

**PARK CITY COUNCIL WORK SESSION
SUMMIT COUNTY, UTAH
JUNE 15, 2006**

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Eric DeHaan, City Engineer; Gary Hill, Budget Manager; Max Paap, Special Events Director

1. Council questions/comments – Marianne Cone reported that the Alternative Transportation Committee was very active and may lobby UDOT for funding to hire someone for a “Safe Routes to School” program. She requested that Candace Erickson work with Utah League of Cities and Towns to urge UDOT to fill the position. She announced that the Public Art Advisory Board needed four new members. She attended the Planning Commission meeting to listen to the Park Bonanza and Annexation hearing.

Candace Erickson attended the pandemic flu conference along with several City Staff members. Because Park City is an international destination depending on a tourist economy, we need to establish ways to set reasonable expectations for providing work force. The Board of Health wants to work with agencies to set reasonable expectations for response.

Roger Harlan attended the Mountainlands Housing Trust meeting. They are hoping to finish the first set of eight units in early July. He and Jim Hier attended the Park City Heights Task Force meeting. He noted although construction is underway for the Snow Creek wine store, but all businesses are accessible. He also announced the historic home tour slated for the week-end

Jim Hier expanded on the goals of the Park City Heights Task Force. They will establish guidelines to include planning for the potential of receiving additional affordable housing density from other areas, without having that specifically defined; determine zoning, density and affordable housing requirements for the project itself; conduct traffic study and analysis of impact on overall 248, including traffic and cost sharing responsibilities.

Mr. Hier noted the Planning Commission reviewed a number of significant issues, including IHC annexation and Talisker Montage proposal. He has just returned from southern Florida, where he observed the main issues discussed by local media were affordable housing, traffic, and consumption of open and wetlands by developers; the same general topics Park City is discussing.

Mayor Dana Williams reported meeting with Carol Potter who wanted to sponsor a once monthly alternative transportation day, which he believed Council would support.

Mayor Williams will be participating in a Global Warming Initiative Rally at the Gallivan Center on Saturday and asked if Council would be willing to endorse their initiative, which he read into the record. *"On behalf of Park City, we would be delighted to enthusiastically endorse Utah Global Warming Initiative that has been developed by the Utah Chapter of the Sierra Club. Park City recognizes the significance of addressing the issues of global warming and climate change as an entity on which our very existence is dependent on tourism, world class scenery, and unlimited recreation opportunities, taking the immediate necessary steps to tackle these critical issues is simply the right thing to do; actions that we take today will ensure those opportunities will exist tomorrow."*

Marianne Cone supported exploring the issues.

Jim Hier announced that the County Clerk is short of election judges for the June 27 Primary Elections for the entire Basin area.

Special Events Director Max Paap Max announced that the Tour of Utah was considering major logistical changes. He requested that review of the Master Festival Permit be continued to June 29, 2006.

2. Outstanding budget issues

Gary Hill, Budget Manager noted Council is scheduled to adopt the budget at the regular meeting. He reviewed several changes to the budget since May 4. There is an increase to the Tennis Budget packet for approximately \$3,000, to advance an Office Assistant position from grade 1 to grade 2, The City Manager salary line was adjusted to reflect pay determined by Council in the last review; however, there is no budget impact. An adjustment was made to increase the mitigation payment made annually to the School District for RDAs. There were adjustments to Fund 12, Ice Arena, to reflect revenue received from RAP Tax to offset operating costs. The fleet fund was increased approximately \$22,500 due to additional unanticipated expenditures. He addressed proposed staffing changes in the Legal Department, which involve reclassification of the Deputy City Attorney, and funding for a contract prosecutor, which will free up time for City Attorney Mark Harrington to become more involved in personnel issues.

Mr. Hill also discussed capital project changes which reflect adjustments based on grant revenue receipts as well the sale of City-owned property. The transfer from general fund provides additional funding for the Town Plaza Project and the Walkable Communities Study. He reported that Council Compensation and Statutory Officers' Salaries would be adopted by Ordinance on June 29, 2006.

Page 3
City Council Work Session
June 15, 2006

Jim Hier suggested that \$50,000 be added to the Walkable Communities Study to incorporate a comprehensive traffic analysis. Candace Erickson concurred, although she felt they needed to determine how much such a study would cost. She wanted to incorporate information on traffic movements that was compiled for Flagstaff, Quinn's, PCMR, and other current projects. City Engineer DeHaan suggested putting a placeholder in the budget and Staff could return with a scope of work for Council's review. Council members concurred.

Joe Kernan requested that a 2% compensation increase be included for those who report directly to Council. Gary Hill clarified they would change the budget to make the 2% increase consistent across all positions.

Council adjourned work session to conduct interviews for Historic Preservation Board and Planning Commission.

Prepared by Sharon Bauman, Analyst II

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 15, 2006**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at 6:00 p.m. at the Marsac Municipal Building on Thursday, June 15, 2006. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly City Manager; Mark Harrington, City Attorney; Eric DeHaan, City Engineer; David Maloney, Planner; Ron Ivie, Chief Building Official; Michelle Downard, Code Enforcement Officer; Gary Hill, Budget Manager; Pace Erickson, Public Works Operations Manager

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

City Engineer Eric DeHaan reported that UDOT will repair the intersection at Deer Valley Drive and Park Avenue. Private construction is occurring at Crescent Tram between Park and Woodside Avenues. Construction related to water line installation for Red Cloud is occurring on the Guardsman Pass Road.

Joe Kernan announced his recycling business can be impacted by the Business License Fees.

Marianne Cone thanked retiring Library Board Members Kate Doordan, Carol Agle and Chris Haerter.

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

Carol Potter, Mountain Trails Foundation, requested Council's support for a monthly alternative transportation day, which will be called "Last Fridays." Council members supported her idea.

Mayor Dana Williams thanked Eric Nessett, and the Public Works Staff, for effecting the conversion of the transportation fleet to bio-diesel fuel in early July.

Kathy Dopp, voting rights activist, stated she had mischaracterized a statement made by Dave Thomas and submitted a replacement page for her prior handout. She reviewed a report by Avi Rubin about the security voting machines and the need for proper independent, manual audits to protect against incorrect results. She asked Mark Harrington for his legal opinion on Mr. Thomas's opinion.

City Attorney Mark Harrington stated he had reviewed the opinion, but had not researched it. This is a County election, under the County's jurisdiction, and the City is at the will of the County's interpretation. He stated Mr. Thomas did a good job

describing the lack of clarity in State statutes and provided the Commission with a range of options.

Ms. Dopp requested Council's support to help ensure accurate vote counts in Summit County.

Tony Oros, concerned motorcyclist, expressed worry about the safety of pedestrians, joggers, bicyclists and motorcyclists on the road, with the proliferation of cell phone use in traffic. He quoted studies saying there was a 50% reduction in processing visual information when driving and talking on cellular phones. He relayed a conversation with a Park City Police Officer who said 50% of the tickets he issued for speeding, running red lights, and careless driving, were caused by cell phone use. He supported regulations against cell phone usage while driving.

Representative Davis Ure, who was visiting the Council session, commented there were many other causes for driver distraction; however, people were more focused on cell phones.

Council members requested information regarding enacting such laws in Park City. City Attorney Mark Harrington responded the Staff would provide options and noted studies would provide a background to understand where distraction levels come into effect.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 1, 2006

Roger Harlan "I move approval of the Work Session Notes and Minutes of the Meeting of June 1, 2006, as corrected". Marianne Cone seconded. Motion unanimously carried.

Marianne Cone	Aye
Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Abstained
Joe Kernan	Aye

V CONSENT AGENDA PUBLIC HEARINGS

1. Property exchange agreement with the Park City Fire Service District: Purchase of 1333 and 1353 Park Avenue in the amount of \$1.5 million from the Park City Fire Service District and Donation of a municipally-owned parcel located at 2360 Holiday Ranch Loop to the Park City Fire Service District

Marianne Cone "I move approval of the Work Session Notes and Minutes of the Meeting of June 1, 2006, as requested". Candace Erickson seconded. Motion unanimously carried.

2. MFL - Tour of Utah – Saturday August 12 - 9 a.m. to 10 a.m.

Roger Harlan “I move to continue MFL, Tour of Utah, to the meeting of June 29, 2006 as requested”. Joe Kernan seconded. Motion unanimously carried.

3. Continuation of hearing on Ordinance approving the Roth Family subdivision combining Lot 34 and Lot 35 of the Aerie Subdivision, Phase 1, located at 1560-1566 Aerie Drive, Park City Utah – David Maloney, Planner, explained the plat amendment would combine two lots owned by the Roth Family, and would preserve open space near their existing house.

Mayor Williams opened the public hearing. Hearing no input, the hearing was closed.

2. Ordinance adopting amendments to Title 11, Building and Building Regulations, creating the Administrative Code Enforcement Hearing Program; and, amendments to Title 15, Land Management Code, Chapter 15-14-5 Zoning Administration Penalties and Enforcement, of the Municipal Code of Park City.

Chief Building Official Ron Ivie explained an administrative hearing program would provide the City with an alternative to prosecute enforcement violations under a civil process rather than the criminal process. One big benefit is that the City will retain penalty monies. He wished to recognize the research and hard work Michelle Downard had put into the development of this ordinance, especially making in “Park City-like” in terms of public service needs. He stated the Planning Commission unanimously passed the amendments on Wednesday night.

Michelle Downard added the administrative process can hold the responsible property owner accountable, but it doesn’t necessarily result in a criminal history unless they have to pursue it that way.

Mayor Williams opened the public hearing.

Mike Sweeney, property owner, had a number of questions for which he sought clarification, and he expressed his concerns about possible conflicts with other City Codes. He clarified with Staff that the provisions may be applied to all violations of City code and applicable State codes. Mr. Ivie and Mr. Harrington explained this did not expand code enforcement jurisdiction, nor did it invalidate any other application section of the code.

Mr. Sweeney stated the City could file both civil and criminal charges for the same day of violation and asked how a citizen would know whether he was going to be charged civilly or criminally. Mr. Harrington explained the City has discretion to pursue either civil and/or criminal prosecution and those would be handled on a case-by-case basis.

Mr. Sweeney asked what rights a citizen gave up by allowing the City determine whether it was a civil or criminal procedure. Mr. Harrington stated personal rights were not diminished and one would have the ability to challenge a decision in court.

Mike Sweeney questioned references to Class B misdemeanors and Class C misdemeanors and requested clarification whether it trumps or preempts other sections of the Code that talk about Class C misdemeanors. . Mark Harrington responded that some other sections may not be current with changes to State code and he would check.

Mr. Sweeney asked what qualifications would be required of an administrative judge who would hear the cases and whether the City Attorney would have input as qualifications were developed. Mr. Harrington explained his office would review job descriptions and contracts, however, would not supervise that person.

Mike Sweeney referred to inspections, entries, examination and surveys that shall be performed based on cause and asked whether the responsible person was the tenant, landlord, or owner. Mr. Harrington stated it did not change search capability under both the International Building Code and constitutional Fourth Amendment principles. Either the City had reasonable cause to obtain a search warrant or it didn't. Some of those rights would be delineated in private contracts in terms of landlord/tenant, but the City's right to enter a property would be based on its determination.

Mr. Sweeney asked if Council would review and approve the civil fees that have not yet been created. Ron Ivie stated it would become part of the Fee Resolution which Council would review and adopt.

Mike Sweeney expressed concern about daily accumulation of civil fees until the property has been inspected and a Notice of Compliance issued. Both Mr. Ivie and Mr. Harrington explained that once the citation is issued and the notice period expired, fees would be assessed until the situation was corrected. Mr. Sweeney felt this meant one was guilty before they had their day in court. He wondered whether the owner might be held liable for emergency abatement procedures and asked how the City would assess those fees. Mr. Ivie stated it may well go to the owner, depending on circumstances, but it would not be any different than current practice.

Mr. Sweeney asked how citizens would be advised of their right to a hearing. Mr. Ivie explained that Staff would proceed with additional steps, upon Council's authorization to proceed with the Administrative Hearing process. Forms will be developed, fees will be established, and hearing procedures will be written.

Mr. Sweeney asked if this would require a citizen to do anything they wouldn't be required to do currently. Attorney Harrington stated this is an alternative process intended to have less impact than criminal procedures, which risk permanent records and deprivation of freedoms. He stated this is a friendlier version of enforcement in terms of balancing efficiency with prompt enforcement.

Mike Sweeney asked if there were conflicts with procedures currently enforced by the Building Official. Mark Harrington did not believe this represented a change in the department's enforcement policy. The general philosophy will typically be the same and Mr. Ivie will provide opportunities for cure before initiating the civil process. He added that if someone is given a civil order and doesn't comply, they will be subject to the criminal process.

Attorney Harrington made a clarification that civil fees will be assessed as approved by the City.

VI CONSENT AGENDA

Joe Kernan "I move approval of Consent Agenda Items 2 through 4". Marianne Cone seconded. Motion unanimously carried. The motion was unanimously approved.

1. MFL - Tour of Utah – Saturday August 12 - 9 a.m. to 10 a.m. – continued to June 29, 2006
2. Ordinance approving the Roth Family subdivision combining Lot 34 and Lot 35 of the Aerie Subdivision, Phase 1, located at 1560 – 1566 Aerie Drive, Park City, Utah
3. Ordinance adopting amendments to Title 11, Building and Building Regulations, creating the Administrative Code Enforcement Hearing Program; and, amendments to Title 15, Land Management Code , Chapter 15-14-5 Zoning Administration Penalties and Enforcement, of the Municipal Code of Park City.
4. Authorization for the City Manager to enter into agreements, in a form approved by the City Attorney, with Intermountain Slurry Seal for slurry seals in the amount of \$182,443.89; Kilgore Paving for crack seal in the amount of \$45,870.00; and Rivas Construction for utility adjustments in the amount of \$55,258.00

VII PUBLIC HEARING

1. Resolution adopting a final revised budget for fiscal year 2006 and a final budget for fiscal year 2007 for Park City Municipal Corporation and its related agencies and authorizing the computation of the property tax rate at a no tax increase rate

Budget Manager Gary Hill requested that Council hold a public hearing and adopt the budget consistent with direction given during work session.

Mayor Williams opened the public hearing. Mike Sweeney expressed thanks to Council and Staff for their hard work throughout the budgetary process. He felt they should be highly commended. With no further input, the hearing was closed.

VIII NEW BUSINESS

1. Resolution adopting a final revised budget for fiscal year 2006 and a final budget for fiscal year 2007 for Park City Municipal Corporation and its related agencies and authorizing the computation of the property tax rate at a no tax increase rate

Marianne Cone "I move approval of the Resolution adopting a final revised budget for fiscal year 2006 and a final budget for fiscal year 2007 for Park City Municipal Corporation and its related agencies and authorizing the computation of the property tax rate at a no tax increase rate". Roger Harlan seconded. Motion unanimously carried.

