

# CITY OF STEAMBOAT SPRINGS

## AGENDA

Regular Meeting NO. 2012-13  
Tuesday, July 17, 2012

5:00 PM

**MEETING LOCATION:** Citizens' Meeting Room, Centennial Hall;  
124 10<sup>th</sup> Street, Steamboat Springs, CO

**MEETING PROCEDURE:** Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items not scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard following the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President.

With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

**PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).**

CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

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**ROLL CALL (5:00 PM)**

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**PROCLAMATIONS:**

1. **PROCLAMATION: A proclamation recognizing July 29, 2012 as Post Traumatic Stress Disorder Day in Steamboat Springs, Colorado. (Bob Mullen, Out of the Shadows)**

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**COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:**

2. **Presentation from the Location Neutral Workforce. (15 minutes) (Scott Bideau)**
3. **Community Support Policies. (Hinsvark)**
4. **Lake Catamount Water Release – Presentation by David Hill. (Roberts)**

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**CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS**

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

5. **RESOLUTION: A resolution acknowledging appointments to the Urban Redevelopment Authority Advisory Committee, Parks and Recreation Commission and the Ice Rink Advisory Committee. (Franklin)**
6. **FIRST READING OF ORDINANCE: An ordinance authorizing the release of an affordable housing deed restriction encumbering Unit #1504, Sunray Meadows Condominium phase XIV; providing for severability; and providing an effective date. (Hinsvark)**
7. **FIRST READING OF ORDINANCE: An ordinance amending Sections 25-37 and 25-216 of the Steamboat Springs Revised Municipal Code by authorizing the City Manager to impose water use restrictions restricting outdoor uses of water during period of water shortage and imposing fees relating to such outdoor uses; repealing all conflicting ordinances; and providing an effective date. (Foote)**

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**PUBLIC HEARING: ORDINANCE SECOND READINGS**

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

8. **SECOND READING OF ORDINANCE: An ordinance approving a lease agreement between the City of Steamboat Springs and New Cingular Wireless; providing an effective date; and setting a hearing date. (Foote)**

*This item was postponed from the July 3, 2012 Council meeting.*

- 9. SECOND READING OF ORDINANCE:** An ordinance approving an amendment to the lease between the City of Steamboat Springs and Smartwool LLC and authorizing the execution of the amendment to the lease; repealing all conflicting ordinances; providing for severability; and providing an effective date. (Hinsvark)

*This item was postponed from the July 3, 2012 Council meeting.*

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**PUBLIC COMMENT: PUBLIC COMMENT WILL BE PROVIDED AT 7 P.M., OR AT THE END OF THE MEETING, (WHICHEVER COMES FIRST).**

CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.

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## **PLANNING COMMISSION REPORT**

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### **CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:**

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.

- 10. PROJECT:** Original Town of Steamboat Springs, Blk. 24, Lots 4-6 (3rd and Lincoln) #DP-12-04. (Keenan)  
**PETITION:** A Development Plan application to allow outdoor sales (limited to: fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales) at 235 Lincoln Avenue with an expiration date of September 30, 2013.  
**LOCATION:** 235 Lincoln Avenue (3rd and Lincoln).  
**APPLICANT:** Mark Scully, P.O. Box 774137, Steamboat Springs, CO. (312) 446-5533.  
**PLANNING COMMISSION VOTE:** Planning Commission voted to approve on July 12, 2011; Vote: 7-0.

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## **PUBLIC HEARING – PLANNING COMMISSION REFERRALS**

PUBLIC HEARING FORMAT:

- Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.
- Presentation by the Opposition. Same guidelines as above.
- Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.
- City staff to provide a response.

**11. SECOND READING OF ORDINANCE: An ordinance rezoning property known as the Aviator North; located in the northwest corner of Elk River Road and Airport Circle from RE-1 (Residential Estate One – Low Density) Zone District to I (Industrial) Zone District; repealing all conflicting ordinances; providing for severability; and providing an effective date. (Keenan)**

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**REPORTS**

**12. City Council**

**13. Reports**

a. Agenda Review: (Franklin)

1. City Council agenda for August 7, 2012.
2. City Council agenda for September 4, 2012.

**14. Staff Reports**

- a. City Attorney's Update/Report. (Lettunich)
- b. Manager's Report: Ongoing Projects. (Roberts)
  1. Director's response.

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**ADJOURNMENT**

BY: JULIE FRANKLIN, CMC  
CITY CLERK

# AGENDA ITEM # 1

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Bob Mullen, President, Out of the Shadows (879-6294)

**DATE:** July 17, 2012

**ITEM:** A proclamation recognizing July 29, 2012 as Post Traumatic Stress Disorder Day in Steamboat Springs, Colorado.

**NEXT STEP:** To support this proclamation.

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- DIRECTION
  - INFORMATION
  - ORDINANCE
  - MOTION
  - PROCLAMATION
- 

### **I. REQUEST OR ISSUE:**

At issue is the request to name a day by proclamation Post-traumatic Stress Disorder Day. PTSD has been around as long as man has been at battle and it won't go away, because there is no magic potion or training that can exempt man from the horrors of war. PTSD deserves a day of recognition.

You simply cannot take your brain to war and not be changed. The general population in this country needs to recognize this and no better place to start than in Ski Town USA. The place that produces the most Olympic Champions can also start the country on an educational trip that will make it easier for these men and women to seek the treatment they need to live satisfactory lives.

### **II. RECOMMENDED ACTION:**

Approve the proclamation.

### **III. FISCAL IMPACTS:**

None

**IV. BACKGROUND INFORMATION:**

The State of Colorado ranks 46<sup>th</sup> in the amount of money spent on its veterans (under \$2.50 per veteran). A veteran with PTSD in Steamboat has a 6 hour round trip drive to receive counseling. The website educational system offered through Out of the Shadows is free and accessible 24/7. The site is the result of the efforts of Bob Mullen, Sandy Papp MA. L.P.C. and Bob's wife, who has worked in unison to help Bob cure his PTSD. The result is the book *The Five Lessons*.

**V. LEGAL ISSUES:**

None

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None

**VII. SUMMARY AND ALTERNATIVES:**

There will be a group of men and women climbing Longs Peak in a fundraiser on July 29, 2012. Brian Harvey and KBCR will be advertising along with talking about PTSD preceding the event. Making Steamboat as a town that recognizes the difficulty of brave men and women to acknowledge the problem of PTSD and help them seek the help they need would be a giant step in the right direction.

*"Recognizing a need for help is not an admission of failure, but a declaration of understanding."*

**LIST OF ATTACHMENTS**

**Attachment 1 -** Out of the Shadows newsletter

# Attachment 1



## Out of the Shadows

Support & Recovery for Combat Soldiers

www.OutOfTheShadowsVets.com  
Email: Bob@OutOfTheShadowsVets.com

### What's in the News?

Every day we read about some star or athlete going into or coming out of rehab and pull for their recovery. They used chemicals to alter their reality because having it all was too hard, and yet we pull for them.

### What Should be in the News?

On the other hand we have hundreds of thousands of young men and women who got into trouble trying to keep our country out of trouble, and we ignore them. Our VA is admittedly unable to help the growing number of returnees with problems they didn't ask for. Waiting lines as long as a year face some of them, not for treatment, for evaluation. Their problem is they are warriors who swore to protect and defend these United States and ended up with a devastating wound: Post-traumatic Stress Disorder.

### We are at War!

Current suicide rates among active-duty service members are at the rate of one per day. It is frightening to note that this number does not include National Guard, Reservists and Veterans. The VA is overwhelmed with old methods and numbers increasing daily beyond their capacity. **We must not lose the battle to save the lives of our warriors.** Out of the Shadows reaches out to active-duty service members, veterans, families and friends of those who are suffering, providing support and encouragement now.

Don't wait; visit us at: [OutOfTheShadowsVets.com](http://OutOfTheShadowsVets.com).



### What is Out of the Shadows?

Led by its founder Bob Mullen, Out of the Shadows is an organization of combat veterans dedicated to helping veterans and active-duty warriors get their lives back on track after deployment into combat zones. Our website helps warriors directly. The Five Lessons is an online program written by a combat veteran who, with a great deal of help, found his way home after forty years.

### Who does Out of the Shadows Help?

- Veterans returning from combat
- Active-duty soldiers and Marines
- Families and friends of soldiers and Marines
- Anyone who has suffered a trauma and is looking for more information and help with their PTSD
- Anyone who wants to get a better understanding of war and its impact on the warriors and their families

As a Master Golf Instructor Bob was frustrated that his students complained their muscles couldn't learn new skills. They were stuck with old problems, and they couldn't improve their game no matter what they tried. Bob explained that the muscles weren't the problem, it was the brain. When the golfers began exercises to train their brains, their games improved dramatically. Bringing what he taught the golfers into the Five Lessons Bob provides a game plan for you as you struggle to make sense of life after combat. This plan will ease your way as you transition from war to peace, no matter how long it has been since you were on the battlefield.

Out Of The Shadows is dedicated to the memory of Richard Wayne Mullen, Captain USMC 1965-69.  
April 28, 1942 - April 8, 2012

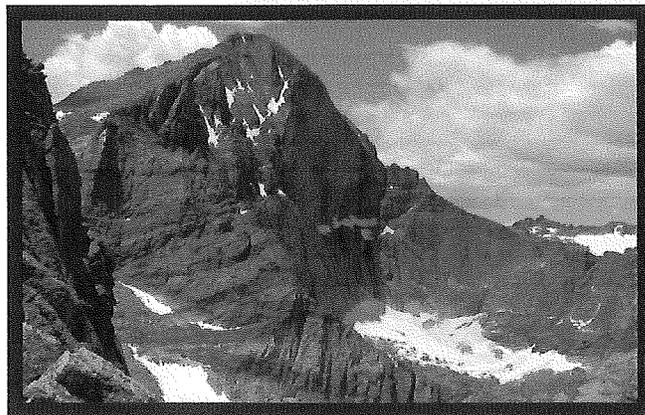


# Out of the Shadows

Support & Recovery for Combat Soldiers

www.OutOfTheShadowsVets.com  
Email: Bob@OutOfTheShadowsVets.com

## Longs Peak Climb Fundraiser Sunday, July 29, 2012



*Happy Birthday, Bob! Is this what old Marines do on their birthdays?*

*This is where Bob Mullen and those who plan to join him for his 69th birthday will be having cake on Sunday, July 29, 2012. No, it's not just a casual hike, but then who could raise money by taking a casual hike?*

*At 14,259 feet, Longs Peak towers above all other summits in Rocky Mountain National Park. The flat-topped monarch is seen from almost anywhere in the park. Different angles show the great mountain's unique profiles. Changing weather reflects Longs Peak's many moods.*

*In the summertime, when conditions allow, thousands climb to Longs' summit via the Keyhole Route. The Keyhole Route is not a hike. It is a climb that crosses enormous sheer vertical rock faces, often with falling rocks, requiring scrambling, where an unroped fall would likely be fatal. The route has narrow ledges, loose rock, and steep cliffs.*

*For most of the year, climbing Longs Peak is in winter conditions, which requires winter mountaineering experience and the knowledge and use of specialized equipment. Disregard for the mountain environment any time of year has meant danger, injury, and even death.*

*Here's the drill:*

*As of June there are 23 climbers in our group. The Forest Service has been advised to expect more, and Bob is hoping that lots of you will want to support Out of the Shadows either by climbing or by sponsoring a climber, or both! All the money raised will be used to purchase workbooks for veterans and active-duty warriors with PTS/PTSD. No one in the Out of the Shadows organization receives any compensation. We are all volunteers.*

*Contact:*

*Email Bob@OutOfTheShadowsVets.com if you are interested in signing up to climb. You will receive pledge information and additional information about the climb. Each climber must raise \$500 in pledges to be included in the climb.*

*A bus will leave Steamboat early a.m. on the morning of the climb so that no one will have to camp at the trail head. The bus will act as base camp. Anyone who is registered for the climb will have to check in at the bus whether you ride over from Steamboat or meet up at the trail head. This is a group climb. No solo routes will be allowed.*

*Everyone who participates will receive a tee shirt and a bracelet. Our goal is \$25,000.*

*Out Of The Shadows is dedicated to the memory of Richard Wayne Mullen, Captain USMC 1965-69.  
April 28, 1942 - April 8, 2012*

*A PROCLAMATION RECOGNIZING SUNDAY, JULY 29, 2012 AS PTSD DAY IN  
STEAMBOAT SPRINGS, COLORADO*

**WHEREAS**, POST-TRAUMATIC STRESS DISORDER HAS REACHED CRISIS NUMBERS AMONG OUR RETURNING VETERANS; and

**WHEREAS**, SUICIDE IS NOW THE LEADING CAUSE OF DEATH AMONG THOSE WHO SERVE AND HAVE SERVED THIS NATION; and

**WHEREAS**, THIS COMMUNITY RECOGNIZES THAT THE VETERAN'S ADMINISTRATION IS UNDERSTAFFED AND UNABLE TO REACH ALL THOSE IN NEED OF HELP; and

**WHEREAS**, THIS PROCLAMATION WILL SERVE TO DRAW ATTENTION TO THE VETERAN'S PLIGHT AS WELL AS AN OPPORTUNITY FOR EDUCATION AND REHABILITATION.

***NOW, THEREFORE, BE IT PROCLAIMED**, by the City Council of the City of Steamboat Springs, Colorado, that Sunday, July 29<sup>th</sup> 2012 is hereby declared PTSD DAY IN STEAMBOAT SPRINGS, ROUTT COUNTY".*

**ADOPTED THIS 17th day of July, 2012.**

Attest:

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Julie Franklin, CMC  
City Clerk

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Bart Kounovsky  
Steamboat Springs City Council President

## AGENDA ITEM # 2

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Scott Bideau, Software Sales Account Executive  
((970) 871-4572)

**THROUGH:** Kenny Reisman, City Council member

**DATE:** July 17, 2012

**ITEM:** An introduction to the Location Neutral Workforce.

**NEXT STEP:** An informational presentation on the Location Neutral Workforce and its significant impact on the Steamboat and Routt County economy. Primary purpose is to determine if City Council is interested in fostering this sector and/or working together on community improvements.

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DIRECTION  
 INFORMATION  
 ORDINANCE  
 MOTION  
 RESOLUTION

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**I. REQUEST OR ISSUE:**

None

**II. RECOMMENDED ACTION:**

None

**III. FISCAL IMPACTS:**

None

# AGENDA ITEM # 3

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Debra Hinsvark, Deputy City Manager (X240)

**THROUGH:** Jon Roberts, City Manager (228)

**DATE:** July 17, 2012

**ITEM:** Community Support Policies.

**NEXT STEP:** Council may provide direction to staff.

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DIRECTION  
 INFORMATION  
 ORDINANCE  
 MOTION  
 RESOLUTION

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**I. REQUEST OR ISSUE:**

Direction is requested on changes to be made to the process of allocating community support grants.

**II. RECOMMENDED ACTION:**

To adopt one of the three examples in the presentation or develop a fourth alternative, and direct staff to implement.

**III. FISCAL IMPACTS:**

**Proposed Expenditure:** All options will require nominal additional expenditures in the form of staff time. The final recommendation will free staff time, but require a payment to the contracting entities.

**Funding Source:** General Fund

**IV. BACKGROUND INFORMATION:**

The community support granting process has been in place about 4 years and a few issues have arisen. This review and recommended changes are intended to resolve those issues.

**V. LEGAL ISSUES:**

None

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None

**VII. SUMMARY AND ALTERNATIVES**

- 1) Council may direct staff to implement any of the three alternatives.
- 2) Council may direct staff to implement a portion of one or all three alternatives.
- 3) Council may direct staff to other alternatives for consideration.

**LIST OF ATTACHMENTS**

**Attachment 1 -** Community Support Discussion

Attachment 1

3.3

# Community Support Discussion

July 17, 2012

## Problems That Have Surfaced

- Some requests do not fit within the three coalitions.
- Within the different coalitions, different evaluation methods are used.
- Council priorities for granting aren't clear.
- Perceived conflicts of interest among allocation committee members.
- Perception of a lack of transparency related to the make-up of committees.
- Some grantees feel there should be more Council oversight.

