



COTTONWOOD HEIGHTS CITY COUNCIL AGENDA

Notice is hereby given that the Cottonwood Heights City Council will hold a Business Meeting beginning at **7:00 p.m. on Tuesday, August 27, 2013**, at Cottonwood Heights City Council Chamber located at 1265 East Fort Union Blvd., Suite 300, Cottonwood Heights, Utah.

- 7:00 p.m. 1.0 WELCOME/PLEDGE/ACKNOWLEDGEMENTS**
- 2.0 PRESENTATIONS**
Holladay Chapter Quilters Guild Presentation
(Mandi Lessey, Charity Chairperson of the Holladay Chapter Quilters Guild will present handmade quilts to the Police Department for distribution to crime victims)
Community Covenant Program Presentation
(A presentation from the Community Covenant Program will be presented to the Council explaining the program and how they are trying to build a network of military and community leaders to communicate and share ideas on how better to serve our military members, veterans and their families)
- 3.0 CITIZEN COMMENTS**
(Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to three minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits may be submitted in writing. To have written comments viewed by the City Council prior to the meeting please submit comments to the City Recorder by noon the day before the meeting. Any written comments received prior to the meeting will be considered as though given at the meeting and a copy of the comments will be appended to the formal minutes.)
- 4.0 REPORTS/PROCLAMATIONS/RECOGNITIONS**
4.1 Standing Monthly Reports
1. Monthly Financial Report – Finance Director Steve Fawcett
(The finance department will provide an update on financial statements for the fiscal year ending June 30, 2013 and a report of the city budget as of July 31, 2013)
2. Unified Fire Report – Assistant Chief Mike Watson
(Report by Assistant Chief Watson of medical and fire calls responded to by Cottonwood Heights stations during the month of July as well as other informational items from the Unified Fire Authority)
- 5.0 ACTION ITEMS**
5.1 Consideration of Resolution No. 2013-34 Approving a Reimbursement Agreement with Questar Gas Company for Road Reconstruction
(Questar Gas will reimburse the City their share of the asphalt overlay for the Union Park Landscaped Median Project)
5.2 Consideration of Resolution No. 2013-37 Approving a contract with the Precision Concrete
(Approving a contract with Precision Concrete to provide concrete cutting and grinding and other forms of trip hazard mitigation)

- 5.3 Consideration of **Resolution No. 2013-38** Ratifying a contract with the University of Utah for Cottonwood Heights Police Department Secondary Assignment
(Approving a Memorandum of Understanding Regarding Off-Duty Police Officers with IHC Health Services, Inc.)

- 6.0 **CONSENT CALENDAR**
Approval of Minutes for July 30, 2013

- 7.0 **ADJOURN BUSINESS MEETING AND RECONVENE WORK SESSION IN ROOM 250**

PUBLIC COMMENT PROCEDURE

At each City Council Business Meeting any person wishing to comment on any item not otherwise on the agenda for public comment may address the City Council during the Public Comment period. Any person wishing to comment during the citizen comment period shall request recognition by the Mayor and upon recognition, approach the microphone and state their name and address the body. Any person wishing to comment shall limit their comments to no more than three (3) minutes, unless additional time is authorized by the Mayor. Citizen groups will be asked to appoint a spokesperson, who shall limit their comments to no more than five (5) minutes. All comments shall be directed to the Mayor and City Council. No person addressing the City Council during the comment period shall be allowed to comment more than once during that comment period. Speakers should not expect any debate or dialogue with the Mayor, City Council or City Staff during the meeting.

The Council may choose to limit the amount of time allotted to public comment on a specific issue. In such cases, special procedures for determining who will be allowed to speak and the order of such speakers will be determined by the Council.

On Monday, August 26, 2013, at 5:00 p.m. a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices, Cottonwood Heights, Utah. A copy of this notice was faxed to the Salt Lake Tribune and Deseret News, newspapers of general circulation in the City by the Office of the City Recorder. The Agenda was also posted on the City's website at www.ch.utah.gov and the State Public Meeting Notice website at <http://pmm.utah.gov>

DATED THIS 26th DAY OF AUGUST 2013

Kory Solorio, City Recorder

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Council Member will be on speakerphone. The speakerphone will be amplified so that the other Council Members and all other persons present in the Council Chambers will be able to hear all discussions.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify Kory Solorio, City Recorder, at (801) 944-7020 at least 24 hours prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711. If you would like to submit written comments on any agenda item they should be received by the City Recorder no later than Tuesday at noon. Comments can be emailed to ksolorio@ch.utah.gov