IX ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned at 7:08 p.m.

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.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:00 p.m. Members in attendance were Mayor Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; and Mark Harrington, City Attorney. Roger Harlan "I move to close the meeting to discuss property, personnel and litigation". Candace Erickson seconded. Motion carried unanimously.

The meeting opened at 4:00 p.m.

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

Prepared by Sharon C. Bauman

City Council Staff Report



Author: Max J. Paap
Subject: Tour of Utah
Date: June 15, 2006
Type of Item: Administrative – Master Festival License

Special Events and
Facilities Department

Summary Recommendations:

Review the Master Festival License application, conduct a public hearing, and consider approving the license for the Tour of Utah, as conditioned, on August 12, 2006 to be held on SR 224 and SR 248.

Description:

A. Topic:

Review the Master Festival License Application, submitted by Three Peaks Promotions, for the Tour of Utah on August 12, 2006.

B. Background:

The Tour of Utah, produced by Three Peaks Promotions, is scheduled for August 7 through 12, 2006. The event holds a cycling race each day at a different location in order to showcase specific Utah towns and areas. The event is in its first year and plans to increase the ridership in 2007 to include national teams and will spread the race locations throughout the state. The template for this event is similar to the Tour of Georgia and Tour of California.

The races in 2006 will be focused around the Salt Lake area with one stage on Saturday, August 12th going through Park City. The proposed route would start racers in Salt Lake City. The racers would ride up through Emmigration Canyon, continue Eastbound on I-80 and travel through Park City South on SR 224 and east on SR 248. The racers would ride south on Hwy 40 through Midway and onto Hwy. 189. The racers would proceed on the Alpine scenic hwy descend and wind through Salt Lake area and finishing at the top of Little Cottonwood Canyon. Saturday's race is a total of 110 miles.

The route involves state roads and municipalities with whom the organizers are working closely with all parties. The racers will be escorted by Utah Highway Patrol, and they will be followed by team cars and broom wagon. Through the logistic planning the organizers have not looked at street closures during the race, just the temporary holding of traffic for a total of 15 minutes as the racers move through Park City.

C. Analysis:

Tour of Utah

The event takes place in Park City on Saturday, August 12, 2006. The start and finish of the race takes place outside of Park City.

The race organizers anticipate the racers to ride through Park City between 9:00 am and 10:00 am. The traffic along SR 224 and SR 248 will be required to pull over at that time, and volunteers will be placed along all driveways onto those roads to prevent vehicles from entering as the racers go by.

The proposed roads are owned by the State of Utah and the organizers are working with the state organizations to obtain all required permits.

Mustang Roundup

Staff has taken into consideration the Northern Utah Mustang Owners Association car show on Main Street beginning the morning of Saturday, August 12, 2006. The show entrants will begin to arrive on Main Street at 7:00 am to start to stage the show cars. The event will open at 10:00 am and run through 3:00 pm that afternoon.

Due to the fact that the events take place in separate areas of town, times of the events and that the traffic hold will be 15 minutes or less for the cycling event, staff does not envision any concerns with traffic.

Parking

The China Bridge Parking Structure and surface parking along Swede Alley should accommodate car show spectators at that time of day. Parking for the Tour of Utah spectators can be spread out along the course as they enter on SR 224 and depart along SR 248.

Utah Symphony

The Utah Symphony will perform at the Snow Park Lodge Amphitheatre beginning at 7:30 pm on Saturday, August 12, 2006. Concert goers will begin to arrive around 6:30 pm and have adequate parking in the lower Deer Valley parking lots. The event will conclude by 10:00 pm.

Jupiter Peak Steeplechase

The Jupiter Peak Steeplechase will be run at Park City Mountain Resort beginning at 7:00 am and finishing by 1:00 pm on Saturday, August 12, 2006. Parking for the participants can be accommodated in the PCMR First Time parking lot.

D. Department Review:

All applicable departments have reviewed the Tour of Utah and their comments have been incorporated into the report.

E. Alternatives:

Approve the Request:

Approve the Master Festival License allowing the Tour of Utah to occur as described.

Deny the Request:

Deny the Master Festival License, preventing the addition of the Tour of Utah to Park City's schedule of events.

Continue the Item:

The City Council may continue the discussion in order to receive additional information

Significant Impacts:

Park City has held a similar event to the Tour of Utah. The activities will be contained along the specified route venue and will conclude by 10:00 am.

Consequences of not taking the recommended action:

The Tour of Utah would not take place in Park City.

Recommendation:

Staff recommends the City Council conduct a public hearing, and approve a Master Festival License for the Tour of Utah on August 12, 2006 based on the following Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact:

1. The event will run its stage through Park City on August 12, 2006. The riders will enter Park City on SR 224 and exit out of town on SR 248. The anticipated time of arrival in Park City will be between 9:00 am and 10 am.
2. Both public and private lots along the race course will accommodate parking for the anticipated crowd size throughout the duration of the event. No shuttle transportation is needed for attendees of this race. During the event traffic will be held for no more than 15 minutes. The conduct of the Tour of Utah will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
3. The Tour of Utah is oriented towards families, as well as avid bicyclists. The events associated with the Tour of Utah will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. No street will be closed to traffic during the event. The motorists will be temporarily for no more than 15 minutes. The event will not interfere with police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. Master Festival or Special Event licenses have been granted for the Mustang Round-up, Utah Symphony and the Jupiter Peak Steeplechase on August 12, 2006. The Tour of Utah will not substantially interfere with the logistics and venue for the Jupiter Peak Steeple Chase, Utah Symphony, and the Mustang Round-up based on the following Findings of Fact:
 - a. The Mustang Round –up will take place on Main Street. The Utah Symphony will perform at the Snow Park Amphitheatre. All events on those days are located at Deer Valley Resort. The Jupiter Peak Steeplechase will be run at Park City Mountain Resort.
 - b. The times for the Mustang Round-up and the Jupiter Peak Steeplechase will overlap. Both events will be taking place in separate areas of town and will not take away draw from the other;

- c. The Mustang Round-up expects over 500 spectators, as well as 250 car owners. The Utah Symphony will see between 2,000 and 4,000 concert goers, depending on weather and act. The Jupiter Peak Steeplechase will have around 100 participants.
 - d. No public personnel or City services are required for the Mustang Round-up, Utah Symphony or the Jupiter Peak Steeplechase and therefore will not draw services from other areas of town required for the Tour of Utah; and,
 - e. The Mustang Round-up is located on Main Street. The China Bridge Parking Structure and surface parking along Swede Alley should accommodate car show spectators at that time of day. The Utah Symphony will have adequate parking in the lower Deer Valley lots. The Jupiter Pear Steeplechase has minimal parking impacts. Due to the anticipated size of the event adequate parking can be accommodated on site.
6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
 7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval

1. The applicant will work with Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.
2. Applicants shall provide proof of liability insurance in the amount of two million dollars (\$2,000,000) or more as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as additional insured. All Applicants shall further indemnify the City from liability occurring at the event except for any claim arising out of the sole negligence or intentional torts of the City or its employees.
3. All effected neighborhoods shall be notified at least 48 hours prior to the stage coming through Park City.
4. Signs shall be placed along the race routes no later than four days prior to the event notifying vehicles of expected delays.

Attachments

Exhibit A – Applicant's Summary of Activities

**PARK CITY MUNICIPAL CORPORATION
SPECIAL EVENT AND MASTER FESTIVAL LICENSE
EVENT APPLICATION-PART i**

A completed electronic copy submitted to the Special Events Department is required.



**Special Events and Facilities
Department**
435.615.5150
speialevents@parkcity.org

APPLICATION FORM

Part I of the application form (pages 1 and 2) must be completed and submitted to the Special Events Department no less than 90 days prior to a Master Festival or no less than 60 days prior to a Special Event. Part II of the application form (pages 3-6) which are more comprehensive, must be submitted 45 days before all events. Parts I and II of the application must be sent electronically to the Special Events Department at speialevents@parkcity.org. The application will be reviewed by the Special Events Department and compared to master calendar for date availability. Applicant must schedule a meeting with City Staff 30 days prior to the event to review logistics. Granting of the permit is not guaranteed.

EVENT NAME: Tour of Utah

EVENT DATE(S): August 12

EVENT TIME(S): 9:15-10:15AM

EVENT LOCATION(S): *Please describe in detail the exact location(s)*

Kilby Rd
Olympic Pkwy (SR 224)
Local Road
Olympic Pkwy (SR 224)
SR 224 (Thaynes Canyon Dr)
Snow Creek Dr
SR 248
SR 177 (SR 248)

ANTICIPATED ATTENDANCE: 100

EVENT DESCRIPTION: *Please describe in detail the activities associated with the event*

Cyclist will travel through Park city. They will be escorted by Utah Hiway Patrol, and they will be followed by team cars and broom wagon. They will travel through many cities through the course of the day. Saturdays race will travel over 110 miles.

APPLICANT: *(name of organization)* Three Peaks

CONTACTS

Event Manager: Scott Preston
Mailing Address: 121 W Settlement Circle Midvale Ut, 84047
Phone: 801-400-6129 Fax:
Cell Phone:
E-Mail: scott@tourofutah.com

Assistant Event Manager:
Mailing Address:

Phone:
Cell Phone:
E-Mail:

Fax:

TYPE OF EVENT: to be confirmed by the Special Events Department

☒ **Master Festival;** (If even one box is checked, the event is automatically a Master Festival)

A public event which any one of the following:

- ☐ attraction of large crowds, (Over 500)
- ☒ street closure,
- ☐ use of City park, building or property,
- ☐ use of off-site parking facility,
- ☐ use of amplified music.

☐ **Special Event;**

A private or public event, which creates significant public impacts through:

- ☐ causes significant public impacts via disturbance, crowd, traffic/parking,
- ☐ disruption of the normal routine of the community or affected neighborhood,
- ☐ necessitates temporary business or liquor licensing
- ☐ event signs, visible from public property
- ☐ temporary structures

CITY SERVICES

- request for street closure(s)? ☐yes ☒no
if yes, then list street(s) and closure time and date:
- request for closure of or access to any public parking spaces? ☐yes ☒no
if yes, then list lot and closure times and dates:
if yes, complete and attach Request for Special Use of Public Parking form.
- request for use of any City owned bleachers? ☒yes ☐no

SALES AND FOOD VENDING

- will there be beer, wine and/or liquor sales during the event? ☐yes ☒no
if yes, have you filed a Beer and Liquor License Application with Park City Finance Department? ☐yes ☒no
if yes, have you filed a Single Event or Temporary Beer Permit application w/ UDABC? ☐yes ☒no

APPLICATION FEES

All new applications require a \$100 processing fee, all applications for returning events require a \$50 application fee, due at the time of application. Additional fees for other services, including Health Department and Fire Department, will be estimated and provided to the applicant. A final bill for services will be delivered to the applicant approximately two weeks after the event concludes. Please remit application check to:

Park City Municipal Corporation
Attn: Special Events and Facilities
P.O. Box 1480
Park City, UT 84060

INSURANCE

Park City Municipal requires proof of liability insurance in the amount of two million dollars (\$2,000,000) or more, and applicant shall further name Park City Municipal Corporation as an additional insured. This must be submitted 10 days prior to the event.

City Council



Author: David Maloney
Address: 1560 / 1566 Aerie Circle
Subject: Roth Family Subdivision
Date: June 15, 2006
Type of Item: Plat Amendment

PLANNING DEPARTMENT

SUMMARY RECOMMENDATION: Staff recommends the City Council review the proposed Plat Amendment, hold a public hearing on the proposed plat amendment and approve 'The Roth Family Subdivision' according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the attached draft ordinance.

DESCRIPTION

Applicant: Richard W. Roth
Location: 1560 / 1566 Aerie Circle
Zoning: Single Family (SF)
Adjacent Land Uses: Residential

BACKGROUND

The applicant applied for a Plat Amendment on February 17, 2006 to combine Lot 34 and Lot 35 of the Aerie Subdivision. The application was deemed complete on February 28, 2006. The application was heard at the March 7, 2006 Staff Review meeting.

On April 26, 2006, the Planning Commission forwarded a recommendation to City Council to approve 'The Roth Family Subdivision'.

ANALYSIS

The City received an application for a Plat Amendment is to combine Lot 34 and Lot 35 of Phase 1 of the Aerie Subdivision. There is an existing house on Lot 35 with a footprint of approximately two thousand three hundred and forty six (2,346) square feet, while Lot 34 is vacant. Currently there is no maximum house size for this lot. Phase 1 of the Aerie subdivision is within the Single Family (SF) zoning district.

The existing Lot 34 has a total area of fourteen thousand, five hundred and eighty nine (14,589) square feet and Lot 35 has an area of fifteen thousand, four hundred and thirty seven (15,437) square feet. The proposed lot combination would result in a lot of approximately thirty thousand and twenty seven (30,027) square feet.

The setbacks in the SF zone are twenty (20) feet in the front (25 feet for front facing garages), fifteen (15) feet in the rear and twelve (12) feet on the sides. The

setbacks for the existing house are twenty eight (28) feet at the front, twenty (20) feet on the west side, and fifty six (56) feet at the rear. The existing side yard on the east is approximately fifteen (15) feet to the property line (between Lot 34 and Lot 35). This lot combination would result in an east side of about one hundred and eighty five (185) feet.

Within the SF zone, maximum house size and setbacks for combined lots are addressed in the Land Management Code (Chapter 15-2.11-6). There are no platted maximum house sizes in the Aerie subdivision. The maximum house size to be noted on the plat is six thousand (6,000) square feet above grade living space of which six hundred (600) square feet of garage space is exempt. The maximum house size for this lot was agreed upon by the applicant and the Aerie Subdivision Homeowner's Association. The intent of this maximum house size is to ensure that future site development will result in a house that is compatible with the Aerie Subdivision and the surrounding houses in particular.

Setbacks will be platted on this combined lot and shall be one hundred and fifty percent (150%) of the existing setback requirements, as per LMC 15-2.11-6B). The platted setbacks for the proposed lot are applicable for site development that occurs after the time of plat recordation, so long as the structure is considered to be a component of the principle building. These setbacks will also apply if the existing house is demolished and a new house is built. Current setbacks requirements within the SF zone are twenty (20) feet in the front (25 feet for front facing garages), fifteen (15) feet in the rear and twelve (12) feet on the sides. Setbacks for accessory buildings will be based on the existing Park City Municipal Code. The front yard setback for the proposed lot is to be thirty (30) feet for the main structure, and thirty seven point five (37.5) feet for a new front facing garage. The side yard setbacks is to be eighteen (18) feet, and the rear yard setback shall be twenty two point five (22.5) feet. All setback exceptions listed within LMC Chapter 15-2.11 (Single Family zoning district) shall continue to apply.