# Requests Outside Coalitions

- Move all Economic Development driven requests (Main Street, Mountain Village Partnership, Yampa Valley Data Partners) to the City Manager's ED budget.
- Move all Recreation driven requests (Bike Town USA, Routt County Riders) to the Park and Recreation Director's budget.
- Move all Safety driven requests (CAP, Search and Rescue) to the Director of Public Safety's budget.

# What's left

- Summer Marketing Allocation
  - Special Events Allocation
  - Health and Human Service Allocation
  - Arts and Culture Allocation
  - Environmental Allocation
- } Coalitions

## Standardize Granting Methods

- Require the use of a standard grant form like the Colorado Common Grant Application for requests over \$5,000 and a simpler, standard form like the one used by Routt County for requests under \$5,000.
- Use a grading system in the evaluation to ensure that Council criteria are met and are valued according to Council priorities.
- Ask granting committee members to sign a conflict of interest statement.
- Add a process for application for and selection of committee members.

# Council Priorities

- Develop a set of priorities for evaluation of each grant request:
  - Number of citizens impacted by the grant.
  - Activity/program reduces city service requirements or fulfills a city goal.
  - Activity/program generates tourism and/or generates sales tax.
  - This grant is no more than “x” percent of the organization’s total budget.
  - Grant seed money.
  - Grant operations money.
  - Strength/diversity of other funding sources to the organization.
  - Overall financial health of the organization.
  - Operational stability (staff and leaders) of the organization.
  - Evidence of meaningful collaboration with other service organizations where possible to eliminate duplication of services.

# Become *More Involved* in the Process

- Create three granting committees and appoint the members of each committee.
- Require committee members to sign conflict of interest statements.
- Provide staff to work with each committee to ensure that standard forms are used and grading “scoresheets” are completed.
- Assist with scheduling during the budget process to meet budget deadlines.

# Or

- Continue with current process but:
  - Committee members, including steering committee, apply and be approved by Council.
  - Require use of standard forms.
  - Require allocation committee members to sign a conflict of interest statement.
  - Require grants be evaluated and scored based on Council priorities.
  - Maintain scoring sheets and conflict of interest statements in City files.

# OR

- Contract with the Community Foundation to re-grant to the Arts and Culture entities and to the Environmental entities.
- Contract with the United Way to re-grant to the Health and Human Services entities.
- Provide block grants for each of the three entity types and require all funds to be granted in the budgeted calendar year.
- Require the use of standard grant forms, scoring sheets (which the City will keep for its files) and granting in accordance with the City's priorities.

AGENDA ITEM # 4

**Lake Catamount Water Release – Presentaion by  
David Hill**

This is a discussion item only.

# AGENDA ITEM # 5

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Julie Franklin, CMC, City Clerk (Ext. 248)

**THROUGH:** Jon B. Roberts, City Manager (Ext. 228)

**DATE:** June 19, 2012

**RE:** A resolution acknowledging appointments to the Urban Redevelopment Authority Advisory Committee, Parks and Recreation Commission and the Ice Rink Advisory Committee.

**NEXT STEP:** To approve the resolution.

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RESOLUTION  
 MOTION  
 DIRECTION

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### **I. REQUEST OR ISSUE:**

To acknowledge the appointments to the Urban Redevelopment Authority Advisory Committee, Parks and Recreation Commission and the Ice Rink Advisory Committee as determined by City Council on July 3, 2012.

The following individuals have applied to serve on the Urban Redevelopment Authority Advisory Committee:

*David Baldinger, Jr., Brent Pearson, and Chris Diamond. Regular positions serving until April 30, 2015.*

*Peter Patten and Jon Wade. Regular positions/serving until April 30, 2014.*

*Daniel Pirrallo. Starwood Business Seat serving indefinitely.*

*Jim Schneider. Alternate position serving until April 30, 2015.*

*Ellie McAtee. Base Area Business – Alternate seat serving indefinitely.*

The following individuals have applied to serve on the Parks and Recreation Commission:

*Kara Givnish, JoEllen Heydon, Alan Koermer and Frank Dolman. Regular positions/serving until March 31, 2014.*

The following individuals have applied to serve on the Ice Rink Advisory Committee:

*Tripp Hartigan, Sarah Katherman and Rachelle Summers. Regular positions/serving until March 31, 2014.*

There is still one opening on the Ice Rink Advisory Committee.

**II. RECOMMENDED ACTION:**

Council to approve the resolution acknowledging appointments to the Urban Redevelopment Authority Advisory Committee, Parks and Recreation Commission and the Ice Rink Advisory Committee.

**III. FISCAL IMPACTS:**

None related to these appointments.

**IV. BACKGROUND INFORMATION:**

None.

**V. LEGAL ISSUES:**

None.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

Approve the appointments of the above mentioned Urban Redevelopment Authority Advisory Committee, Parks and Recreation Commission and the Ice Rink Advisory Committee.

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ACKNOWLEDGING APPOINTMENTS TO THE URBAN REDEVELOPMENT AUTHORITY ADVISORY COMMITTEE, PARKS AND RECREATION COMMISSION AND THE ICE RINK ADVISORY COMMITTEE.**

**WHEREAS**, the City of Steamboat Springs appoints members to fill vacancies that occur due to resignations and other reasons; and

**WHEREAS**, the following commissions have vacancies to be filled:

1. Urban Redevelopment Authority Advisory Committee.
2. Parks and Recreation Commission.
3. Ice Rink Advisory Committee.

**WHEREAS**, the City of Steamboat Springs has advertised for and received applications from community members to serve on the above commissions; and

**WHEREAS**, the applications have been reviewed by City Council and appointments have been determined.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, THAT:**

Section 1. The following people have been appointed to fill the positions available on the above mentioned commissions, effective July 17, 2012:

**1. Urban Redevelopment Authority Advisory Committee:**

Regular positions/serving until April 30, 2015  
David Baldinger, Jr., Brent Pearson, and Chris Diamond

Regular positions/serving until April 30, 2014  
Peter Patten and Jon Wade

Starwood Business Seat serving indefinitely  
Daniel Pirrallo

Alternate position/serving until April 30, 2015  
Jim Schneider

Base Area Business – Alternate seat serving indefinitely  
Ellie McAtee

**2. Parks and Recreation Commission:**

Regular positions/serving until March 31, 2014  
Kara Givnish, JoEllen Heydon, Alan Koermer and Frank  
Dolman

**3. Ice Rink Advisory Committee:**

Regular positions/serving until March 31, 2014  
Tripp Hartigan, Sarah Katherman and Rachelle Summers

**PASSED, ADOPTED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

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**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

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**Julie Franklin, CMC  
City Clerk**

## AGENDA ITEM # 6

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Debra Hinsvark, Deputy City Manager (X240)

**THROUGH:** Jon Roberts, City Manager (X228)

**DATE:** July 17, 2011

**ITEM:** An ordinance authorizing the release of an affordable housing deed restriction encumbering Unit #1504, Sunray Meadows Condominium Phase XIV; providing for severability; and providing an effective date.

**NEXT STEP:** There will be a second reading of this ordinance.

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DIRECTION  
 INFORMATION  
 ORDINANCE  
 MOTION  
 RESOLUTION

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**I. REQUEST OR ISSUE:**

The request is to remove the deed restriction from Sunray Unit 1504 so that the owner, who has been transferred to another state, can sell the unit in today's market. In exchange, the owner will make a payment of up to 11% of the original subsidy of \$113,500 at closing depending on funds available after the first mortgage is paid, no more than 6% realtor fees are paid, and the realtor certifies that the sale is at a reasonable market rate.

**II. RECOMMENDED ACTION:**

Staff has negotiated with the owner and recommends approval.

**III. FISCAL IMPACTS:**

**Proposed Expenditure: N/A**

**Funding Source: N/A**

**IV. BACKGROUND INFORMATION:**

The affordable housing scheme adopted for the Sunray Meadows Condominiums was to ask the developer to sell each of 6 condos at a reduced rate from the market. In exchange the buyers purchased deed restricted properties that limit appreciation and require local residency. Owners are restricted from offering the properties as long term rentals and therefore owners who leave the area have little option other than to sell the property.

Properties with deed restrictions are difficult to sell in this market, thus the owner has requested the deed restriction be removed. Although the owner purchased the property at a reduced price, he is certain to lose his down payment in this sale. It is likely that after the mortgage and realtor are paid, there will be little or nothing left to make the payment to the City.

On the other hand, the owner has little to lose by ending his payments on the mortgage and allowing the property to foreclose. A foreclosure could result in a significant negative impact on the surrounding homeowner's values due to the possibility that foreclosure would result in a sales price below market value.

Staff supports releasing the deed restriction in order facilitate the sale of the property at market value and thereby minimize the impact of the disposition of the property on the value of surrounding and comparable property. The terms of the proposed release include provisions requiring confirmation that the property is sold at market value in an arms' length transaction.

Staff believes that minimizing the impact of the disposition of the property on surrounding and comparable property should be considered to outweigh the possible inequity of the fact that this owner enjoyed a subsidy on the original sale and is not losing more than his down payment in this exchange, whereas surrounding homeowners may experience a larger loss to their original investment. Therefore, staff feels this unusual situation should be accommodated.

**V. LEGAL ISSUES:**

None

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None

**VII. SUMMARY AND ALTERNATIVES:**

- 1) Council may pass the ordinance.
- 2) Council may deny the ordinance.

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE RELEASE OF AN AFFORDABLE HOUSING DEED RESTRICTION ENCUMBERING UNIT #1504, SUNRAY MEADOWS CONDOMINIUM PHASE XIV; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Unit #1504, Sunray Meadows Condominium Phase XIV (the "Unit"), which is owned by Brandon Piersol, is subject to an affordable housing deed restriction in favor of the City of Steamboat Springs created by the deed recorded in the records of the Routt County Clerk and Recorder at Reception No. 667904, which requires the Unit to be owner occupied subject to a limited exception allowing rentals of the Unit and which may be terminated in the event of a foreclosure by the holder of a first deed of trust; and

**WHEREAS**, the Unit is not marketable if encumbered by the affordable housing deed restriction because prices for comparable properties not encumbered by affordable housing deed restrictions have declined to levels at or below the maximum purchase price for the Unit established by the affordable housing deed restriction's income limits and at or below the balance of the mortgage loan encumbering the Unit; and

**WHEREAS**, Mr. Piersol has been transferred out of state by his employer, is unable to sell the Unit, has a limited ability to rent the Unit, and therefore has requested that the City release the affordable housing deed restriction in exchange for his agreement to sell the Unit at fair market value and to pay to the City 11% of the \$113,500 difference between his purchase price for the Unit and the market value of the Unit at the time of its purchase by Mr. Piersol, if such funds are available from the sale proceeds; and

**WHEREAS**, the City Council finds that because Mr. Piersol has limited economic incentives to continue paying a mortgage on a dwelling unit that he can neither occupy nor rent and because the deed restriction can be extinguished in foreclosure proceedings, the deed restriction is likely to be extinguished regardless of whether the City Council approves the proposed release; and

**WHEREAS**, the City Council hereby determines that it is necessary to the public health, safety, and welfare to release the affordable housing deed restriction encumbering the Unit on the terms and conditions set forth herein in order to facilitate the sale of the Unit at market value.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:**

Section 1. The City Council hereby authorizes the release of the deed restriction recorded in the records of the Routt County Clerk and Recorder at Exhibit B of Reception No. 667904, such release to be effective upon the execution of the appropriate documents by the City Council President or City Council President Pro-Tem, and to be conditioned on the following: i) payment to the City of \$12,845 the extent funds are available for such payment from the sale proceeds; ii) the Unit is sold at fair market value in an arms' length transaction, which shall be confirmed in writing by the listing broker and by production of any appraisal of the Unit commissioned by any party to the transaction, including appraisals required by an lender providing funds at closing; and iii) the listing broker's commission shall not exceed 6% of the sales price.

Section 2. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 3. If any provision of this Ordinance shall be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining provisions of this Ordinance shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 4. The City Council hereby finds, determines and declares that this Ordinance is necessary for the preservation of the public peace, health and safety.

Section 5. This Ordinance shall take effect immediately upon the expiration of thirty (30) days from and after final passage, as provided in Section 13.6 of the Steamboat Springs Home Rule Charter.

**INTRODUCED, READ AND ORDERED PUBLISHED**, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

**FINALLY READ, PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_,  
2012.

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**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

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**Julie Franklin, CMC  
City Clerk**

# AGENDA ITEM # 7

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Dan Foote, Staff Attorney (Ext. 223)

**THROUGH:** Jon Roberts City Manager (Ext. 228)

**DATE:** July 17, 2012

**ITEM:** An ordinance amending Sections 25-37 and 25-216 of the Steamboat Springs Revised Municipal Code by authorizing the City Manager to impose water use restrictions restricting outdoor uses of water during period of water shortage and imposing fees relating to such outdoor uses; repealing all conflicting ordinances; and providing an effective date.

**NEXT STEP:** Introduce the ordinance on first reading.

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ORDINANCE  
 RESOLUTION  
 MOTION  
 DIRECTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

Introduce an ordinance amending the municipal code to authorize the City Manager to impose water use restrictions in accordance with the May 2011 Water Conservation Plan II and its Drought and Emergency Preparedness Plan.

**II. RECOMMENDED ACTION:**

Introduce the ordinance on first reading.

**III. BACKGROUND INFORMATION:**

The City on June 11, 2011 adopted the May 2011 Water Conservation Plan II (the "Plan") that was prepared in consultation with the Mt. Werner Water and Sanitation District and the Steamboat II Metropolitan District. The Plan sets forth two tiers of water use restrictions and recommends that they be imposed in cases of drought warnings (Stage 2 restrictions) and droughts or other water supply emergencies (Stage 3 restrictions).

Current runoff levels and climatic conditions satisfy the criteria set for the in the Plan for the imposition of Stage 2 water restrictions. However, the Plan is merely an advisory document that does not itself impose restrictions. Council action is required to impose the restrictions in enforceable form.

Staff proposes that Council adopt an ordinance that delegates to the City Manager the authority to impose water restrictions pursuant to the Plan. Adopting this ordinance will allow the City to respond quickly by administrative action when future conditions require the imposition of water use restrictions.

Staff intends that enforcement will begin with educational warnings. Repeat offenders will be assessed a surcharge on their water bills. Staff does not anticipate the need to cite offenders to municipal court or to take legal action to enjoin water use in violation of the restrictions. However, the proposed ordinance does give the City these enforcement options in the event of persistent noncompliance.

**IV. LEGAL ISSUES.**

None.

**V. CONFLICTS OR PROBLEMS.**

None.

**VI. FISCAL IMPACTS.**

Staff does not anticipate any substantial fiscal impacts to the City. There will be an increased use of staff time to respond to complaints relating to water use in violation of the restrictions. The rate surcharge is intended to offset these increased demands on staff time.

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING SECTIONS 25-37 AND 25-216 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE BY AUTHORIZING THE CITY MANAGER TO IMPOSE WATER USE RESTRICTIONS RESTRICTING OUTDOOR USES OF WATER DURING PERIODS OF WATER SHORTAGE AND IMPOSING FEES RELATING TO SUCH OUTDOOR USES; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Steamboat Springs owns and operates a municipal water supply system providing service to that portion of the City located north of Fish Creek; and

**WHEREAS**, the City of Steamboat Springs adopted a Community Water Conservation Plan in April 2009, which recommends the imposition of water use restrictions during periods of water shortage; and

**WHEREAS**, the City Council of the City of Steamboat Springs hereby determines that it is necessary to the preservation of the health, safety, and welfare of the citizens of the City to adopt this ordinance allowing the City Manager to impose water use restrictions on outdoor uses of the municipal water supply in the City's service area and to impose a fee on such uses in order to defray the City's expected costs of monitoring compliance; and

**WHEREAS**, the City Council intends principally to rely for enforcement of this ordinance on an education based monitoring and compliance system, the costs of which will be defrayed by a surcharge imposed upon persons using water in violation of the water use restrictions imposed pursuant to this ordinance, supplemented as necessary by the power to cite violators to the Municipal Court.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:**

Section 1. Section 25-37 of the Steamboat Springs Revised Municipal Code is hereby amended to read as follows:

"Sec. 25-37. Management.

