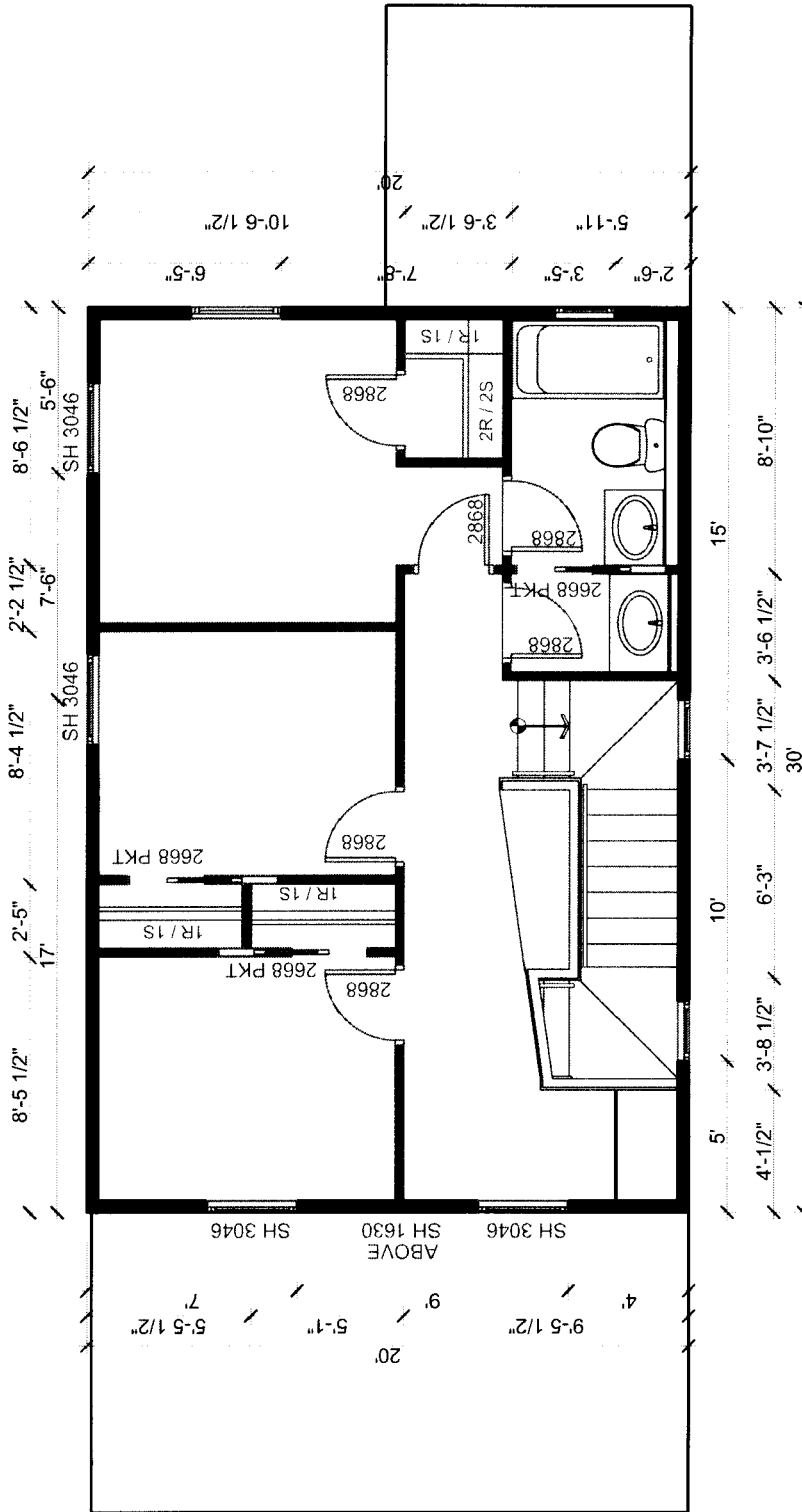
	D3T-01HW	Schematic Plan		 Copyright 2001. Habitat for Humanity International, Inc. All rights reserved.	Revisions:	Page No.:
	3 Bedroom 2-Story Detached House	Second Floor	Scale: 1/4" = 1'-0"		01 2011/2001	A - 1.2.