NOTICE

Notice of this hearing was sent to property owners within 300 feet on April 12, 2006. No comments have been received to date regarding this proposed plat amendment.

DEPARTMENT REVIEW

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State law prior to recording. The plat amendment request was discussed at a Staff Review meeting on March 7th, 2006, where representatives from local utilities and City Staff were in attendance.

ALTERNATIVES

- The City Council may approve the proposed plat amendment entitled 'The Roth Family Subdivision' with the conditions listed below; or
- The City Council may disapprove the proposed plat amendment entitled 'The Roth Family Subdivision' and direct Staff to prepare Findings for such a recommendation; or

- The City Council may continue the discussion on the 'The Roth Family Subdivision'.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION

If the recommended action is not taken, the applicant will not be permitted to combine Lot 34 and Lot 35 of the Aerie Subdivision, Phase 1.

SIGNIFICANT IMPACTS

There are no significant fiscal or environmental impacts associated with this plat amendment.

RECOMMENDATION

Staff recommends City Council hold a public hearing and approve the proposed plat amendment and according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance.

Ordinance No. 06-

**AN ORDINANCE APPROVING THE 'ROTH FAMILY SUBDIVISION'
COMBINING LOT 34 AND LOT 35 OF THE AERIE SUBDIVISION, PHASE 1,
PARK CITY, UTAH**

WHEREAS, the owner of the property known as 1560 and 1566 Aerie Circle, has petitioned the City Council for approval of a Subdivision; and

WHEREAS, proper notice was sent and the property posted according to requirements of the Land Management Code and State Law; and

WHEREAS, on April 26, 2006 the Planning Commission held a public hearing to receive public input on the proposed Subdivision and forwarded a positive recommendation of approval to the City Council; and

WHEREAS, on June 15, 2006 the City Council held a public hearing on the proposed subdivision; and

WHEREAS, the proposed Subdivision allows the property owner to establish 1 lot of record; and

WHEREAS, it is in the best interest of Park City Utah to approve the Subdivision.

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

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated as findings of fact. The following are also adopted by City Council as findings of fact:

1. The property is addressed as 1560 and 1566 Aerie Circle.
2. The subject lots are Lot 34 and Lot 35 of the Aerie Subdivision, Phase 1.
3. There is an existing house on Lot 35 with a footprint of approximately two thousand three hundred and forty six (2,346) square feet.
4. The plat amendment adjustment will result in the combination of Lot 34 and Lot 35 of the Aerie Subdivision, Phase 1.
5. The plat amendment will not leave any parcel of land remnant.
6. The Roth Family Subdivision will contain an area of thirty thousand twenty six point seven (30,026.7) square feet.
7. The lot will be accessed from Aerie Circle.
8. The existing house sits twenty eight (28) feet from the front property line, twenty (20) feet to the west property line, and fifty six (56) feet to the rear property line.
9. The existing side yard on the east is approximately fifteen (15) feet to the property line (between Lot 34 and Lot 35).
10. This lot combination would result in an east side yard of about one hundred and eighty five (185) feet.
11. Front yard setback requirements of thirty (30) feet for the main building and

- thirty seven point five (37.5) feet for front facing garages, will apply for all future site development.
12. Side yard setbacks will be eighteen (18) feet.
 13. Rear yard setbacks will be twenty two point five (22.5) feet.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby adopts the following Conclusions of Law:

1. There is good cause for this plat amendment.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. As conditioned the plat amendment is consistent with the Park City General Plan.

SECTION 3. CONDITIONS OF APPROVAL. The City Council hereby adopts the following Conditions of Approval:

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code, Conditions of Approval and state law regarding subdivisions is a condition precedent to recording the plat.
2. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
3. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
4. A note will be added to the plat restricting above grade house size to six thousand (6,000) square feet. A garage of six hundred (600) square feet is exempt from the maximum house size limitation.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of _____ 2006.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

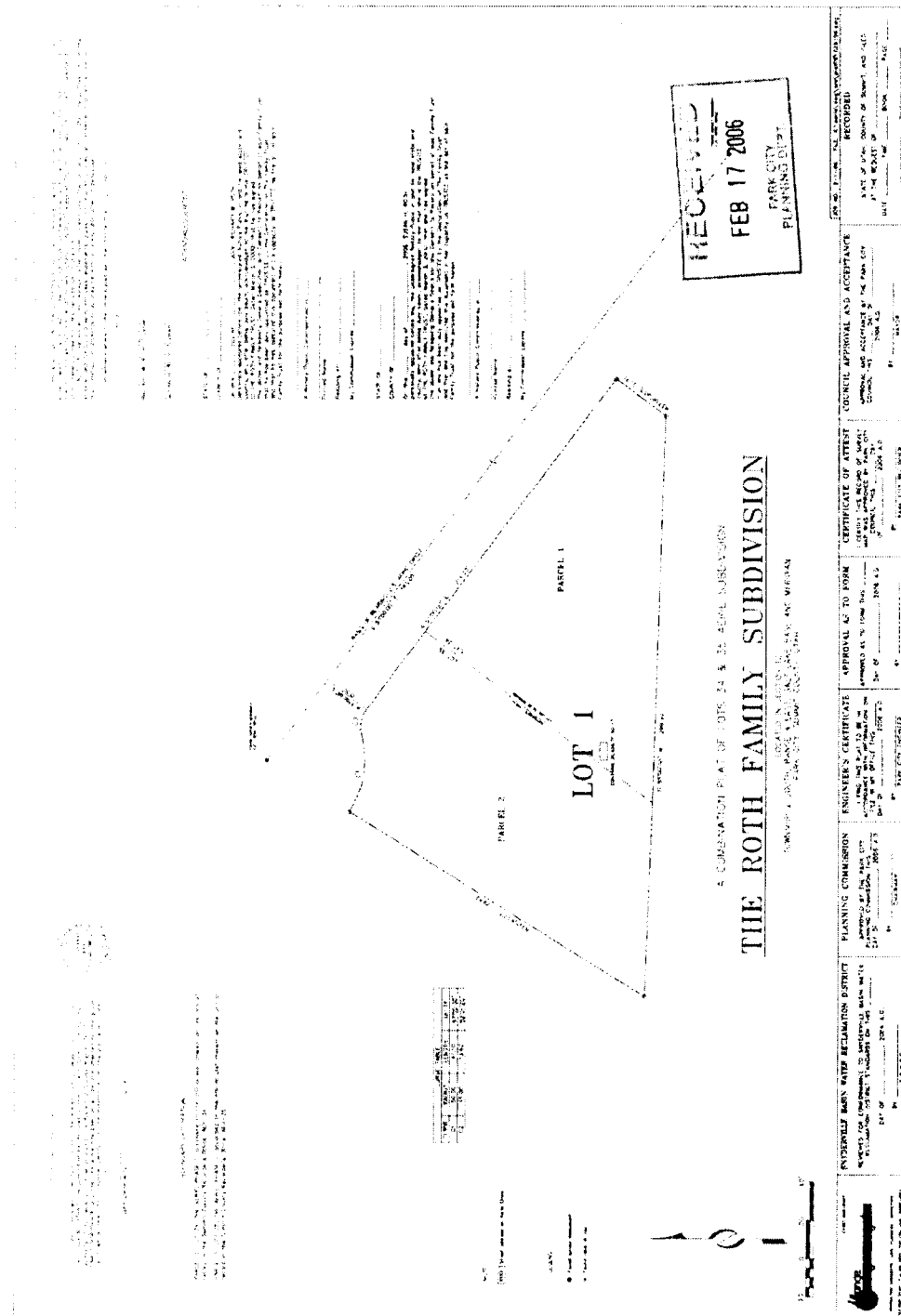
Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

Exhibit A – Proposed Plat



CITY COUNCIL Staff Report



Author: Michelle Downard
Subject: MUNICIPAL CODE REVISIONS
Date: June 15, 2006
Type of Item: Legislative

BUILDING DEPARTMENT

Summary: Staff recommends that the City Council review the proposed modifications to Chapter 11 of the Municipal Code regarding the Administrative Code Enforcement Hearing Program and adopt the attached ordinance.

TOPIC

Amendments to Section 15-14-5 of the Land Management Code (Zoning Administration).

Amendments to Title 11 of the Municipal Code.

BACKGROUND

The Building Department has recently initiated efforts to revise the current City Code enforcement process by creating an Administrative Code Enforcement Hearing Program (ACE) ordinance that will facilitate Municipal Code enforcement work by the Chief Building Official. The City has lacked the ability to quickly address code enforcement issues in the past, which has led to numerous citizen complaints.

To implement the ACE program, it is necessary that the City Council amend Title 11 of the Municipal Code and Chapter 14 of the Land Management Code. The Planning Commission reviewed the proposed changes to Chapter 14 of the LMC on June 14, 2006 (staff recommended that the Commission forward a positive recommendation to the City Council, the final action by the Commission is not known as this report was written prior to Commission review), changes to Title 11 of the Municipal Code are not reviewed by the Commission.

ANALYSIS

The proposed ACE ordinance will create a new method of Code enforcement that will enable a new enforcement procedure and provide an alternative to the requirement that all Code enforcement be performed by a court of law.

Currently all enforcement of Municipal Codes, including the International Building Code, Sign Code and Land Management Code, are coordinated through the Chief Building Official and the City Code Enforcement Officer. Enforcement of the Code is done through civil or criminal actions in front of a court of competent jurisdiction (usually at the County Justice Center). At the Justice Center, judgments and penalties are rendered by a judge, and fines are paid to the Court.

The ACE program will create an administrative in-house process, where Code violations are processed by staff and appeals are heard by an independent Administrative Law

Judge with the authority to hold hearings, determine if violations of City ordinances exist, order compliance, and enforce compliance. Similar to the parking adjudication officer, it is proposed that this independent officer will be appointed by the City Manager.

Currently, penalties are determined by the presiding judge and legal council within the judicial process. Similar to these jurisdictions, the ordinance creates a procedure where the Civil Fee Schedule is drafted by the Chief Building Official and approved by the City Manager. This approval process is subsequent to the approval process that is currently utilized with the Building Permit fees. This Fee Schedule will create a consistent penalty for the various violations but will be adaptable to extraordinary circumstance. To determine appropriate fees, staff compared fee schedules from other jurisdictions as well as fines levied by the courts.

Policies and procedures for the ordinance will be created by the Chief Building Official. These policies will relate to the hearings, subpoena powers and recordation of Notices of Violation. Final approval of the policies and procedures will then be granted by the Administrative Law Judge.

Proposed language, is featured in the ordinance attached as exhibit A.

SIGNIFICANT IMPACTS/BENEFITS

There are significant impacts/benefits that may result from amending the existing language.

- This ordinance is consistent with City Council's goal number seven, which is to be an open and responsible government.
- Language will provide a mechanism to revoke or suspend business licenses of offenders.
- Fees levied will go to City rather than the Court. This is potentially a significant financial benefit to the City as West Valley City generated \$160,000 last year.
- The language is versatile enabling the City Code Enforcement Officer, Building Inspectors, Police Officers and other designated city personnel to implement the process while enforcing the Municipal Code, Land Management Code, Building Code and other pertinent Codes.
- Enforcement actions may be a civil process, not criminal. (Criminal histories may not be generated as a result of an enforcement action.) Civil or criminal action will be determined by the Building Official or the Police Department.
- This will provide staff the ability to serve responsible parties out of state, (this is currently not possible with the criminal process.)
- Enforcement officials will have the ability to hold emergency enforcement hearings during Special Events and when time is critical to address a violation.
- The City Manager will be responsible for approving the Administrative Law Judge. Additionally, the Administrative Law Judge will report to the City Manager as necessary.

CONSEQUENCE OF NOT TAKING ACTION

- Administrative enforcement of the LMC will not be possible.

- Enforcement of LMC will continue as currently structured.

ALTERNATIVES

- The Planning Commission may forward a positive recommendation of the changes to Chapter 15-14-5 to the City Council as written or amended, or
- The Planning Commission may forward a negative recommendation of the changes to Chapter 15-14-5 to the City Council, or
- The Planning Commission may continue the discussion on the proposed changes to LMC Chapter 15-14-5.

DEPARTMENT REVIEW

The Executive Department, Planning Department, Finance Department, Police Department and Legal Department have reviewed the proposed amendments.

RECOMMENDATION

Staff recommends that the City Council review the proposed modifications to Chapter 11 of the Municipal Code regarding the Administrative Code Enforcement Hearing Program and consider adopting the attached ordinance.

EXHIBITS

- A – Proposed Ordinance for Title 11
- B – Proposed Ordinance for LMC Chapter 14

AN ORDINANCE ADOPTING AMENDMENTS TO TITLE 11, BUILDING AND BUILDING REGULATIONS, OF THE MUNICIPAL CODE OF PARK CITY, CREATING THE ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM.

WHEREAS, the enforcement of Park City's Building and Building Regulations of the Municipal Code, are written and adopted to protect the general health, safety, and welfare of Park City's citizen's and property owners; and

WHEREAS, such enforcement is critical to the economic and cultural goals of the City as defined in the General Plan, the City Council's annual Vision Statement to be a World Class, Multi-Seasonal Destination Resort Community, and Principles 1, 3, 6 and 7; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on June 15, 2006;

WHEREAS, the clarifications herein are necessary to ensure clear and fair application of the regulations herein and simplify enforcement; and

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

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

Section I. Findings. The recitals above and the Analysis section of the Staff Report dated June 15, 2006 are incorporated herein as findings in support of this ordinance.

Section II Effective Date. This Ordinance shall become effective upon publication.

Section III. Amendment. Building and Building Regulations, Chapter 11-19 of the Municipal Code of Park City is hereby created as follows:

PASSED AND ADOPTED this 15th day of June 2006

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

**AN ORDINANCE ADOPTING AMENDMENTS TO LAND MANAGEMENT CODE
CHAPTER 15-14-5, ZONING ADMINISTRATION PENALTIES AND ENFORCEMENT,
OF THE MUNICIPAL CODE OF PARK CITY.**

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

WHEREAS, such enforcement is critical to the economic and cultural goals of the City as defined in the General Plan, the City Council's annual Vision Statement to be a World Class, Multi-Seasonal Destination Resort Community, and Principles 1, 3, 6 and 7; and

WHEREAS, the Planning Commission duly noticed and conducted public hearing at its regularly scheduled meeting on June 14, 2006 and forwarded to City Council a positive recommendation;

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on June 15, 2006;

WHEREAS, the clarifications herein are necessary to ensure clear and fair application of the regulations herein and simplify enforcement; and

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

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
PARK CITY, UTAH THAT:**

Section I. Findings. The recitals above and the Analysis section of the Staff Report dated June 14, 2006 are incorporated herein as findings in support of this ordinance.

