

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH,
FEBRUARY 2, 2012**

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 2, 2012.

Closed Session

3:00 p.m. Property and Litigation

Work Session

5:15 p.m. Council questions and comments

5:30 p.m. Round Valley public trails proclamation and letter of intent P. 4 - 11

5:50 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

IV WORK SESSION NOTES OF JANUARY 12, 2012 ON BONANZA PARK PLAN
P. 12 - 18

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

1. Consideration of a Resolution adopting an amended FTA drug and alcohol policy for Park City Municipal Corporation P. 19 - 55

2. Consideration of a Resolution authorizing the submittal of an application for a WaterSmart: Water and Energy Efficiency Grant from the US Bureau of Reclamation to assist in funding the installation of a raw water line P. 56 - 70

3. Consideration of a sale of a remnant parcel, located in the Claimjumper Court neighborhood to the adjacent property owner, Dave Donegan in the amount of \$654 P. 71 - 75

VI NEW BUSINESS

Consideration of an assignment and amendment to the Osguthorpe Conservation Easement P. 76 - 80

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

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

Posted: 01/23/12

See: www.parkcity.org

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

February 2012

9 **No meeting**
9-10 *Visioning Session*
16 2012 Arts Festival – KAC – work
 Golf course update
 Special events and fees – (30 min) – work
 Automatic Aid Agreement with Summit County - HD
20 *Presidents Day – City offices closed*
23 **No meeting**

March 2012

1
8
15 **No meeting**
22 Convention sale licensing and associated fees - March
29

April 2012

5
12
19
26

May 2012

3
10
17
24
31

Pending Items:

Resolution establishing a strategic plan for City-owned property with development potential in Park City, Utah and repealing and replacing Resolution No. 22-05 in its entirety

City Council Staff Report



Subject: Conditions on Osguthorpe Funding;
Public Trails Letter of Intent and Management Letter
Author: Heinrich Deters
Department: Sustainability
Date: February 2, 2012
Type of Item: Work Session- Property Direction

Summary Recommendations: Staff recommends Council review and provide direction for staff to proceed with the informal Public Trails Proclamation/Letter Of Intent (Attachment A) and the Open Space Management Letter (Attachment B).

Topic/Description: Staff would like to discuss the following topics:

1. Confirm that the Round Valley trails system as open to the public including Basin/County residents; and
2. Provide direction to submit a letter acknowledging collaboration efforts on the creation of a Management Plan for the Round Valley Open Space.

Background:

For more than a decade, Park City Municipal Corporation and Summit Land Conservancy have worked in unison to protect the conservation values set forth in the voter approved open space bond language. On October 8th, 2009, City Council approved a 'First Right of Refusal' for the 121 acre parcel commonly referred to as the Osguthorpe parcel, located adjacent to the Round Valley Open Space and SR-248. In February of 2010, City Council approved an Agreement for Conveyance of a Conservation Easement Deed between the Afton Osguthorpe Sheltered Trust, Summit Land Conservancy and Park City Municipal Corporation in the amount of \$5,750,000. Park City Municipal provided \$4,750,000 initially for the easement from open space funding sources, with an additional \$1,000,000 to be paid by Summit Land Conservancy by February 12, 2012.

Basin Open Space Funding Conditions

In June of 2011, The Basin Open Space Advisory Committee and Summit County approved \$300,000 to Summit Land Conservancy for the Osguthorpe Conservation Easement. The Conservancy, approached the Committee again in late 2011, for an additional \$150,000.

The Committee reviewed the request and recommended it on two conditions: (Exhibit A – Snyderville Basin Special Recreation District funding approval letter) (Exhibit B- Basin Open Space Advisory Committee Approval letter)

1. The Committee felt strongly that a management plan should be in place to protect the resources of the Round Valley Open Space and asked that the City collaborate and coordinate the project with County and Basin staff, as well as, take input from the Committee and other state and public entities.
2. An ownership interest in the easement proportionate to the amount of the SBSRD contribution. This matter is handled by the other staff report recommending an assignment and amendment to the easement during the regular meeting.

On January 4, 2012, the Summit County Council reviewed the funding request and condition. At that time, the County Council recommended the additional (third) condition of approval confirming that the Round Valley Trails are public and open to Basin/County residents. Additionally, the County Council tied both the \$300,000 and the \$150,000 contribution to the original two conditions recommended by SBSRD. The County Council directed County staff to return with a formal request for the entire \$450,000.

The County Council met on January 25th and awarded the entire \$450,000 contribution based upon the three conditions: 1) Round Valley management plan and collaboration; 2) Proclamation confirming public trails available to Basin/County; and 3) SBSRD ownership interest to comply with bond funding.

This work session report deals with confirmation of direction for conditions (1) and (2), while the (3) ownership issue is addressed by the regular meeting report regarding formal approval of the easement assignment and amendments.

Analysis:

Public Trails Letter of Intent

The non-motorized Park City trail system is a public facility, planned, implemented and maintained for public use. The attached proclamation/LOI merely confirms the existing status of the trails as open and public, with an express reference to Basin/County residents. The proclamation does not additionally restrict any future use, changes or ownership rights of the City. Furthermore, the acknowledgement has no bearing on the management or implementation of any use of the Round Valley Open Space outside the current deed restrictions, zoning, existing agreements or conservation easements. No formal Council action is required and staff merely presents the matter for confirmation of direction to execute the proclamation so that the Council is aware of the County's concern.

Management Letter

Additionally, the success of any land management plan must take into account aspects which supersede jurisdictional boundaries and thus are dependent on coordination and collaboration of adjacent jurisdictional entities, as well as the public at large. County, Basin and City staff has an existing relationship where management discussions currently take place. This letter is acknowledgement of the management request and no formal Council action is required.

Alternatives:

- A. Approve: City Council confirm direction to staff to execute the attached Public Trails Letter of Intent and the Open Space Management Letter.
- B. Modify the request: Council could choose to modify the attached Letter of Intent.
- C. Deny the request: Council could choose to provide different direction regarding the letters.
- D. Continue the Item: Council may feel there is not enough information to make a decision, and have staff return with more information.
- E. Do Nothing: Same effect as continuance.

Significant Impacts

The Public Trails Letter of Intent and the Open Space Management Letter are both conditions placed on the \$450,000 approved for the Osguthorpe Conservation Easement. If the City fails to acknowledge the conditions, the funding may be removed.

Departmental Review

This report has been reviewed by the Sustainability Team, Budget Department, Legal Department and City Manager.

Staff Recommendations:

City Council approve the attached Public Trails Letter of Intent and provide direction on the Open Space Management Letter.

Attachment A- Public Trails Letter of Intent

Park City Municipal Corporation, Summit County, and Snyderville Basin Special Recreation District Public Trails Letter of Intent

This Letter of Intent is made and entered into this 2nd day of February 2012, by and between the Park City Municipal Corporation (PCMC), Summit County and Snyderville Basin Special Recreation District (SBSRD) (jointly referred to herein as the Parties).

Purpose. The purpose of this letter of intent is to confirm that efforts put forth by the Parties in the planning, funding, implementation and maintenance of the public non-motorized trail system. This document shall not be construed as a tool that may restrict Park City's ability to plan, maintain or implement the uses or infrastructure on easements or property owned by the City, whether within the current or future City limits:

Whereas, establishing world-class recreational facilities is a goal for all Parties; and

Whereas, all Parties recognize, that the preservation of open space and recreational public access to that open space is and shall remain a top priority; and

Whereas, the non-motorized trail system within Summit County has been recognized by the International Mountain Bike Association, as the only 'Gold Level' ride community trail system in the world for its diversity, connectivity and collaborative efforts by adjacent jurisdictions; and

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

Therefore, the Parties agree to the following:

1. The Park City non-motorized recreational trail system, including those portions located outside City limits in Summit County, is a public system which is accessible to Basin/County residents.
2. All Parties will continue to collaborate on efforts to improve the non-motorized trail system in Summit County.
3. All Parties will collaborate prior to the closure of any aspect of the public trail system due to safety or preservation concerns.

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

SUMMIT COUNTY

Robert Jasper, County Manager

**SNYDERVILLE BASIN SPECIAL
RECREATIONAL SERVICE DISTRICT**

Rena Jordan, District Director

PARK CITY MUNICIPAL CORPORATION

Tom Bakaly, City Manager

Attachment B- Open Space Management Letter

The Honorable Chairman and Members of the
Summit County Council
P O Box 128
Coalville, Utah 84017

Re: Open Space Management

Dear Chairman Ure and Council Members:

This letter serves as Park City Municipal's commitment to continue to collaborate with Summit County and the Snyderville Basin Special Recreation District in the management of the public's open space. This letter is being written to specifically address Park City's plans to develop and implement a comprehensive management plan for the open space in Round Valley.

The success of management plans hinge on cooperation and collaboration of entities which share common boundaries and thus a common cause. In this instance, the preservation of open space as a natural resource are of utmost concern when faced with issues such as invasive species and impacted wildlife which supersede jurisdictions and ownership. This plan brings together in a single comprehensive document the current weed management plan, trails master plan, Round Valley conservation easements and other documents and agreements currently used to govern Park City's management of Round valley. Input from various agencies, as detailed below, will help to round out the plan.

Park City Municipal recognizes the importance of positive local and regional partnerships which in turn, benefit the overall community. As such, Park City commits to do the following in the development of the management plan for Round Valley:

- Gathering and considering input from BOSAC and County staff;
- Gathering and considering input from Snyderville Basin Special Recreation District;
- Gathering and considering input from other agencies, such as State-level wildlife entities;
- Working with Summit Land Conservancy to ensure the Round Valley management plan is consistent with the provisions of the current conservation easements in place; and
- Completing the management plan for Round Valley by December 1, 2012 and subsequently implementing the plan.

We appreciate Summit County's interest in Round Valley and its willingness to provide financial support to the purchase of the Osguthorpe Conservation Easement.

Sincerely,

Tom Bakaly
Park City, City Manager

Exhibit A- Snyderville Basin Special Recreation District funding approval letter



December 15, 2011

Summit County Council and Manager
P.O. Box 128
Coalville, UT 84017

Summit County Council and Manager:

At their meeting on December 13, 2011 the Basin Open Space Advisory Committee (BOSAC) recommended an allocation of an additional \$150,000 toward the acquisition of the Osguthorpe 120 conservation easement on the south side of Round Valley. This reflects a recommended total one time contribution of \$450,000 utilizing Open Space bond fund authorized by voters of the Basin Recreation District in the 2010 election.

At the SBSRD Board meeting on Wednesday, December 14, the Basin Recreation Board restated their motion of June 22, 2011, and reaffirmed the recommendation of BOSAC to contribute a total of \$450,000, as follows:

MOTION: To affirm the District's recommendation of June 22, 2011 at which time the Basin Recreation Board reviewed the request from Summit County Land Conservancy to contribute towards a conservation easement on the Osguthorpe 120 parcel for \$600,000. The Basin Recreation Board voted to support BOSAC's recommendation of a contribution of \$300,000, however the Basin Recreation Board's recommendation provided for an additional \$150,000 contribution if there are funds remaining after other subject priority parcels are acquired. The contribution is contingent on an amendment to the conservation easement to establish a SBSRD interest in the property, and that a management plan for the entire Round Valley area be developed with input from Summit County. [Perry/Stinson] All in favor: Jay Burke, Tracey Douthett, Ramon Gomez, Jr., David Kottler, Jim Magruder, Ron Perry, Marilyn Stinson. None Opposed. Absent: None. Motion carries.