ATTACHMENT C.4



	D3T-01HW 3 Bedroom 2-Story Detached House	Dimensioned Plan First Floor Scale: 1/4" = 1'-0"	 Copyright 2001. Habitat for Humanity International, Inc. All rights reserved.	Revisions:	Page No.:
				01 20/11/2001	A - 2.0

ATTACHMENT C.5



	Habitat for Humanity[®] International		Revisions:	Page No.:
	Copyright 2001. Habitat for Humanity International, Inc. All rights reserved.		01 20/11/2001	A - 2.1.
D3T-01HW		Dimensioned Plan		
3 Bedroom 2-Story Detached House		Second Floor		
		Scale: 1/4" = 1'-0"		

ATTACHMENT D.1

2. HABITAT INFORMATION



Habitat for Humanity Summit and Wasatch Counties

Habitat for Humanity is a nonprofit housing organization. We welcome the community to join us as we build simple, affordable houses in partnership with those who lack adequate shelter. Habitat for Humanity for Summit and Wasatch Counties (HFHSWC) is an affiliate of Habitat International and serves Summit and Wasatch Counties.

Since 1976, Habitat International has built more than 200,000 houses, providing shelter for nearly 1,000,000 people worldwide. Now at work in 100 countries, we are building a house every 21 minutes and have sheltered more than 1 million people world-wide. During 2007, Habitat for Humanity, Summit & Wasatch has been facilitating some stage of planning or construction on as many as seven homes for local residents - a record for our local non-profit organization!

At this time, plans are in place to build 4 homes for needy families in 2008 -- 2 in Summit County and 2 in Wasatch County. This means that we will help 4 more families escape their current sub-standard living conditions and become safely housed in our community.

We accomplish this task by building and selling modest homes to low-income families at no interest. In order to increase the home affordability, we arrange for donated labor and materials and vary the term of the mortgage so we can serve those rejected by standard mortgage criteria. HFHSWC is supported by tax-deductible donations of money and materials and is staffed primarily by volunteers. Volunteers work side-by-side with our recipient families, who invest hundreds of hours of "sweat equity" into their homes and the homes of others. Our recipient families' mortgage payments go into a revolving "Fund For Humanity" that is used to build more homes for families in need.

Habitat for Humanity builds more than houses -- it builds homes, enriches lives, and builds communities.

For details, please contact:

Julie Bernhard

435.640.5119; bernfam1@xmission.com

ATTACHMENT D.2

7. Park City/HFHSWC Pechnik Project Tentative Timeline

Summary

Planning details	Dec. 2007- February 2008
Recruit family applicants/credit checks	March 3 – May 2, 2008
Architectural design	March 3 – May 2, 2008
City Approvals	May 30, 2008
Working Saturdays:	
Break ground	June 7, 2008
Excavate/foundations/footing/sewer et al	June 14 – July 19, 2008
Framing, roofing and button up house	July 26 – Sept. 27, 2008
Plumbing, electrical, siding	Sept. 6 – Oct. 18, 2008
Cabinetry, finish, trim	Oct. 4 – Oct. 25, 2008
Home dedication	October 2008

8. Sample Family Selection Criteria

Habitat for Humanity, Summit and Wasatch Counties (HFHSWC) will begin construction in Park City on a new home for a family in need from our community. Below please find helpful information and the primary categories used to evaluate a family's need.

1. Upon meeting criteria, Park City residents will have top priority in selection over county residents.
 2. Applicant must be a US Citizen or have permanent resident status.
 3. Family must earn 30-50% of Park City's median household income, which is currently \$81,176. Therefore, our target will be families generating between \$24,353 – 40,588 per year.
 4. Family must have lived in the Park City/Summit County area for at least 1 year.
- **Family's actual housing need is based on the suitability of your current home.**
 - **Safety**
Heat sources, plumbing, water supply, and structural damage
 - **Size**
Number of bedrooms is inadequate for the number of family members.
Number of same sex children in one bedroom should not exceed 3.
 - **Suitability**
Physically challenged family members needs are not being met by current housing.
Family is unable to obtain conventional government assistance. (Proof of inability to receive other loans)