(a) The operation and management of the water system shall be under the control of the city manager, who shall direct the construction of additions thereto and the maintenance and operation thereof, and in all cases not particularly provided for in this chapter or other provisions of this Code, the city manager shall determine in what manner and upon what terms water may be taken from the water system by any property owner or water consumer, and the character of the connections and appliances which may be made or used therefore.

(b) If conditions of supply and/or quality so limit the water supply of the water system that unrestricted water use may endanger the adequacy of that supply or quality, the City may adopt emergency water use restrictions as appropriate. No person shall use water in violation of said restriction imposed pursuant to this subsection. The city manager's management authority pursuant to this section shall include the authority to impose Stage 2 and Stage 3 water restrictions within the City's service area pursuant to the criteria set forth in the April 2009 Community Water Conservation Plan (the "Plan")."

Section 2. Section 25-216(b) of the Steamboat Springs Revised Municipal Code is hereby amended to read as follows:

"(b) Charges for water service shall consist of a monthly service charge, as provided in subsection (c), and a usage charge determined by the quantity of water used, as provided in subsection (d). Additionally, charges for water service may consist of additional surcharges as set forth in section 25-219. In the case where a meter registers water usage for commercial and residential units or for a unit that is both a residential unit and a commercial unit, charges shall be determined as provided in subsection (e). Charges for water service shall include an additional surcharge as set forth in subsection (f) for use in violation of Stage 2 or Stage 3 water restrictions imposed by the city manager pursuant to subsection 25-37(b)."

Section 3. Section 25-216 of the Steamboat Springs Revised Municipal Code is hereby amended by the addition of the following subsection (f):

"(f) In the case where water is used on a premises or at a unit in violation of Stage 2 or Stage 3 water restrictions imposed in accordance with subsection 25-37(b), the owner or consumer shall pay a surcharge in the amount of \$50 for the first day of such use and \$100 for the second or any subsequent day of such use. A separate surcharge shall apply to each day, or portion thereof, during which such use occurs. The imposition of a surcharge shall not preclude the enforcement of Section 25-37(b) by citations to municipal court, actions to enjoin public nuisances, or any other applicable remedy."

Section 4. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 5. This ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

Section 6. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

**INTRODUCED, READ AND ORDERED PUBLISHED**, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

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**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

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**Julie Franklin, CMC  
City Clerk**

**FINALLY READ, PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

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**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

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**Julie Franklin, CMC  
City Clerk**

# AGENDA ITEM # 8

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Dan Foote, Staff Attorney (Ext. 223)

**THROUGH:** Tony Lettunich, City Attorney

**DATE:** July 17, 2012

**ITEM:** An ordinance approving a lease agreement between the City of Steamboat Springs and New Cingular Wireless; providing an effective date; and setting a hearing date.

**NEXT STEP:** Adopt the ordinance on second reading.

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ORDINANCE  
 RESOLUTION  
 MOTION  
 DIRECTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

Adopt an ordinance approving and Option and Land Lease Agreement allowing New Cingular Wireless to construct and operate a communications facility on the City's wastewater treatment plant property. New Cingular Wireless is a subsidiary of AT&T.

**II. RECOMMENDED ACTION:**

Adopt the ordinance on second reading. Approving the Option and Land Lease Agreement will allow AT&T to improve its cellular service, which both the City Council and the Board of County Commissioners has identified as a joint economic development goal.

### **III. BACKGROUND INFORMATION:**

New Cingular Wireless PCS seeks approval of an Option and Land Lease Agreement that would allow the construction of a communication facility, i.e. cell tower, at the City's wastewater treatment plant.

The terms of the agreement give New Cingular Wireless two one year option periods during which they may investigate the feasibility of the site for the proposed communication facility use. New Cingular Wireless will pay the City an option payment of \$1,000 for the first option term and an additional \$1,000 for the second. Their representatives indicate it is likely New Cingular Wireless will exercise the option sometime this summer.

If New Cingular Wireless elects to proceed with its project and exercises its option the City will lease to New Cingular Wireless approximately 2,500 sq. ft. of its wastewater treatment plant property. In addition, the City will grant a construction easement over lands located within 100 yards of the lease premises.

The site will be located adjacent to the Impoundment Reservoir as shown on the Site Diagram attached hereto.

The proposed lease term is five years. New Cingular Wireless may extend the lease for four additional five year terms. Thus, the lease is a twenty five year commitment on the part of the City.

New Cingular Wireless will pay a base rent of \$1,000 per month. Rent will increase by 10% at the commencement of each five year renewal period.

### **IV. CONFLICTS OR PROBLEMS.**

None.

### **V. LEGAL ISSUES.**

None. The Option and Land Lease Agreement is a long term lease of City property that must be approved by ordinance.

**VI. FISCAL IMPACTS.**

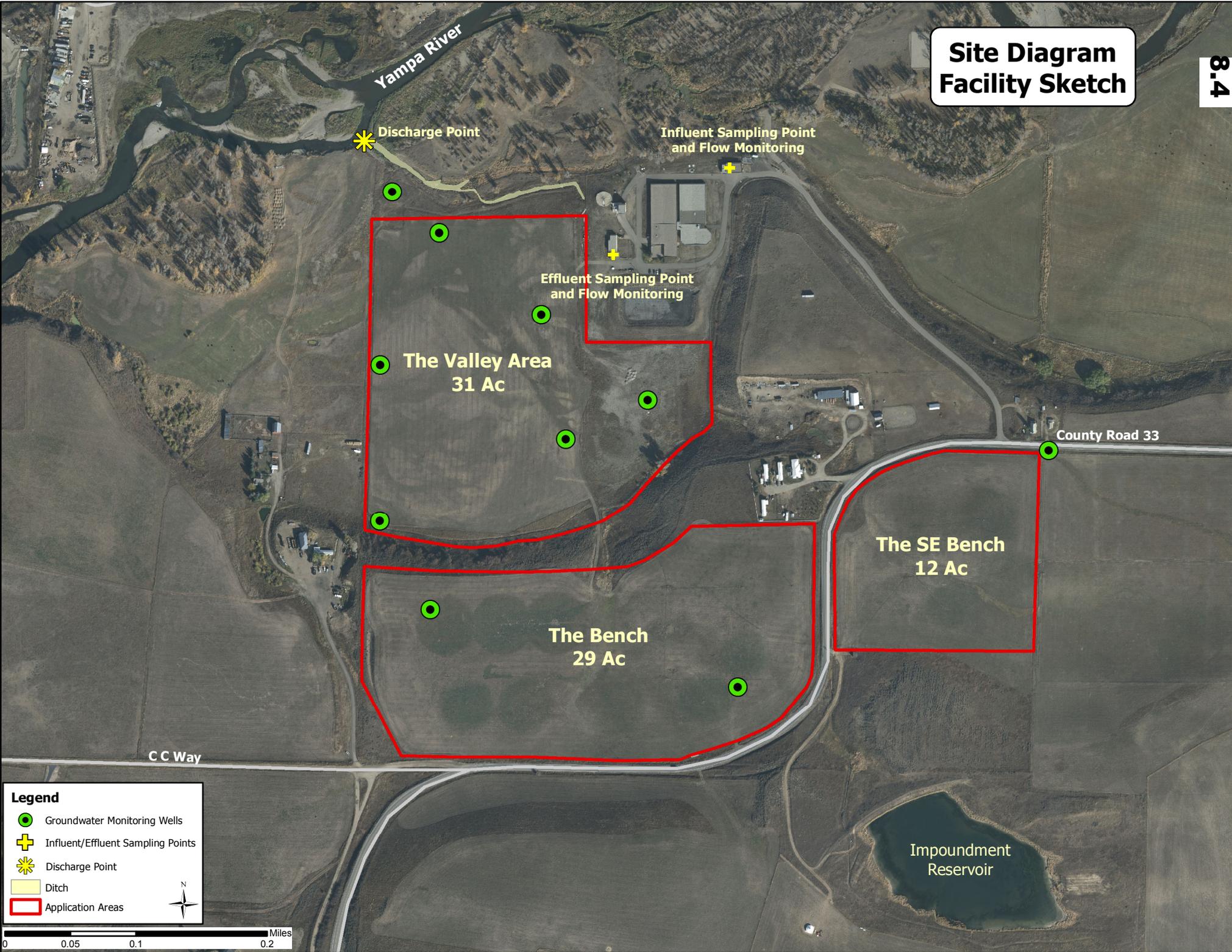
Approval of the Option and Land Lease Agreement will result in increased revenues to the City in the form of rental payments.

Monitoring New Cingular Wireless's performance and billing for utilities will consume minor amounts of staff time. The City will not incur any costs in connection with the Option and Land Lease Agreement as the City has no obligation to construct or maintain roads or other improvements.

**LIST OF ATTACHMENTS**

**Attachment 1 -** Site Diagram Facility Sketch.

# Site Diagram Facility Sketch



**Legend**

- Groundwater Monitoring Wells
- Influent/Effluent Sampling Points
- Discharge Point
- Ditch
- Application Areas

0 0.05 0.1 0.2 Miles

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF STEAMBOAT SPRINGS AND NEW CINGULAR WIRELESS; PROVIDING AN EFFECTIVE DATE; AND SETTING A HEARING DATE.**

**WHEREAS**, the City of Steamboat Springs owns a parcel of real property identified in the records of the Routt County Clerk and Recorder by PIN 9371002005 on which it operates a wastewater treatment plant ("the Property"); and

**WHEREAS**, New Cingular Wireless PCS proposes to enter into a one year option agreement to lease approximately 2,500 square feet of the Property for a term of five years with four additional five year extension for the purpose of constructing, maintaining, and operating communication facilities; and

**WHEREAS**, the terms of the option to lease are set forth in the Option and Land Lease Agreement attached hereto as Exhibit "A"; and

**WHEREAS**, the City Council finds it necessary and appropriate to the preservation of the public health, safety, and welfare to enter into the Option and Land Lease Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:**

Section 1. The Option and Land Lease Agreement attached hereto as Exhibit "A" is hereby approved. The City Council President or President Pro Tem are hereby authorized to execute the Option and Land Lease Agreement and other documents required to be executed by the terms of the Option and Lease Agreement.

Section 2. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 3. That pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.

Section 4. This ordinance shall take effect immediately upon the expiration of thirty (30) days from and after the date of final approval, as provided by Section 13.6 of the City Charter.

Section 5. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

**INTRODUCED, READ AND ORDERED PUBLISHED**, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

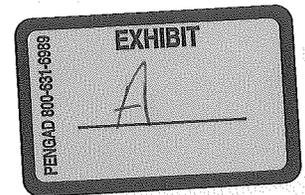
\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

**FINALLY READ, PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**



Market: \_\_\_\_\_  
Cell Site Number: \_\_\_\_\_  
Cell Site Name: \_\_\_\_\_  
Fixed Asset Number: \_\_\_\_\_

### OPTION AND LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT ("Agreement"), dated as of the latter of the signature dates below (the "Effective Date"), is entered into by \_\_\_\_\_, a \_\_\_\_\_, having a mailing address of \_\_\_\_\_, \_\_\_\_\_ ("Landlord") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 ("Tenant").

### BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land together with all rights and privileges arising in connection therewith, located at \_\_\_\_\_, in the County of \_\_\_\_\_, State of \_\_\_\_\_ (collectively, the "Property"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. **1. OPTION TO LEASE.**

(a) Landlord grants to Tenant an option (the "Option") to lease a certain portion of the Property containing approximately \_\_\_\_\_ square feet including the air space above such ground space for the placement of Tenant's Communications Facility as described on attached **Exhibit 1** (the "Premises").

(b) During the Option period and any extension thereof, and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "Tests"), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term (as defined below), reasonable wear and tear and casualty not caused by Tenant excepted. In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of Tenant's Tests.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of \_\_\_\_\_ and No/100 Dollars (\$ \_\_\_\_\_ .00) within thirty (30) business days of the Effective Date. The Option will be for an initial term of one (1) year commencing on the Effective Date (the "Initial Option Term") and may be renewed by Tenant for an additional one (1) year upon written notification to Landlord and the payment of an additional \_\_\_\_\_ and No/100 Dollars (\$ \_\_\_\_\_ .00) no later than ten (10) days prior to the expiration date of the Initial Option Term.

(d) Tenant will have the right to assign, sell or transfer its interest under this Agreement without the approval or consent of Landlord, to Tenant's Affiliate or to any entity which acquires all or substantially all of the Tenant's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition, or other business reorganization. Upon notification to Landlord of such assignment, transfer or sale, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement. Tenant shall have the right to sublease the Premises, in whole or in part, without Landlord's consent. Tenant may not otherwise assign this Agreement without Landlord's consent, Landlord's consent not to be unreasonably withheld, conditioned or delayed.

(e) During the Initial Option Term and any extension thereof, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option then Landlord leases the Premises to the Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, this Agreement will terminate and the parties will have no further liability to each other.

(f) If during the Initial Option Term or any extension thereof, or during the term of this Agreement if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, Property or any of Landlord's contiguous, adjoining or surrounding property (the "Surrounding Property," which includes (without limitation) the remainder of the structure) or in the event of foreclosure, Landlord shall immediately notify Tenant in writing. Any sale of the Property shall be subject to Tenant's rights under this Agreement. Landlord agrees that during the Initial Option Term or any extension thereof, or during the Term of this Agreement if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other restriction that would prevent or limit Tenant from using the Premises for the uses intended by Tenant as hereinafter set forth in this Agreement.

2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**") as are located within one hundred yards of the Premises during construction and installation of the Communications Facility. Tenant shall comply with all applicable Routt County stormwater and construction site management regulations and shall submit its construction site and stormwater management plans to Landlord for review prior to commencing construction. After completion of construction, Tenant shall restore the Surrounding Property to its pre-construction condition. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, and to make Property improvements, alterations, upgrades or additions appropriate for Tenant's use ("**Tenant Changes**"). Tenant Changes include the right to construct a fence around the Premises and undertake any other appropriate means to secure the Premises at Tenant's expense. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations relating to its use of the Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the Property in order to accomplish Tenant's Changes or to insure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations.

3. **TERM.**

(a) The initial lease term will be five (5) years ("**Initial Term**"), commencing on the Effective Date. The Initial Term will terminate on the fifth (5<sup>th</sup>) anniversary of the Effective Date.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the existing Term.

(c) If, at least sixty (60) days prior to the end of the final Extension Term, either Landlord or Tenant has not given the other written notice of its desire that the term of this Agreement end at the expiration of the final Extension Term, then upon the final Extension Term this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter ("**Annual Term**") until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rental during such annual terms shall be equal to the rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the Term ("**Term**").

4. **RENT.**

(a) Commencing in the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay Landlord on or before the fifth (5<sup>th</sup>) day of each calendar month in advance, \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_.00) (the "**Rent**"), at the address set forth above. In any partial month

occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within forty-five (45) days after the Rent Commencement Date.

(b) In year one (1) of each Extension Term, the monthly Rent will increase by ten percent (10 %) over the Rent paid during the previous Term.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

## 5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises and Property for Tenant's Permitted Use and Tenant's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Tenant for its use of the Premises, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"). Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for Tenant's Permitted Use under this Agreement and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals. In addition, Tenant shall have the right to initiate the ordering and/or scheduling of necessary utilities.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

(d) Tenant acknowledges that Landlord is a government agency but that Landlord's property is located outside of Landlord's geographical limits and that Landlord has no authority or ability to influence the decisions of any other government agency with respect to any Government Approval.

## 6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any one or more of Sections 5 Approvals, 6(a) Termination, 6(b) Termination, 6(c) Termination, 8 Interference, 11(d) Environmental, 18 Condemnation, 19 Casualty, or 24 (l) Severability of this Agreement.