The District Board requests that the Summit County Council, acting in its capacity as the Governing Board of the District, support the recommendation of BOSAC and Basin Recreation when authorizing an additional \$150,000 of 2010 Open Space Bond Funds for a total contribution of \$450,000. The District has budgeted sufficient funds in 2012 for this contribution and will work with Summit Land Conservancy and Park City to ensure an amendment to the conservation easement reflects the District's financial interest.

Best Regards,

Rena Jordan, District Director
Snyderville Basin Special Recreation District

5715 Trailside Drive
Park City, UT 84098
www.basinrecreation.org

Exhibit B- Basin Open Space Advisory Committee funding approval letter



Basin Open Space Advisory Committee

Summit County Council & County Manager
PO BOX 128
Coalville, UT 84017

December 13, 2011

Summit County Council and County Manager,

The Basin Open Space Advisory Committee (BOSAC) received an additional request from the Summit Land Conservancy to contribute funds towards a conservation easement on the property known as the Osguthorpe 120 parcel. This property is located along Highway 248 and is contiguous to the Round Valley open Space. The conservation easement will remove all development rights and allow for agricultural uses to continue and permit seasonal trails. On May 24, 2011 BOSAC reviewed the request from Summit Land Conservancy for \$600,000 and voted to recommend to the County Manager and County Council that \$300,000 be awarded towards the conservation easement on this property. On June 29, 2011 the County Council acting as the Governing Board of the Snyderville Basin Special Recreation District voted to allocate \$300,000 of the 2010 Open Space Bond fund towards this conservation easement.

Since this time, Summit Land Conservancy has requested that BOSAC considering additional funding up to the total \$600,000 requested. On December 13, 2011 BOSAC reviewed this request and now recommends 6-1 that the Summit County Council, acting as the Governing Board of the Snyderville Basin Special Recreation District, allocate an additional \$150,000 for a total of a \$450,000 County contribution to the Osguthorpe 120 conservation easement. BOSAC further recommends that this funding is contingent on a management plan being completed for the entire Round Valley open space area with the County participating in the creation and implementation of the plan.

Sincerely,

Max Greenhalgh
BOSAC, Chair

**PARK CITY COUNCIL AND PLANNING COMMISSION
WORK SESSION NOTES
JANUARY 12, 2012**

Present: Mayor Dana Williams; City Council members Andy Beerman; Alex Butwinski; Dick Peek; and Liza Simpson

Chairman Charlie Wintzer; Planning Commission members Mick Savage, Adam Strachan, Jack Thomas and Brooke Hontz

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Thomas Eddington, Planning Manager; Katie Cattan, Planner; and Brooks Robinson, Transportation Planner

Mark Fischer, property owner and Michael Barelle, consultant

Absent: City Council member Cindy Matsumoto and Planning Commission members Julia Petit and Nann Worel

Bonanza Park Plan. Thomas Eddington stated that the process for Bonanza Park began September 29, 2011. Staff has accumulated a lot of information and incorporated many of the General Plan regional principles. He thanked several departments who played a huge role in contributing to the Plan and specifically acknowledged Planning Commissioner Jack Thomas' direction and insight. Mayor Williams commented on the amount of work needed to provide adequate information to make these types of decisions and the process was good. The development climate in Park City has changed over the past ten years and there are developers here willing to participate in a process which is not typical in other places. Working on this Plan has been a very positive experience including public input and he complimented everyone who worked on it.

Planning Commissioner Jack Thomas felt that the planning staff and the public were very objective. Staff kept the purpose, vision of the community and the interests of all of the players in mind. He stated that he has a newfound respect for their depth of knowledge, intellect and objectivity.

Thomas Eddington invited questions from the group. Alex Butwinski pointed out the goal of Bonanza Park not competing with Main Street but some of the elements in the draft may do that. He cited the brewery as an attraction to the Bonanza Park area. He asked if this is a place where people are or a place where people go to and in his mind, that has not been resolved. Thomas Eddington explained that staff worked with Design Workshop to focus on year-round economic generators and one of the ideas is a brewery/restaurant. A small brewery already operates in the Bonanza Park area and Design Workshop was basically capitalizing on that business. It was not considered as an entertainment or tourist attraction but rather as a restaurant to serve the residents in the area. He noted that there will be some cross-over of patrons.

Mr. Eddington suggested that one of the issues the group may want to discuss is nightly rentals. It is not a recommended use because the area is primarily residential and a nightly rental cap of 15% to 20% has been proposed. As a landlord in Bonanza Park, Charlie Wintzer stated that he wants to attract tenants that bring more people to the neighborhood. Mr. Butwinski distinguished tourists from locals. Mr. Wintzer stated that he is also trying to get tourists in the area. He doesn't want to compete with Main Street and pointed out that he has had tenants that have left and gone to Main Street while some Main Street businesses have relocated to Bonanza Park. He emphasized that he competes for tenants and that is his goal as a landlord.

Liza Simpson pointed out that there is always going to be cross-over but if the focus is not to turn Bonanza Park into an entertainment district the appropriate businesses will naturally develop. She is interested in discussing nightly rental use. Brooke Hontz stated that she shared Mr. Butwinski's concern and discussed it with planning staff. One of her suggestions was researching other towns where there are successful complementary commercial districts. Mr. Butwinski felt that a convention center in Bonanza will keep tourists off of Main Street. Mayor Williams explained that he thinks of this in terms of Main Street and Redstone or Newpark which people were very nervous about. He now realizes that no matter what gets built in Bonanza Park, it is not Main Street and never will be and he doesn't really worry about competition if Bonanza Park is built-out right. Andy Beerman interjected that Redstone or Newpark will never replace Main Street but the goal is not to dilute Main Street or the rest of the community with redundant business types.

Planning Commissioner Mick Savage believed dilution reflects the same number of people doing more things. He asked how demographics will change over time in Bonanza Park and absorption rates. The goal here is to have a differentiated product and to not create dilution as a consequence of some upward trend in population. Mr. Eddington explained that the housing goal is to be able to provide affordability and different tiers of affordability. Staff recommends up to 175% of area median income attracting younger professionals and he didn't feel this group would dilute the rest of the community. Katie Cattan stated that it is intended to maintain the current number of year-round rental units and to incentivize development of apartment-type buildings for rent. This is one of the few neighborhoods where the majority of residents rents year-round which is taken into consideration. Affordable housing criteria offers options of building off-site or on-site. Liza Simpson understood that discussion of census information includes all of Prospector which should be refined so it is clear and Ms. Cattan stated that there will be an index of terminology. Thomas Eddington interjected that Bonanza Park and Prospector are combined as a neighborhood in the General Plan.

Liza Simpson asked how staff determined the 15% to 20% nightly rental cap. Mr. Eddington explained that staff studied neighborhoods in other resort communities to determine when a neighborhood ceases to be a neighborhood *which was all over the*

board. If the percentage increases to 40% to 50%, the sense of neighborhood starts fading. The other data basically showed 15% to 25% is about as much a neighborhood could tolerate in terms of vacancies. Ms. Simpson pointed out that the census information created a perception that Park City has become a town of second home owners, but the percentage is the same as it was ten years ago. It has been her observation over the past 20 years that there is an ebb and flow. The number should be accurate in creating that kind of neighborhood but at the same time not interfering with people's flexibility since that seems to work. The Mayor pointed out that the census shows an average of 20 new residents a year for the last ten years which is not impactful but there has been a lot of second home product built. He likes the idea of capping nightly rentals to maintain a primary residential base. Mr. Wintzer believes it is a balancing act and the primary home market is not that strong. He pointed out that once nightly rentals are allowed, it is very difficult to change back. Ms. Simpson emphasized that nightly rentals and second homes are two different things. Mick Savage asked how the nightly rental use would be delegated and Mr. Eddington believed decisions would have to be made on a project by project basis because everyone should have the same opportunity. He felt that each owner would want to utilize the full 20% of the nightly rental use and units could be deed-restricted. Adam Strachan believed that nightly rentals will not be mixed and the developer will build the nightly rentals first unless the project is conditioned. Mr. Wintzer suggested that staff provide more data on the ratio and Ms. Simpson added that the process should be outlined.

Thomas Eddington emphasized that if primary housing is a focus, there is a price-point that isn't being satisfied in the community, and there is a demand. Mr. Savage believed there should be a model that promotes discussion about that assumption. Katie Cattin warned against restricting higher options of the housing ladder and data indicates that there is a gap. A model has not been run, but staff is aware of where the gaps are. Mr. Savage asked if the gaps imply a demand. Ms. Cattin stated that the data shows that the gap is being fulfilled in Snyderville Basin and in Heber City where affordable product exists. Adam Strachan felt that potential buyers would have to be interviewed somehow to get this information and Ms. Cattin pointed out that realtors have information on trends. Thomas Eddington referred to the Plan and data that showed that the strongest real estate market on December 22, 2011 was in the range of \$250,000 to \$500,000 and it is felt that this will be the strongest market for the next two years.

Adam Strachan believed that the Planning Commission will need a lot more flexibility for phasing based on sales rates to discourage empty units. Liza Simpson countered that developers don't want empty buildings either and want the ability to build and fill. Discussion ensued about unrealistic expectations of developers. Charlie Wintzer pointed out that building and land costs are equal so in order to incentivize affordable housing there has to be enough give on the market units to get affordable units. If the City is not flexible enough to make the project profitable, affordable housing will not be built. The cost of parking and land are elements that won't change. Mr. Strachan interjected that developers do not need to build affordable units first and sometimes it

might be inappropriate. However, the Planning Commission does not have that flexibility currently in the LMC. Mr. Wintzer agreed with the concept and suggested that a parking demand study be conducted and work on incentives to promote alternate transportation modes. Katie Cattan explained that the trend is to specify parking maximums rather than minimums and developers provide the study that supports their parking request. Mr. Eddington pointed out that the LMC provides that exceeding the parking requirement beyond 105% requires a variance. Mayor Williams noted that The Montage provided 75% of the amount of parking required in the LMC in an attempt to force the transportation issue. Part of the vision for Bonanza Park is the access to public transit; residents do not need to own a car to live there.

Andy Beerman referred to Mr. Strachan's comments on phasing and agreed it is important. The project may take 20 plus years and will evolve and amendments to the LMC may be needed. Mark Harrington explained that the current MPD chapter in the LMC provides flexibility on phasing.

Charlie Wintzer brought up potential issues relating to uncompleted projects and/or the grid system not being completely built out. Adam Strachan suggested making the developers pay for the infrastructure first. It was pointed out that the infrastructure may not be on their property. Thomas Eddington acknowledged that incentives are important to the Plan but penalties for not conforming to the Plan have not been addressed. If property owners reverted to building just what the zoning allows, the grid pattern and walkability concept could be jeopardized. An overlay zone still allows owners to utilize the GC Zone which can be managed with offering incentives or removing the GC Zoning. Mr. Wintzer pointed out the risks of creating a different market. Thomas Eddington felt that the grid system is not too different than Old Town. Jack Thomas interjected that the grid system is abundantly used in other communities and felt it will offer advantages. Mr. Wintzer emphasized the importance of following through with the grid system once it is introduced. Katie Cattan referred to a map displaying all of the properties in the area. Staff analyzed each property in the grid system to insure that incentives will be meaningful.