ATTACHMENT D.3

- **Current income and ability to pay for a Habitat house.**
 - Family must be low income, earning between 30-50% of Park City Median HH Income annually, see above.
 - Provide a cash down payment up to \$1,000. HFHSWC, along with the family, will help to establish a monthly savings budget.
 - Family must demonstrate ability to repay the mortgage including utilities, taxes and insurance. Monthly mortgages are established based on family budget and are interest free.
 - Family must demonstrate ability to repay all current and future debt. HFHSWC will require proof of ability to pay including: tax returns, pay stubs, credit reports, employment reference, bank statements, etc.
- **Willingness to participate as a “Partner” with Habitat.**
 - Make timely house payments.
 - Complete required of “sweat equity” hours - 200 hours for a single parent and 400 for a married or 2 parent family.
 - Participate in Habitat’s Family support program which includes financial counseling and home maintenance education.
 - Demonstrate that you are ready to assume the responsibilities of home ownership.

ATTACHMENT E PROPERTY TRANSFER AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED into this ____ day of February 2008, by and between Park City Redevelopment Agency, a Utah Limited Purpose Local Government Entity ("RDA"), and Habitat for Humanity, Summit and Wasatch County, a Utah 501(c)(3) nonprofit corporation ("Habitat").

RECITALS

This Agreement is made and entered into with reference to the following facts:

- A. The RDA, acting pursuant to its authority under Utah Municipal Code Title 17C has elected to approve and enter into this Agreement;
- B. The RDA owns certain real property located at 154 Marsac Avenue zoned HR-1. An Affordable Housing Master Planned Development is permitted in the HR-1 zone subject to the criteria found in Land Management Code 15-6-7.
- C. Habitat is a nonprofit corporation duly organized, validly existing and in good standing under the laws of Utah. Habitat is dedicated to providing simple, decent, and affordable housing for low-income families in need. The individual(s) executing this Agreement does so with the full authority of Habitat.
- D. Habitat homes are sold to low to moderate income families, on a 30 year, no interest mortgage, to each partner family, with a 20 year second deed of trust to assure original owner occupied, single family, primary residential use. Habitat requires each participating family to complete 200 "sweat equity" hours per adult in the household before moving into their new home.
- E. The RDA would like to facilitate the development of low and moderate income housing to meet the needs of Park City's local workforce.
- F. The RDA desires to enter into this Agreement to transfer ownership of the property to Habitat who shall at their own expense (1) prepare and file all applications and reports as required by Park City and other regulatory agencies, and (2) administer, facilitate and complete the construction and sale of affordable housing.
- G. The RDA has evaluated the parcel for its significance, has provided proper notice of the opportunity for public comment regarding the significance of the parcel and has

determined that the transfer of ownership from the RDA to Habitat under the terms of this Agreement is valid and proper; and

- H. Habitat desires to enter into this Agreement to ensure that it obtains title to the parcels, in exchange for bearing the cost of subdivision, preparation and improvement of the lots, to fulfill its mission to construct and develop low to moderate income housing in Summit County.
- I. Both the RDA and Habitat desire to enter into this Agreement, and the governing bodies of each have found that to do so will be in the best interests of the constituents of the respective parties.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter to be paid, kept and performed, the parties agree as follows:

- (1) **Property Transfer.** At the Closing as defined hereinafter, the RDA shall convey to Habitat the Property as depicted on the final plat thereof. The special warranty deed from RDA to Habitat shall contain language providing the RDA or its assigns a right of first refusal at the deed restricted price exercisable at such time as the unit(s) no longer qualified for the Habitat program. Should the City not exercise its right of first refusal, the unit(s) would be sold at market value and the value of the land at time of transfer would be returned to the RDA. Otherwise, the conveyances will be free and clear of encumbrances, except those expressly approved by Habitat prior to Closing.
- (2) **Subordinate Deed of Trust.** A subordinate deed of trust will be placed on the property reflecting the current appraised value of the land. Should the property ever be sold to a non- Habitat qualified buyer, the note would be immediately due and payable in full.