7. INSURANCE. During the Term, Tenant will carry, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) Workers' Compensation Insurance as required by law; and (iii) commercial general liability (CGL) insurance with respect to its activities on the Property, such insurance to afford minimum protection of Three Million Dollars (\$3,000,000) combined single limit, per occurrence and in the aggregate, providing coverage for bodily injury and property damage. Tenant's CGL insurance shall contain a provision including Landlord as an additional insured with respect to any claims against Landlord for property damage, personal injury, or death resulting from or alleged to result from Tenant's use of the premises pursuant to this agreement. Notwithstanding the foregoing, Tenant shall have the right to self-insure against the risks for which Tenant is required to insure against in this Section. In the event Tenant elects to self-insure its obligation to include Landlord as an additional insured as permitted by the previous sentence, the following provisions shall apply: (1) Landlord shall promptly and no later than fourteen (14) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit or the like and Tenant shall thereafter be responsible for providing a defense to

such claim, demand, or lawsuit against Landlord; (2) Landlord shall not settle any such claim, demand, lawsuit or the like without the prior written consent of Tenant; (3) Landlord shall fully cooperate with Tenant in the defense of the claim, demand, lawsuit or the like; and (4) such obligation shall not apply to any claim or liability, including claims for punitive or exemplary damages, arising from the negligent, gross negligent, or intentional act or omission of Landlord, its employees, agents, or independent contractors.

**8. INTERFERENCE.**

(a) Where there are existing radio frequency user(s) on the Property, Landlord will provide Tenant, upon execution of this Agreement, with a list of all existing radio frequency user(s) on the Property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency user(s) on the Property so disclosed by Landlord, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the date of this Agreement, a lease, license or any other right to any third party for the use of the Property, if such use may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees, agents or independent contractors to use, any portion of the Property in any way which interferes with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. Tenant acknowledges that Landlord operates a public wastewater treatment facility on other property owned by Landlord that adjoins the Property. The installation, maintenance and operation of the Communication Facility will not interfere with the operation of Landlord's wastewater treatment facility. In the event Tenant's installations interfere with the Landlord's equipment or operations, Tenant will immediately cease such interference, after notice thereof until it is able to resolve the problem. If the interference cannot be resolved, either party will be entitled to terminate this Agreement.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

**10. WARRANTIES.**

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple; (ii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iii) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (iv) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement.

**11. ENVIRONMENTAL.**

(a) Landlord represents and warrants that, to the best of Landlord's knowledge, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or third party, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

**12. ACCESS.** At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access (“Access”) to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. Landlord’s responsibility to provide Access shall be limited to permitting Access between the public road and the Premises and shall not include responsibility for constructing or maintaining any road improvements. As may be described more fully in Exhibit 1, Landlord grants to Tenant an easement for such access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such access at no additional cost to Tenant. Landlord acknowledges that in the event Tenant cannot access the Premises, Tenant shall incur significant damage. If Landlord fails to provide the access granted by this Section 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, \$500.00 per day in consideration of Tenant’s damages until Landlord cures such default. Landlord and Tenant agree that Tenant’s damages in the event of a denial of access are difficult, if not impossible, to ascertain, and the liquidated damages set forth above are a reasonable approximation of such damages. Upon Tenant’s request, Landlord will execute a separate recordable easement evidencing this right. Landlord shall execute a letter granting Tenant access to the Property substantially in the form attached as Exhibit 12; upon Tenant’s request, Landlord shall execute additional letters during the Term.

**13. REMOVAL/RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant’s personal property and, at Tenant’s option, may be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term. Within one hundred twenty (120) days of the termination of this Agreement, Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant’s control excepted. Footings, foundations, and concrete will be removed to a depth of two-feet below grade. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs, or other vegetation, nor will Tenant be required to remove from the Premises or the Property any underground utilities. Tenant’s responsibility to restore the property shall include revegetation of disturbed areas by re-seeding.

**14. MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto and all areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to submeter from Landlord. When submetering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Landlord agrees that it will not include a markup on the utility charges. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within forty-five (45) days of receipt of the usage data and required forms. As noted in Section 4(c) above, any utility fee recovery by Landlord is limited to a twelve (12) month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least twenty-four (24) hours advanced notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hours per day, seven (7) days per week. If the interruption is for an extended period of time, in Tenant’s reasonable determination, Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

(c) Landlord hereby grants to any utility company providing utility services to Tenant an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such utility companies may from time to time require in order to provide such services to the Premises. Landlord’s responsibility to provide Access shall be limited to permitting Access between the public road and the Premises and shall not include responsibility for constructing or maintaining any road improvements. Upon Tenant’s or a utility company’s request, Landlord will execute a separate recordable easement evidencing this grant, at no cost to Tenant or the public utility.

**15. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an interference problem within twenty-four (24) hours after receipt of written notice of such default; or (ii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

**16. ASSIGNMENT/SUBLEASE.** Tenant will have the right to assign, sell or transfer its interest under this Agreement without the approval or consent of Landlord, to Tenant's Affiliate or to any entity which acquires all or substantially all of the Tenant's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition, or other business reorganization. Upon notification to Landlord of such assignment, transfer or sale, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement. Tenant shall have the right to sublease the Premises, in whole or in part, without Landlord's consent. Tenant may not otherwise assign this Agreement without Landlord's consent, Landlord's consent not to be unreasonably withheld, conditioned or delayed.

**17. NOTICES.**

(a) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to LANDLORD: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to TENANT: New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site # \_\_\_\_\_  
Cell Site Name: \_\_\_\_\_  
Fixed Asset #: \_\_\_\_\_  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004

With copy to: New Cingular Wireless PCS, LLC  
Attn: Legal Department  
Re: Cell Site # \_\_\_\_\_  
Cell Site Name: \_\_\_\_\_  
Fixed Asset #: \_\_\_\_\_

(U.S. Mail) P.O. Box 97061  
Redmond, WA 98073-9761  
(overnight courier) 16331 NE 72nd Way, RTC1  
Redmond, WA 98052

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice. Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

(b) In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor will send the documents listed below in this subsection (b) to Tenant. Until Tenant receives all such documents, Tenant shall not be responsible for any failure to make payments under this Agreement and reserves the right to hold payments due under this Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new Landlord including all phone number(s)

18. **CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within thirty (30) days. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the earlier of the date the condemning authority takes possession or the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will consist of, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant shall not be entitled to any portion of the condemnation proceeds attributable to the Property. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

19. **CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until the reconstruction of the Premises and/or the Communication Facility is completed. Tenant may request the Landlord rebuild or restore the Premises. If Landlord determines not to rebuild or restore the Premises, Landlord will notify Tenant of such determination within sixty (60) days after receipt of Tenant's request. If Landlord does not so notify Tenant, then Landlord will promptly rebuild or restore the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

20. **WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. **TAXES.** Tenant acknowledges that the Property is exempt from ad valorem taxation when used by Landlord for governmental purposes. In the event Tenant's use of the Premises result in a change in the tax status of the Property, Tenant shall be responsible for payment of all ad valorem taxes levied upon the lands, improvements and other property of Landlord. Tenant shall be responsible for all taxes levied upon Tenant's leasehold improvements (including Tenant's equipment building and tower) on the Premises. Landlord shall provide Tenant with copies of all assessment notices on or including the Premises immediately upon receipt, along with sufficient written documentation detailing any assessment increases attributable to the leasehold improvements, but in no event later than thirty (30) days after receipt by Landlord. If Landlord fails to provide such notice within such time frame, Landlord shall be responsible for all increases in taxes for the year covered by the assessment, and all subsequent years to the extent (a) Landlord continues to fail in providing notice, or (b) Tenant is precluded from challenging such assessment with the appropriate government authorities. Tenant shall have the right to contest, in good faith, the validity or the amount of any tax or assessment levied against the Premises by such appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as Tenant may deem appropriate. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate in the institution and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant.

22. **SALE OF PROPERTY.**

(a) Landlord shall not be prohibited from the selling, leasing or use of any of the Property or the Surrounding Property except as provided below.

(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event the Property is transferred, the new landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paperwork to effect a transfer in Rent to the new Landlord.

(c) Landlord agrees not to sell, lease or use any areas of the Property or Surrounding Property for the installation, operation or maintenance of other wireless communications facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion, any such testing to be at the expense of Landlord or Landlord's prospective purchaser, and not Tenant. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communications facility or equipment.

(d) The provisions of this Section shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

**23. RENTAL STREAM OFFER.** If at any time after the date of this Agreement, Landlord receives a bona fide written offer from a third party seeking an assignment of the rental stream associated with this Agreement ("**Rental Stream Offer**"), Landlord shall immediately furnish Tenant with a copy of the Rental Stream Offer. Tenant shall have the right within twenty (20) days after it receives such copy and representation to match the Rental Stream Offer and agree in writing to match the terms of the Rental Stream Offer. Such writing shall be in the form of a contract substantially similar to the Rental Stream Offer. If Tenant chooses not to exercise this right or fails to provide written notice to Landlord within the twenty (20) day period, Landlord may assign the rental stream pursuant to the Rental Stream Offer, subject to the terms of this Agreement.

**24. MISCELLANEOUS.**

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum/Short Form Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum or Short Form of Lease substantially in the form attached as **Exhibit 24b**. Either party may record this Memorandum or Short Form of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term of this Agreement, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(e) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced.

(f) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(g) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; and (viii) the singular use of words includes the plural where appropriate.

(h) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or

indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(i) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(j) **W-9.** Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant.

(k) **No Electronic Signatures/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(l) **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable by a court or agency of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired; and (b) the parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal or unenforceable) that is valid, legal and enforceable and carries out the parties' intentions to the greatest lawful extent. If any such action or determination renders the overall performance of this Agreement impossible or materially impairs the original purpose, intent or consideration of this Agreement, and the parties are, despite the good faith efforts of each, unable to amend this Agreement to retain the original purpose, intent and consideration in compliance with that court or agency determination, either party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

(m) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, all of which shall be considered on and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

**LANDLORD:**

**TENANT:**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name:  
Its:  
Date:

By: \_\_\_\_\_  
Print Name:  
Its:  
Date:

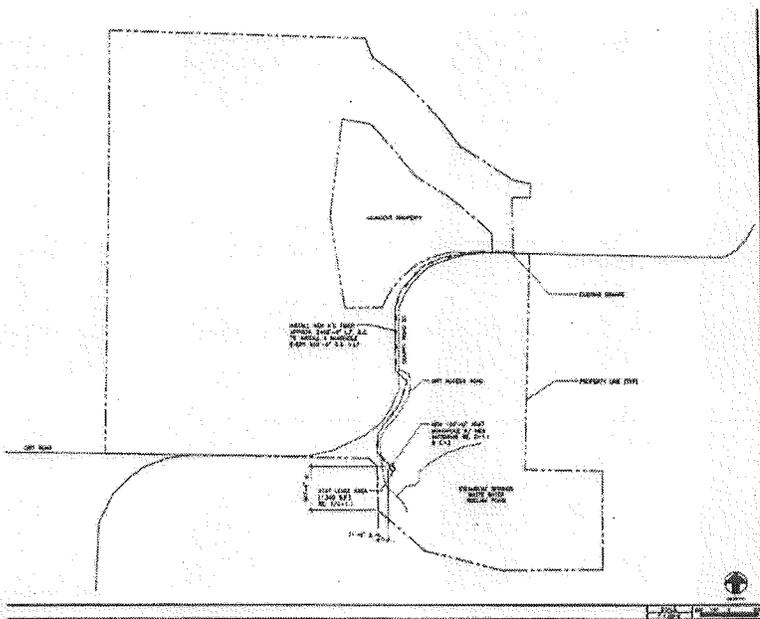
EXHIBIT 1  
DESCRIPTION OF PREMISES  
Page 1 of 1

to the Option and Land Lease Agreement dated \_\_\_\_\_, 2012, by and between City of Steamboat Springs, a Colorado home rule municipal corporation, as Landlord, and , New Cingular Wireless PCS, LLC, as Tenant.

The Premises are described and/or depicted as follows:

Property Legal Description: A tract in the northwest ¼ of section 10, township 6 north, range 85 west totally approximately 157 acres in the County of Rout, State of Colorado.

Lease Area Sketch or Survey:



Notes:

1. This Exhibit may be replaced by a land survey and/or construction drawings of the Premises once received by Tenant.
2. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

**COLORADO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**COLORADO LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**UTAH LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company. Witness my hand and official seal.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

**UTAH LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to this instrument, and acknowledged that he/she/they executed the same. Witness my hand and official seal.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

My Commission Expires: \_\_\_\_\_

**IDAHO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF IDAHO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**IDAHO LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF IDAHO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**EXHIBIT 11**

**ENVIRONMENTAL DISCLOSURE**

Landlord represents and warrants that the Property, as of the date of this Agreement, is free of hazardous substances except as follows:

1. NONE.

[Landlord Letterhead]

DATE

Building Staff / Security Staff  
Landlord, Lessee, Licensee  
Street Address  
City, State, Zip

Re: Authorized Access granted to AT&T

Dear Building and Security Staff,

Please be advised that we have signed a lease with AT&T permitting AT&T to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant AT&T and its representatives, employees, agents and subcontractors ("representatives") 24 hour per day, 7 day per week access to the leased area.

To avoid impact on telephone service during the day, AT&T representatives may be seeking access to the property outside of normal business hours. AT&T representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

---

Landlord Signature

**Prepared by, and after recording**

**Return to:**

New Cingular Wireless PCS, LLC  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004  
Attn: Network Real Estate Administration

Grantor:  
Grantee: New Cingular Wireless PCS, LLC, a Delaware limited liability company  
Legal Description: Official legal description attached as Exhibit 1  
Tax Serial No.:  
Cell Site Name & #: Fixed Asset #:  
State: County:

**MEMORANDUM OF LEASE**

This Memorandum of Lease is entered into, effective on the latest signature date below, by and between \_\_\_\_\_, a \_\_\_\_\_, having a mailing address of \_\_\_\_\_ (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Option and Land Lease Agreement ("**Agreement**") on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The initial lease term will be five (5) years ("**Initial Term**") commencing on the Effective Date of written notification by Tenant to Landlord of Tenant's exercise of the Option, with four (4) successive five (5) year options to renew.
3. The portion of the land being leased to Tenant (the "**Premises**") is described in **Exhibit 1** annexed hereto.
4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Memorandum of Lease as of the day and year written below.

**LANDLORD:**

By: \_\_\_\_\_  
Print Name:  
Its:  
Date:

**Prepared by:**  
**SAC NAME**  
**SAC FIRM**  
**FIRM ADDRESS**  
**CITY, STATE ZIP**

**TENANT:**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name:  
Its:  
Date:

**EXHIBIT 1**

**DESCRIPTION OF PREMISES**

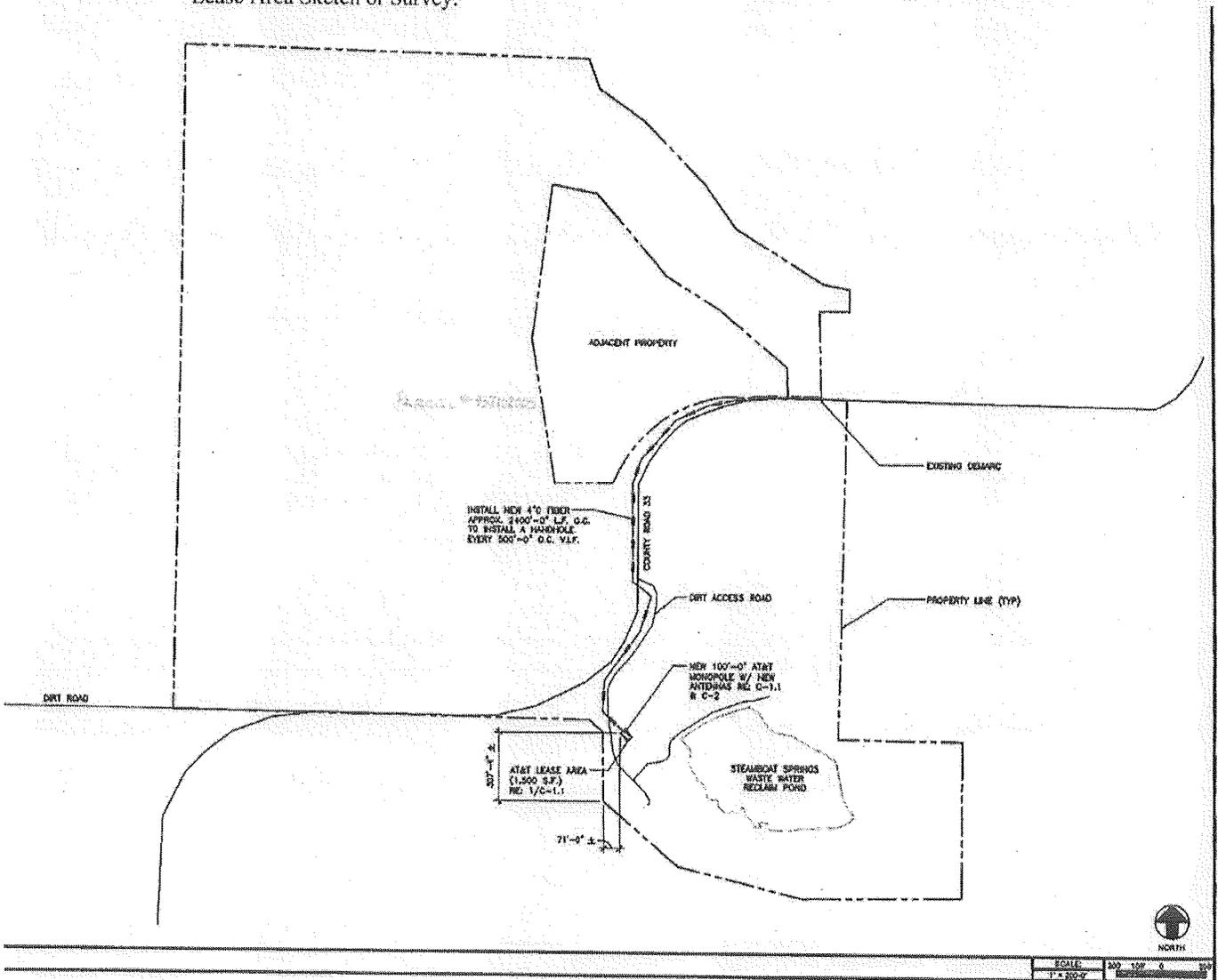
Page 1 of 1

to the Memorandum of Lease agreement dated \_\_\_\_\_, 2012, by and between City of Steamboat Springs, a Colorado home rule municipal corporation, as Landlord, and , New Cingular Wireless PCS, LLC, as Tenant.