Liza Simpson referred to a request for direction on expanding the scope of the study of SR224. Thomas Eddington explained the issue of new connections to both SR224 and SR248. The Bonanza Park proposal removes private curb cuts and installs public roads; it is important to conform to agreements with UDOT. The expanded study will examine the grid system and how it functions with SR224 and SR248 and Mr. Eddington estimated a net reduction in curb cuts onto those roads. This needs to be presented to UDOT and staff is looking for policy direction whether the grid is the right proposal for the area. Mr. Wintzer felt that the grid will benefit traffic flow and believes UDOT will be in favor of this.

Andy Beerman asked if there is an opportunity to add light rail or an equivalent in the future by using existing roads or would there have to be additional rights-of-ways. Jack Thomas explained that the team started looking at this as a mechanism for dealing with

transportation and transit and providing connectivity to Main Street and the resorts. There are efficiencies that can be achieved. He added that Kent Cashel and Brooks Robinson felt it was an essential beginning. Thomas Eddington believed the City should have a clear position when approaching UDOT. Before committing to the grid system, Brooke Hontz felt more time needs to be spent on the proposal by prioritizing elements and confirming connections because it is so drivable. Ms. Simpson believed there are ways to mitigate bad traffic behavior if shortcuts become a safety issue.

Adam Strachan criticized the City for not approaching the Wintzers about the Bonanza Tunnel Project soon enough. This Plan shows roads over people's properties and owners should be notified about the proposal early in the process. Mr. Eddington stated that it is staff's intention to meet with owners once policy direction has been received. Mr. Strachan countered that policy direction may not be needed because a public document is on the table.

The Mayor asked if the group feels comfortable with hiring an outside consultant to help formulate a form-based code for the area. He asked if there is an estimate of cost and time to prepare the document. Thomas Eddington responded that the work will probably cost \$50,000 to \$100,000. It is work that can be done in-house but is technical and time-consuming and would take at least six months. He is uncertain if it is achievable if keeping the General Plan on schedule is important. The Code would implement the Plan. Mayor Williams discussed the importance of property owner Mark Fischer and other land owners buying into the Plan. Mark Fischer stated that he has met many times with staff and is pleased with the draft. In response to a question from Andy Beerman, it was pointed out that the form-based code document is intended for this district but could be used for the development of the resort parking lots and the TDR receiving zones.

Charlie Wintzer asked about the status of the Lower Park Avenue RDA Plan. The Mayor felt that its progress is dependent on the timing of the individual land owners. PCMR's push for the development of the parking lots is not as pressing as Mark Fischer's project but he believed they will probably happen concurrently. It was explained to Mr. Wintzer that General Plan work is not needed to extend the RDA and the extension of the Lower Park Avenue RDA is being pursued.

Ms. Simpson prioritized projects as Bonanza Park, General Plan and then tackling other neighborhoods. Mayor Williams stated that if there is support from the land owners then he is supportive of moving ahead with the Bonanza Park Plan. He felt pursuing a form-based code approach for the area is worthwhile and didn't feel it's the Council's job to market Bonanza Park. Mick Savage interrupted and felt it is the City's responsibility as far as partnership and collaboration with the developers to make it successful. Mayor Williams agreed that a partnership can help create the infrastructure and basic layout but the land owners have to creatively market the area. Mr. Savage expressed that having a consultant produce the form-based code creates a more comprehensive sales pitch to get the project going.

Mr. Butwinski suggested proceeding with a RFP so that cost and timing can be determined as well as the benefit. Ms. Simpson believed that if a consultant is not hired, the completion of the General Plan will be delayed. Mr. Wintzer suggested that review of the RFP submittals will determine if the cost is worthwhile. Thomas Eddington explained that staff will have to work closely with the consultant on the form-based code which should take three to six months. If the Bonanza Park Plan is adopted, the right LMC tools need to be in place so that the Plan can be implemented. The Mayor asked the relationship of a form-based code, hiring a consultant, and extending the deadline of the General Plan.

Tom Bakaly explained that a plan for Bonanza Park was anticipated to be a precursor to the General Plan but staff realized it will be difficult to deliver this product of work for the General Plan by the middle of July, especially if the Plan is simultaneously implemented. Lower Park Avenue is a different process as the RDA needs to be extended. If implementing the Bonanza Park Plan is a priority, the General Plan will need to be pushed back. Hiring a consultant may help keep the General Plan on track but the deadline may have to be renegotiated. Even if a consultant is hired, it will be tough to get the Plan done by July. Thomas Eddington commented that staff will need to work on amendments to MPDs in the LMC and other zoning issues to implement the Bonanza Park Plan. Mr. Bakaly believed that a lot of information can be obtained from a RFP process which can be used to gain a better sense of the trade-offs.

Planning Commission Chairman Charlie Wintzer disclosed that he is a land owner in the Bonanza Park area. He likes the direction of the Plan and quality of work and supports proceeding with a RFP. This could be a 50 year project and the City should have the flexibility to do what is needed. Jack Thomas spoke about the ramifications of moving too quickly. Liza Simpson felt that momentum on Bonanza Park needs to continue even if the General Plan is delayed. Mr. Bakaly reiterated that staff will return with the trade-offs. The Mayor spoke about the quality of work of the Plan and Mr. Bakaly added that some of the frustration expressed in the past has been lack of progress on the General Plan. The Mayor invited public input.

Mark Fischer, property owner, stated that he is very pleased with the progress of the Plan. He hoped that the group will accept the recommended timelines and keep Bonanza Park moving.

The Mayor understood consensus to bring the Plan to UDOT. Ms. Simpson felt it would be helpful for UDOT to review the grid and render recommendations. She felt the Plan area should be included in the corridor study. Brooks Robinson spoke about a walking tour of the corridor.

Michael Barelle, consultant, felt the Plan is balanced nicely. He pointed out that year-round rental was not addressed and probably should be. In terms of incentives, height and density allowances are effective and infrastructure is another bonus that the City

could provide. He pointed out that with regard to the Lower Park Avenue Plan, Park City Mountain Resort already has a MPD and the situation is very different.

With no further discussion, the work session adjourned.

Prepared by Janet M. Scott, City Recorder

City Council Staff Report



DATE: February 2, 2012
DEPARTMENT: Transit Department
AUTHOR: Kent Cashel, Transit & Transportation Manager
TITLE: Resolution adopting FTA Substance Abuse Policy.
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATION:

Council should review this report and draft substance abuse policy, pass the resolution adopting the policy as the City's updated Federal Transit Administration substance abuse program.

Background

49CFR40 sets forth the requirement that any transit provider that accepts funds from the Federal Transit Administration (FTA) must adopt a substance abuse policy and maintain a drug and alcohol testing program that complies with regulations set forth in 49CFR655.

In 1999 the City adopted its first FTA compliant substance abuse policy, this policy was last updated in 2011.

The attached draft policy applies only to specified "safety sensitive" transit employees including

- Transit Supervisors
- Transit Dispatchers
- Transit Drivers
- Mechanics

The City maintains a separate substance abuse policy for non-transit employees. That policy is contained in the City's Employee Policy and Procedures Manual and is not the subject of this report or resolution.

Park City Transit's Drug and Alcohol Program was subjected to a routine random audit during summer 2011. The result of this audit was a report that contained minor corrective actions that included policy modifications. The required modifications are contained in the attached updated policy

Analysis

The attached report includes edits, clarifications and additions that reflect changes in federal regulations and guidance. These program requirements are non-negotiable and the City must adhere to them if it receives FTA funding.

ALTERNATIVES

- A. Approve The Recommendation.** Council should review this report and draft substance abuse policy, pass the resolution adopting the policy as the City's updated Federal Transit Administration substance abuse program.

- B. Deny The Recommendation.** Council could deny Staff's recommendation. Failure to amend the City's FTA drug and Alcohol program will leave the City out of compliance with federal regulations. Consequences of non-compliance could be loss of federal transit funding.
- C. Defer the item to a later date.** Council could defer this item to a later date. Delay would expose the City to findings of non-compliance on FTA Drug and Alcohol program audit currently scheduled for June 20 – 21.
- D. Do Nothing.** Council could do nothing this alternative would have the same effect as Alternatives B&C.

SIGNIFICANT IMPACTS

On May 5th, 2011 The Federal Transit Administration notified the City that it has been selected for a substance abuse program audit. Any delay in adoption of this updated policy will likely to lead to the City receiving an audit findings related to the policy

RECOMMENDATION

Council should review this report and draft substance abuse policy, pass the resolution adopting the policy as the City's updated Federal Transit Administration substance abuse program.

Attached: Resolution
Draft Substance Abuse Policy

**A RESOLUTION ADOPTING A FEDERAL TRANSIT ADMINISTRATION (FTA)
SUBSTANCE ABUSE POLICY FOR
PARK CITY MUNICIPAL CORPORATION**

WHEREAS, the City operates a public transit system and is committed to the safety and welfare of the general public utilizing the system; and

WHEREAS, Park City receives FTA 5309 and 5311 funds and a substance abuse policy and testing program are required under 49 Code of Federal Regulations Part 40 for all recipients of FTA 5309 and 5311 funds; and

WHEREAS, in order to continue to qualify for federal and state transportation grant assistance, the City Council must adopt the FTA Substance Abuse Policy;

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

SECTION 1. SUBSTANCE ABUSE POLICY ADOPTED. The Substance Abuse Policy, attached hereto as Attachment A, is hereby adopted. Any conflicting policy or regulation is hereby repealed.

SECTION 2. EFFECTIVE DATE This Resolution shall become effective upon adoption and shall remain in effect until amended or repealed by resolution.

PASSED, ADOPTED, AND APPROVED the 2nd day of February, 2012.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



Park City Municipal Corporation Federal Transit Administration Substance Abuse Policy



Note Park City Municipal Corporation at its option, may change, add, delete, suspend, or discontinue parts or the Substance Abuse Policy in its entirety, at any time without prior notice.

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SUBSTANCE ABUSE POLICY

All provisions set forth in standard text are consistent with requirements specifically set forth in 49 CFR Part 655 or Part 40, as amended. All provisions set forth in italics are consistent with requirements specifically set forth in the Drug-Free Workplace Act (49 CFR Part 29). All provisions set forth in bold text are consistent with requirements of the Park City Transportation Department.

1 POLICY

Park City Municipal Corporation is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. Park City's employees are our most valuable resource and it is our goal to provide a safe, satisfying working environment, which promotes personal opportunities for growth. In meeting this goal it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

Park City's Substance Abuse Policy was originally approved and adopted by the Park City Council on January 7, 1999, and became effective on that same date. A copy of the signed adoption by the City Council is attached to this policy. Anytime this policy is amended in the future, the policy will contain the date, proof of adoption of the amended policy by the City Council and the date the amended policy became effective.

2 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and the use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, which mandate urine drug testing and breath alcohol testing for safety-sensitive positions and which prohibit performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, and the Omnibus act from 1991 as amended, which sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, AThe Drug-Free Workplace Act of 1988" which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

Employees who have questions about this policy should contact the Drug and Alcohol Program Manager (DAPM) identified in Section 21 of this policy.

3 APPLICABILITY

This policy applies to all transit system employees, paid part-time employees, contract employees and contractors when performing any transit-related safety-sensitive duties **or when they are on transit property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. ~~Visitors, vendors~~Vendor's, and contract employees are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.**

A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch and maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee or volunteer who perform duties requiring a CDL, and / or perform a safety sensitive function and receives remuneration in excess of their actual expenses. Supervisors performing any of the above described functions are considered to be safety-sensitive employees. Participation in Park City's Substance Abuse Program as stated in this policy is a condition of employment.