Section II Effective Date. This Ordinance shall become effective upon publication.

Section III. Amendment. Land Management Code Chapter 15-14-5, of the Municipal Code of Park City is hereby amended as follows:

15-14-5.

PENALTIES/ENFORCEMENT.

The City has sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or the provisions of this Code. The City may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute City ordinance violations as criminal offenses. The City may use any of the remedies available under the law including administratively, civilly and criminally. If the City chooses to file both civil and criminal charges for the same occurrence of violation, no civil penalties may be assessed, but all other remedies are available.

The provisions of this Code may be enforced by either civil or criminal actions in courts of appropriate and competent jurisdiction or by an administrative enforcement action. ~~Suit~~ Action may be brought by the City, or by affected Property Owners in the manner set forth below:

(A) **CRIMINAL CITATIONS.** The Building Official and other designated City officials may, when there is probably cause to believe that construction has occurred in violation of this ordinance or in violation of the Park City Municipal Code, issue a citation and swear out criminal complaints against the appropriate individuals and Business entities. Specific approval from the City Council for such misdemeanor citations is not required.

(B) **CIVIL ACTIONS.** The City, ~~with the authorization of the City Council,~~ may bring actions for civil and equitable relief, including enjoining specific land Uses and affirmative injunctions. The Building Official, Planning ~~Department~~ Director and other designated City Officials may recommend such actions at any time to the Council, or initiate an administrative enforcement action as set forth in the Park City Municipal Code, provided that no civil proceeding other than an administrative enforcement action shall be commenced without the specific authorization of the Council.

(C) **THIRD PARTY ACTIONS.** Individuals affected by zoning violations within Park City shall have the right to maintain private actions to enforce the Code without joining the City as a party.

PASSED AND ADOPTED this 15th day of June 2006

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

15-14-5. PENALTIES/ENFORCEMENT.

The City has sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or the provisions of this Code. The City may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute City ordinance violations as criminal offenses. The City may use any of the remedies available under the law including administratively, civilly and criminally. If the City chooses to file both civil and criminal charges for the same occurrence of violation, no civil penalties may be assessed, but all other remedies are available.

The provisions of this Code may be enforced by either civil or criminal actions in courts of appropriate and competent jurisdiction or by an administrative enforcement action. Action may be brought by the City, or by affected Property Owners in the manner set forth below:

(A) **CRIMINAL CITATIONS.** The Building Official and other designated City officials may, when there is probable cause to believe that construction has occurred in violation of this ordinance or in violation of the Park City Municipal Code, issue a citation and swear out criminal complaints against the appropriate individuals and Business entities. Specific approval from the City Council for such misdemeanor citations is not required.

(B) **CIVIL ACTIONS.** The City, may bring actions for civil and equitable relief, including enjoining specific land Uses and affirmative injunctions. The Building Official, Planning Director and other designated City Officials may recommend such actions at any time to the Council, or initiate an administrative enforcement action as set forth in the Park City Municipal Code, provided that no civil proceeding other than an administrative enforcement action shall be commenced without the specific authorization of the Council.

(C) **THIRD PARTY ACTIONS.** Individuals affected by zoning violations within Park City shall have the right to maintain private actions to enforce the Code without joining the City as a party.

TITLE 11- BUILDING AND BUILDING REGULATIONS
CHAPTER 11-19-ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM

- 11-19-1. General Provisions and Definitions.
 - 11-19-1.1. Short Title.
 - 11-19-1.2. Purpose.
 - 11-19-1.3. Scope.
 - 11-19-1.4. Existing Law Continued.
 - 11-19-1.5. Criminal Prosecution Right.
 - 11-19-1.6. Effect of Heading.
 - 11-19-1.7. Validity of Title – Severability.
 - 11-19-1.8. No Mandatory Duty – Civil Liability.
 - 11-19-1.9. General Rules of Interpretation.
 - 11-19-1.10. Definitions Applicable to Chapter Generally.
 - 11-19-1.11. Acts Include Causing, Aiding, and Abetting.
 - 11-19-1.12. Service Requirements- Service of Process.
 - 11-19-1.13. Constructive Notice of Recorded Documents.
 - 11-19-1.14. General Enforcement Authority.
 - 11-19-1.15. Adoption of Policy and Procedures.
 - 11-19-1.16. Authority to Inspect.
 - 11-19-1.17. False Information or Refusal Prohibited.
 - 11-19-1.18. Failure to Obey a Subpoena.
- 11-19-2. Administrative Code Enforcement Procedures.
 - 11-19-2.1. Authority.
 - 11-19-2.2. Notice of Violation.
 - 11-19-2.3. Failure to Bring Property into Compliance.
 - 11-19-2.4. Inspections.
 - 11-19-2.5. Emergency Abatement- Authority.
 - 11-19-2.6. Emergency Abatement- Procedures and Notice.
 - 11-19-2.7. Demolitions- Authority.
 - 11-19-2.8. Demolitions- Procedures.
 - 11-19-2.9. Administrative Citations- Declaration of Purpose.
 - 11-19-2.10. Administrative Citations- Authority.
 - 11-19-2.11. Administrative Citations- Procedures.
 - 11-19-2.12. Contents of Administrative Citation.
 - 11-19-2.13. Civil Fees Assessed.
 - 11-19-2.14. Administrative Code Enforcement Hearing Procedures- Declaration of Purpose.
 - 11-19-2.15. Authority and Scope of Hearings.
 - 11-19-2.16. Request for Administrative Code Enforcement Hearing.
 - 11-19-2.17. Default Hearings and Administrative Code Enforcement Orders.
 - 11-19-2.18. Appointment, Qualifications and Disqualification of Administrative Law Judge.
 - 11-19-2.19. Powers of the Administrative Law Judge.
 - 11-19-2.20. Procedures at Administrative Code Enforcement Hearing.
 - 11-19-2.21. Failure to Attend Administrative Code Enforcement Hearing.
 - 11-19-2.22. Administrative Code Enforcement Order.
 - 11-19-2.23. Failure to Comply with Administrative Code Enforcement Order.
 - 11-19-2.24. Appeal of Administrative Code Enforcement Hearing Decision.
- 11-19-3. Administrative and Judicial Remedies.
 - 11-19-3.1. Recordation of Notices of Violation- Declaration of Purpose.
 - 11-19-3.2. Recordation of Notices of Violation- Authority.
 - 11-19-3.3. Recordation- Procedures.
 - 11-19-3.4. Service of Notice of Recordation.
 - 11-19-3.5. Failure to Request Hearing.
 - 11-19-3.6. Failure to Correct Violation.
 - 11-19-3.7. Notice of Compliance – Procedures.
 - 11-19-3.8. Prohibition Against Issuance of Municipal Permits.
 - 11-19-3.9. Cancellation of Recorded Notice of Violation.
 - 11-19-3.10. Administrative Civil Fees- Authority.
 - 11-19-3.11. Procedures for Assessing Civil Fees.
 - 11-19-3.12. Determination of Civil Fees.
 - 11-19-3.13. Modification of Civil Fees.

- 11-19-3.14. Failure to Pay Fees.
 - 11-19-3.15. Abatement of Violation- Authority to Abate.
 - 11-19-3.16. Abatement- Procedures.
 - 11-19-3.17. Costs- Declaration of Purpose.
 - 11-19-3.18. Costs- Authority.
 - 11-19-3.19. Notification of Assessment of Re-inspection Fees.
 - 11-19-3.20. Failure to Timely Pay Costs.
 - 11-19-3.21. Administrative Fees.
 - 11-19-3.22. Civil Violations – Injunctions.
 - 11-19-3.23. Code Enforcement Performance Bond.
- 11-19-4. Recovery of Code Enforcement Fees and Costs.
- 11-19-4.1. Code Enforcement Tax Liens- Declaration of Purpose.
 - 11-19-4.2. Assessment of Cost.
 - 11-19-4.3. Failure to Timely Pay Costs.
 - 11-19-4.4. Procedures and Cancellation for Code Enforcement Tax Lien.
 - 11-19-4.5. Recovery of Costs by Writ of Execution or by Writ of Garnishment.

CHAPTER 11-19-1. GENERAL PROVISIONS AND DEFINITIONS.

11-19-1.1. SHORT TITLE.

This Chapter shall be known as the "Administrative Code Enforcement Hearing Program" or "ACE Program". This Chapter shall also be known as Chapter 11-19, of the Park City Municipal Code. It may be cited and pleaded under either designation.

11-19-1.2. PURPOSE.

The City Council of Park City finds that the enforcement of the Park City Municipal Code and applicable state codes throughout the City is an important public service. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The City Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations. Failure to comply with an administrative code enforcement order may require the City to file a judicial or civil action to gain compliance.

11-19-1.3. SCOPE.

The provisions of this Chapter may be applied to all violations of the Park City Municipal Code and applicable state codes. It has been designed as an additional remedy for the City to use in achieving compliance of its ordinances.

11-19-1.4. EXISTING LAW CONTINUED.

The provisions of this Chapter do not invalidate any other Chapter or ordinance, but shall be read in conjunction with those Chapters and ordinances as an additional remedy available for enforcement of those ordinances.

11-19-1.5. CRIMINAL PROSECUTION RIGHT.

The City has sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for the violation of any of its ordinances or applicable state code requirements. The City may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute City ordinance violations as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution. If the City chooses to file both civil and criminal charges for the same day of violation, no civil fees may be assessed, but all other remedies are available.

The criminal prosecution will be pursued as set forth in the Park City Municipal Code. Any violations of this Chapter, if pursued criminally, shall be prosecuted as a class B misdemeanor.

11-19-1.6. EFFECT OF HEADING.

Title, chapter, part and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, part or section hereof.

11-19-1.7. VALIDITY OF TITLE – SEVERABILITY.

If any section, subsection, sentence, clause, phrase, portion, or provision of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council of this City hereby declares that it would have adopted this Chapter and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments made to this Chapter.

11-19-1.8. NO MANDATORY DUTY – CIVIL LIABILITY.

It is the intent of the City Council that in establishing performance standards or establishing an obligation to act by a city officer or employee, these standards shall not be construed as creating a mandatory duty for purposes of tort liability.

11-19-1.9. GENERAL RULES OF INTERPRETATION.

For purposes of this Chapter:

- (1) Any gender includes the other gender.
- (2) "Shall" is mandatory; "may" is permissive.
- (3) The singular number includes the plural, and the plural the singular.
- (4) Words used in the present tense include the past and future tense, and vice versa.
- (5) Words and phrases used in this Chapter and not specifically defined shall be construed according to the context and approved usage of the language.

11-19-1.10. DEFINITIONS APPLICABLE TO CHAPTER GENERALLY.

The following words and phrases, whenever used in this Chapter, shall be applied as defined in this section, unless a different meaning is specifically defined elsewhere in this Chapter and specifically stated to apply:

- (1) "Abatement" means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding, securing or replacement of property.
- (2) "Administrative Citation" means a citation issued to a responsible person which gives reasonable notice of a violation.
- (3) "Administrative Code Enforcement Order" means an order issued by an Administrative Law Judge or enforcement official. The order may include an order to abate the violation, pay civil fees and administrative costs, or take any other action as authorized or required by this Chapter and applicable state codes.
- (4) "Administrative Code Enforcement Hearing" or "Hearing" means a hearing held pursuant to the procedures established by this Chapter and at the request of a responsible person charged with a violation or the enforcement official.

- (5) "Administrative Law Judge" means an individual appointed by the City Manager or his/her designee to preside over administrative code enforcement hearings.
- (6) "Building Official" means the Chief Building Official of Park City.
- (7) "City" means the area within the territorial city limits of Park City, and such territory outside of this City over which the City has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law.
- (8) "City Code" means the Park City Municipal Code.
- (9) "City Council" means the City Council of Park City.
- (10) "City Manager" means the City Manager of Park City.
- (11) "Code Enforcement Tax Lien" means a lien recorded to collect outstanding civil fees, administrative fees and/or any other costs.
- (12) "Code Enforcement Performance Bond" means a bond posted by a responsible person to ensure compliance with the City Code, applicable state codes, a judicial action, or an administrative code enforcement order.
- (13) "Enforcement Official" means any person authorized to enforce violations of any applicable codes including, but not limited to, code enforcement officers, police officers, building inspectors, building officials and fire marshals.
- (14) "Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.
- (15) "Good Cause" means incapacitating illness; death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance; if a required act causes an imminent and irreparable injury; and acts of nature adverse to performing required acts.
- (16) "Imminent Life Safety Hazard" means any condition that creates a present, serious, and immediate danger to life, property, health, or public safety.
- (17) "Legal Interest" means any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the Summit County Recorder.
- (18) "Notice of Compliance" means a document issued by the City, representing that a property complies with the requirements outlined in the Notice of Violation, and that all outstanding civil fees and costs have been satisfied, (either by being paid in full, or a subsequent administrative or judicial decision has resolved the outstanding debt.)
- (19) "Notice of Violation" means a written notice prepared by an enforcement official that informs a responsible person of code violations and requires them to take certain steps to correct the violations.
- (20) "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties.
- (21) "Property Owner" means the recorded owner of real property as shown on the records of the Summit County Recorder or Assessor.
- (22) "Public Nuisance" means any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community by any considerable number of persons.
- (23) "Responsible Person" means any person who is responsible for causing or maintaining a violation of the City Code or applicable state codes. The property owner, tenant, person with a legal interest in the real property, or person in possession of the real property, or if a business, the business manager or owner, shall be liable for any violation maintained on the property. In all cases, the property owner shall be considered a responsible person.
- (24) "Written" includes handwritten, typewritten, photocopied, computer printed, or facsimile.

11-19-1.11. ACTS INCLUDE CAUSING, AIDING, AND ABETTING.

Whenever any act or omission is made unlawful in this Chapter, it shall include causing, permitting, aiding, or abetting such act or omission.

11-19-1.12. SERVICE REQUIREMENTS- SERVICE OF PROCESS.

- (1) Whenever notice is required to be given under this Chapter for enforcement purposes, the document shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply:
 - (a) Regular mail, postage prepaid, to the last known address of the property owner or other responsible person;
 - (b) Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as in (a) above;
 - (c) Personal service; or
 - (d) Published in a newspaper of general circulation.
- (2) Service by regular mail in the manner set forth above shall be deemed served on the seventh (7th) calendar day after the date of mailing when mailed in the continental United States. Service by regular mail by all other addresses shall be deemed served on the tenth (10th) calendar day after the date of mailing.
- (3) If service complies with the requirements of this Section, it shall be deemed a valid service even if a person claims not to have received the service and it shall not affect the validity of any proceedings taken under this Chapter.
- (4) The failure to serve all responsible persons shall not affect the validity of any proceedings.
- (5) It shall be unlawful for any unauthorized person to remove any type of notice from a property that is necessary due to an imminent life safety hazard.