The Premises are described and/or depicted as follows:

Property Legal Description: : A tract in the northwest ¼ of section 10, township 6 north, range 85 west totally approximately 157 acres in the County of Routt, State of Colorado.

Lease Area Sketch or Survey:



**COLORADO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**COLORADO LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**UTAH LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company. Witness my hand and official seal.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

**UTAH LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to this instrument, and acknowledged that he/she/they executed the same. . Witness my hand and official seal.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)

My Commission Expires: \_\_\_\_\_

**IDAHO LANDLORD REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF IDAHO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, known or identified to me to be the person whose name is subscribed to the within instrument, and in due form of law acknowledged that he/she is authorized on behalf of said company to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said company.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**IDAHO LANDLORD INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF IDAHO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me, the subscriber, a Notary Public in and for said State and County, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

**AT&T ACKNOWLEDGEMENT**

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of AT&T Mobility Corporation.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
My Commission Expires: \_\_\_\_\_

# AGENDA ITEM # 9

## CITY COUNCIL COMMUNICATION FORM

---

**FROM:** Deb Hinsvark, Deputy City Manager (X240)

**THROUGH:** Jon Roberts, City Manager (X228)

**DATE:** July 17, 2012.

**ITEM:** An ordinance approving an amendment to the lease between the City of Steamboat Springs and Smartwool LLC and authorizing the execution of the amendment to the lease; repealing all conflicting ordinances; providing for severability; and providing an effective date.

**NEXT STEP:** Second reading of the Ordinance.

---

DIRECTION  
 INFORMATION  
 ORDINANCE  
 MOTION  
 RESOLUTION

---

**I. REQUEST OR ISSUE:**

Council is asked to approve amendments to the Smartwool lease related to the size of their new space, their lease payments and the advance for tenant finishes.

**II. RECOMMENDED ACTION:**

Approval is recommended

**III. FISCAL IMPACTS:**

**Proposed Expenditure:** Reduce loan from \$957,000 to \$800,000

**Funding Source:** Incremental lease payments as well as

approximately \$800/month of Current lease payments.

**IV. BACKGROUND INFORMATION:**

In July, 2011, Council approved a new lease for Smartwool that provided them with additional space in the airport terminal. This space was created by the agreed movement of the airport's fixed base operations to a building outside the terminal. The agreed upon lease payments were established to pay back \$350,000 of the cost of the new terminal and provide funds to Smartwool for their expansion which also included an expanded mezzanine.

Since that time, Smartwool has decided not to expand the mezzanine. They will pay a reduced rent as a result and their tenant finish loan has been reduced. The final agreed upon amount of the tenant finish advance, \$450,000, will not be paid in full by the incremental rent, but will also take approximately \$800 per month of the current \$17,500 per month rent.

**V. LEGAL ISSUES:**

None

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None

**VII. SUMMARY AND ALTERNATIVES:**

- Council can approve the amended lease.
- Council can refuse to approve the amended lease.

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**ORDINANCE NO \_\_\_\_\_**

**AN ORDINANCE APPROVING AN AMENDMENT TO THE LEASE BETWEEN THE CITY OF STEAMBOAT SPRINGS AND SMARTWOOL LLC AND AUTHORIZING THE EXECUTION OF THE AMENDMENT TO THE LEASE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on September 6, 2011 the City of Steamboat Springs and Smartwool, LLC (“Smartwool”) entered into a new lease (“Lease”) for the facility at the Steamboat Springs Airport formerly housing the air terminal (“Facility”); and

**WHEREAS**, the Lease contemplated certain renovations and expenditures to be incurred by Smartwool to expand the Facility, for which rent adjustments were agreed to by the parties; and

**WHEREAS**, after a review of its space needs, Smartwool has revised its plans for a more limited renovation of the Facility, and seeks a commensurate adjustment in the rents being utilized to compensate Smartwool for such expenditures; and

**WHEREAS**, the City desires to accommodate the revised renovation plan proposed by Smartwool.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, THAT:**

Section 1. The City Council of the City of Steamboat Springs hereby approves the Amendment to Lease with Smartwool LLC, a copy of which is attached hereto as Exhibit A.

Section 2. The City Council of the City of Steamboat Springs authorizes the City Council President, the City Council President Pro-Tem, or the City Manager to execute the Amendment to Lease.

Section 3. The Lease having been executed in accordance with Section 13.6 of the Home Rule Charter of the City of Steamboat Springs, and this Amendment to Lease being deemed a modification to the existing lease, the Amendment to Lease shall take effect five (5) days after publication following final passage.

Section 4. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 5. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 6. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservations of the public peace, health and safety.

**INTRODUCED, READ AND ORDERED PUBLISHED**, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

**FINALLY READ, PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

## Exhibit A

Amendment to Lease with Smartwool LLC to be received prior to the meeting via email with rainbow items.

# AGENDA ITEM # 10

## CITY COUNCIL COMMUNICATION FORM

---

**FROM:** Bob Keenan, Senior Planner (Ext. 260)  
Tyler Gibbs, AIA, Director of Planning and Community  
Development (Ext. 244)

**THROUGH:** Jon Roberts, City Manager, (Ext. 228)

**DATE:** July 17, 2012

**ITEM:** Original Town of Steamboat Springs, Blk. 24, Lots 4-6 (3<sup>rd</sup>  
and Lincoln) #DP-12-04.

**NEXT STEP:** If City Council approves this application then the applicant  
can proceed with the outdoor sales use.

---

ORDINANCE  
 RESOLUTION  
 MOTION  
 DIRECTION  
 INFORMATION

---

**PROJECT NAME:** Original Town of Steamboat Springs, Blk. 24, Lots 4-6 (3<sup>rd</sup> and  
Lincoln) #DP-12-04.

**PETITION:** A Development Plan application to allow outdoor sales (limited to:  
fruit and vegetables, pumpkins, Christmas trees, flowers and trees,  
and local charity sales) at 235 Lincoln Avenue with an expiration  
date of September 30, 2013.

**APPLICANT:** Mark Scully, PO Box 774137, Steamboat Springs, CO 80477 (312)  
446-5533.

**PC ACTION:** Planning Commission voted to approve on July 12, 2011; Vote: 7-0.

**EXECUTIVE SUMMARY:**

The applicant is proposing outdoor sales of fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales events at 235 Lincoln Avenue (3<sup>rd</sup> and Lincoln). The applicant is proposing that this use be allowed on a trial basis and the approval of this outdoor sales use proposed to expire on September 30, 2013.

The proposed sales are to be at the location of a former gas station and sandwich shop that currently houses a vacant inhabitable structure. This site previously had development permit approvals for a large scale development but such permits have since expired. The applicant would like to have this outdoor sales use as an interim use.

Conditional uses are those uses that are generally in keeping with the purpose and intent of the zone district yet may have more impacts to surrounding properties and the community than uses by right or uses with criteria. Conditions may be placed upon these uses as deemed appropriate in order to avoid or mitigate potential impacts.

*Please see attached Planning Commission Staff Report for more detailed information.*

**Planning Commission Discussion:**

Planning discussion centered on the operating characteristics of the property with concern for the property being kept in a neat and orderly fashion, concern for food storage in tents, and that display tents be securely anchored to the ground. The Planning Commission added conditions of approval to this effect. They also discussed giving the Planning Director authority to vary the conditions of approval consistent with the intent of the proposal. These revised conditions are included in this report below.

***Due to the quick turnaround between Planning Commission and City Council, draft meeting minutes for this item will be made available through the rainbow agenda.***

**Public Comment:**

There was no public comment on this item.

**Recommended Motion:**

On July 12, 2012, with a vote of 7-0, the Planning Commission recommended approval of the outdoor sales conditional use at 3<sup>rd</sup> and Lincoln with the following conditions of approval:

1. Sales shall be limited to the following: fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales events.
2. Any tent or canopy used for the outdoor sales shall only be erected while a vendor is operating on the site. Tents/canopies may be left erected overnight as long as the vendor operates his business on the next day.
3. Tents and canopies may not cover more area than what is shown on the site plan and labeled as "tent area".
4. Tents must be securely anchored to the ground.
5. There shall be no outdoor storage of sales items with the exception of storage within the sales tents and the existing building and tree and pumpkin sales. Any storage of food shall be in a bear proof container, structure, or device.
6. This permit for outdoor sales will expire on September 30, 2013.
7. The applicant must organize parking and sales in accordance with the proposed site plan.
8. The site shall be maintained in an attractive and orderly fashion.
9. The Planning Director shall have the discretion to vary the conditions of approval within the intent of the proposal.

**LIST OF ATTACHMENTS:**

**Attachment 1 -** Amended Planning Commission Staff Report

**Attachment 2 -** Planning Commission minutes from July 12, 2012 (To be received prior to the meeting with rainbow items)

# Attachment 1



## DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT STAFF REPORT-AMENDED

<b>PLANNING COMMISSION AGENDA ITEM # 2:</b>	
<b>Project Name:</b>	Original Town of Steamboat Springs, Blk. 24, Lots 4-6 (3 <sup>rd</sup> and Lincoln) #DP-12-04
<b>Prepared By:</b>	Bob Keenan, Senior Planner (ext. 260)
<b>Through:</b>	Tyler Gibbs, AIA, Director of Planning and Community Development (Ext 244)
<b>Planning Commission (PC):</b>	July 12, 2012
<b>City Council (CC):</b>	July 17, 2012
<b>Zoning:</b>	Commercial Old Town (CO)
<b>Applicant:</b>	Mark Scully, PO Box 774137, Steamboat Springs, CO 80477 (312)446-5533
<b>Request:</b>	A Development Plan application to allow outdoor sales (limited to: fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales) at 235 Lincoln Avenue with an expiration date of September 30, 2013.

**Project Location**

235 Lincoln Avenue

<b>Staff Report - Table of Contents</b>		
<b>Section</b>		<b>Pg</b>
I.	CDC –Staff Analysis Summary	2-2
II	Project Description	2-3
III	Principal Discussion Items	2-3
IV	Project Analysis	2-3
V	Staff Findings & Conditions	2-4
VI	Attachments	2-4

**I. COMMUNITY DEVELOPMENT CODE (CDC) – STAFF ANALYSIS SUMMARY**

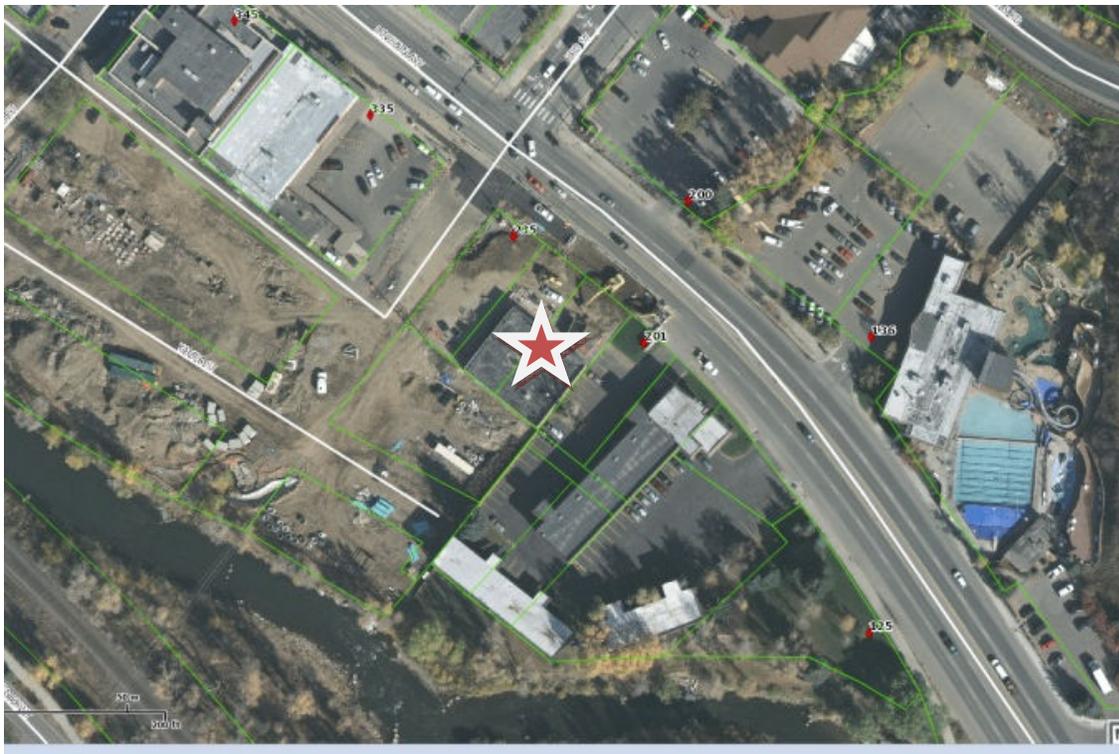
**CDC - SECTION 26-65 (E):** NO DEVELOPMENT PLAN SHALL BE APPROVED UNLESS THE PLANNING COMMISSION AND CITY COUNCIL FIND THAT THE PLAN MEETS ALL OF THE FOLLOWING CRITERIA:

Subsection		Consistent			Notes
		Yes	No	NA	
1)	Complete Application	<input checked="" type="checkbox"/>			
2)	Conformity with Community Plan	<input checked="" type="checkbox"/>			
3)	Consistency with Surrounding Uses	<input checked="" type="checkbox"/>			
4)	Minimize Adverse Impacts	<input checked="" type="checkbox"/>			
5)	Access	<input checked="" type="checkbox"/>			
6)	Minimize Environmental Impacts	<input checked="" type="checkbox"/>			
7)	Phasing			<input checked="" type="checkbox"/>	<b>One Phase</b>
8)	Compliance With Other Standards	<input checked="" type="checkbox"/>			
9)	Variance Criteria			<input checked="" type="checkbox"/>	<b>No variance requested</b>

**Staff Finding:** Staff finds that the Development Plan to allow for outdoor sales at 235 Lincoln Avenue is consistent with the required findings for approval with conditions.

.... (Detailed project analysis is located in Section IV; Staff Findings and Conditions are in Section V)

**Project Location Map: 235 Lincoln Avenue**



## II. PROJECT DESCRIPTION

The applicant is proposing outdoor sales of fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales events at 235 Lincoln Avenue (3<sup>rd</sup> and Lincoln). The applicant is proposing that this use be allowed on a trial basis and the approval of this outdoor sales use proposed to expire on September 30, 2013.