All positions of Park City were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following positions were determined to be safety-sensitive:

Full Time-Bus Driver <u>II</u>	Mechanic
Part-Time-Bus Driver <u>III</u>	Security Guard <u>Transit Shift</u>
	<u>Supervisor</u>
Contracted-Bus Driver <u>IV</u>	<u>Transit Team</u>
	<u>Leader</u> Administrator
Dispatcher	

4 PROHIBITED SUBSTANCES

'Prohibited substances' addressed by this policy include the following:

4.1 Illegally Used Controlled Substances or Drugs

Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, MDMA (ecstasy) as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal uses include use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. This list of drugs will change in accordance with any changes made by the FTA or FHWA.

4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related duties.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

4.3 Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing transit business, is prohibited. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

5 PROHIBITED CONDUCT

5.1 Manufacture, Trafficking, Possession, and Use

Transit System employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on transit authority premises, in transit vehicles, on transit authority business, or while in uniform. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5.2 Intoxication/Under the Influence

Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees who fail to pass a drug or an alcohol test shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) and ~~subject to disciplinary action, up to and including employee will be terminated~~. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

5.3 Alcohol Use

No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. An employee with an alcohol test result of 0.04% or greater is considered to have a positive alcohol test result. No safety-sensitive employee shall use alcohol while on duty, **in uniform**, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on call. **Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination will result in employee termination.**

6 COMPLIANCE WITH TESTING REQUIREMENTS

All safety-sensitive employees will be subject to urine drug testing anytime while on duty and alcohol testing only just prior, during and just after performance of safety sensitive duties. The alcohol testing may be done using breath or saliva for the screening test. All confirmation tests for alcohol must be done using an Evidential Breath Testing Device. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a SAP. Any safety-sensitive employee who ~~is suspected of providing false information in connection with a test, or who~~ is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection.

Refusal to Test

Refusal to comply with drug and alcohol testing requirements can include an inability to provide sufficient urine specimen or breath samples without a valid medical explanation, the lab's inability to test a sample due to tampering or adulteration, verbal declaration of refusal, obstructive behavior, failure to cooperate with any part of the testing process, failure to remain at collection site until the testing process is complete, failure to undergo a medical evaluation as required by an MRO or DER, failure to take a second test or permit monitoring or direct observation when requested by the collector or DAPM, refusal to sign ~~the drug testing custody and control form or~~ Step #2 on the alcohol testing form, leaving the scene of an accident without a valid reason before drug and alcohol testing have been completed, or physical absence. Physical absence includes not reporting ~~at all immediately~~ for testing when directed by the employer ~~or reporting for testing more than a half an hour late for a scheduled appointment.~~ Refusal to test is considered a positive test and will result in immediate removal from duty and referral to a SAP.

Refusal to Test

Refusals can include a variety of behaviors including;

- Verbal or written refusal
- Physical absence
- An inability to provide a urine specimen or breath sample without a valid medical explanation
- Failure to undergo a medical evaluation or an observed collection when required
- Obstructive behavior
- Failure to provide a urine sample
- Not reporting to the collection site in the time allotted (except in the case of pre-employment)
- Not remain at the collection site until the completion of the process
- Failure to sign step 2 of the alcohol test form
- Failure to permit monitoring or direct observation when appropriate
- Leaving the scene of an accident prior to submitting to a post accident test when required.

- Failure to take a second test as directed by the collector or employer
- Having an adulterated or substituted test result verified by an MRO
- Employee admits to the collector that he/she adulterated or substituted their specimen
- Employee behaves in a confrontational way that disrupts the collection process
- In the event of the need to do an observed collection: employee fails to follow the observer's instructions to raise and lower their clothing and to turnaround to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- The employee refuses to wash his or her hands after being directed to do so.

A refusal to test will be treated the same as a positive test result.

7 TREATMENT REQUIREMENTS

All employees are encouraged to made use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Park City's requirements for treatment, aftercare, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider.

Eligible employees will be allowed to take accumulated sick leave and/or vacation leave to participate in the prescribed rehabilitation program.



8 NOTIFICATION OF CRIMINAL DRUG CONVICTION

*All employees are required to notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. **Failure to comply with this provision shall result in disciplinary action, up to and including termination.***

9 PROPER APPLICATION OF THE POLICY

Park City is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including dismissal.

10 TRAINING FOR SAFETY-SENSITIVE EMPLOYEES & SUPERVISORS

All safety-sensitive employees shall receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and indicators of prohibited drug use. **Additionally, this policy contains information on the effects of alcohol misuse on an individual's health, work, and personal life.**

Supervisors responsible for making the decision to test for reasonable suspicion must receive a minimum of 60 minutes of training on drug and 60 minutes of training on alcohol information regarding the physical, behavioral, speech, and performance indicators of probable drug and alcohol use.

11 TESTING PROCEDURES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant and as required by Federal regulations. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted according to the procedures put forth in 49 CFR Part 40, as amended, including, picture identification of the employee, Federal Drug Custody and Control form with unique specimen identification number completed by a trained collection site person who insures that the Custody and Control Form is completed correctly and signed and certified by the donor, collection of Split Sample specimens that are sealed and initialed by the donor. (See Attachment A for more detailed procedures)

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine and MDMA (ecstasy). An initial drug screen, called an immunoassay test, will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

In instances where there is a reason to believe an employee is abusing a substance other than the six drugs listed above, Park City reserves the right to request a separate sample and to test for additional drugs under Park City's own authority using standard laboratory testing protocols. Park City also reserves the right to require a fitness-for-duty examination by a licensed physician when an employee's observable behavior and actions are considered to be inconsistent with a safe workplace.

The integrity of the alcohol testing process is insured by picture identification of the employee, use of a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) that displays and prints unique sequential numbers and is capable of producing 3 copies of the test result. The test is administered by a certified breath alcohol technician (BAT) who is "trained to proficiency" in the operation of the EBT being used. The BAT completes a Federal Breath Alcohol Testing form and ensures that it is signed by the donor. The employee shall be provided with written instructions prior to specimen collection for drug testing. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has confirmed alcohol concentration of 0.02 or greater, but less than 0.04 will immediately be removed from his/her duties for a minimum the start of the employees next regularly scheduled duty period but not less than 8 hours, or until a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Parts 655 and 40 for safety-sensitive employees. Alcohol testing will only be done just prior to, during, or just after a safety-sensitive employee's shift.

Screening Test Technicians (STT) may be used to perform alcohol screening tests (saliva or breath), however, an EBT operated by a BAT must be used for confirmation of an alcohol test. ~~Neither the STT nor BAT may act for confirmation of an alcohol test.~~ Neither the STT nor BAT may act as a collector if they are a direct supervisor of the employee.

Any safety-sensitive employee that has a confirmed positive drug or alcohol test will be immediately removed from their duties, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for an evaluation and assessment. Any employee who has a verified positive drug or alcohol test result shall be terminated.

~~A positive drug and/or alcohol test will result in disciplinary action, up to and including termination.~~

Detailed information on the drug testing process and the alcohol testing process are presented later in this policy. Employees may also request a copy of 49CFR Part 40 and 49 CFR Part 655 from the City's Drug and Alcohol Program Manager (DAPM).

12 TYPES OF DRUG & ALCOHOL TESTING EVENTS

12.1 Pre-Employment Drug Testing

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment into a safety-sensitive position or before transferring into a safety-sensitive position. Receipt by Park City of a negative drug test result is required prior to employment, transfer to a safety-sensitive position, or for any safety-sensitive employee who has not conducted safety-sensitive duties for 90 or more consecutive days and has not been in the City's random test pool during that time period.

Any pre-employment drug test that results in a "Cancel" does not satisfy the requirement for a negative drug test result detailed in this part.

When an applicant has previously failed a pre-employment drug test, (or any other drug test or refused to be tested in the prior 2 years), the employee must present to the employer proof of successfully having completed a referral, evaluation and treatment plan as described in Sec. 655.62 to be considered for the hiring process

If otherwise qualified, an individual with permanent or long term disabilities that directly render him unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite his inability to provide urine during a pre-employment test. The MRO will determine long term inability to provide urine by medical examination and consultation with the employee's physician.

Any applicant for any safety sensitive position covered by this policy whose pre-employment drug test is verified positive by the MRO will not be employed by Park City.

12.2 Reasonable Suspicion Testing

All safety-sensitive employees may be subject to fitness for duty evaluation and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral must be made by a supervisor, trained in the signs and symptoms of drug and alcohol use, who has personally observed and documented objective facts and circumstances which are consistent with the short-term effects of substance abuse. The criteria for a reasonable suspicion test must be based on contemporaneous, articulateness, observations concerning the appearance, behavior, speech or body odor of the safety-sensitive employee. A supervisor making the decision to reasonable suspicion test may not act as the STT or BAT for that test.

Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another transit employee.

Any employee who has a verified positive drug or alcohol test result shall be terminated.

12.3 Post Accident Testing

Post accident testing of safety-sensitive employees involved in an accident with Park City's vehicle (regardless of whether or not the vehicle is in revenue service) is mandatory for accidents where there is loss of life and for nonfatal accidents if, 1) an individual involved in the accident immediately receives medical treatment away from the scene of the accident, or 2) one or more vehicles involved in the accident incurs disabling damage (damage which precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair) requiring transportation from the scene by tow truck or other vehicle.

Where there is loss of human life, each surviving safety-sensitive employee on duty in the mass transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g., maintenance personnel), whose performance could have contributed to the accident (as determined by Park City using the best information available at the time of the accident) must be tested. Safety-sensitive employees on duty in the mass transit vehicle at the time of a nonfatal accident (fitting the criteria above) must be tested unless their behavior can be completely discounted as a contributing factor in the accident. Other safety-sensitive employees whose performance could have contributed to the accident, as determined by Park City using the best information available at the time of the accident shall also be tested after a non-fatal accident.

Following an accident, safety-sensitive employees will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing should be documented and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be documented. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following an accident or until they undergo a post-accident alcohol test.

The result of a blood, urine and breath test conducted by Federal, State, or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements and that the test results can be obtained by the employer.

The requirements to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means Park City knows the location of the safety-sensitive employee. Any safety-sensitive employee who leaves the scene of the accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test **and shall face disciplinary action up to and including termination**.

12.4 Random Testing

All safety-sensitive employees shall be subject to random, unannounced testing. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations.. These percentages are subject to change based on industry-wide test results. This policy will change in accordance with any changes made by the FTA or FHWA. The percentage of the number of employees the FTA currently requires to be randomly tested for alcohol is

10% of the number of all covered employees annually. The percentage of the number of employees the FHWA currently requires to be randomly tested for alcohol is 10% of the number of all covered employees annually. The selection of safety-sensitive employees for random drug and alcohol testing shall be made using a scientifically valid method such as a random number table or a computer-based random number generator that ensures each safety-sensitive employee that they will have an equal chance of being selected each time selections are made. Random tests will be unannounced and spread throughout all days and all hours of all shifts Park City is in operation during the year. Employees are to proceed to the testing site immediately upon notification of a random test.

There is no discretion on the part of management or operations in the selection and notification for testing.

Any employee who has a verified positive drug or alcohol test result shall be terminated.

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12.5 Return To Duty Testing

Before any safety-sensitive employee is allowed to return to duty and perform safety-sensitive duties following a verified positive drug or alcohol test, they must be evaluated by a SAP, complete any recommended treatment and pass a return to duty test. Return to duty testing is done at the recommendation of the SAP and decided upon by the DER and may be for drugs and/or alcohol.