11-19-1.13. CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS.

Whenever a document is recorded with the Summit County Recorder as authorized or required by this Chapter or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

11-19-1.14. GENERAL ENFORCEMENT AUTHORITY.

Whenever an enforcement official determines that a violation of the City Code or applicable state codes has occurred or continues to exist, he or she may undertake any of the procedures herein. Any enforcement official has the authority and power necessary to gain compliance with the provisions of the City Code and applicable state codes. These powers include the power to issue Notices of Violation and administrative citations, inspect public and private property, abate public and private property, and to use any judicial and administrative remedies that are available under this Chapter, law, the City Code or applicable state codes.

11-19-1.15. ADOPTION OF POLICY AND PROCEDURES.

The Administrative Law Judge shall approve the policy relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Administrative Code Enforcement Hearing Program. The City Manager shall approve the policy for the appointment of the Administrative Law Judges, and the use of the administrative procedures herein by enforcement officials.

11-19-1.16. AUTHORITY TO INSPECT.

Any enforcement official is hereby authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of the City Code or applicable state codes are being obeyed and to make any reasonable and lawful examinations and surveys as may be necessary in the performance of the enforcement duties and determine compliance with the City Code. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If the property owner or responsible person refuses to allow the enforcement official to enter the property, the enforcement official shall obtain a search warrant before entering the property.

11-19-1.17. FALSE INFORMATION OR REFUSAL PROHIBITED.

It shall be unlawful for any person to make a false statement or refuse to give his or her name or address with intent to deceive or interfere with an enforcement official when in the performance of his or her official duties under the provisions of this Chapter. A violation of this Section may be prosecuted as a class B misdemeanor.

11-19-1.18. FAILURE TO OBEY A SUBPOENA.

It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and may be prosecuted as a class B misdemeanor.

CHAPTER 11-19-2. ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES.

11-19-2.1. AUTHORITY.

Any condition caused, maintained, or permitted to exist in violation of any provisions of the City Code or applicable state codes may be abated by the City pursuant to the procedures set forth in this Chapter.

11-19-2.2. NOTICE OF VIOLATION.

(1) Whenever any enforcement official determines that a violation of the City Code or applicable state codes has occurred or continues to exist, the enforcement official may choose to proceed under the ACE Program as set forth in this Chapter. If this procedure is used, a Notice of Violation shall be issued to a responsible person. The Notice of Violation shall include the following information:

- (a) Name of property owner or responsible person;
 - (b) Street address of violation;
 - (c) Date the violation was observed;
 - (d) All code sections violated and a description of the condition of the property or condition that violates the applicable codes;
 - (e) A statement explaining the type of remedial action required to permanently correct the outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
 - (f) Specific date to correct the violations listed in the Notice of Violation;
 - (g) Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the Notice of Violation, (which may include, but is not limited to, criminal prosecution; civil fees; revocation of permits; recordation of the Notice of Violation; withholding of municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies);
 - (h) The amount of any civil fees for each violation and a statement that the civil fees shall accrue daily, immediately upon expiration of the date to correct violations, until the violation is corrected;
 - (i) That only one Notice of Violation is required for any 12-month period, and that civil fees begin immediately upon any subsequent violations of the notice, (The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice.); and
 - (j) Procedures to request a hearing as provided in Section 11-19-2.16, and consequences for failure to request one.
- (2) The Notice of Violation shall be served by one of the methods of service listed in Section 11-19-1.12 of this Chapter.
- (3) More than one Notice of Violation may be issued against the same responsible person, if it encompasses different dates, or different violations.

11-19-2.3. FAILURE TO BRING PROPERTY INTO COMPLIANCE.

- (1) If a responsible person fails to bring a violation into compliance before the date given to correct the violation, civil fees shall be owed to the City for every day of each violation.
- (2) Failure to comply with the Notice of Violation is a class B misdemeanor.

11-19-2.4. INSPECTIONS.

At the time that the Notice of Violation is issued, the enforcement official may require that the responsible person request a re-inspection when a violation is brought into compliance. If this is done, it shall be the duty of the responsible person served with the Notice of Violation to request the inspection when his or her property has been brought into compliance. It is *prima facie* evidence that the violation remains on the property if no inspection is requested. Civil fees accumulate daily until the property has been inspected and a Notice of Compliance is issued. Re-inspection fees may be assessed if more than one inspection is requested or necessary.

11-19-2.5. EMERGENCY ABATEMENT- AUTHORITY.

(1) Whenever an enforcement official determines that an imminent life safety hazard exists that requires immediate correction or elimination, the enforcement official may exercise the following powers without prior notice to the responsible person:

- (a) Order the immediate vacation of any occupants, and prohibit occupancy until all repairs are completed;
- (b) Post the premises as unsafe, substandard, or dangerous;
- (c) Board, fence, or secure the building or site;
- (d) Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
- (e) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- (f) Take any other action appropriate to eliminate the emergency.

(2) The enforcement official has the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts.

(3) The responsible person shall be liable for all costs associated with the abatement of the imminent life safety hazard. Costs may be recovered pursuant to this Chapter.

11-19-2.6. EMERGENCY ABATEMENT- PROCEDURES AND NOTICE.

(1) The enforcement official shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the emergency abatement process may be assessed and recovered against the responsible person.

(2) The enforcement official may also pursue any other administrative or judicial remedy to abate any violations.

(3) After an emergency abatement, the City shall notify the property owner or responsible person of the abatement action taken. This notice shall be served subsequent to the completion of the abatement and include an itemized bill for costs.

(4) The responsible person has the right to an administrative code enforcement hearing concerning the itemized bill for costs. A request for such hearing shall be in writing and shall be filed within ten (10) calendar days from the date of service of the notice of itemized bill for costs. Failure to request an administrative code enforcement hearing as provided herein shall constitute a waiver to an administrative code enforcement hearing and a waiver to the right of appeal.

11-19-2.7. DEMOLITIONS- AUTHORITY.

Whenever the Building Official determines that a property or building requires demolition, he or she may demolish or remove the offending structure, or exercise any or all of the powers listed in Section 11-19-2.5 once appropriate notice has been given to a responsible person pursuant to the City Code and as required under state law. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Chapter.

11-19-2.8. DEMOLITIONS- PROCEDURES.

Once the Building Official has complied with all of the notice requirements of the applicable laws, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

11-19-2.9. ADMINISTRATIVE CITATIONS- DECLARATION OF PURPOSE.

The City Council finds that there is a need for an alternative method of enforcement for violations of the City Code and applicable state codes. The City Council further finds that an appropriate method of enforcement is an administrative citation program.

The procedures established in this Chapter shall be an alternative and in addition to criminal, civil, or any other legal remedy established by law or City Code that may be pursued to address violations of the City Code or applicable state codes.

11-19-2.10. ADMINISTRATIVE CITATIONS- AUTHORITY.

(1) Any person violating any provision of the City Code or applicable state codes may be issued an administrative citation by an enforcement official as provided in this Chapter.

(2) A civil fee shall be assessed by means of an administrative citation issued by the enforcement official, and shall be payable directly to the Park City Finance Department.

(3) Fees assessed by means of an administrative citation shall be collected in accordance with the procedures specified in Section 11-19-2.13.

11-19-2.11. ADMINISTRATIVE CITATIONS- PROCEDURES.

(1) Upon discovering any violation of the City Code or applicable state codes, an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this Chapter or as prescribed in Section 11-19-1.12. The administrative citation shall be issued on a form approved by the Administrative Law Judge.

(2) If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in Section 11-19-1.12 of this Chapter.

- (3) Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings.
- (4) If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation may be mailed to the responsible person in the manner prescribed in Section 11-19-1.12 of this Chapter and may also be posted in a conspicuous place on or near the property.
- (5) If no one can be located on the property, then the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in a manner prescribed in Section 11-19-1.12 of this Chapter.
- (6) The administrative citation shall also contain the signature of the enforcement official.
- (7) The failure of any person with a legal or other interest in the property to receive notice shall not affect the validity of any proceedings taken under this Chapter.

11-19-2.12. CONTENTS OF ADMINISTRATIVE CITATION.

- (1) The administrative citation shall refer to the date and location of the violations and the approximate time the violations were observed.
- (2) The administrative citation shall refer to the Code sections violated and the Chapters of those sections.
- (3) The administrative citation shall state the amount of fee imposed for the violations.
- (4) The administrative citation shall explain how the fee shall be paid, the time period by which the fee shall be paid, and the consequences of failure to pay the fee.
- (5) The administrative citation shall identify the right and the procedures to request a hearing.
- (6) The administrative citation shall contain the signature of the enforcement official and the signature of the responsible person, if he or she can be located, as outlined in Section 11-19-2.11 of this Chapter.

11-19-2.13. CIVIL FEES ASSESSED.

- (1) The Building Official shall establish policies to assist in the assessment of civil fees for administrative citations.
- (2) Civil fees shall be assessed immediately for each violation listed on the administrative citation. The fees shall be those established in the Civil Fee Schedule, found within policy, as approved by the City Manager.
- (3) Payment of the fee shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the City.

11-19-2.14. ADMINISTRATIVE CODE ENFORCEMENT HEARING PROCEDURES- DECLARATION OF PURPOSE.

The City Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to the City Code. It is the purpose and intent of the City Council that any responsible person be afforded due process of law during the enforcement process. Due process of law includes notice, an opportunity to request and participate in the hearing, and an explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action while providing due process.

11-19-2.15. AUTHORITY AND SCOPE OF HEARINGS.

The Administrative Law Judge shall approve a policy to regulate the hearing process for any violation of the City Code and applicable state codes that are handled pursuant to this Chapter.

11-19-2.16. REQUEST FOR ADMINISTRATIVE CODE ENFORCEMENT HEARING.

- (1) A responsible person served with one of the following documents or notices has the right to request an administrative code enforcement hearing if the hearing request is filed within ten (10) calendar days from the date of service of one of the following notices:
 - (a) Notice of Violation;
 - (b) Notice of itemized bill for costs;
 - (c) Administrative citation;
 - (d) Notice of emergency abatement or demolition;
- (2) The request for a hearing shall be made in writing and filed with the Administrative Law Judge. The request shall contain the complaint file number, the address of the violation, and the signature of the responsible person.
- (3) As soon as practicable after receiving the written request for a hearing, the Administrative Law Judge shall schedule a date, time, and place for the hearing. The Administrative Law Judge shall notify the responsible person, enforcement official and any other applicable parties of the date, time and place of the hearing by any of the methods listed in 11-19-1.12 at least seven (7) calendar days prior to the date of the hearing.
- (4) Failure to request a hearing within ten (10) calendar days from the date of service of any of the notices in subsection (1) of this section shall constitute a waiver of the right to a hearing.
- (5) If a responsible person fails to request a hearing after being issued a Notice of Violation as provided herein, such failure to request a hearing shall be considered a waiver by the responsible person of their right to said hearing and the following actions may be taken:
 - (a) the corrective action detailed on the Notice of Violation may be considered the administrative code enforcement order pursuant to Section 11-19-2.22 of this Chapter; or
 - (b) a default may enter against the responsible person and the City may seek to have an administrative code enforcement order issued by the Administrative Law Judge without further notice to the responsible person; or
 - (c) The enforcement official may request a default hearing.

(6) An emergency hearing may be requested by the enforcement official or responsible person during Special Events and on occasions that time is of particular essence and it is necessary to hold a hearing as soon as possible in order to address the concern or hold the responsible person accountable. Emergency hearings shall be held as soon as practicable upon receipt of an emergency hearing request. A request for such a hearing must specifically state that an emergency hearing is required.

11-19-2.17. DEFAULT HEARINGS AND ADMINISTRATIVE CODE ENFORCEMENT ORDERS.

(1) A default hearing may be requested by the enforcement official at any time in the enforcement process. If a default hearing is requested by the enforcement official, the Administrative Law Judge shall schedule the default hearing as soon as practicable and shall notify the responsible person, enforcement official and any other applicable parties of the date, time and place of the hearing by any of the methods listed in 11-19-1.12 at least seven (7) calendar days prior to the date of the hearing.

(2) A default hearing may be scheduled for any case that has outstanding or unpaid civil fees or costs due to the City, outstanding violations, or the enforcement official has any outstanding concerns.

(3) At the default hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in this Chapter, to do one or more of the following:

(a) waive or reduce the civil fees which have accumulated; or

(b) postpone an abatement action by the City; or

(c) excuse the responsible person's failure to request a hearing within the ten (10) calendar day period.

(4) If the responsible person fails to establish good cause to take one or more of the actions set forth in subsection (3) of this section, the Administrative Law Judge shall review the Notice of Violation and any other relevant information included in the case file. The Administrative Law Judge shall not accept any other evidence. If the evidence shows that the violations existed, the Administrative Law Judge shall enter an administrative code enforcement order requiring abatement of the violations, the payment of all fees and any additional action. Civil fees shall run until the City issues a Notice of Compliance stating when the violations were actually abated.

11-19-2.18. APPOINTMENT, QUALIFICATIONS AND DISQUALIFICATION OF ADMINISTRATIVE LAW JUDGE.

The City Manager shall appoint the Administrative Law Judges to preside at administrative code enforcement hearings. An Administrative Law Judge shall have no personal, financial or other conflict of interest in the matter for which the hearing is being held.

The Administrative Law Judge is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. The policy for disqualification and replacement shall be approved by the Administrative Law Judge.

11-19-2.19. POWERS OF THE ADMINISTRATIVE LAW JUDGE.

(1) The Administrative Law Judge has the authority to hold hearings, determine if violations of City codes exist, order compliance with City Codes, and enforce compliance on any matter as provided in this Chapter.

(2) If a responsible person is found to be in violation through an administrative code enforcement hearing process, the Administrative Law Judge has the ability to require the responsible person to provide the City with applicable civil fees, restitution, community service, abatement, revocation or suspension of a business license and any other fees incurred by the City during the enforcement process.

(3) The Administrative Law Judge may continue a hearing based on good cause shown by one of the parties to the hearing or if the Administrative Law Judge independently determines that due process has not been adequately afforded to any party to the hearing. The Administrative Law Judge must enter on the record the good cause on which a continuance is granted.

(4) The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge shall approve the policy relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs.

(5) The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order; ensuring compliance of that administrative code enforcement order, which includes the right to authorize the City to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.

(6) The Administrative Law Judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the City.

(7) An Administrative Law Judge shall not make determinations as to the existence of legal nonconforming rights. If a responsible person claims a legal nonconforming right as a defense, the Administrative Law Judge shall continue the administrative code enforcement hearing and shall refer the matter to the Park City Board of Adjustment for a determination as to the existence of the nonconforming right. The decision shall be binding on the Administrative Law Judge. The responsible person shall bear the costs of the appeal.