The proposed sales are to be at the location of a former gas station and sandwich shop that currently houses a vacant inhabitable structure. This site previously had development permit approvals for a large scale development but such permits have since expired. The applicant would like to have this outdoor sales use as an interim use.

Conditional uses are those uses that are generally in keeping with the purpose and intent of the zone district yet may have more impacts to surrounding properties and the community than uses by right or uses with criteria. Conditions may be placed upon these uses as deemed appropriate in order to avoid or mitigate potential impacts.

## III. PRINCIPAL DISCUSSION ITEMS

*Are outdoor sales as proposed an appropriate use in the CO Zone District at 3<sup>rd</sup> and Lincoln?*

Planning staff finds that this is an appropriate interim use due to the following factors:

- Provide vitality and activity at our entry into downtown at a location that is currently underutilized.
- May help the visual aesthetics of the property.
- Is for a trial period of just over 1 year.
- Specific sales have been limited by the applicant.

## IV. PROJECT ANALYSIS

### A) CRITERIA FOR APPROVAL

**CDC - Section 26-65 (d): No development plan shall be approved unless the planning commission and city council find that the plan meets all of the following criteria:**

The following section provides staff analysis of the application as it relates to key sections of the CDC. It is intended to highlight those areas that may be of interest or concern to planning commission, city council, staff or the public. For a comprehensive list of standards and requirements applicable to this proposal please refer to the CDC or contact the staff planner.

#### **CDC - Section 26-65(d)(1): Complete Application**

*Staff Analysis:* **Consistent;** The Development Plan application and supporting materials for the proposed outdoor sales are complete.

**CDC - Section 26-65(d)(2): Conformity with Community Plan**

Staff Analysis: **Consistent;** The proposed use furthers the following Community Plan goals and policies:

- Goal ED-2: Steamboat Springs will support the maintenance and expansion of local businesses.
- Policy ED-2.1: Support opportunities to expand and increase the number of local businesses in Steamboat Springs.

**CDC – Section 26-65 (d)(3): Consistency with Surrounding Uses**

Staff Analysis: **Consistent;** The proposed outdoor sales is consistent with adjacent commercial uses in this pedestrian oriented downtown area.

**CDC – Section 26-65 (d) (4) Minimize Adverse Impacts**

Staff Analysis: **Consistent;** Staff finds that the proposed use shall have minimal adverse impacts on the surrounding uses in the area. Adequate parking and access to the site is available.

**CDC – Section 26-65 (d) (5) Access**

Staff Analysis: **Consistent;** Staff finds that there is adequate access to the site via 3<sup>rd</sup> Street for vehicles and pedestrian access via adjacent sidewalks.

**CDC – Section 26-65 (d) (6) Minimize Environmental Impacts**

Staff Analysis: **Consistent;** The proposed use minimizes adverse impacts on the natural environment as there are no plans for any site disturbance or uses that would have an impact.

**CDC – Section 26-65 (d) (7) Phasing**

Staff Analysis: **NA;** The project will be developed in one phase.

**CDC – Section 26-65 (d) (8) Compliance with other Standards:**

Staff Analysis: **Consistent;** Staff finds that the proposed use complies with all other applicable requirements of the CDC.

**V. STAFF FINDING & CONDITIONS****Staff Finding**

Staff finds that the Development Plan to allow for outdoor sales at 235 Lincoln Avenue is consistent with the required findings for approval with the following conditions:

1. Sales shall be limited to the following: fruit and vegetables, pumpkins, Christmas trees, flowers and trees, and local charity sales events.
2. Any tent or canopy used for the outdoor sales shall only be erected while a vendor is operating on the site. Tents/canopies may be left erected overnight as long as the vendor operates his business on the next day.

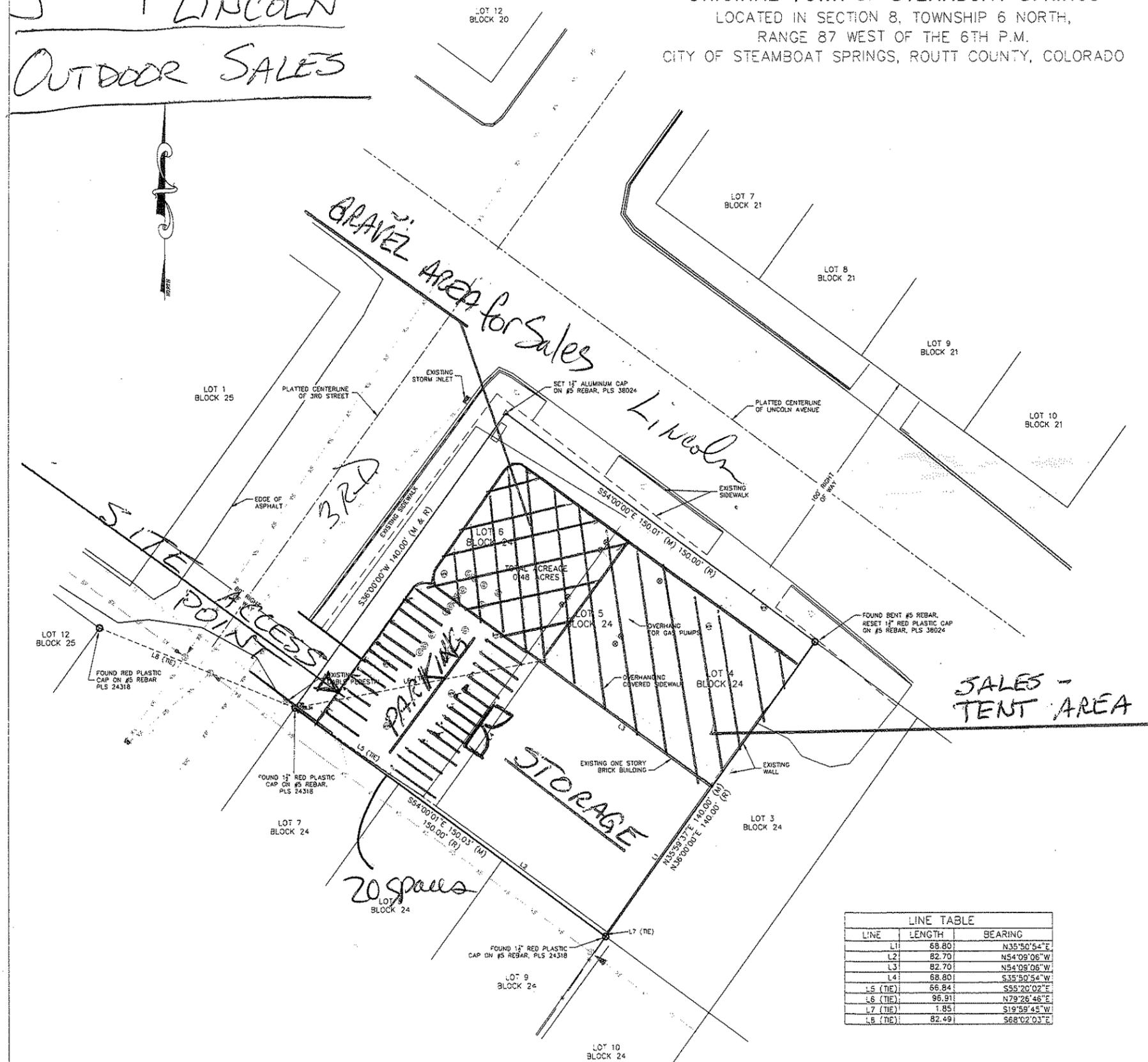
3. Tents and canopies may not cover more area than what is shown on the site plan and labeled as “tent area”.
4. There shall be no outdoor storage of sales items with the exception of storage within the sales tents and the existing building and tree and pumpkin sales.
5. This permit for outdoor sales will expire on September 30, 2013.
6. The applicant must organize parking and sales in accordance with the proposed site plan.

## **VI. ATTACHMENTS**

Attachment 1 – Site Plan

3RD + LINCOLN  
OUTDOOR SALES

IMPROVEMENT SURVEY PLAT OF LOTS 4, 5 AND 6, BLOCK 24,  
ORIGINAL TOWN OF STEAMBOAT SPRINGS  
LOCATED IN SECTION 8, TOWNSHIP 6 NORTH,  
RANGE 87 WEST OF THE 6TH P.M.  
CITY OF STEAMBOAT SPRINGS, ROUTT COUNTY, COLORADO



IMPROVEMENT SURVEY NOTES:

- 1) LOTS 4, 5 AND 6, BLOCK 24, ORIGINAL TOWN OF STEAMBOAT SPRINGS AS RECORDED ON APRIL 17, 1909 IN ROUTT COUNTY RECORDS FILE NO. 1419 LOCATED IN SECTION 8, TOWNSHIP 6 NORTH, RANGE 84 WEST OF THE 6TH P.M., CITY OF STEAMBOAT SPRINGS, ROUTT COUNTY, COLORADO
- 2) BASIS OF BEARING: S54°00'00"E, 150.03 FEET ALONG THE SOUTH LINE OF LOTS 4, 5 AND 6, BLOCK 24, FIRST ADDITION TO THE TOWN OF STEAMBOAT SPRINGS BETWEEN FOUND MONUMENTS AS INDICATED HEREON.
- 3) STREET ADDRESS: 235 LINCOLN AVENUE
- 4) FIELD SURVEYING COMPLETED NOVEMBER 14, 2006
- 5) EASEMENTS AND TITLE OWNERSHIP OUTSIDE OF THE FINAL PLAT HAVE NOT BEEN RESEARCHED OR SHOWN ON THIS TOPOGRAPHIC SURVEY.

SURVEYORS CERTIFICATE

I, WALTER N. MAGILL, BEING A DULY REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON WAS DONE BY ME OR UNDER MY DIRECTION SUPERVISION, AND THAT THE PINS AND CAPS SHOWN HEREON AS FOUND OR SET ARE ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

WALTER N. MAGILL  
STATE OF COLORADO, PROFESSIONAL SURVEYOR, PLS 38024

COUNTY SURVEYOR LAND SURVEY PLAT CERTIFICATE

THIS SURVEY WAS INDEXED AS FILE SP \_\_\_\_\_ IN THE INDEX OF LAND SURVEY PLATS MAINTAINED IN THE OFFICE OF THE ROUTT COUNTY CLERK AND RECORDER ON \_\_\_\_\_ 2006, AT \_\_\_\_\_.

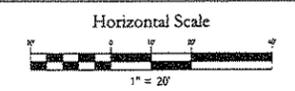
RIDGWAY C. MOON, PLS 13221, ROUTT COUNTY SURVEYOR

NO.	DATE	REVISIONS	INT

Shell Gas Station  
Steamboat Springs, CO  
Lots 4, 5 & 6, Block 24  
First Addition to the Town  
of Steamboat Springs  
Improvement Survey Plat

DATE: 12-01-06 DGN. BY: JMB  
JOB NO. 1876-002 OWN. BY: JMB  
DWG. NO. 1876-002-EX SURV. BY: LCL

Contour Interval = N/A



141 9th Street, P.O. Box 774943  
Steamboat Springs, Colorado 80477  
Phone (970) 871-9494 Fax (970) 871-9299  
www.LANDMARK-CON.COM

LEGEND

- PROPERTY BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- - - EXISTING EDGE OF ASPHALT
- - - EXISTING UNDERGROUND STORM SEWER LINE W/ STORM MANHOLE
- - - EXISTING UNDERGROUND WATER LINE
- - - EXISTING UNDERGROUND SEWER LINE W/ SEWER MANHOLE
- - - EXISTING OVERHEAD UTILITY LINE W/ UTILITY POLE
- x — EXISTING WOOD FENCE
- o — EXISTING LIGHT POLE
- ⊕ ⊖ EXISTING MONITOR WELL AND GAS MANHOLE LID
- ⊙ EXISTING BOLLARD
- (R) RECORD BEARING AND DISTANCE PER LEGAL DESCRIPTION PROVIDED BY RALSTON LAND CONSERVANCY, INC.
- (M) MEASURED BEARING AND DISTANCE FROM FIELD WORK PERFORMED DURING NOVEMBER 2006

LINE	LENGTH	BEARING
L1	68.80	N35°50'54"E
L2	82.70	N54°09'06"W
L3	82.70	N54°09'06"W
L4	68.80	S35°50'54"W
L5 (TIE)	66.84	S55°20'02"E
L6 (TIE)	96.91	N79°26'46"E
L7 (TIE)	1.85	S19°59'45"W
L8 (TIE)	82.49	S68°02'03"E

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN 10 YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

10-10

# AGENDA ITEM # 11

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Bob Keenan, Senior Planner (Ext. 260))  
Tyler Gibbs, AIA, Director of Planning and Community Development  
(Ext. 244)

**THROUGH:** Jon Roberts, City Manager, (Ext.228)

**DATE:** July 17, 2012

**ITEM:** Second reading of an ordinance rezoning property known as the Aviator North; located in the northwest corner of Elk River Road and Airport Circle from RE-1 (Residential Estate One – Low Density) Zone District to I (Industrial) Zone District; repealing all conflicting ordinances; providing for severability; and providing an effective date.

**NEXT STEP:** If approved on second reading, the property will be officially rezoned.

---

ORDINANCE  
 RESOLUTION  
 MOTION  
 DIRECTION  
 INFORMATION

---

**PROJECT NAME:** Aviator North #ZMA-12-02.

**PETITION:** Official Zoning Map Amendment to change the zoning from Residential Estate One, Low Density (RE-1) to Industrial (I) for a 4.98 acre parcel located at the northwest corner of Elk River Road and Airport Circle.

**APPLICANT:** Airport South, LLC, c/o Brian Olson, P.O. Box 882597, Steamboat Springs, CO 80488, (970) 879-6891.

CITY COUNCIL COMMUNICATION FORM

Aviator North #ZMA-12-02

July 17, 2012

**PC ACTION:** On June 28, 2012 the Planning Commission recommended approval of the Aviator North #ZMA-12-02 by a vote of 5-0.

**EXECUTIVE SUMMARY:**

The subject parcel is a 4.98 acre tract of unplatted property located at the northwest corner of Elk River Road and Airport Circle. The site is relatively flat and contains no improvements.

The Resort Residential One, Low Density (RE-1) zoning for the property was established in 2001 with the adoption of the new CDC. Prior to 2001, the parcel was zoned Agricultural and Recreations (AR). The 2001 process to adopting new zoning districts eliminated the AR Zone and converted all privately held parcels zoned AR to RE-1.

The proposed Zoning Map Amendment intends to rezone a 4.98 acre parcel of land located at the northwest corner of Elk River Road and Airport Circle from Resort Residential One, Low Density (RE-1) to Industrial (I).

**1. Planning Commission Discussion:**

Planning Commission had questions on what the future land use designation is for this property. Staff responded by stating that there seems to be an error as the Future Land Use Map refers to the West of Steamboat Area Plan for this designation and the West of Steamboat Area Plan does not have any designation for this area. Staff restated that they believe the future land use designation for this area is Industrial.

**2. Public Comment:**

None

**3. New Information:**

None

**4. Recommended Motion:**

CITY COUNCIL COMMUNICATION FORM

Aviator North #ZMA-12-02

July 17, 2012

The Planning Commission recommends approval Aviator North #ZMA-12-02 an Official Zoning Map Amendment to change the zoning from Residential Estate One, Low Density (RE-1) to Industrial (I) for a 4.98 acre parcel located at the northwest corner of Elk River Road and Airport Circle.

**LIST OF ATTACHMENTS**

**Attachment 1-** June 28, 2012 Planning Commission Report

**Attachment 2-** June 28, 2012 Draft Planning Commission Minutes

# Attachment 1



## DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT STAFF REPORT

<b>PLANNING COMMISSION AGENDA ITEM # 2:</b>	
<b>Project Name:</b>	Aviator North #ZMA-12-02
<b>Prepared By:</b>	Bob Keenan, Senior Planner (Ext. 260)
<b>Through:</b>	Tyler Gibbs, AIA, Director of Planning and Community Development (Ext. 244)
<b>Planning Commission (PC):</b>	June 28, 2012
<b>City Council (CC):</b>	July 3, 2012 First Reading July 17, 2012 Second Reading
<b>Existing Zoning:</b>	Residential Estate One, Low Density (RE-1)
<b>Proposed Zoning:</b>	Community Commercial (CC)
<b>Applicant:</b>	Airport South, LLC, c/o Brian Olson, P.O. Box 882597, Steamboat Springs, CO 80488, (970) 879-6891
<b>Request:</b>	Official Zoning Map Amendment to change the zoning from Residential Estate One, Low Density (RE-1) to Industrial (I) for a 4.98 acre parcel located at the northwest corner of Elk River Road and Airport Circle.