12.6 Follow-up Testing

Once a safety-sensitive employee is allowed to return to duty, they shall be subjected to unannounced random follow-up testing for at least 12 months, but not more than 60 months with a minimum of 6 tests being done during the first 12 months. The SAP will determine the frequency and duration of the follow-up testing. Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing must also remain in the standard random pool and must be tested whenever their name comes up for random testing, even if this means being tested twice in the same day, week, or month.

12.7 Employee Requested Testing

Any safety-sensitive employee who questions the results of a required drug test may request that an additional test be conducted. This test must be conducted at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. **The employee pays all costs for such testing unless the result of the split sample test invalidates the result of the original test.** However, if the employee is unable or refuses to pay for the testing, Park City will pay and ensure that the testing is done in a timely manner. Park City may require reimbursement for the cost. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for split sample testing must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result.

The MRO must direct the laboratory in writing to send the split sample with appropriate copies of the chain of custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to document able facts that were beyond the control of the employee.

13 DRUG TESTING PROCEDURES

13.1 Urine Specimen Collection

Urine collection for drug testing shall be done at a location that provides:

- A privacy enclosure for urination
- A toilet receptacle large enough to contain a complete void
- A source for washing hands
- A suitable surface for writing

The collection site personnel shall be trained in the proper procedures for preparing the collection site, collecting the urine specimen, sealing and preparing the specimen for shipment and completing the custody and control form as required in 49 CFR Part 40.

A DOT drug testing custody and control form will be used for the collection.

The collection room shall be inspected by the collector before and after each specimen collection for removal of any unauthorized persons and materials that could be used to adulterate the specimen. The collection site will be secure to prevent unauthorized access during the collection process.

The collector will verify the employee's identify by photo identification or by a Park City representative. The collection will not proceed if identify is not verified. The collection site will notify the employer if the employee fails to report ~~or arrives more than thirty minutes late for the appointment.~~

The collector will unwrap the collection cup or specimen bottle in front of the employee and direct him/her to the privacy enclosure. The collector remains outside the enclosure. The employee is instructed to provide at least 45 ml (about 2 ounces) of urine.

If the employee is unable to provide at least 45 ml of urine, he/she will be given up to 40 ounces of fluids and remain at the collection site for up to 3 hours in an attempt to provide the specimen. If the required amount is provided, the original sample is discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen is discarded, testing discontinued and the employer notified. The MRO shall refer the employee for a medical evaluation to determine whether the employee's inability to provide a specimen is genuine or constitutes a refusal to submit to a drug test.

Within four (4) minutes of receiving the specimen from the employee, the collector will record the temperature of the specimen on the custody and control form. The temperature must be between 90.0 and 100.0 F. . If the temperature is out of range a new collection will take place under the observed collection protocol The collector shall also visually examine the specimen for any unusual color or sediment, and note the results on the custody and control form.

If the employee refuses to cooperate with the collection process, the collector notifies the employer immediately and documents the non-cooperation on the custody and control form.

If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen. If a specimen bottle is used as a collection container, the collector shall pour off 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary bottle, and retain the remainder (at least 15 ml) in the collection bottle to be used as the split specimen.

Both bottles must be sealed and labeled in the presence of the donor. The labels must be printed with the same specimen identification number as the custody and control form. The donor initials the seals on the bottles verifying the specimen is his/hers.

After the custody and control form is completed, the collector and the donor must sign the appropriate certification statements on the form regarding authenticity of the specimen and noted on the chain of custody portions of the urine custody and control form. Every effort should be made to minimize the number of persons handling the specimen.

Both the primary specimen and the split specimen shall be sealed in a single shipping container, together with the appropriate pages of the custody and control form. The tape seal on the container shall bear the initials of the collector and the date of the closure for shipment. The specimen must be stored in a secured location until transport to the laboratory.

13.2 Observed Collections

Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided. In all cases the employee must be advised of the reasons for requiring an observed collection.

In the following circumstances the collector must ~~observe the~~ authorize a second observed collection immediately after the first collection:

- The employee has presented a urine sample that falls outside the normal temperature range (90.0 to 100.0 F) The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.)

In the following circumstances (previous collection events) the employer must authorize an immediate observed collection:

- The most recent urine specimen provided by the employee (on a previous occasion) was determined by the laboratory to be invalid and the MRO reports to the DAPM that there was not an adequate medical explanation for the result.
- The MRO reports to the DAPM that the original positive adulterated or substituted result had to be cancelled because the test of the split specimen could not be confirmed.
- The employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted under the FTA regulations as a return to duty or follow-up test.

~~A supervisor of the collector or a designated employer representative shall review and concur in advance with any decision by the collector to obtain a specimen under direct observation.~~ The direct observation must be by an observer of the same gender as the employee being tested. The observer can be a different person than the collector and need not be a qualified collector.

13.3 Negative Dilute Drug Test Result

In the event that it is reported that a negative test was dilute (i.e., because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL) the employee or potential employee will be directed to take another test.

- o Such collections will not be collected under direct observation.
- o Minimum possible advance notice will be given that he or she must go to the collection site
- o The second test taken under this provision, and not the prior test will be the test result of record.
- o If the result of the second test is also negative and dilute, the test will be considered negative and no further retesting required; provided the dilute test result does not have a creatinine concentration of less than 2 mg/dL in which case the MRO may require an observed collection as provided in 14.2
- o If the employee declines to take a test as directed in this section the employee has refused the test for purposes of this part and DOT agency regulations.

14 ALCOHOL TESTING PROCEDURES

Alcohol testing shall be done at a location that provides:

- o Privacy to the individual being tested
- o Security with no unauthorized access at any time to the EBT
- o BAT conducting only one test at a time who must not leave the testing site while the preparations for testing or the test itself are in progress.

Upon arrival at the testing site, the employee must provide positive identification in the form of a photo identification or identification by a company representative.

The BAT will explain the testing procedures to the employee.

The BAT and the employee will complete, date and sign Step #1 and Step #2 of the alcohol testing form indicating the employee is present and providing a breath specimen. Refusal by the employee to sign Step #2 of the alcohol testing form will be noted by the BAT in the remarks section and is considered a refusal to test.

14.1 Screening Test

The employee is informed that testing will begin with a screening test. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.

The employee will be instructed to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT will show the employee the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required. The BAT and the employee will finish filling out the alcohol testing form. The employee may return to their safety-sensitive position. The test will be reported to the employer as a negative.

Note: Alcohol screens may be performed by certified Screening Test Technicians (STT) using alternative alcohol screening devices approved by the Department of Transportation.

The alternative methods may test either breath or saliva. If the screening tests results are 0.02 or greater, a confirmation test by a BAT, using an evidential breath testing device, must be performed.

14.2 Confirmation Test

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.

The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT will inform the employee that the test will be

conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an airblank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second airblank reading is greater than 0.00, the BAT shall not use the EBT to conduct the test.

The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be canceled, and the EBT removed from service.

The BAT will sign and date the form. The employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle if the results are 0.02 or greater. Refusal by the employee to sign the certification statement is not considered a refusal to test, but it will be noted in the remarks section by the BAT.

The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-proof tape (unless the EBT prints the results directly on the form).

14.3 Reporting

The BAT will transmit all results to the employer's designated representative in a confidential manner. In the event an individual must be removed from safety-sensitive duties, the BAT will notify the employer's representative immediately.

15 MEDICAL REVIEW OFFICER

The laboratory results must be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results. The laboratory shall report all results to the MRO in a confidential manner.

A qualified MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

15.1 Negative Test Results

The MRO shall conduct an administrative review of the control and custody form on all negative test results. The result may then be reported to the employer.

15.2 Positive Test Results

It is the responsibility of the MRO to review and interpret an individual's confirmed positive test. Those responsibilities include:

- o Reviewing the individual's medical history, including any medical records and biomedical information provided.
- o Affording the individual an opportunity to discuss the test result.
- o Deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- o If appropriate, request the laboratory to analyze the original specimen again to verify the accuracy of the test result reported.
- o Notify each employee who has a verified positive test that they have 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split sample within 72 hours of having been informed of their verified positive test, the MRO shall direct, in writing, the laboratory to ship the split specimen to another DHHS certified laboratory for analysis. Reporting of a verified positive result is not delayed pending the split specimen analysis.
- o If the employee does not request testing of the split sample within 72 hours of being notified of a positive test result and can provide documentation (such as serious illness, injury, hospitalization, etc.) Which prevented the employee from making the request within the 72 hour time limit and the MRO concludes it is a legitimate reason, the MRO shall direct the analysis of the split sample performed.
- o If the analysis of the split sample fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable or inadequate for testing, or if the split is adulterated and the primary sample is not, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.
- o If the MRO is unable to reach the individual directly, after making and

documenting all reasonable efforts, the MRO shall contact the designated employer representative who shall direct the individual to contact the MRO as soon as possible. If 5 days have passed from the time the employer directs the individual to contact the MRO and they have not done so, the MRO shall report the test result to the employer as (non-contact) positive from the laboratory. ~~and If~~ neither the ~~MOR~~ MRO nor the employer have been able to contact the individual within ten days from the date MRO received positive test result from the laboratory, the MRO shall report the test results to the employer as positive. ~~If~~ ~~if~~ the individual can provide the MRO with a documented reason (such as illness, injury, hospitalization) for not contacting the MRO within a reasonable time, MRO may reopen the interview process.

- O It is the responsibility of the MRO to protect the employee's privacy and the confidentiality of the testing program. It is also the responsibility of the MRO to maintain records on all negative test results for a minimum of one (1) year and all positive test results for a minimum of five (5) years unless there is pending litigation in which case the files must be retained.
-

16 SUBSTANCE ABUSE PROFESSIONAL (SAP)

Any individual who has a verified positive drug or alcohol test shall be removed from safety-sensitive duties immediately, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP). A SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, licensed marriage and family counselor, or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission.

The responsibilities of the SAP include:

- 0 Evaluating ~~whether the type and scope of assistance~~ a safety-sensitive employee who has refused to submit to a drug or alcohol test or who has verified positive drug or alcohol test result is in need of ~~assistance in resolving~~ to resolve the problems associated with prohibited drug and alcohol use.
- 0 Evaluating whether a safety-sensitive employee who has a verified positive drug or alcohol test result has complied with the SAP's recommendations.
- 0 Determine when return-to-duty testing is appropriate and whether it should be for drugs and/or alcohol.
- 0 Recommend the number of months the returning safety-sensitive employee will be subject to follow-up testing (after the minimum six tests during the first 12 months) and whether it will be for drugs and/or school.

The SAP who determines that a covered employee requires assistance in resolving problems with substance abuse may not refer the employee to the SAP's private practice from which the SAP receives remuneration or to a person or organization in which the SAP has a financial interest.

17 ANNUAL REVIEW PROCEDURES

To ensure quality service at collection sites, Park City's Program Manager will meet with the City's Third Party Administrator, at a minimum annually, to review the following:

- o Collection Procedures;
- o Collection Staff Training; and
- o Collection Recordkeeping.

If during the course of these reviews deficiencies are identified, the Program Manager and Third Party Administrator will develop a remedial action plan to correct the deficiencies. The Program Manager will be responsible for monitoring the Third Party Administrator's progress and completion of the remedial action plan.