11-19-2.20. PROCEDURES AT ADMINISTRATIVE CODE ENFORCEMENT HEARING.

(1) Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be

required to be disclosed or released unless the complainant is a witness at the hearing. The policy and format of the hearing shall be approved by the Administrative Law Judge.

(2) The City bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the City Code or applicable state codes.

(3) The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative code enforcement hearing is whether the preponderance of the evidence shows that the violation exists or existed.

(4) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.

(5) All hearings shall be open to the public, and shall be recorded as determined by the Building Official. At the discretion of the Administrative Law Judge, hearings may be held at the location of the violation.

(6) The responsible person has a right to be represented by an attorney. If an attorney will be representing the responsible person at the hearing, written notice of the attorney's name, address, and telephone number must be given to the City at least two (2) calendar days prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person.

(7) No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

(8) The burden to prove any raised defenses shall be upon the party raising any such defense.

(9) After all applicable evidence, testimony and defense is presented, the enforcement official may present a request on behalf of the City regarding the type of fee or enforcement action that is appropriate, should the responsible person be found guilty of the violation. This request may include, but is not limited to, civil fees, restitution, community service, abatement, revocation, suspension or conditioning of a business license and any other fees incurred by the City during the enforcement process.

11-19-2.21. FAILURE TO ATTEND ADMINISTRATIVE CODE ENFORCEMENT HEARING.

A responsible person who fails to appear at the administrative code enforcement hearing is deemed to waive the right to such hearing, and will result in a default judgment for the City, provided that proper notice of the hearing has been provided.

11-19-2.22. ADMINISTRATIVE CODE ENFORCEMENT ORDER.

(1) The responsible person and the City may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as the administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

(2) Subsequent to all evidence and testimony being presented at the administrative code enforcement hearing, the Administrative Law Judge shall issue a written administrative code enforcement order that affirms, modifies or rejects the Notice of Violation or administrative citation. The Administrative Law Judge shall issue the administrative code enforcement order and notify all parties by any of the methods listed in Section 11-19-1.12 of this Chapter within ten (10) calendar days of the hearing. The Administrative Law Judge may increase or decrease the total amount of civil fees and costs that are due pursuant to the City Fee Schedule and the procedures set forth in this Chapter.

(3) An Administrative Law Judge may issue an administrative code enforcement order that requires a responsible person to cease and desist from violating the City Code or applicable state codes and take any necessary corrective action. This administrative code enforcement order may also include, but is not limited to, civil fees, restitution, community service, abatement, revocation, suspension or conditioning of a business license and any other fees incurred by the City during the enforcement process.

(4) The Administrative Law Judge may issue an administrative code enforcement order for the City to enter the property and abate all violations.

(5) As part of the administrative code enforcement order, the Administrative Law Judge may establish specific deadlines for the payment of fees and costs and condition the total or partial assessment of civil fees on the responsible person's ability to complete compliance by specified deadlines.

(6) As part of the administrative code enforcement order, the Administrative Law Judge may revoke, suspend or condition a Park City Business License, (including, but not limited to nightly rental licenses, taxi licenses, liquor license, convention sales, sidewalk sales, film permit, special event and solicitor licenses.)

(7) An Administrative Law Judge may issue an administrative code enforcement order imposing civil fees in accordance with Section 11-19-3.10. Such fees shall continue to accrue until the responsible person complies with the administrative code enforcement order and corrects the violation.

(8) The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by the City to ensure compliance with the administrative code enforcement order.

(9) The Administrative Law Judge may require the responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the City.

(10) The administrative code enforcement order shall become final on the date of the signing by the Administrative Law Judge.

(11) A copy of the administrative code enforcement order shall be served by the Administrative Law Judge on all parties by any one of the methods listed in Section 11-19-1.12. When required by this Chapter, the enforcement official shall record the administrative code enforcement order with the Summit County Recorder's Office.

11-19-2.23. FAILURE TO COMPLY WITH ADMINISTRATIVE CODE ENFORCEMENT ORDER.

(1) Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order or Notice of Violation, the City may use all appropriate legal means to recover the civil fees and administrative costs to obtain compliance. The failure of a responsible person to comply with the administrative code enforcement order shall be a class B misdemeanor.

(2) After the Administrative Law Judge issues an administrative code enforcement order, the Administrative Law Judge or the enforcement official shall monitor the violations and determine compliance.

11-19-2.24. APPEAL OF ADMINISTRATIVE CODE ENFORCEMENT HEARING DECISION.

(1) Any person adversely affected by an administrative code enforcement order made in the exercise of the provisions of this Chapter may file a petition for review by the district court within thirty (30) calendar days after the decision is final.

(2) No person may challenge in district court an Administrative Law Judge's decision until that person has exhausted his or her administrative remedies.

(3) In the petition, the plaintiff may only allege that the administrative code enforcement order was arbitrary or capricious.

(4) (a) Within one-hundred twenty (120) calendar days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including findings, orders, and, if available, transcripts of hearings when necessary. If the proceeding was tape recorded, a transcript of such tape recordings shall be deemed a true and correct transcript for purposes of this Chapter. The Administrative Law Judge and the enforcement official shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within one-hundred eighty (180) calendar days after the petition for review was filed shall be grounds for dismissal of the petition.

(b) If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.

(5) The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of the record of that decision unless that evidence was offered to the Administrative Law Judge and the district court determines that it was improperly excluded.

(6) The courts shall:

(a) Presume that the Administrative Law Judge's decision and administrative code enforcement orders are valid;

(b) Review the record to determine whether or not the decision was arbitrary, capricious, or illegal; and

(c) Affirm the administrative code enforcement order if it is supported by evidence.

(7) The filing of a petition does not stay execution of an administrative code enforcement order. Before filing a petition, a responsible person may request the Administrative Law Judge to stay an administrative code enforcement order. Upon receipt of a request to stay, the Administrative Law Judge may require the administrative code enforcement order to be stayed pending district court review.

CHAPTER 11-19-3. ADMINISTRATIVE AND JUDICIAL REMEDIES.

11-19-3.1. RECORDATION OF NOTICES OF VIOLATION- DECLARATION OF PURPOSE.

The City Council finds that there is a need for alternative methods of enforcement for violations of the City Code and applicable state codes that are found to exist on real property. The City Council further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of Notices of Violation.

The procedures established in this Chapter shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address the violation of the City Code or applicable state codes.

11-19-3.2. RECORDATION OF NOICES OF VIOLATION- AUTHORITY.

Whenever the enforcement official determines that a property or violation has not been brought into compliance as required in this Chapter, the enforcement official may to record the Notice of Violation or administrative code enforcement order with the Summit County Recorder's Office.

11-19-3.3. RECORDATION- PROCEDURES.

(1) Once the enforcement official has issued a Notice of Violation to a responsible person, and the property remains in violation after the deadline established in the Notice of Violation, and no request for a hearing has been filed, the enforcement official may record a Notice of Violation with the Summit County Recorder's Office.

(2) If a hearing is held, and an administrative code enforcement order is issued in the City's favor, the enforcement official may record the administrative code enforcement order with the Summit County Recorder's Office.

(3) The recordation shall include the name of the property owner or responsible person, the parcel number, the legal description of the parcel, and a copy of the Notice of Violation or administrative code enforcement order.

(4) The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.

11-19-3.4. SERVICE OF NOTICE OF RECORDATION.

A notice of the recordation shall be served on the responsible person or property owner pursuant to any of the methods of service set forth in Section 11-19-1.12 of this Chapter.

11-19-3.5. FAILURE TO REQUEST HEARING.

The failure of any person to file a request for an administrative code enforcement hearing within ten (10) calendar days of being served with a Notice of Violation shall constitute a waiver of the right to a hearing and a waiver of the right to appeal and shall not affect the validity of the recorded Notice of Violation.

11-19-3.6. FAILURE TO CORRECT VIOLATION.

It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a Notice of Violation. A violation of this section shall be a class B misdemeanor.

11-19-3.7. NOTICE OF COMPLIANCE – PROCEDURES.

- (1) If a re-inspection is required by the enforcement official, it shall be the duty of the responsible person to request a re-inspection from the enforcement official.
- (2) Upon receipt of a request for inspection, the enforcement official shall re-inspect the property as soon as practicable to determine whether the violations have been corrected, whether all necessary permits have been issued and final inspections have been performed as required by applicable code.
- (3) The enforcement official shall serve a Notice of Compliance to the responsible person in the manner provided in Section 11-19-1.12 of this Chapter, if the enforcement official determines that:
 - (a) All violations listed in the recorded Notice of Violation or administrative code enforcement order have been corrected;
 - (b) All necessary permits have been issued;
 - (c) All assessed civil fees have been paid or satisfied; and
 - (d) All assessed administrative fees and costs have been paid or satisfied.
- (4) If the enforcement official denies a request to issue a Notice of Compliance, the enforcement official shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 11-19-1.12 of this Chapter.

11-19-3.8. PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS.

From the time that any Notice of Violation is given, the City may withhold permits for any alteration, repair or construction, which pertains to any existing or new structures or signs on the property or any permits pertaining to the use and development of the real property or the structure where a violation is located. The City may withhold permits until a Notice of Compliance has been issued by the enforcement official. The City may not withhold permits that are necessary to obtain a Notice of Compliance or that are necessary to correct serious health and safety violations.

11-19-3.9. CANCELLATION OF RECORDED NOTICE OF VIOLATION.

The enforcement official or responsible person shall record the Notice of Compliance with the Summit County Recorder's Office if a Notice of Violation was previously recorded. Recordation of the Notice of Compliance shall have the affect of canceling the recorded Notice of Violation.

11-19-3.10. ADMINISTRATIVE CIVIL FEES- AUTHORITY.

- (1) If a responsible person fails to correct a violation by the correction date listed in a Notice of Violation or in an administrative code enforcement order, civil fees shall be owed to the City as determined through policy and approved by the City Manager.
- (2) Any person violating any provision of the City Code or applicable state codes may be subject to the assessment of civil fees for each violation and each day that the violations existed.
- (3) Civil fees cannot be assessed when a criminal case has been filed for the same date and violation, because fines will be assessed with the criminal case. However, civil fees may be assessed where the criminal violation arises out of a violation of this Chapter.
- (4) Interest may be assessed on all outstanding civil fee balances until the case has been paid in full.
- (5) Payment of any civil fee shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City.
- (6) Civil fees and any other assessed fees shall be paid to the Park City Finance Department.

11-19-3.11. PROCEDURES FOR ASSESSING CIVIL FEES.

- (1) If a responsible person fails to bring a violation into compliance within the allotted time from service of the Notice of Violation, civil fees shall be owed to the City for each subsequent violation and each day that each violation existed.
- (2) Civil fees are assessed and owing immediately for any violation of the City Code or applicable state codes for an administrative citation.

11-19-3.12. DETERMINATION OF CIVIL FEES.

- (1) Civil fees shall be assessed per violation per day pursuant to the City Fee Schedule, as determined through policy.
- (2) Civil fees shall continue to accrue until the violations have been brought into compliance with the City Code or applicable state codes.

11-19-3.13. MODIFICATION OF CIVIL FEES.

The Administrative Law Judge or Building Official may modify the civil fees on a finding of cause.

11-19-3.14. FAILURE TO PAY FEES.

If fees are assessed, a specified date may be given by the Administrative Law Judge or the enforcement official, to the responsible person to have the fees paid. The failure of any person to pay civil fees assessed within the specified time may result in the enforcement official pursuing any legal remedy to collect the civil fees.

11-19-3.15. ABATEMENT OF VIOLATION- AUTHORITY TO ABATE.

The enforcement official is authorized to enter upon any property or premises to abate the violation of the City Code and applicable state codes. The enforcement official must notify the property owner of the pending abatement action and provide a

minimum of ten (10) days for the responsible person to abate the violation. The notice shall be served by any of the methods of service listed in Section 11-19-3.12 of this Chapter.

The enforcement official is authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs. If additional abatements stemming from prior violations are necessary within two years, reoccurrence costs may be assessed against the responsible person(s) for any abatement and enforcement activity.

11-19-3.16. ABATEMENT- PROCEDURES.

- (1) Violations may be abated by City personnel or by a private contractor acting under the direction of the City.
- (2) City personnel or a private contractor may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the Notice of Violation or administrative code enforcement order.
- (3) If the responsible person abates the violation before the City performs the actual abatement, the enforcement official may still assess all costs incurred by the City against the responsible person.
- (4) When the abatement is completed, a report describing the work performed and an itemized bill for costs, including the total abatement costs shall be prepared by the enforcement official. The report shall contain the name and address of the responsible person.
- (5) The enforcement official shall serve the notice of itemized bill for costs by certified mail to the last known address of the responsible person. The notice may demand full payment within thirty (30) calendar days to the Park City Finance Department.
- (6) The responsible person shall have a right to an administrative code enforcement hearing to contest the notice of itemized bill for costs. A request for such hearing shall be in writing and shall be filed within ten (10) calendar days of the date of service of the notice of itemized bill for costs. Failure to request an administrative code enforcement hearing as provided in this Chapter shall constitute a waiver to such hearing and a waiver of the right to appeal.

11-19-3.17. COSTS- DECLARATION OF PURPOSE.

- (1) The City Council finds that there is a need to recover costs incurred by enforcement officials and other City personnel who spend considerable time inspecting and re-inspecting properties throughout the City in an effort to ensure compliance with the City Code or applicable state codes.
- (2) The City Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, re-inspections, administrative time, Administrative Law Judge fees, title searches, and any additional actual costs incurred by the City for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial fees or fines for violations of the City Code or applicable state codes.

11-19-3.18. COSTS- AUTHORITY.

- (1) Whenever actual costs are incurred by the City on a property to obtain compliance with the City Code and applicable state codes, the enforcement official may assess costs against the responsible person.
- (2) Once a Notice of Violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to re-inspection fees pursuant to the City Fee Schedule, as determined through policy and approved by the City Manager.

11-19-3.19. NOTIFICATION OF ASSESSMENT OF RE-INSPECTION FEES.

- (1) Notification of re-inspection fees shall be provided on the to the responsible person(s).
- (2) Re-inspection fees assessed or collected pursuant to this Chapter shall not be included in any other costs assessed.
- (3) The failure of any responsible person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this Chapter.

11-19-3.20. FAILURE TO TIMELY PAY COSTS.

The failure of any person to pay assessed costs by the deadline specified in the invoice may result in a late fee pursuant to City policy, as approved by the City Manager.

11-19-3.21. ADMINISTRATIVE FEES.