NOTICE OF COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION AGENDA

Notice is hereby given that the Cottonwood Heights City Council will hold a Work Session at **6:00 p.m. on Tuesday, August 27, 2013**, in the Cottonwood Heights City Council Conference Room located at 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, Utah

- 6:00 p.m.**
1. **Review of Business Meeting Agenda (10:00)**
 2. **Public Relations Report (10:00)**
 - a. **Media Coverage**
(Public Relations Specialist, Stephanie Archibald, will provide a report on media coverage of city events)
 - b. **Valley Journal**
(A review of the upcoming articles for future editions)
 3. **Public Works Report (45:00)**
 - a. **Wasatch Front Regional Council Meetings (WFRC)**
(Wasatch Front Regional Council is the Metropolitan Planning Organization for Salt Lake and four other counties. They are tasked with coordinating regional transportation and transit projects as well as allocating and tracking expenditures of Federal and State dollars for such projects)
 1. **Transcom Technical Advisory Committee Meeting (TAC)**
(City Engineer Brad Gilson is a member of this committee which evaluates transportation and transit projects to be recommended to WFRC for funding. He will report on the recent TAC meeting)
 2. **Wasatch Front Regional Council (WFRC)**
(Mayor Cullimore is a member of WFRC representing SL County and will report on the recent WFRC mtg)
 3. **Meeting with WFRC Staff to Review Projects**
(Mayor Cullimore along with staff met with representatives of WFRC to review two projects: 1) Fort Union and Highland intersection expansion, and 2) Traffic Adaptive Control Project. A report on this meeting will be provided)
 - b. **Union Park Improvement Project**
(Public Works Director Mike Allen will review the construction schedule and scope of the project with the Council)
 - c. **7200 South Safe Sidewalk Project**
(Public Works Director Mike Allen will provide the Council with an update on the 7200 South Safe Sidewalk Project)
 - d. **Traffic Calming**
(Public Works Director Mike Allen will discuss with the Council requests for traffic calming on Greenfield Way and 6630 South)
 4. **Planning Report (20:00)**
 - a. **Board of Adjustment & Architectural Review Committee Meeting**
(Staff will update the Council on the upcoming BOA & ARC meetings)
 - b. **University of Utah Student Project**
(Staff will discuss with the Council a proposed U of U student project analyzing Fort Union Blvd future transportation and redevelopment concepts)

5. **Public Safety Report (10:00)**
 - a. Unified Fire Authority
(Report from Assistant Chief Mike Watson on events of the week)
 - b. Police Department
(Report from Chief Russo on noteworthy events of the week)

6. **City Manager/Deputy City Manager Report (20:00)**
 - a. Update on Public Works RFP
(City Manager John Park will provide an update on progress evaluating the Public Works RFP revised submissions)

7. **Mayor/City Council Reports (30:00)**
 - a. Association of Municipal Councils – Councilman Tyler
(Councilman Tyler will report on the Association of Municipal Councils meeting)
 - b. Wasatch Front Waste and Recycling District Board Mtg – Councilman Bracken
(Councilman Bracken will report on the recent Wasatch Front Waste and Recycling District Board meeting)
 - c. Conference of Mayors – Mayor Cullimore
(Mayor Cullimore will report on the recent Conference of Mayors meeting)
 - d. TRCC Committee Meeting – Mayor Cullimore
(Mayor Cullimore serves as the Chair of the Salt Lake County Tourism, Recreational, Cultural and Convention (TRCC) Advisory Board and will report on the recently held meeting)

8. **Calendar of Events (10:00)**
 - a. Councilmember Schedules for the next week
 - b. Schedule of Summer Activities
 1. City Council/Staff/Family Picnic – August 28, Mountview Park @ 6:00 pm
 - c. City Offices Closed for Labor Day – September 2
 - d. Utah League of Cities and Towns Convention – September 11-13th
 - e. General Election – November 5 (Ballots mailed October 7)

9. **Closed Meeting to Discuss Litigation, Property Acquisition and the Character and Professional Competence or Physical or Mental Health of an Individual**

10. **ADJOURN**

ACTION ITEM 5.1

RESOLUTION NO. 2013.34

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-34

A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT WITH QUESTAR GAS COMPANY FOR ROAD RECONSTRUCTION

WHEREAS, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) met on 27 August 2013 to consider, among other things, approving a “Reimbursement Agreement” (the “*Agreement*”) with Questar Gas Company (“*Questar*”) whereunder Questar will reimburse the City approximately \$51,018 in connection with a future asphalt overlay by the City on the East side of 1300 East from the landscaped median triangle to Union Park Avenue within City’s municipal boundaries, on the terms and conditions specified in the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto as an exhibit; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City’s entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Agreement with Contractor is hereby approved, and that the City’s mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2013-34, shall take effect immediately upon passage.