18 RECORD KEEPING AND CONFIDENTIALITY

18.1 Employer

The employer must maintain records on program administration and test results of individuals for whom they have testing responsibility. Following is the required time line for retaining records and documentation on program administration:

Negative and cancelled drug test results and alcohol test results less than 0.02 - 1 year

Documentation on employee training and collection site personnel training - 2 years

Information obtained from previous employers under 49CFR40.25 concerning drug and alcohol test results of employees – 3 years

Verified positive drug tests, refusals, referrals (including substituted or adulterated test results, Alcohol test results greater than 0.02 or greater, EBT calibration documentation and MIS Reports – 5 years

Drug testing records must be kept in a secure location with controlled access.

Drug and alcohol test results may be released only under the following circumstances:

- o Employer shall release information or copies of records regarding an employee's test results to a third party only as directed by specific, written instruction of the employee.
- o Employer may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.

Upon written request, employer must promptly provide any employee with any records relating to his/her test.

Employer must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under NTSB investigation.

Employer shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed guide-way systems.

The FTA requires that transit agencies file annual report summarizing test results.

18.2 Laboratory

The laboratory shall maintain all test results in a confidential manner and provide secure storage for specimens. The testing laboratory may only release test results to a designated example, teleprinters, facsimile, or computer in a manner designated to ensure confidentiality. Results may not be provided by telephone. Following is the required time line for retaining records and specimen storage.

Unless otherwise instructed by the employer in writing, all records pertaining to urine specimens shall be retained by the testing laboratory for two years.

The testing laboratory shall retain and place in properly secured long-term frozen storage all specimens confirmed positive in their original labeled specimen bottles for one year.

Within this year the employer may request the laboratory to retain the specimen for an additional period of time. The laboratory shall also be required to maintain any specimen known to be under legal challenge for an indefinite period.

The laboratory must also provide the employer with periodic summary reports.

18.3 Medical Review Officer

It is the responsibility of the Medical Review Officer (MRO) to protect the employee's privacy and the confidentiality of the testing program. All results will be reported to the employer's designated representative in a secure, confidential manner. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process except in the following situations:

An applicable DOT regulation permits or requires such disclosure.

In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule.

In the MRO's reasonable medical judgment, in a situation in which there is not a DOT agency rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her safety-sensitive function could pose a significant safety risk.

The following is a time line required of the MRO for retaining drug test result records:

Drug test results reported to the employer as negative -	1 year
Drug test results reported to the employer as positive -	5 years

19 RE-ENTRY CONTRACT

Employees who re-enter the workforce must agree to a re-entry contract. The contract may include (but is not limited to):

- A release to work statement prepared by the Substance Abuse Professional.
 - A negative test for drugs and/or alcohol.
 - An arrangement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
 - A statement of expected work-related behaviors.
 - An agreement to follow specified after-care requirements with the understanding that violation of the re-entry contract is grounds for discharge.
-

20 SYSTEM CONTACTS

(Updated Subsequent to Adoption of Resolution – Legal Dept.)

Program Manager (DAPM):

Name: Darren Davis
Title: Transit Administrative Team Leader
Address: P O Box 1480
Park City UT 84060
Telephone: (435) 615-5351

Designated Employee Representative (DER):

Name: Destry Pollard
Title: Transit Operations Team Leader
Address: P.O. Box 1480
Park City, Ut 84060
Telephone: (435) 615-5354

Medical Review Officer (MRO):

Name: Paul D. Teynor, MD, MPH
Address: Intermountain MRO Services, Inc.
P O Box 240
Salt Lake City UT 84110
Telephone: (801) 486-5400

Substance Abuse Professional (SAP):

Name: Jesus De La Torre
Address: 1579 W. 600 S.
Salt Lake City, UT 84070
Telephone: (801) 973-0655

DHHS Certified Laboratory:

Quest Diagnostics
8401 Fallbrook Avenue
Westhills, CA 91304
OR
10101 Renner Boulevard
Lenexa, KS 66219

The toll-free number for Substance Abuse Assistance is: **1-800-662-HELP**

EMPLOYEE ACKNOWLEDGMENT

Return this completed form to your immediate supervisor.

Print Employee Name: _____

I certify I have received a copy of the Substance Abuse Policy.

I understand receipt of this Policy constitutes legal notification of the contents, and it is my responsibility to become familiar with, and adhere to the Policy.

I understand the information contained in this Policy is subject to change at any time, should circumstances warrant, and it is my responsibility to keep informed of these changes.

I understand no verbal or written agreement, understanding, representation, or statement made by my department head or supervisor can amend the Policy, nor bind the City to any course of action. Only the City Council or City Manager may amend this policy.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

I understand that my employment with Park City is conditioned on my agreement to sign this acknowledgment form, and that my refusal to do so will result in my immediate termination.

Employee Signature: _____

Date Signed: _____



City Council Staff Report

Subject: Resolution to submit application for WaterSMART USBR Grant
Author: Tamara Lindsay
Department: Water
Date: February 2, 2012
Type of Item: Legislative

Summary Recommendations:

Staff recommends that Council approve a resolution authorizing the submittal of a grant application for the WaterSMART: Water and Energy Efficiency Grant offered by the U.S. Bureau of Reclamation to assist in funding for the Raw Water Line/Micro Hydro Powered Turbine Project.

Topic/Description:

Official Resolution authorizing the submittal of an application for a grant from the U.S. Bureau of Reclamation to assist in funding the Raw Water Line/Micro Hydro Powered Turbine Project.

Background:

In November, 2011, the US Bureau of Reclamation announced the WaterSMART: Water and Energy Efficiency Grant for FY 2012. This announcement was directed toward applications that can be completed within 36 months and that expand, protect, and conserve our nation's water resources through water conservation, energy efficiency improvements, and/or water markets. The grant guidelines stipulated four Task Areas that would be eligible for consideration:

Task A – Water Conservation/Water Better-Managed
Task B – Energy-Water Nexus
Task C – Benefits to Endangered Species
Task D – Water Markets.

The Raw Water Line/Micro Hydro Powered Turbine Project fits into the Tasks A and B description: projects that result in quantifiable and sustained water savings or improved water management; and projects that increase the use of renewable energy source in the management and delivery of water.

Analysis:

The Raw Water Line/Micro Hydro Powered Turbine Project (Project) responds to the Bureau of Reclamation's recommendations contained in the 2006 "*Park City and Snyderville Basin Water Supply Study Special Report*" that analyzed various options to provide for future Municipal water supplies for the Snyderville Basin area of Summit County, Utah. The Project would immediately result in a water management-energy related savings of 1,276 gallons per minute (gpm) treatment capacity in the existing membrane filtration water treatment plant and 1,276 gpm high pressure pumping capacity required to meet outdoor irrigation related use during the irrigation season.

The project consists of installing approximately 13,750 feet of 18.5-inch inside diameter raw water transmission line, six raw water irrigation filter stations at irrigation connections to the raw water line, and micro-hydropower turbines on the raw water transmission line at the inlet of

existing city-owned Quinn's Junction Water Treatment Plant (QJWTP). Both of these projects are currently planned to be constructed as part of the water CIP however, if the City wins this grant the pipeline and micro-hydropower projects will be constructed much sooner.

The Project enables the City to improve water management and realize energy savings by using raw water to replace the potable water which is currently being used to irrigate local School District-owned ball fields and City-owned irrigated open spaces (which include ball fields, parks, landscape strips, and the cemetery). Conserved potable water treatment capacity would be used by the City to meet its potable demand requirements. As a result of the Project, the raw water supply to the irrigated properties will bypass the water treatment plant process thus eliminating the resulting pressure loss and subsequent treatment and pumping demands required to convey potable water to the irrigation users. The addition of micro-hydropower turbines at the raw water inlet to the existing QJWTP would allow the City to reduce the power purchased for the operation of water treatment systems. This meets the City's goal of "Leading by Example" and educating the Community by demonstrating additional methods of renewable energy.

Timing of Award: The USBR WaterSMART: Water and Energy Efficiency Grant application was submitted by staff within the January 19, 2012 deadline. The USBR allows an additional 30 days to submit the Official Resolution approved by City Council. Staff plans to submit this resolution immediately following Council approval. The USBR anticipates announcement of awards by May, 2012.

A copy of the grant application is not included in this report but is available upon request.

It should be emphasized that this Project will reduce the amount of potable water produced but it will not result in additional supply. This project will satisfy irrigation demand with raw water that otherwise would have been treated and used for the same purpose.

Department Review:

Water; Public Works; Legal; City Manager

Alternatives:

A. Approve:

Approve a resolution authorizing the submittal of an application for a grant from the U.S. Bureau of Reclamation to fund the Raw Water Line/Micro Hydro Powered Turbine Project.

B. Deny:

Without the approval, staff would not be able to complete the grant application, which would result in disqualification of the grant application.

C. Modify:

Modification would delay the resolution, which could result in disqualification of the grant application.

D. Continue the Item:

The deadline for submission of the Official Resolution is within thirty (30) days from January 19, 2012. This item could be continued to the February 16, 2012 Council agenda without penalty.

E. Do Nothing:

Same effect as B.

Significant Impacts:

Approving the resolution would complete a requirement of the grant application. The maximum award, should the City be granted the award, is \$1,500,000.00 which would enable the Project to be completed sooner.

Recommendation:

Staff recommends that Council approve a resolution authorizing the submittal of a grant application for the WaterSMART: Water and Energy Efficiency Grant offered by the U.S. Bureau of Reclamation to assist in funding the Raw Water Line/Micro Hydro Powered Turbine Project.

Attachments:

A – Official Resolution

ATTACHMENT A- OFFICIAL RESOLUTION

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR A WATERSMART: WATER AND ENERGY EFFICIENCY GRANT FROM THE U.S. BUREAU OF RECLAMATION TO ASSIST IN FUNDING THE INSTALLATION OF A RAW WATER LINE

WHEREAS, the United States Bureau of Reclamation (USBR) as part of the WaterSmart: Water and Energy Efficiency Grant for FY 2012 Program is offering grants for projects that demonstrate innovative technologies to promote water conservation and/or better managed water; and

WHEREAS, USBR has issued a Request for Proposal Number R12SF80049 (the RFP) stating the requirements and terms for receiving a WaterSmart: Water and Energy Efficiency Grant; and

WHEREAS, Park City Municipal Corporation proposes to install a raw water line for irrigation of City and School District properties; and install Micro-hydro powered turbines at the Quinn's Water Treatment Plant, and

WHEREAS, it would be in the best interests of Park City Municipal Corporation to submit this grant application for the project that will begin in summer of 2012 and is expected to take approximately 24 months to install; and

WHEREAS, Park City Municipal Corporation's application to USBR will request \$1,368,348.00 in grant funds (the maximum available) for the project, the total cost of which is estimated at approximately \$3,420,869.00, and Park City Municipal Corporation is capable of providing \$2,052,521.00 in materials and in-kind services to complete the project as specified in the RFP funding plan; and

WHEREAS, Park City Municipal Corporation certifies that it has sufficient funding as specified in the RFP's funding plan; and

WHEREAS, this grant application does not constitute a legally binding commitment on the part of Park City Municipal Corporation to accept an award of the grant funding nor to implement any project; and

WHEREAS, the City will work with Reclamation to meet established deadlines for entering into a cooperative agreement; and

WHEREAS, if Park City Municipal Corporation is selected by the USBR to receive a WaterSmart: Water and Energy Efficiency Grant agreement under the RFP, Park City Municipal Corporation will work with USBR to meet the established deadlines in the proposal, and the terms and conditions of the funding would be presented to City Council for review and consideration prior to acceptance.