**Project location**

NW corner of Elk River Road and Airport Circle

<b>Staff Report - Table of Contents</b>		
<b>Section</b>		<b>Pg</b>
I.	Staff Finding	2-2
II.	Project Location	2-2
III.	Background Information	2-2
IV.	Project Description	2-3
V.	Staff/Agency Analysis	2-3
VI.	Attachments	2-5

## I. STAFF FINDING

Staff finds Zoning Map Amendment #ZMA-12-02 to rezone from Residential Estate One, Low Density (RE-1) to Industrial (I) for a 4.98 acre parcel located at the northwest corner of Elk River Road and Airport Circle to be in compliance with the Community Development Code criteria for approval for an Official Zoning Map Amendment.

## II. PROJECT LOCATION



## III. BACKGROUND INFORMATION

The subject parcel is a 4.98 acre tract of unplatted property located at the northwest corner of Elk River Road and Airport Circle. The site is relatively flat and contains no improvements.

The Resort Residential One, Low Density (RE-1) zoning for the property was established in 2001 with the adoption of the new CDC. Prior to 2001, the parcel was zoned Agricultural and Recreations (AR). The 2001 process to adopting new zoning districts eliminated the AR Zone and converted all privately held parcels zoned AR to RE-1.

**IV. PROJECT DESCRIPTION**

The proposed Zoning Map Amendment intends to rezone a 4.98 acre parcel of land located at the northwest corner of Elk River Road and Airport Circle from Resort Residential One, Low Density (RE-1) to Industrial (I).

**V. STAFF / AGENCY ANALYSIS**

**Zone District Comparison**

<b>CDC Standard</b>	<b>RE-1</b>	<b>I</b>
Lot Coverage	0.25	0.60
Units Per Lot	2	None
Floor Area Ratio	No Max.	0.60
Building Height		
Overall Height	40 feet	32 feet (40 feet for special work areas)
Average Plate Height	28 feet	28 feet (40 feet for special work areas)
Front Setback	25 feet (principal structure)	15 feet (principal structure)
Side Setback	25 feet (principal structure)	10 feet (principal structure)
Rear Setback	25 feet (principal structure)	10 feet (principal structure)
Permitted Uses	Single-Family w. secondary unit	Industrial Uses Multi-Family

**Criteria for Review and Approval**

In considering any petition for amendment to the Official Zoning Map, the following criteria contained in Section 26-62 shall govern unless otherwise expressly required by the CDC. The ordinance approving the rezoning amendment shall be approved and adopted only if it appears by *clear and convincing* evidence presented during the public hearing before City Council that the following conditions exist:

1. **Justification.** One of the following conditions exists:
  - a) The rezoning is necessary to correct a mistake in the current zoning map; or
  - b) The amendment to the overlay zone district was an error; or

- c) The rezoning is necessary to respond to changed conditions since the adoption of the current zoning map; or
- d) The rezoning will substantially further the Community Plan's Preferred Direction and Policies, or specific area plans, and the rezoning will substantially conform to the Community Plan Land Use Map designation for the property, or is accompanied by an application for an amendment to the Community Plan Land Use Map and the amendment is approved prior to approval of the requested zoning map amendment.

***Staff Finding:***

*Staff finds this request is consistent with justifications (c). The proposed amendment is in response to the changing nature of lands adjacent to the Steamboat Springs Airport. Increased airport use has resulted in increased demand for industrial uses, particularly warehousing within close proximity to the airport.*

**2. Compatibility with Surrounding Development.** The type, height, massing, appearance and intensity of development that would be permitted by the proposed amendment will be compatible with surrounding zone districts, land uses, and neighborhood character, and will result in a logical and orderly development pattern within the community.

***Staff Finding:***

*Staff finds the proposed zone change is consistent with surrounding development and neighborhood character. The site is adjacent to parcels zoned Industrial which contain warehouse uses such as hangars.*

**3. Advantages vs. Disadvantages.** The advantages of the zone district proposed substantially outweigh the disadvantages to the community and/or neighboring land occasioned by the zoning amendment; and

***Staff Finding:***

*Staff finds the advantages of rezoning the property outweigh the disadvantages to the community and/or neighboring lands. The rezoning and potential industrial use of the property provides a benefit to the City of Steamboat Springs and the surrounding area.*

**4. Consistent with Purpose and Standards of Zone District.** The amendment will be consistent with the purpose and standards of the zone district to which the property is proposed to be designated.

***Staff Finding:***

*This amendment will be consistent with the purpose and standards of the Industrial (I) Zone District which is intended to provide “industrial uses with varying degree of impacts.”*

**5. Effects on Natural Environment.** That the proposed amendment will not result in significant adverse effects on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.

***Staff Finding:***

*The proposed change of Zoning will not have any adverse effect on the natural environment. Site development will be required to comply with all applicable environmental standards established by the City.*

**V. LIST OF ATTACHMENTS**

1. Applicant Narrative
2. Vicinity Map and Legal Description
3. Draft Ordinance (by request)

6/4/2012

The purpose of this letter is to further describe a request for an amendment to the City of Steamboat Springs official zoning map.

The subject Property is located on the Northwest corner of Elk River Road/RCR 129 and Airport Circle. The property is currently zoned RE 1 = Residential Estate one low density. The proposed zoning is Industrial.

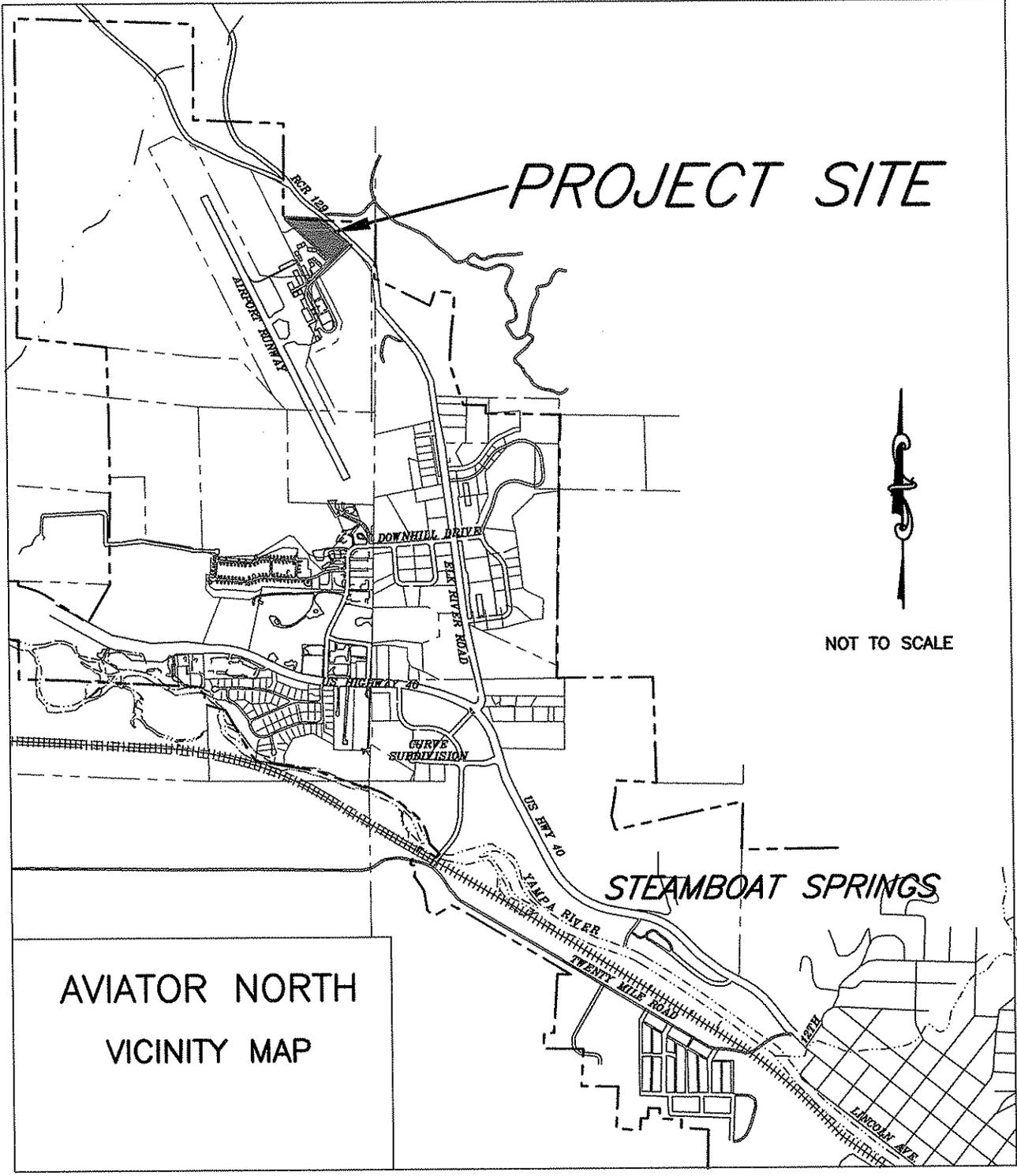
The purpose of this request is to bring this site into a zone district that is more comparable, and more supportive of the current goals of the community plan, and that of the future land use map.

The property is adjacent the Steamboat springs airport and is mostly characterized by Industrial use.

The future intended use of the property is for light industrial development that will further support the future growth of Steamboat Springs and its surrounding areas.

Thank you for your consideration.

Applicant



AVIATOR NORTH  
VICINITY MAP

LEGAL DESCRIPTION

PARCEL 2D AS SHOWN AND DESCRIBED ON THE PLAT ENTITLED "PLAT OF LANDS OWNED BY THE CITY OF STEAMBOAT SPRINGS AND THE DENNEN TRUST LOCATED IN SECTION 36, T7N, R85W, AND IN LOT 1 OF SECTION 1, T6N, R85W, ALL OF THE 6TH P.M., ROUTT COUNTY, COLORADO, AND AS FILED BY PLAT WITH THE ROUTT COUNTY CLERK AND RECORDER APPEARING AT FILE NO.11243.

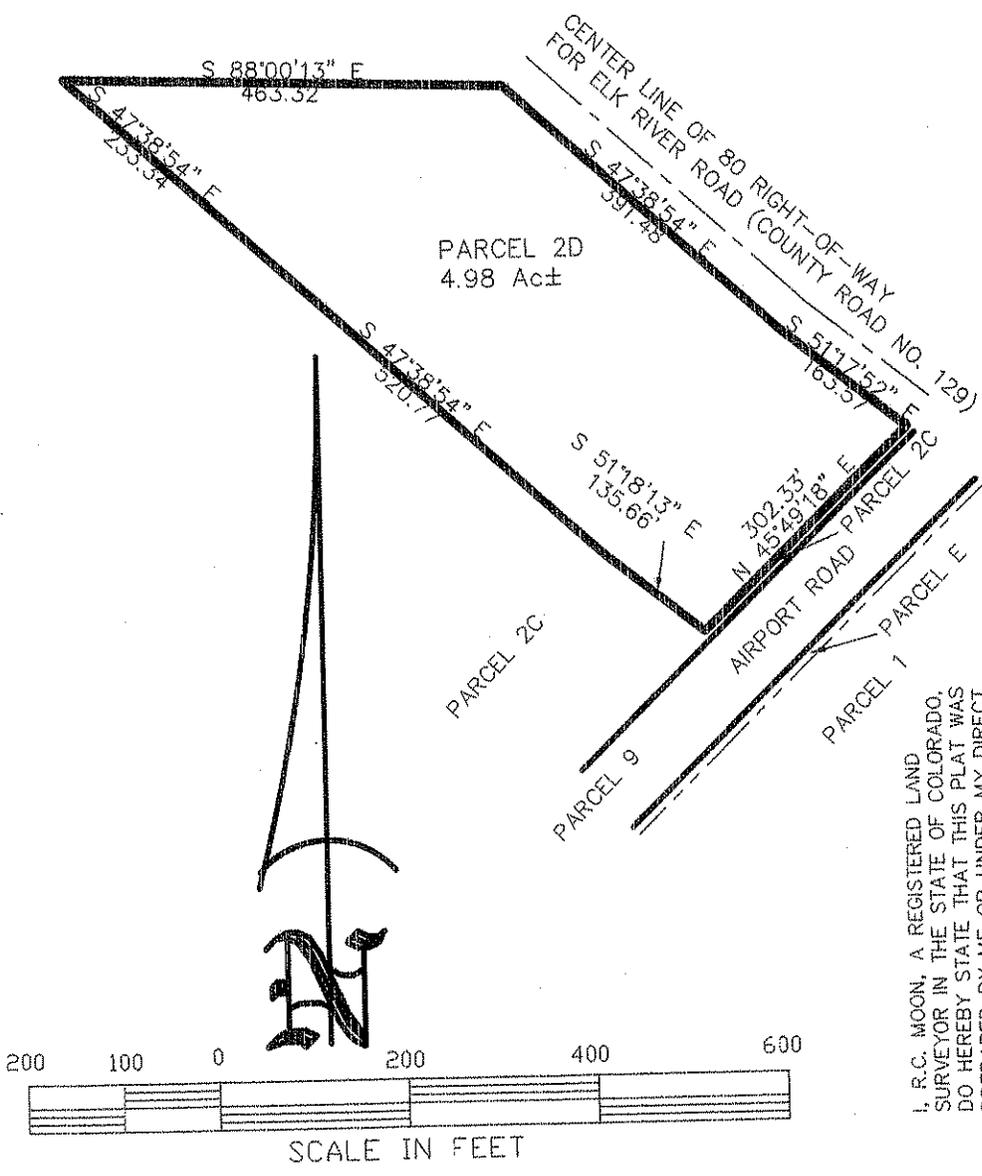
Revision	Description
Date: 05-31-12	
Drawn: BOAPORTLW	
File: SSAPORT2.WG	
Scale: 1" = 200'	

OLSON DEVELOPMENT

PLAT OF PARCEL 2D PER LEGAL DESCRIPTION SHOWN HEREON

D & D, Inc.  
PROFESSIONAL LAND SURVEYING & PLANNING CO.  
P.O. Box 176008 Steamboat Springs, Co. 80477  
(970) 879-2785

Sheet No. of Project No. 4429-4



BEFORE SIGNING THIS CERTIFICATE I HAVE RE-EXAMINED THE ORIGINAL FIELD NOTES AND THE PLAT AND I CERTIFY THAT THE SAME ACCURATELY REPRESENT THE SURVEY AS MADE AND THAT THE SAME ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I, R.C. MOON, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND FURTHER STATE SAME TO BE ACCURATE AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MAY 31ST, 2012  
R.C. MOON, LS NO. 13221

BEARINGS ARE BASED UPON THE MONUMENTED EAST LINE OF LOT 1, SECTION 1 BEING N 01°07'52" E

## Attachment 2

Aviator North #ZMA-12-02, Airport South, LLC, c/o Brian Olson, P.O. Box 882597, Steamboat Springs, CO 80488, (970) 879-6891

Discussion on this agenda item started at approximately 5:05 p.m.

### **STAFF PRESENTATION**

Keenan – Good evening, Bob Keenan, City Planning. Before you tonight is a Zoning Map Amendment for Aviator North ZMA-12-02, the applicant has met all the requirements and planning staff is recommending approval as it meets criteria for approval. I am available for any questions.

### **COMMISSIONER QUESTIONS**

Commissioner Meyer – Bob would you just for the record state why the future land use map is not being referenced?

Keenan – Yes, the future land use map in this area references that one should reference the West of Steamboat Springs Area Community Plan. Within that plan it does not reference and future plan use for the area around the airport. That said, Planning Staff feels that areas intent is to be Industrial especially since the area around it is Industrial, given that the Airport is a pretty heavy industrial use.