- (3) **Subdivision and CUP Approval.** RDA grants to Habitat an affirmation of sufficient interest in the property to process all necessary applications associated with the subdivision and development of the property, including a vacation of platted Marsac Avenue. RDA and Habitat agree that the fees for preparation of the plat and site design required to determine lot size, configuration, building pad location, infrastructure design and unit design in order to process the applications shall be the responsibility of Habitat.
- (4) **Limitation on Police Power.** Nothing contained in this Agreement shall be construed as a limitation of the City's police power to approve or deny any of the applications referenced in this Agreement. In the event the necessary approvals are not granted, the sole remedy of Habitat and City shall be termination of this Agreement. Specific performance shall not be a remedy for either party hereto.
- (5) **Conditions to Closing.** The consummation of the transactions contemplated by this Agreement are subject to satisfaction of the following conditions prior to Closing.
- i. **Subdivision Approval.** The approval by the Park City Council of the final Subdivision plat, including appeals, if any, must be concluded, and;
 - ii. **CUP Approval.** The approval by the Park City Council of the CUP application filed on the Subdivision, including appeals, if any, must be concluded.
 - iii. **Historic District Design Review.** The approval by the Historic District Design Review Committee including appeals, if any, must be concluded.
 - iv. **Regulatory Agreement.** A regulatory agreement that runs with the land will be filed that details initial and subsequent family selection and resale processes including but not limited to appreciation caps.

In the event any one or more of the contingencies hereinabove set forth is not satisfied, either of the parties shall have the right to withdraw from this transaction and be released of all liability hereunder, in which event all rights and obligations of the parties hereto shall cease and terminate.

(6). **Assignment.** This Agreement is not assignable.

(7). **Closing.** The conveyance of the property shall be closed (“Closing”) at a title company selected by the RDA on a mutually agreed upon date to be specified, which date shall occur within fifteen days after satisfaction of the conditions set out in Section 7 above, subject to any written extensions executed by both parties.

(8). **Closing Documents**

i. **Deeds.** The RDA shall deliver a Special Warranty Deed and other regulatory agreements, as applicable, executed and acknowledged by their respective authorized agents, conveying good and marketable fee simple title to parcels.

(9). **Closing Costs.** Closing costs and any prorations shall be allocated and paid equally (50% each) by the parties.

(10). **Miscellaneous Provisions.**

i. **Real Estate Commission.** Each party agrees to indemnify, defend and hold the other party harmless from and against any commissions, fees or other compensation which is claimed by any other third party with whom the indemnifying party has allegedly dealt.

ii. **Captions.** The headings and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement nor of any provision herein contained.

(11). **Time of Essence.** Time is of the essence of this Agreement.

(12). **Notices.** Any notice or designation to be given hereunder shall be given by placing the notice or designation in the United States mail, certified or registered, properly stamped and addressed to the address shown below or such other address as the respective party may direct in writing to the other, or by personal delivery to such address by a party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received upon such placing in the mails or upon such delivery:

To City: Park City Redevelopment Agency
445 Marsac Avenue
P. O. Box 1480
Park City, Utah 84060-1480
Attn: City Attorney

To Habitat: Habitat for Humanity
P. O. Box 682704
Park City, Utah 84098
Attn: Executive Director

With Copies to: Katherine Loftt
Alliance Legal Services
P.O. Box 680768
Park City, UT 84068

(13). **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and may not be amended orally.

(14). **Governing Law.** This Agreement will be governed by the laws of the State of Utah without reference to its choice of law provisions.

(15). **Attorney Fees.** If a lawsuit is instituted by either of the parties with respect to this Agreement, the prevailing party will be entitled to recover from the other its reasonable attorney fees and all costs of litigation.

(16). **No Merger.** The provisions of paragraphs 4, 5 and 15 shall survive the Closing hereof and shall not merge into the vesting deeds.

(17). **Exhibits.** All exhibits hereto are expressly made a part hereof by this reference.

(18). **Further Assurances.** In the event that additional documentation, consents or other action is required to carry into effect the intent of this Agreement, the parties agree that they will cooperate and provide any such further documentation or assurances as may reasonably be required.

DATED AND ENTERED INTO as of the day and year first above written.

PARK CITY REDEVELOPMENT AGENCY

By: _____
Dana Williams

Its: Chair

HABITAT FOR HUMANITY, SUMMIT AND
WASATCH COUNTY

By: _____

Its:

EXHIBIT 1

Legal Description