NOW, THEREFORE, BE IT RESOLVED that the Park City Council does hereby authorize the City Manager to take all actions necessary to submit a grant application to the USBR to request

a \$1,368,348.00 grant, and to attach to the application as required, a certified copy of this Resolution as evidence of such authorization.

BE IT FURTHER RESOLVED that if Park City Municipal Corporation is offered grant funding from the USBR, the terms and conditions of such funding shall be reviewed by Council and Council shall determine whether to authorize acceptance of the funds.

EFFECTIVE DATE. This resolution shall become effective upon adoption.

PASSED AND ADOPTED this 2nd day of February, 2012.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

Opportunity Title:	WaterSMART: Water and Energy Efficiency Grants for FY 2
Offering Agency:	Bureau of Reclamation - Denver Office
CFDA Number:	15.507
CFDA Description:	WaterSMART (Sustaining and Manage America's Resources f
Opportunity Number:	R12SF80049
Competition ID:	R12SF80049
Opportunity Open Date:	11/07/2011
Opportunity Close Date:	01/19/2012
Agency Contact:	Michelle Maher Grants Officer E-mail: mmaher@usbr.gov Phone: 303-445-2025

This electronic grants application is intended to be used to apply for the specific Federal funding opportunity referenced here.

If the Federal funding opportunity listed is not the opportunity for which you want to apply, close this application package by clicking on the "Cancel" button at the top of this screen. You will then need to locate the correct Federal funding opportunity, download its application, and then apply.

This opportunity is only open to organizations, applicants who are submitting grant applications on behalf of a company, state, local or tribal government, academia, or other type of organization.

* Application Filing Name:

Mandatory Documents

Move Form to Complete

Move Form to Delete

Mandatory Documents for Submission

Optional Documents

Budget Information for Non-Construction Program

Assurances for Non-Construction Programs

Move Form to Submission List

Move Form to Delete

Optional Documents for Submission

Assurances for Construction Programs (SF-424D)

Disclosure of Lobbying Activities (SF-LLL)

Attachments

Instructions

- Enter a name for the application in the Application Filing Name field.
 - This application can be completed in its entirety offline; however, you will need to login to the Grants.gov website during the submission process.
 - You can save your application at any time by clicking the "Save" button at the top of your screen.
 - The "Save & Submit" button will not be functional until all required data fields in the application are completed and you clicked on the "Check Package for Errors" button and confirmed all data required data fields are completed.
- Open and complete all of the documents listed in the "Mandatory Documents" box. Complete the SF-424 form first.
 - It is recommended that the SF-424 form be the first form completed for the application package. Data entered on the SF-424 will populate data fields in other mandatory and optional forms and the user cannot enter data in these fields.
 - The forms listed in the "Mandatory Documents" box and "Optional Documents" may be predefined forms, such as SF-424, forms where a document needs to be attached, such as the Project Narrative or a combination of both. "Mandatory Documents" are required for this application. "Optional Documents" can be used to provide additional support for this application or may be required for specific types of grant activity. Reference the application package instructions for more information regarding "Optional Documents".
 - To open and complete a form, simply click on the form's name to select the item and then click on the => button. This will move the document to the appropriate "Documents for Submission" box and the form will be automatically added to your application package. To view the form, scroll down the screen or select the form name and click on the "Open Form" button to begin completing the required data fields. To remove a form/document from the "Documents for Submission" box, click the document name to select it, and then click the <= button. This will return the form/document to the "Mandatory Documents" or "Optional Documents" box.
 - All documents listed in the "Mandatory Documents" box must be moved to the "Mandatory Documents for Submission" box. When you open a required form, the fields which must be completed are highlighted in yellow with a red border. Optional fields and completed fields are displayed in white. If you enter invalid or incomplete information in a field, you will receive an error message.
- Click the "Save & Submit" button to submit your application to Grants.gov.
 - Once you have properly completed all required documents and attached any required or optional documentation, save the completed application by clicking on the "Save" button.
 - Click on the "Check Package for Errors" button to ensure that you have completed all required data fields. Correct any errors or if none are found, save the application package.
 - The "Save & Submit" button will become active; click on the "Save & Submit" button to begin the application submission process.
 - You will be taken to the applicant login page to enter your Grants.gov username and password. Follow all onscreen instructions for submission.

Application for Federal Assistance SF-424

Version 02

* 1. Type of Submission:

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

* 2. Type of Application:

- ☒ New
☐ Continuation
☐ Revision

* If Revision, select appropriate letter(s):

* Other (Specify)

* 3. Date Received:

01/19/2012

4. Applicant Identifier:

5a. Federal Entity Identifier:

* 5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name:

Park City Municipal Corporation

* b. Employer/Taxpayer Identification Number (EIN/TIN):

87-6000260

* c. Organizational DUNS:

093122893

d. Address:

* Street1:

445 Marsac Avenue

Street2:

PO Box 1480

* City:

Park City

County:

Summit

* State:

UT: Utah

Province:

* Country:

USA: UNITED STATES

* Zip / Postal Code:

84060

e. Organizational Unit:

Department Name:

Public Works

Division Name:

Water

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

* First Name:

Tamara

Middle Name:

Jordan

* Last Name:

Lindsay

Suffix:

Title:

Water Resource Analyst IV

Organizational Affiliation:

* Telephone Number:

435-615-5331

Fax Number:

435-658-9045

* Email:

tlindsay@parkcity.org

Application for Federal Assistance SF-424

Version 02

9. Type of Applicant 1: Select Applicant Type:

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

Bureau of Reclamation - Denver Office

11. Catalog of Federal Domestic Assistance Number:

15.507

CFDA Title:

WaterSMART (Sustaining and Manage America's Resources for Tomorrow)

* 12. Funding Opportunity Number:

R12SF80049

* Title:

WaterSMART: Water and Energy Efficiency Grants for FY 2012

13. Competition Identification Number:

R12SF80049

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Park City, Utah

* 15. Descriptive Title of Applicant's Project:

Raw Water Transmission Line/Micro-Hydro Powered Turbine Project

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

* a. Applicant

1

* b. Program/Project

1

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:

* a. Start Date:

09/10/2012

* b. End Date:

10/31/2014

18. Estimated Funding (\$):

* a. Federal	1,368,348.00
* b. Applicant	2,052,521.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	3,420,869.00

* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

☐ Yes

☒ No

Explanation

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix:

Mr.

* First Name:

Thomas

Middle Name:

B.

* Last Name:

Bakaly

Suffix:

* Title:

City Manager

* Telephone Number:

435-615-5180

Fax Number:

435-615-4901

* Email:

tbakaly@parkcity.org

* Signature of Authorized Representative:

Nate Rockwood

* Date Signed:

01/19/2012

Application for Federal Assistance SF-424

Version 02

*** Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB
0348-0046

1. * Type of Federal Action: ☐ a. contract ☒ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. * Status of Federal Action: ☐ a. bid/offer/application ☒ b. initial award ☐ c. post-award	3. * Report Type: ☒ a. initial filing ☐ b. material change
--	--	--

4. Name and Address of Reporting Entity:
☒ Prime ☐ SubAwardee
 * Name
 * Street 1 Street 2
 * City State Zip
 Congressional District, if known:

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

6. * Federal Department/Agency: Bureau of Reclamation	7. * Federal Program Name/Description: WaterSMART (Sustaining and Manage America's Resources for Tomorrow) CFDA Number, if applicable: 15.507
8. Federal Action Number, if known: 	9. Award Amount, if known: \$

10. a. Name and Address of Lobbying Registrant:
 Prefix * First Name Middle Name
 * Last Name Suffix
 * Street 1 Street 2
 * City State Zip

b. Individual Performing Services (including address if different from No. 10a)
 Prefix * First Name Middle Name
 * Last Name Suffix
 * Street 1 Street 2
 * City State Zip

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* Signature:
 * Name: Prefix * First Name Middle Name
 * Last Name Suffix
 Title: Telephone No.: Date:

Printed Name
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ATTACHMENTS FORM

Instructions: On this form, you will attach the various files that make up your grant application. Please consult with the appropriate Agency Guidelines for more information about each needed file. Please remember that any files you attach must be in the document format and named as specified in the Guidelines.

Important: Please attach your files in the proper sequence. See the appropriate Agency Guidelines for details.

1) Please attach Attachment 1	2012 Grant Proposal_RWM_0116	Add Attachment	Delete Attachment	View Attachment
2) Please attach Attachment 2	RESOLUTION.pdf	Add Attachment	Delete Attachment	View Attachment
3) Please attach Attachment 3	Irrigation Filter Station Co	Add Attachment	Delete Attachment	View Attachment
4) Please attach Attachment 4	ATTACHMENT IV-BUDGET NARRATIV	Add Attachment	Delete Attachment	View Attachment
5) Please attach Attachment 5	Conservation Plan 2009.pdf	Add Attachment	Delete Attachment	View Attachment
6) Please attach Attachment 6	PH2B_RWL_Map_Alignment Option	Add Attachment	Delete Attachment	View Attachment
7) Please attach Attachment 7	PH2B_RWL_Map_Alignment Option	Add Attachment	Delete Attachment	View Attachment
8) Please attach Attachment 8	PC RWL AND FILTER STATIONS.pd	Add Attachment	Delete Attachment	View Attachment
9) Please attach Attachment 9	Micro-Hydropower QJWTP Site	Add Attachment	Delete Attachment	View Attachment
10) Please attach Attachment 10	Micro-Hydropower QJWTP Site	Add Attachment	Delete Attachment	View Attachment
11) Please attach Attachment 11	Micro-Hydropower QJWTP Facil	Add Attachment	Delete Attachment	View Attachment
12) Please attach Attachment 12	WaterSmart Grant - Project S	Add Attachment	Delete Attachment	View Attachment
13) Please attach Attachment 13		Add Attachment	Delete Attachment	View Attachment
14) Please attach Attachment 14		Add Attachment	Delete Attachment	View Attachment
15) Please attach Attachment 15		Add Attachment	Delete Attachment	View Attachment

BUDGET INFORMATION - Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$ 0.00	\$	\$ 0.00
2. Land, structures, rights-of-way, appraisals, etc.	\$ 0.00	\$	\$ 0.00
3. Relocation expenses and payments	\$ 0.00	\$	\$ 0.00
4. Architectural and engineering fees	\$ 551,169.00	\$	\$ 551,169.00
5. Other architectural and engineering fees	\$ 0.00	\$	\$ 0.00
6. Project inspection fees	\$ 0.00	\$	\$ 0.00
7. Site work	\$ 224,000.00	\$	\$ 224,000.00
8. Demolition and removal	\$ 0.00	\$	\$ 0.00
9. Construction	\$ 1,688,429.00	\$	\$ 1,688,429.00
10. Equipment	\$ 508,863.00	\$	\$ 508,863.00
11. Miscellaneous	\$ 0.00	\$	\$ 0.00
12. SUBTOTAL (sum of lines 1-11)	\$ 2,972,461.00	\$ 0.00	\$ 2,972,461.00
13. Contingencies	\$ 448,408.00	\$	\$ 448,408.00
14. SUBTOTAL	\$ 3,420,869.00	\$ 0.00	\$ 3,420,869.00
15. Project (program) income	\$	\$	\$ 0.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 3,420,869.00	\$ 0.00	\$ 3,420,869.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X 40 %		
			\$ 1,368,347.60

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Standard Form 424C (Rev. 7-97)
Prescribed by OMB Circular A-102

ASSURANCES - CONSTRUCTION PROGRAMS

OMB Number: 4040-0009
Expiration Date: 06/30/2014

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

* SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	* TITLE City Manager
* APPLICANT ORGANIZATION Park City Municipal Corporation	* DATE SUBMITTED 01/19/2012

SF-424D (Rev. 7-97) Back

City Council Staff Report



Author: Heinrich Deters
Subject: Sale of City-Owned Property Adjacent
To Claimjumper Court
Date: February 2, 2012
Type of Item: Administrative

Sustainability

Summary Recommendation –

Staff recommends Council approve the sale of a remnant parcel, located in the Claimjumper Court neighborhood to the adjacent property owner.