The enforcement official, Building Official or Administrative Law Judge has the authority to assess administrative fees for costs incurred in the administration of this program, such as investigation of violations, preparation for hearings, attendance of hearings, abatements and the collection process. The fees assessed shall be the amount set forth through policy and approved by the City Manager.

11-19-3.22. CIVIL VIOLATIONS – INJUNCTIONS.

In addition to any other remedy provided under the City Code or applicable state codes, including criminal prosecution or administrative remedies, any provision of the City Code may be enforced by injunction issued in the Third District Court upon a suit brought by the City.

11-19-3.23. CODE ENFORCEMENT PERFORMANCE BOND.

- (1) As part of any notice, administrative code enforcement order, or action, the Administrative Law Judge has the authority to require the responsible person to post a code enforcement performance bond to ensure compliance with the City Code, applicable state codes, or any judicial action, (if agreed to by the enforcement official handling the matter for the City).
- (2) If the responsible person fails to comply with the notice, administrative code enforcement order, or action, the bond will be forfeited to the City. The bond will not be used to offset the other outstanding costs and fees associated with the case.

CHAPTER 11-19-4. RECOVERY OF CODE ENFORCEMENT FEES AND COSTS.

11-19-4.1. CODE ENFORCEMENT TAX LIENS- DECLARATION OF PURPOSE.

The City Council finds that costs incurred by enforcement officials and other city personnel to enforce or abate violations should be recovered from the responsible person.

The City Council finds that recordation of code enforcement tax liens will assist in the collection of civil fees, actual costs of abating violations, re-inspections fees, Administrative Law Judge fee, administrative costs, and any other fees incurred by the City, assessed by the administrative code enforcement hearing program or judicial orders. The City Council further finds that collection of civil fees, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The procedures established in this Chapter shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the City Code or applicable state codes.

11-19-4.2. ASSESSMENT OF COST.

(1) Whenever actual costs are incurred by the City to enforce the City Code and applicable state codes, such costs may be assessed against the responsible person.

(2) The enforcement official shall serve the responsible person with a notice of itemized bill for costs if a notice has not already been provided to the responsible person providing such information. The notice may be provided to the responsible person by any of the methods listed in Section 11-19-1.12, and will include procedures set forth in timed deadline for payment.

(3) The responsible person shall have a right to an administrative code enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) calendar days from the date of service of the notice of itemized bill for costs. Failure to request an administrative code enforcement hearing as provided shall constitute a waiver to an administrative code enforcement hearing and a waiver of the right to appeal.

11-19-4.3. FAILURE TO TIMELY PAY COSTS.

The failure of any person to pay assessed costs by the deadline specified in an invoice may result in a late fee as determined through policy. Additionally, procedures for a code enforcement tax lien may be initiated as stated below.

11-19-4.4. PROCEDURES AND CANCELLATION FOR CODE ENFORCEMENT TAX LIEN.

Once a judgment has been obtained from the appropriate court assessing costs against the responsible person, the enforcement official may record a code enforcement tax lien against any real property owned by the responsible person.

Once payment in full is received for the outstanding civil fees and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the enforcement official shall either record a Notice of Compliance of judgment, or provide the property owner or financial institution with the Notice of Compliance of judgment so that it can record this notice with the Summit County Recorder's Office. The Notice of Compliance of judgment shall include the same information as provided in the original code enforcement tax lien. Such Notice of Compliance of judgment shall cancel the code enforcement tax lien.

11-19-4.5. RECOVERY OF COSTS BY WRIT OF EXECUTION OR BY WRIT OF GARNISHMENT.

After obtaining a judgment, the enforcement official may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ of execution with the applicable court or the garnishment of paychecks, financial accounts and other income or financial assets by filing a writ of garnishment with the applicable court

City Council Staff Report

Author: Pace Erickson, Operations Manager
Subject: 2006 Pavement Management Program
Date: June 15, 2006
Type of Item: Legislative



PUBLIC WORKS

SUMMARY RECOMMENDATIONS: Accept the 2006 Slurry Seal, Crack Seal and Utility Adjustment bids and authorize staff to enter into an agreement with Intermountain Slurry Seal for slurry seals in the amount of \$182,443.89, Kilgore Paving for crack seal in the amount of \$45,870.00 and Rivas Construction for utility adjustments in the amount of \$55,258.00.

DESCRIPTION:

A. Topic. Pavement Management Program 2006

B. Background. Pavement management is a program that maximizes pavement life and minimizes pavement costs by identifying the time frame for carrying out appropriate maintenance or rehabilitation. The benefit of this practice is to extend pavement life and reduce the overall life cycle cost. Pavements typically deteriorate in a non-linear fashion. Twenty-five percent of the deterioration occurs during the first seventy-five percent of pavement life. The more cost-effective maintenance should occur when the pavement is still in fair condition. Pavement repairs can be done inexpensively using sealing and overlay techniques. Proper pavement management should minimize the need for costly pavement reconstruction.

The pavement management plan has been up-dated several times in the last ten years most recently in 2001. The review consisted of visually inspecting the surface of every city street, testing pavement and subgrade deflection, analyzing the data, ranking streets and developing implementation plans based on different funding levels.

Pavement condition reports have identified the overall condition of Park City's pavement system. A 10 to 100 scale is used with 100 being pavement in the best possible condition. This includes the effect of surface, base, subgrade, load, environmental conditions and materials.

Pavement Condition Warranted Maintenance/Rehabilitation Effort

90-100	<u>Minimal</u> - minor patching and crack sealing
80-89	<u>Some</u> - slurry seal coats or thin overlays and crack sealing
65-79	<u>Routine</u> - thin to thick overlays
55-64	<u>Increasing</u> - thicker overlays or possible reconstruction
40-54	<u>High</u> - surface or base reconstruction, possibly subgrade stabilization
10-39	<u>Critical</u> - Total reconstruction including subgrade

The average pavement condition of all Park City streets is 73 with a range from a low of 38 to a high of 94. A value of 73 means that a pavements is a routine maintenance category and will require a medium thickness overlay for repair. Most of them can be saved by overlays and or slurry seals. Delay would increase the cost of repair significantly for these pavements. In a sense, they are the optimal pavements for repair. All pavements which are determined to be

rated at 40 or below are beyond restoration within the pavement management program. These pavements are patched as soundly as possible and are sent to the CIP budget for consideration for reconstruction.

The higher we can keep the pavement score the less expensive our roads will be to repair and maintain. Over the last several years, Park City has invested between \$500,000 and \$600,000 per year, four out of the last five years for crack seal, overlays, slurry seals and utility adjustments. Council could choose to increase this as funding becomes available.

This past winter incurred more damage to pavements in Park City due to the wet spring coupled with freeze/ thaw patterns creating conditions that heaved and potholed our roadways. Because of this staff has requested an additional \$200,000 be earmarked for the pavement management program and this request is part of the City Managers adjusted FY 2005–2006 budget.

The bid and RFP notification/process was advertised in the Park Record and Salt Lake Tribune.

C. Analysis.

Slurry Seal

The following streets have been identified within the pavement management program as having a rating of 80 to 89 and are slated to receive 166,009 square yards of slurry seal as part of the overall pavement management strategy.

Slurry Seals 2006 - Section/ Street Name

Sidewinder Dr: Comstock Dr to Kearns Blvd
Heber Ave: Park Ave to Swede Alley
Doc Holiday Dr: Buffalo Bill Dr to Sidewinder Dr
Buffalo Bill Dr: Kearns Blvd to Sidewinder Dr
Woodside Ave: 8th St to 12th St
11th St: Park Ave to Woodside Ave
St Andrews Ct: American Saddler to End of CDS
Woodside Ave: 7th St to King Rd
Park Ave: 14th St to Heber Ave
Snow Creek Dr: Hwy 224 to Kearns Blvd
Geronimo Ct: Annie Oakley Dr to end of CDS
American Saddler Dr: Meadows Dr to 3121 Am Sad
Creek Ct: Creek Dr to end of CDS
Silver Cloud Dr: Sunny Knoll Ct to Uinta Dr
Trappers Way: Park Ave to Main St
8th St: Park Ave to Norfolk Ave
Deer Valley Loop: Rossi Hill Dr to Deer Valley Dr

Red Pine Ct: Little Kate Rd to end of CDS
Sullivan Loop: Park Ave to Park Ave
Sunset Ct: Evening Star Dr to end of CDS
Hidden Splendor Ct: Thaynes Canyon Dr to end CDS
Kings Ct: Three Kings Dr to end of CDS
Empire Ave: Manor Way to end of curve
Lowell Ave: Manor Way to end of curve
Sunny Side Dr: Deer Valley Dr to Mellow Mountain Rd
Rossi Hill Dr: Deer Valley Dr to Mc Henry Dr
Coalition View Ct: Rossi Hill Dr to end of CDS
Eagle Way: Mellow Mountain Rd to end of CDS
Aerie Circle: Aerie Dr to end of CDS
Little Bessie Ave: Monarch Dr to Comstock Dr
Paddington Dr: Wyatt Earp Way to Euston Dr
Euston St: Paddington Dr to end of pavement
TMI Parking Lot:
Annie Oakley Dr: Sidewinder Dr to Sidewinder Dr

Crack Seal

Crack seal is an excellent way to prolong pavement life by sealing the surface cracks to prohibit water penetration on pavements which are in relatively good condition. However, all pavements in various stages and condition benefit from crack sealing. Public Works will apply 30 tons of crack seal to city streets identified as needing crack seal:

Street Name

Aerie Drive
Daystar Circle
Sun ridge Court
Oak Leaf Court
Oak Wood Court
Perseverance Court
14th Street
Mountain Ridge Court
Ashley Court
River Birch Court
Hackney Court
Lupine Lane
Columbine Court
Larkspur Drive
Fairway Hill Court
Sunny Knoll Court
Lake View Court
Equestrian Court

Monitor Drive
Monarch Drive

Utility Adjustments

Utility adjustments are required after an overlay to raise manholes, water valves and monument markers to the same grade as the pavement surface. Some require lowering prior to an overlay due to the milling process in advance of an overlay. 64 water valves and 76 manholes have been identified as needing to be adjusted prior to overlay application:

Section/ Street Name	Water/Survey	Manholes
Belle Star Ct: Sidewinder Dr to end of CDS	2	1
Swede Alley: Heber Ave to 5th Street *	0	4
Mellow Mountain Rd: Aerie Dr to April Mountain Dr	10	8
Sunny Slopes Dr: Meadows Dr to 1250 Ft	0	5
Deer Valley Dr: Round a bout to 1100 Ft	0	8
Oakwood Dr: Oakwood Ct to Sunridge Dr	18	13
Crestline Dr: Meadows Dr to American Saddler Dr	12	8
Meadows Dr: Evening Star Dr to Lake View Ct +200	5	4
Royal Ct: Royal St to end of CDS	2	1
Royal St: Silver Lake Dr up to 1150 Ft	0	3
Evening Star Dr: Little Kate Rd to Meadows Dr	5	8
Empire Ave: Manor Way to 15th St	10	7
Empire Ave: 15th St to Park Ave	0	6
Total	64	76

Asphalt Forecast

Staff has seen significant increases in asphalt costs. This is due to the volatile oil prices the world is experiencing. From last year, delivered asphalt prices have increased 49% to \$71.00 per ton. Staff believes costs will not fall below \$70.00 per ton in the near future. If costs maintain their current level a budget adjustment that reflects market prices is anticipated. Our original estimate for all elements of the pavement management program was \$697,866.45.

Bid Results

There were two bids received for street overlays, three bids for slurry seals, three bids for crack sealing and one bid for utility adjustments:

Slurry Seals

Intermountain Slurry Seal	\$182,443.89 (Recommended)
Kilgore Paving Inc.	\$189,250.26
M&M Asphalt	\$215,800.70

Crack Sealing

Kilgore Paving	\$45,870.00	(Recommended)
M&M Asphalt	\$60,000.00	
Bonneville Asphalt	\$75,000.00	

Utility Adjustments

Rivas Construction	<u>\$55,258.00</u>	(Recommended)
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\$283,571.89 (Recommended Totals)

D. Department Review. Bids were reviewed by the Public Works Department. Funds are designated in the CIP fund and are appropriated under line items 31-43311 in the amount of \$939,188, 31-43318 in the amount of \$47,686 for the year 2006. Any unspent funds prior to June 30, 2006 will be "carried over" to next year as per City policy.

ALTERNATIVES:

- A. **Accept the Slurry Seal, Crack Seal and Utility Adjustment bids and authorize staff to enter into agreements with:**
Intermountain Slurry Seal (slurry seals) in the amount of \$182,443.89; Kilgore Paving (crack seal) in the amount of \$45,870.00; and Rivas Construction (utility adjustments) in the amount of \$55,258.00 (Staff recommended)
- B. **Change scope and re-bid the 2006 pavement management program.**
(Staff does not recommend this alternative).
- C. **Reject all bids.**
(Staff does not recommend this alternative).

SIGNIFICANT IMPACTS:

The pavement management plan is designed to maintain and improve Park City pavement quality. Approval of less than the recommended program will cause a decline of pavement quality.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Failure to maintain an adequate pavement management program will increase maintenance dollars in subsequent years and lower overall pavement quality.

RECOMMENDATION:

Alternative A: Accept the Slurry Seal, Crack Seal and Utility Adjustment bids and authorize staff to enter into agreements with:

1. Intermountain Slurry Seal for slurry seals, in the amount of \$182,443.89.
2. Kilgore Paving for crack seal for crack seal, in the amount of \$45,870.00.
3. Rivas Construction for utility adjustments, in the amount of \$55,258.00.

Staff will bring the overlay portion of the pavement management program to present to City Council at a later date, pending review of the overlay portion of the project by the Legal Department.

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of June, 2006, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Intermountain Slurry Seals which is a (check one) ____ corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the (hereinafter "Project"), which consists of Street Slurry Seals for 2006 Pavement Management in Park City, Utah.

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

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

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

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

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

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

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

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City

Construction Agreement

Project: 2006 Pavement Management Program

C. Professional Liability (Errors and Omissions) insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

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

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

4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **One Hundred Eighty Two Thousand Four Hundred and Forty Four Dollars (\$182,444)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

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

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

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

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of June, 2006, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Kilgore Paving & Maintenance which is a (check one) ____ corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the (hereinafter "Project"), which consists of Street Crack Seals for 2006 Pavement Management in Park City, Utah.

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

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

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

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

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

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

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

Construction Agreement

Project: 2006 Pavement Management Program

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City

C. Professional Liability (Errors and Omissions) insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

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

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

4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Forty Five Thousand Eight Hundred and Seventy Dollars (\$45,870)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

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

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

A. RETAINAGE. The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated

Construction Agreement

Project: 2006 Pavement Management Program

damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of June, 2006, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Rivas Construction Inc. which is a (check one) ____ corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the (hereinafter "Project"), which consists of Street Utility Adjustments for 2006 Pavement Management in Park City, Utah.