Commissioner Lacy – Thank you, any questions or follow up on that?

Keenan – Just to point out, that RE1 Residential Zone Low Density is the current Zoning of that lot and with research it seems that lot was simply holding for previous zoning, so it may have been Ag or similar zoning. At this point it is appropriate to rezone it to industrial.

Commissioner Lacy – Wasn't that the default of the old Ag district to convert it to RE1?

Keenan – exactly.

Gibbs – It should not be construed that we are converting Residential Land to Industrial, we are simply as Bob said it was the holding pattern for the low intensity use, simply to have it zoned somehow until something came forward.

Commissioner Lacy – Rich did you have something?

Commissioner Levy – Just of the record, that this property was going to have to comply with the entry corridor standards, the description was kind of vague, and I want to make sure that is addressed.

Keenan – Yes, this property is definitely along the entry corridor, the Urban Design Standards, that is also a part of the entry corridor standards, has increased landscape setbacks because of that it does run along Elk River Road.

Commissioner Levy – So the 129 corridor runs within the City limits?

Keenan – It is written that it is 129/Elk River Road.

Commissioner Lacy – Any other questions? Anything else from Staff?

Keenan – No thank you.

Commissioner Lacy – okay, then we will close public hearing and come back to commissioners for deliberation and a motion.

**PUBLIC COMMENTS**

None

**FINAL STAFF COMMENTS**

None

**FINAL COMMISSIONER COMMENTS**

None

**RECOMMEND MOTION**

Staff finds Zoning Map Amendment #ZMA-12-02 to rezone from Residential Estate One, Low Density (RE-1) to Industrial (I) for a 4.98 acre parcel located at the northwest corner of Elk River Road and Airport Circle to be in compliance with the Community Development Code criteria for approval for an Official Zoning Map Amendment.

**MOTION**

Commissioner Meyer moved to approve the ZMA-12-02 a rezone from RE1 to Industrial  
Commissioner Robbins seconded the motion.

**DISCUSSION ON MOTION**

None

Thursday, June 28, 2012

**DRAFT**

**VOTE**

Vote: 5-0

Voting for approval of motion to approve: Lacy, Levy, Turek, Meyer and Robbins

Absent: **Brookshire, Hanlen**

One alternate position vacant

Discussion on this agenda item ended at approximately 5:15 p.m.

**CITY OF STEAMBOAT SPRINGS, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REZONING PROPERTY KNOWN AS THE AVIATOR NORTH; LOCATED IN THE NORTHWEST CORNER OF ELK RIVER ROAD AND AIRPORT CIRCLE FROM RE-1 (RESIDENTIAL ESTATE ONE – LOW DENSITY) ZONE DISTRICT TO I (INDUSTRIAL) ZONE DISTRICT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Chapter 26, Art. III, Div. 2, Section 26-62 of the Steamboat Springs Revised Municipal Code, a rezoning has been initiated by the property owner to rezone the subject properties from RE-1 (Residential Estate One – Low Density) to I (Industrial); and

**WHEREAS**, the nature of development adjacent to the Steamboat Springs Airport has changed to demand more land zoned Industrial (I); and

**WHEREAS**, the Steamboat Springs Area Community Area Plan supports properly designed, infill development that achieves quality mixed-use neighborhoods by compatible character and scale with the surrounding neighborhood; and

**WHEREAS**, the Planning Commission of the City of Steamboat Springs has considered the same and recommended approval of the rezoning; and finds that the request is in compliance with the rezoning criteria of Section 26-62(d) of the Community Development Code; and

**WHEREAS**, the City Council considers that it is in the public interest to rezone the subject property in accordance with the provisions of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, THAT:**

Section 1. The City Council specifically finds that the procedures for an Official Zoning Map Amendment within the City of Steamboat Springs as prescribed in Chapter 26 of the Steamboat Springs Revised Municipal Code, have been fulfilled, and the Council hereby approves the rezoning for the subject property as set forth below. The City Council also finds that this ordinance is necessary for the health, safety, and welfare of the community.

Section 2. Pursuant to Chapter 26, Art. III, Div. 2, Section 26-62 of the Steamboat Springs Revised Municipal Code, the property located at the northwest corner of Elk River Road and Airport Circle described in Attachment 1 is hereby rezoned from RE-1 (Residential Estate One – Low Density) to I (Industrial).

Section 3. In accordance with Chapter 26, Art. III, Div.2, Section 26-62 of the Steamboat Springs Revised Municipal Code, the Director of Planning Services is hereby directed to modify and amend the Official Zoning Map of the City to indicate the zoning specified above.

Section 4. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts, thereof, are in conflict herewith.

Section 5. If any section, subsection, clause, phrase or provision of this Ordinance is, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 6. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 7. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6 (h) of the Steamboat Springs Home Rule Charter.

**INTRODUCED, READ AND ORDERED PUBLISHED**, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

**FINALLY READ, PASSED AND APPROVED** this \_\_\_ day of \_\_\_\_\_,  
2012.

\_\_\_\_\_  
**Bart Kounovsky, President  
Steamboat Springs City Council**

**ATTEST:**

\_\_\_\_\_  
**Julie Franklin, CMC  
City Clerk**

## LEGAL DESCRIPTION

PARCEL 2D AS SHOWN AND DESCRIBED ON THE PLAT ENTITLED "PLAT OF LANDS OWNED BY THE CITY OF STEAMBOAT SPRINGS AND THE DENNEN TRUST LOCATED IN SECTION 36, T7N, R85W, AND IN LOT 1 OF SECTION 1, T6N, R85W, ALL OF THE 6TH P.M., ROUTT COUNTY, COLORADO, AND AS FILED BY PLAT WITH THE ROUTT COUNTY CLERK AND RECORDER APPEARING AT FILE NO.11243.

Revised Description  
 Date: 05-31-12  
 Drawn: BOAPORT.DW  
 File: SSAPORT2.WC  
 Scale: 1"=200'

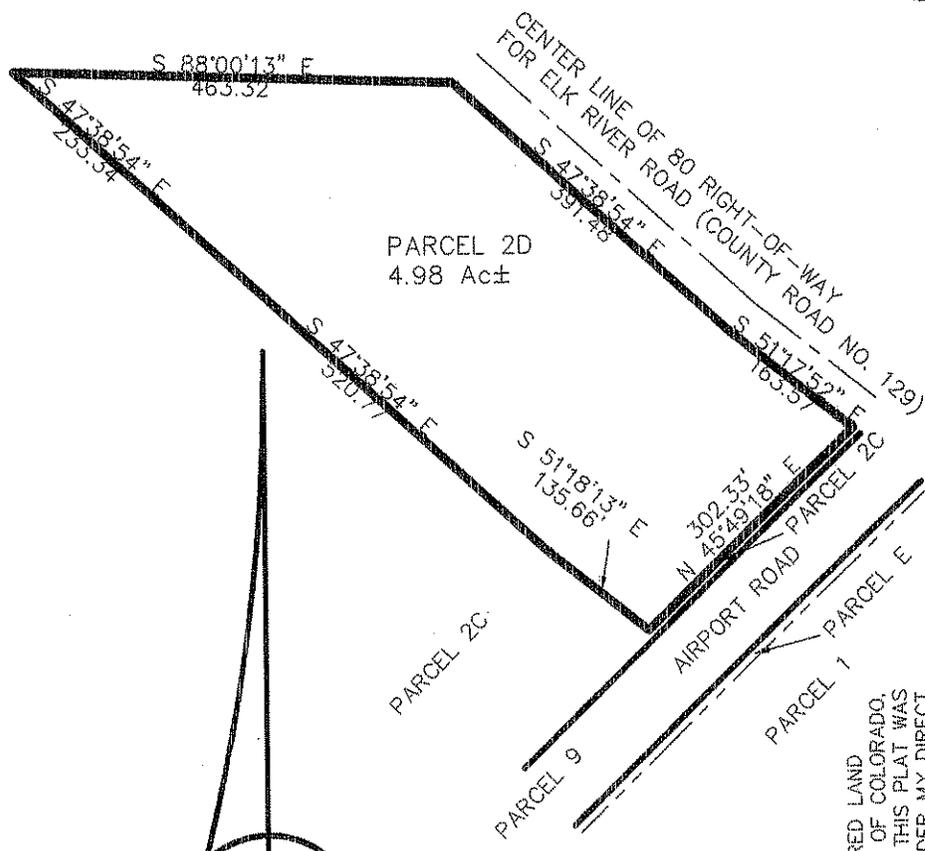
OLSON DEVELOPMENT

PLAT OF PARCEL 2D PER LEGAL DESCRIPTION SHOWN HEREON

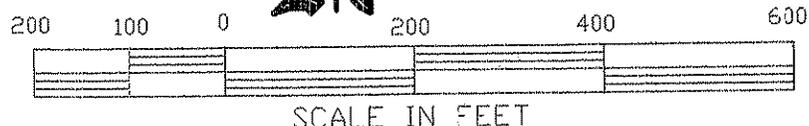


D & D, Inc.  
 A PROFESSIONAL LAND SURVEYING & PLANNING CO.  
 P.O. Box 775008 Steamboat Springs, Co. 80477  
 (303) 879-2715

Sheet No. of Project No. 4429-4



NOTICE: ACCORDING TO COLORADO LAW YOU MUST OBTAIN AN ORIGINAL COPY OF THIS PLAT FROM THE SURVEYOR'S OFFICE. ANY OTHER COPIES ARE UNLAWFUL. THIS SURVEY IS BASED UPON THE DATA PROVIDED BY THE CLIENT AND THE SURVEYOR HAS NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THIS SURVEY IS VALID FOR TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.



BEARINGS ARE BASED UPON THE MONUMENTED EAST LINE OF LOT 1, SECTION 1 BEING N 01°07'52" E

I, R.C. MOON, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND FURTHER STATE SAME TO BE ACCURATE AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MAY 31ST, 2012  
  
 R.C. MOON, LS NO. 13221

## AGENDA ITEM # 12

### **CITY COUNCIL UPDATES**

This is a discussion item only

\*\*\*\*\***TENTATIVE AGENDA FOR TUESDAY, AUGUST 7, 2012**\*\*\*\*\*  
This agenda is tentative and the information is subject to change until the agenda is finalized.

## AGENDA ITEM # 13

### CITY OF STEAMBOAT SPRINGS

#### **AGENDA**

#### REGULAR MEETING NO. 2012-14 TUESDAY, AUGUST 7, 2012

5:00 P.M.

**MEETING LOCATION:** Citizens' Meeting Room, Centennial Hall;  
124 10<sup>th</sup> Street, Steamboat Springs, CO

**MEETING PROCEDURE:** Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10<sup>th</sup> Street, Steamboat Springs, CO, or on our website at [http://steamboatsprings.net/city\\_council/council\\_meetings](http://steamboatsprings.net/city_council/council_meetings). The e-packet is typically available by 1pm on the Friday before the meeting.

**PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

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#### **A. ROLL CALL**

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**\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, AUGUST 7, 2012\*\*\*\*\***

This agenda is tentative and the information is subject to change until the agenda is finalized.

**B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:**

1. Audit Presentation by David DeZutter with EideBailly. (City's Audit firm) (Weber) (20 minutes)
2. Sales Tax Projection for 2013 Budget. (Weber)
3. Verified Energy and Cost Savings Results from the 2010-2011 Performance Contract. (Hoots/McKinstry)

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**C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS**

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

4. **RESOLUTION:**
5. **FIRST READING OF ORDINANCE:** Lease with the Depot. (Small)
6. **FIRST READING OF ORDINANCE:** An ordinance approving the Third Supplemental Budget Appropriation of 2012. (Weber)
7. **FIRST READING OF ORDINANCE:** An ordinance approving a Hangar Construction Agreement and Master Ground Lease Agreement between the City of Steamboat Springs and SBS Hangars II, LLC; providing an effective date; and setting a hearing date. (Hruby)

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**D. PUBLIC HEARING: ORDINANCE SECOND READINGS**

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

8. **SECOND READING OF ORDINANCE:** An ordinance authorizing the release of an affordable housing deed restriction encumbering Unit #1504, Sunray Meadows Condominium phase XIV; providing for severability; and providing an effective date. (Hinsvark)

**\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, AUGUST 7, 2012\*\*\*\*\***

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- 9. SECOND READING OF ORDINANCE:** An ordinance amending Sections 25-37 and 25-216 of the Steamboat Springs Revised Municipal Code by authorizing the City Manager to impose water use restrictions restricting outdoor uses of water during period of water shortage and imposing fees relating to such outdoor uses; repealing all conflicting ordinances; and providing an effective date. (Foote)
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- E. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**
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**F. PLANNING COMMISSION REPORT**

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- G. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:**  
ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

- 9. PROJECT:**  
PETITION:  
LOCATION:  
APPLICANT:  
PLANNING COMMISSION VOTE:
- 

**H. PUBLIC HEARING – PLANNING COMMISSION REFERRALS**

**PUBLIC HEARING FORMAT:**

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**
- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

- 10. SECOND READING OF ORDINANCE:**
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**\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, AUGUST 7, 2012\*\*\*\*\***

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**I. REPORTS**

**11. City Council**

**12. Reports**

- a. Agenda Review (Franklin):
  - 1.) City Council agenda for September 4, 2012.
  - 2.) City Council agenda for September 18, 2012.

**13. Staff Reports**

- a. City Attorney's Update/Report. (Lettunich)
  - b. Manager's Report: Ongoing Projects. (Roberts)
    - 1.) Director's response.
- 

**J. OLD BUSINESS**

**14. Minutes (Franklin)**

- a. Regular Meeting 2011-13, July 3, 2012.
  - b. Regular Meeting 2012-14, July 17, 2012.
- 

**K. ADJOURNMENT**

**BY: JULIE FRANKLIN, CMC  
CITY CLERK**

\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, SEPTEMBER 4, 2012\*\*\*\*\*  
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## CITY OF STEAMBOAT SPRINGS

### AGENDA

REGULAR MEETING NO. 2012-15  
TUESDAY, SEPTEMBER 4, 2012

5:00 P.M.

**MEETING LOCATION:** Citizens' Meeting Room, Centennial Hall;  
124 10<sup>th</sup> Street, Steamboat Springs, CO

**MEETING PROCEDURE:** Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10<sup>th</sup> Street, Steamboat Springs, CO, or on our website at [http://steamboatsprings.net/city\\_council/council\\_meetings](http://steamboatsprings.net/city_council/council_meetings). The e-packet is typically available by 1pm on the Friday before the meeting.

**PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

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**A. ROLL CALL**

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**B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:**

**1.**

**\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, SEPTEMBER 4, 2012\*\*\*\*\***

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**C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS**

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**2. RESOLUTION:**

**3. FIRST READING OF ORDINANCE:**

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**D. PUBLIC HEARING: ORDINANCE SECOND READINGS**

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

**4. SECOND READING OF ORDINANCE:**

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**E. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first).** CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

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**F. PLANNING COMMISSION REPORT**

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**G. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:**

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**5. PROJECT:**

PETITION:

LOCATION:

APPLICANT:

PLANNING COMMISSION VOTE:

**\*\*\*\*\*TENTATIVE AGENDA FOR TUESDAY, SEPTEMBER 4, 2012\*\*\*\*\***

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**H. PUBLIC HEARING – PLANNING COMMISSION REFERRALS**

**PUBLIC HEARING FORMAT:**

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- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

**6. SECOND READING OF ORDINANCE:**

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**I. REPORTS**

**7. City Council**

**8. Reports**

- a. Agenda Review (Franklin):
  - 1.) City Council agenda for September 18, 2012.
  - 2.) City Council agenda for October 2, 2012.

**9. Staff Reports**

- a. City Attorney's Update/Report. (Lettunich)
  - b. Manager's Report: Ongoing Projects. (Roberts)
- 

**J. OLD BUSINESS**

**10. Minutes (Franklin)**

- a. Regular Meeting 2011-15, August 7, 2012.
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**K. ADJOURNMENT**

**BY: JULIE FRANKLIN, CMC  
CITY CLERK**

## AGENDA ITEM # 14

### **STAFF REPORTS:**

City Attorney's Update/Report

Manager's Report: Ongoing Projects

Director's response

*These are discussion items only*