Topic: Sale of City-owned property

Background:

On February 10, 2011, Council directed staff to move forward with the sale of three city-owned remnant parcels to property owners who live directly in front of the parcels. A fourth parcel, THA-73-X, was identified for sale, but at the time, the adjacent property owner was not able to be contacted. (Exhibit A)

On June 2, 2011, staff returned to Council to formalize the sale of the three parcels through individual quit claims. However, staff was still unable to contact the adjacent property owner to parcel THA-73-X.

On December 15, 2011, Dave Donegan, the current owner of Lot 73 Thaynes Canyon Subdivision, contacted staff in regards to a discussion he had with a neighbor about the previous sale of the City's remnant parcels. Mr. Donegan, who acquired ownership of Lot 73 in August of 2011, expressed interest in purchasing the parcel during the conversation. It should be noted that staff was using Summit County GIS ownership records, which unfortunately had not been updated to reflect the ownership change in August. Staff apologized to Mr. Donegan for the confusion and confirmed his ownership of the property through additional Summit County records.

Staff quoted Mr. Donegan, \$653.50 for the 1,307 sq/ft parcel, based on the Council approved appraisal of \$.50 sq/ft. (Exhibit B)

Analysis:

Staff is following Council's direction to move forward with the sale of the remaining remnant parcel identified in the February 10 and June 2, 2011 Council meetings.

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

Alternatives:

- A. Approve the sale of the City-owned remnant parcel THA-73-X in the form of the attached Quit Claim**
- B. Modify the request: Council could choose to modify the sale.
- C. Deny the request: Council could choose to not sell the parcel.
- D. Continue the Item: Council may feel there is not enough information to make a decision.
- E. Do Nothing: Same effect as continuance.

Significant Impacts:

All City-owned property comes with certain maintenance requirements. Remnant parcels, with no access or open space value, may only burden City resources in terms of maintenance.

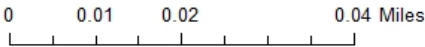
Staff Recommendations:

Staff recommends Council approve the sale of the City-owned remnant parcel THA-73-X, to the adjacent property owner and provide the Mayor to execute the Quit Claim Deed. (Exhibit C)

Exhibits:

Exhibit A – Location Aerial
Exhibit B- Plat Map
Exhibit C- Quit Claim Deed

Claimjumper Remnant Parcel



E

Exhibit A – Aerial Location

[illegible]

Exhibit C- Quit Claim Deed

When Recorded, return to:
Dave Donegan
57 Thaynes Canyon Drive
Park City, UT 84060

Quit Claim Deed

PARK CITY MUNICIPAL CORPORATION, P. O. Box 1480, Park City UT 84060, a municipal corporation and a political subdivision of the State of Utah, as Grantor, hereby quitclaims to Dave Donegan, as Grantee for the good & valuable consideration, the following described property in Summit County, State of Utah, to wit:

**LOT 73, ADDITION TO THAYNES CANYON SUBSEC8T2SR4E, SLBM, CONT
1307 SQ FT
LOT THA-73-X**

The use of the lot THA-73-X shall be restricted and limited to only landscaping, private recreation facilities and fencing.

There may be no construction, erection or maintenance of any building for use of a primary dwellings on the said lot but the construction of garages and other ancillary buildings may, at the discretion of the City, permitted, provided further, however, that a conditional use permit is first obtained from the City.

DATED this 2nd day of February, 2012.

PARK CITY MUNICIPAL CORPORATION

By: _____
Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to Form:

Mark D. Harrington, City Attorney

City Council Staff Report



Subject: Assignment of and Amendment to the Osguthorpe Conservation Easement
Author: Heinrich Deters
Department: Sustainability
Date: February 2, 2012
Type of Item: Property Ownership

Summary Recommendations: Staff recommends Council review and approve: 1) a limited assignment of the Osguthorpe Conservation Easement to SBSRD; and 2) amendments to the Osguthorpe Conservation Easement.

Topic/Description: Staff proposes that the Council consider the following topics:

1. Does Council wish to approve an assignment of the Osguthorpe easement to recognize rights and enforcement of Snyderville Basin Special Recreation District ("SBSRD") proportionally to its financial contributions?
2. Whether to approve other amendments to the easement suggested by Summit Land Conservancy ("SLC").

Background:

In February of 2010, City Council approved an Agreement for Conveyance of a Conservation Easement Deed between the Afton Osguthorpe Sheltered Trust, Summit Land Conservancy and Park City Municipal Corporation in the amount of \$5,750,000. Park City Municipal provided \$4,750,000 initially for the easement from open space funding sources, with an additional \$1,000,000 to be paid by Summit Land Conservancy by February 12, 2012.

Summit Land Conservancy requested funding from the Basin Open Space Advisory Committee in June of 2011 and again in December of 2011. A total of \$450,000 was approved by the Snyderville Basin Special Recreation Board on December 15th, 2011, conditioned with the acknowledgement of the District as having an interest in the property and confirmation that the public trails in Round Valley are available to Basin residents. (Exhibit A- Snyderville Basin Special Recreation District Funding Letter Approval)

Analysis:

Basin Open Space Funding Condition

Snyderville Basin Open Space bond funding require acknowledgement of ownership and thus the realization of an asset on all bond expenditures. Therefore, it is paramount to name the District as a percentage owner in the Osguthorpe Conservation Easement.

The amendment to the Conservation Easement reflects the financial contribution of Snyderville Basin Open Space funds proportionally allocated to the easement – 7.89%.

Alternatives:

- A. Approve: City Council approve the amendments to the Osguthorpe Easement.
- B. Modify the request: Council could choose to modify the amendments.
- C. Deny the request: Council could choose to not approve the amendments.
- D. Continue the Item: Council may feel there is not enough information to make a decision, and have staff return with more information.
- E. Do Nothing: Same effect as continuance.

Significant Impacts

If Council should choose to deny acknowledging Snyderville Basin Special Recreation District as an owner in the Osguthorpe Conservation Easement, it could jeopardize the \$450,000 contribution.

Departmental Review

This report has been reviewed by the Sustainability Team, Budget Department, Legal Department and City Manager.

Staff Recommendations:

City Council should approve the assignment and amendments as attached.

Attachment A- Amended Osguthorpe Conservation Easement



WE SAVE LAND

Summit Land Conservancy Board Resolution January 18, 2012

WHEREAS, the Summit Land Conservancy ("Conservancy") and Park City Municipal are co-holders of a Conservation Easement on the Osguthorpe 120 Acre ranch in Round Valley which has been duly recorded in the land records of Summit County, (the, "Easement") and

WHEREAS, the Conservancy agreed in February 2010 to put forth its best efforts to raise the remaining \$1,000,000 of the purchase price for the Easement, and

WHEREAS, Snyderville Basin Recreation District, an Agency of Summit County, has agreed to grant \$450,000 to the Conservancy to be applied in partial payment of the remaining balance of the \$1,000,000 of the Easement purchase price, upon the condition that the Easement be amended so that Summit County will have an interest in the Easement proportional to its contribution towards the Easement purchase price (\$5,700,000) or 7.89%, and

WHEREAS, the Conservancy has reviewed its Amendment Policy and determined that the proposed amendment does not result in an impermissible private benefit or private inurement, and

WHEREAS, the Conservancy has been advised by counsel that the proposed amendment to the Easement will facilitate better protection of the Conservation Values of the Easement and the correction of non-material drafting errors in the Easement as recorded in February 2010.

NOW, THEREFORE IT IS HEREBY,

RESOLVED, that the following amending provisions to the Easement be and they hereby are approved:

1. the grant to Summit County or an instrumentality thereof of a 7.89% interest in the Easement upon payment of the sum of \$450,000 towards the full purchase price of the Easement of \$5,700,000;
2. the deletion of "extinguishment" as a possible remedy from Paragraph 8A;
3. the inclusion of an additional statement in Paragraph 18 that prohibits any amendment to the Easement which may result in impermissible private benefit or private inurement; and
4. the correction of any scrivener's errors or other non-material drafting errors that are not inconsistent with the purposes and intents the Easement



WE SAVE LAND

And further:

RESOLVED, that the Board Chair or Executive Director be, and each of them hereby is, authorized and empowered to execute an amendment to the Easement or a Restatement of the Easement containing the terms and condition set forth above, in such form as has been reviewed by counsel to the Conservancy; the execution thereof by such officer to be conclusive evidence of the approval of the Board, and further

RESOLVED, that the Board Chair or the Executive Director be, and each of them hereby is, authorized and empowered to execute and deliver such additional documents or instruments as may be necessary to carry out the purposes and intents of the foregoing resolution.

Approved at a meeting of the Board of Trustees
January 18, 2012


Cheryl Fox
Board Secretary

Exhibit A- Snyderville Basin Special Recreation District funding approval letter



December 15, 2011

Summit County Council and Manager
P.O. Box 128
Coalville, UT 84017

Summit County Council and Manager:

At their meeting on December 13, 2011 the Basin Open Space Advisory Committee (BOSAC) recommended an allocation of an additional \$150,000 toward the acquisition of the Osguthorpe 120 conservation easement on the south side of Round Valley. This reflects a recommended total one time contribution of \$450,000 utilizing Open Space bond fund authorized by voters of the Basin Recreation District in the 2010 election.

At the SBSRD Board meeting on Wednesday, December 14, the Basin Recreation Board restated their motion of June 22, 2011, and reaffirmed the recommendation of BOSAC to contribute a total of \$450,000, as follows:

MOTION: To affirm the District's recommendation of June 22, 2011 at which time the Basin Recreation Board reviewed the request from Summit County Land Conservancy to contribute towards a conservation easement on the Osguthorpe 120 parcel for \$600,000. The Basin Recreation Board voted to support BOSAC's recommendation of a contribution of \$300,000, however the Basin Recreation Board's recommendation provided for an additional \$150,000 contribution if there are funds remaining after other subject priority parcels are acquired. The contribution is contingent on an amendment to the conservation easement to establish a SBSRD interest in the property, and that a management plan for the entire Round Valley area be developed with input from Summit County. [Perry/Stinson] All in favor: Jay Burke, Tracey Douthett, Ramon Gomez, Jr., David Kottler, Jim Magruder, Ron Perry, Marilyn Stinson. None Opposed. Absent: None. Motion carries.

The District Board requests that the Summit County Council, acting in its capacity as the Governing Board of the District, support the recommendation of BOSAC and Basin Recreation when authorizing an additional \$150,000 of 2010 Open Space Bond Funds for a total contribution of \$450,000. The District has budgeted sufficient funds in 2012 for this contribution and will work with Summit Land Conservancy and Park City to ensure an amendment to the conservation easement reflects the District's financial interest.

Best Regards,

Rena Jordan, District Director
Snyderville Basin Special Recreation District

5715 Trailside Drive
Park City, UT 84098
www.basinrecreation.org