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

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

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

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

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

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and materialmen who supplied services or materials to the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release. If the City reasonably believes that Contractor has failed to pay Subcontractors, materialmen, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City

Construction Agreement

2

Project: 2006 Pavement Management Program

specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

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

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

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

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

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

The Contractor shall provide a Certificate of Insurance evidencing:

A. Automobile Liability insurance with limits no less than five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury and property damage.

B. Commercial General Liability insurance written on an occurrence basis with limits no less than one million dollars (\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's liability.

Construction Agreement

Project: 2006 Pavement Management Program

3

C. Professional Liability (Errors and Omissions) insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

D. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

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

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

4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **Fifty Five Thousand Two Hundred Fifty Eight Dollars (\$55,258)** ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

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

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

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

Construction Agreement

Project: 2006 Pavement Management Program

4

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

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

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

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

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **September 15, 2006** (insert date). Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **One Hundred Dollars (\$100.00)**, (NOTE: liquidated damages clause must be agreed to by Contractor, if no mutual agreement, then no liquidated damages) which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. **TIME IS OF THE ESSENCE IN THIS AGREEMENT.**

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

Construction Agreement

5

Project: 2006 Pavement Management Program

the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

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

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

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

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

- A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;
- B. If Contractor substantially fails to perform any part of this Agreement;
- C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;

Construction Agreement

Project: 2006 Pavement Management Program

6

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

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

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

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

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

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

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and

Construction Agreement

Project: 2006 Pavement Management Program

7

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

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

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

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

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

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

Construction Agreement

8

Project: 2006 Pavement Management Program

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

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

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

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

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

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

SECTION 20. HOURS AND DAYS OF WORK. All work performed by the Contractor, its subcontractors, materialmen, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan. **No work will take place on the bike paths located on the north side of Kearns Blvd. (SH248) from July 10 to July 29, 2006.** In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- A.** Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries

Construction Agreement

9

Project: 2006 Pavement Management Program

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

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

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

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

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

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

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

Construction Agreement

Project: 2006 Pavement Management Program

10

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

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

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

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

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

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

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

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

A. The Contractor shall obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. Contractor shall not permit

Construction Agreement

11

Project: 2006 Pavement Management Program

accumulated debris, litter, or trash on the construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

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

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

SECTION 24. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

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

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

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

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

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

Construction Agreement

Project: 2006 Pavement Management Program

12

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

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

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

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

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

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

ATTEST:

City Recorder's Office

APPROVED AS TO FORM:

City Attorney's Office

Construction Agreement

Project: 2006 Pavement Management Program

13

CONTRACTOR
Rivas Construction Inc.
6990 south 375 East
Salt Lake City UT 84047
801-225-3544
801-567-9658 fax

Signator, Title

Utah Contract License No.

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2006, personally appeared before me _____ (signator), whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he/she is the _____ (title or office) of _____ (Contractor business name) by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said Corporation executed the same.

Notary Public

City Council Staff Report

Author: Gary Hill
Subject: FY 2006 Revised Budget, FY 2007 Budget,
Date: June 15, 2006
Type of Item: Discussion/Legislative

Budget, Debt, and Grants

Description:

A. Topic:

Final adoption of the FY 2006 Revised Budget, FY 2007 Budget

B. Background:

On May 4th, staff delivered the City Manager's Recommended Budget (Tentative Budget) to City Council. Discussions have included the following:

- Budget Overview
- Revenue / Expenditure Summary
- Economic Outlook
- Operating Budget

May 18th – Capital Improvement Program (CIP) Budget

- Prioritized CIPs
- Long-term / Citywide Needs
- Existing CIP Requirements
- New Projects
- Ongoing Projects Updates

May 25th – Regional Collaboration & Economic Development

- Business License Fees
- Economic Development Grant Policy

June 1st – Tentative Adoption

- City Service Fees and Fee Resolution
- Business License Fees
- Outstanding Issues

June 8th – Budget Policies and Business Licenses

- Budget Policies and Technical Adjustments
- Business License Fees

C. Analysis:

The budget is scheduled for final adoption on June 15th. Topics for discussion and/or action on the 15th will include the following:

- (1) Adoption of the Final Budget
- (2) Review of changes to Tentative Budget
- (3) Compensation Ordinance for City Council and Statutory Officers (preview for June 29th)

Adoption of the Final Budget

Attached to this staff report is an ordinance adopting a Revised Budget for FY 2006, and a Budget for FY 2007 for Park City Municipal Corporation. The budget resolutions for the Municipal Building Authority (MBA) and Redevelopment Agency (RDA) are also included. Council should hold a public hearing for each entity and adopt their respective budgets on June 15th.

Review of changes to Tentative Budget

The following are changes that have been made to the budget since it was first presented to City Council on May 4th. The majority are technical changes, corrections, or the result of Council direction.

Operating Budget –

(1) Change to CDR1 package in Tennis department. The Office Assistant II position is changed to an Office Assistant III consistent with the Council-approved policy for career development reclassifications. This will increase the FY 2007 budget by \$3,069.

(2) City Manager salary line was adjusted to reflect actual pay as determined by the Mayor and City Council. Funding was removed from the retirement line to offset the increase. This is a zero sum adjustment.

(3) The Lower Park RDA mitigation payment to the School District was higher than budgeted due to the continued increase in property values in the Lower Park Avenue RDA area. The budgeted amount was increased \$13,129 to reflect actual payment.

(4) RAP tax revenue adjustment in Fund 12 to include \$85,985 to help offset Ice Rink operating costs.

Capital Project Budget-

(1) CIP # 764 (Judge Water Treatment Plant) was decreased by \$997,042 to reflect actual bond proceeds remaining, and the Federal Grants line of the same project was decreased \$15,100 to reflect actual STAG Grant appropriation.

(2) CIP # 760 (Homeland Security Improvements) increased by \$17,260 to reflect the amount remaining in the FY 2004 Homeland Security Grant.

(3) CIP # 837 (Conservation Reserve Program) was increased \$2,056 to reflect grant money collected this year.

(4) CIP # 787 (Prospect Avenue) was increased to reflect grant money received from the Army Corps of Engineers (\$558,000).

(5) Sale of assets line in the Town Plaza project (CIP # 786) was increased by \$435,000 to accurately reflect the sale price of the Watts property.

(6) General Fund Transfer to CIP – The General Fund transfer to the CIP is \$6,500,000, which is approx. \$1,723,000 greater than anticipated when the budget was first presented in May. Consistent with the one-time revenue policy approved by City Council this year, the surplus revenue has been budgeted toward existing capital projects as follows:

- \$750,000 – Town Plaza CIP. This CIP had an unfunded amount of \$750,000. This appropriation will fully fund the Plaza including the cost of the shell space adjacent to the new parking structure.
- \$750,000 that was programmed in FY 2008 for the Marsac Seismic Upgrade (CIP # 770) has been moved forward to 2006.
- \$100,000 for the Walkable Communities Study (CIP # 854) has been moved forward from FY 2007 to 2006.
- \$123,000 has been added to the Public Safety Building CIP (# 671) to more fully fund a project contingency. In the event the proceeds are not spent on the new Police Station, the revenue will be available for allocation to other projects.

Compensation Ordinance for City Council, Mayor, and Statutory Officials

State law requires that compensation for the City Council, Mayor, and the City's statutory officials be set by ordinance following a public hearing. The City's statutory officials include the following:

- City Manager
- City Attorney
- Treasurer
- City Recorder
- City Engineer

The compensation ordinance is scheduled for adoption on June 29th. This year's budget includes a 2% increase in budgeted compensation for City Staff (except as noted below) and the Mayor and City Council. This increase is consistent with Council direction and was approved as a part of the Pay Plan adopted last year.

Although the budgeted compensation for most City Staff will increase, the City Manager and City Attorney's salaries are not budgeted to increase by 2%. If Council would like to increase the budgeted salaries for these two positions, direction would need to be given on June 15th in order to be included in the Final Budget for FY 2007 and be reflected in the compensation ordinance on June 29th.

D. Department Review:

Budget, City Manager

Recommendation: Provide direction about the remaining budget issues and adopt the Final Budget for the City, Municipal Building Authority(MBA), and Redevelopment Agency (RDA)

SIGNIFICANT IMPACTS: The City's budget must be balanced. Staff recommends that Council provide policy direction on budget issues. Any unresolved issues should be discussed on June 15th so that the Final Budget can be adopted.

Attachments

- A** – Ordinance Adopting a Final Budget for Park City Municipal Corporation
- B** – Resolution Adopting a Budget for the Park City RDA
- C** – Resolution Adopting a Budget for the Park City MBA



Ordinance No.

AN ORDINANCE ADOPTING A REVISED BUDGET FOR FY 2005-06 AND A BUDGET FOR 2006-07 FOR PARK CITY MUNICIPAL CORPORATION AND ITS RELATED AGENCIES.

WHEREAS, the Utah State law requires that city budgets be adopted by resolution or ordinance: and;

WHEREAS, a public hearing was held on May 4, May 18, May 25, June 1, June 8, and June 15, 2006 at the City Council's regularly scheduled meetings, complying with State law;

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

SECTION 1. REVISED BUDGET ADOPTED. The budget as outlined in the City Manager's Recommended Budget presented on May 4, 2006 and with changes as summarized in the Attachments to this ordinance is hereby adopted as the Revised 2005-06 Operating Budget for Park City Municipal Corporation and its related agencies.

SECTION 2. BUDGET ADOPTED. The budget as outlined in the City Manager's Recommended budget presented on May 4, 2006 and with changes as summarized in the Attachments to this ordinance is hereby adopted as the budget for FY 2006-07 for Park City Municipal Corporation and its related agencies.

SECTION 3. CERTIFIED PROPERTY TAX RATE. The City's Budget, Debt and Grants Manager is authorized to compute and file the City's Certified Property Tax rate for FY 2006-07 at a "no tax increase rate". This ordinance hereby adopts the Certified Property Tax rate for FY 2006-07. The Budget, Debt, and Grants Manager is also authorized to compute the City's Certified Property Tax rate for the issuance of General Obligation Bonds as approved by voters in November of 2001 and 2002.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect June 15, 2006 for the FY 2005-06 revised budget and July 1, 2006 for the FY 2006-07 budget.

PASSED AND ADOPTED this 15th day of June, 2006.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



Resolution No. _____

**A RESOLUTION ADOPTING THE FISCAL YEAR 2006 REVISED BUDGET
AND THE FISCAL YEAR 2007 BUDGET
FOR PARK CITY REDEVELOPMENT AGENCY**

WHEREAS, Utah State law requires that city budgets be adopted by resolution;
and

WHEREAS, a public hearing was held on May 4, May 18, May 25, June 1, June 8
and June 15, 2006 at the City Council's regularly scheduled meetings, complying with
State law;

NOW, THEREFORE BE IT RESOLVED by the Redevelopment Agency of Park
City, Utah that:

SECTION 1. BUDGET ADOPTED. The following revised budget is hereby
adopted as the Fiscal Year 2006 Redevelopment Agency Revised Budget for Park City,
Utah.

	<u>Main Street</u>	<u>Park Avenue</u>
Main Street Debt Service	\$1,011,652	
Main Street CIP	\$2,621,092	
Lower Park Ave Debt Service		\$2,367,836
<u>Lower Park Avenue CIP</u>		<u>\$6,874,670</u>
Subtotal	\$3,632,744	\$9,242,506
LESS:		
Interfund Transactions	\$(650,000)	\$(640,000)
Special Revenues		
<u>Beginning balance</u>	<u>\$(1,682,744)</u>	<u>\$(6,389,377)</u>
	\$(2,332,744)	\$(7,029,377)
NET RDA TAX INCREMENT	\$1,300,000	\$2,213,129

SECTION 2. BUDGET ADOPTED. The following budget is hereby adopted as the Fiscal Year 2007 Redevelopment Agency Budget for Park City, Utah.

	<u>Main Street</u>	<u>Park Avenue</u>
Main Street Debt Service	\$104,152	
Main Street CIP	\$2,586,885	
Lower Park Ave Debt Service		\$2,326,836
<u>Lower Park Avenue CIP</u>		<u>\$5,133,885</u>
Subtotal	\$2,691,037	\$7,460,721
LESS:		
Interfund Transactions	\$(104,152)	\$(600,000)
Special Revenues	\$(1,000,000)	
<u>Beginning balance</u>	<u>\$(286,885)</u>	<u>\$(4,660,721)</u>
	\$(1,391,037)	\$(5,260,721)
NET RDA TAX INCREMENT	\$1,300,000	\$2,200,000

SECTION 3. EFFECTIVE DATE. The Resolution for the revised budget shall take effect on June 15, 2006 and the Resolution for the budget shall take effect on July 1, 2006.

PASSED AND ADOPTED the 15th day of June, 2006.

PARK CITY REDEVELOPMENT AGENCY

Chairman Dana Williams

Attest:

Janet M. Scott, Deputy Secretary

Approved as to form:

Mark D. Harrington, City Attorney



Resolution No. _____

**RESOLUTION ADOPTING THE PARK CITY MUNICIPAL BUILDING
AUTHORITY REVISED BUDGET FOR FISCAL YEAR 2006 AND THE
BUDGET FOR FISCAL YEAR 2007**

WHEREAS, Utah State law requires that city budgets be adopted by resolution; and

WHEREAS, a public hearing was held on May 4, May 18, May 25, June 1, June 8
and June 15, 2006 at the City Council's regularly scheduled meetings, complying with
State law;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Building Authority
of Park City, Utah that:

SECTION 1. BUDGET ADOPTED. The following revised budget is hereby
adopted as the Fiscal Year 2006 Municipal Building Authority Revised Budget for Park
City, Utah:

Debt Service Fund	\$81,999
Capital Improvement Program	\$1,330,940
Subtotal	\$1,412,939
Less Ending Balance	(1,297,933)
TOTAL	\$115,006

SECTION 2. BUDGET ADOPTED. The following budget is hereby adopted as
the Fiscal Year 2007 Municipal Building Authority Budget for Park City, Utah:

Debt Service Fund	\$0
Capital Improvement Program	\$1,329,933
Subtotal	\$1,329,933
Less Ending Balance	(1,297,933)
TOTAL	\$32,000

SECTION 3. EFFECTIVE DATE. The Resolution for the revised budget shall take effect on June 15, 2006, the Resolution for the budget shall take effect on July 1, 2006.

PASSED AND ADOPTED this 15th day of June, 2006.

PARK CITY MUNICIPAL BUILDING AUTHORITY

Chairman Dana Williams

Attest:

Janet M. Scott, Deputy Secretary

Approved as to form:

Mark D. Harrington, City Attorney