PASSED AND APPROVED this 27th day of August 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Kory Solorio, Recorder

VOTING:

Kelvyn H. Cullimore, Jr	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 27th day of August 2013.

RECORDED this ___ day of August 2013.

601954.1

Reimbursement Agreement

THIS REIMBURSEMENT AGREEMENT (this "*Agreement*") is entered into effective 30 July 2013 by the city of **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, UT 84047 ("*City*"), and by **QUESTAR GAS COMPANY**, a Utah corporation whose address is 333 South State Street, PO Box 45360, Salt Lake City, UT 84145-0360 ("*Questar Gas*"). City and Questar Gas may be referred to collectively as the "*Parties*" or individually as a "*Party*."

RECITALS:

A. City owns and operates a public street located within City's geographic boundaries that is known as 1300 East ("*1300 East*").

B. City heretofore has contracted with Staker & Parsons Companies ("*Contractor*") to construct certain improvements on 1300 East between the South side of the I-215 freeway and the East side of Creek Road, under City's Project No. CHC. 252 (the "*City Project*").

C. Among other work under the City Project, Contractor is required to install a two-inch asphalt overlay (the "*Overlay*") on the East side of 1300 East from the landscaped median triangle near Union Park Avenue to Creek Road (the "*Section*") during Summer 2013.

D. Questar Gas recently informed City that Questar Gas plans to install certain underground pipelines and facilities pertaining to Questar Gas's natural gas distribution system along the Section in early- or mid-2014 (the "*Questar Gas Project*"), which will require Questar Gas to repair or reinstall the Overlay upon completion of the Questar Gas Project at an anticipated cost to Questar Gas of approximately \$85,000.

E. Consequently, Questar Gas has requested City to modify the City Project via change order ("*Change Order*") with Contractor to defer the Overlay until Fall 2014 to allow the Questar Gas Project to be completed before the Overlay occurs, on the condition that Questar Gas will pay one-half of the cost of the deferred Overlay under City's Change Order with Contractor.

F. City is willing to act as requested by Questar Gas, on the terms and conditions specified in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and undertakings of the Parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

Section 1. **Change Order**. City and Contractor shall enter into the Change Order substantially in the form of the attached exhibit, whereunder (a) the Overlay on the Section will be deferred until Fall 2014, and (b) the cost of the deferred Overlay will be approximately \$102,036 (subject to asphalt oil cost adjustment and fuel surcharge as provided in the Change Order) (the "*Cost*").

Section 2. **Questar Gas Project.** This Agreement does not limit Questar Gas's responsibility to perform the Questar Gas Project in full compliance with all applicable laws, including, without limitation, Chapter 14.16, COTTONWOOD HEIGHTS CODE OF ORDINANCES (the "Code"). Without limiting the foregoing, any trench or other excavation in 1300 East performed in connection with the Questar Gas Project shall be properly backfilled, compacted, asphalted and otherwise repaired (before the Overlay) per APWA specifications and requirements of the Code. Further, to allow Contractor to timely mobilize and perform the Overlay, Questar Gas shall give City and Contractor at least 45 days' prior written notice of the completion date of the Questar Gas Project (i.e., the first date that the Overlay can be substantially commenced by Contractor).

Section 3. **Payment by Questar Gas.** Following City's receipt of Contractor's billing for the Cost, which likely will occur in Fall 2014, City shall give written notice to Questar Gas of such charge, providing copies of any back-up documentation received from Contractor. Within ten business days after Questar Gas's receipt of such written notice, Questar Gas shall pay to City one-half (50%) of the Cost charged by Contractor to City for the deferred Overlay to the Section. Based on the Change Order, Questar Gas's portion of the Cost will be \$51,018, subject to oil cost/fuel adjustments as provided in the Change Order.

Section 4. **Default; Remedies.** If either Party fails to perform any of its obligations hereunder and such conditions are not cured within ten days after written notice thereof by the non-defaulting Party, the defaulting Party shall be in default, thereby entitling the non-defaulting Party to proceed at law and in equity to enforce its rights under this Agreement. Each Party acknowledges that remedies at law may be inadequate to protect against breach or threatened breach of this Agreement and breach of this Agreement may cause irreparable harm to the other. Each Party agrees that the other may seek injunctive relief as a remedy in addition to any other remedies available at law or in equity.

Section 5. **General Provisions.**

(a) **Survival.** The Parties' respective rights and obligations hereunder, and all representations and warranties made in this Agreement, all exhibits hereto, and all certificates and documents delivered pursuant hereto, shall survive any closings contemplated by this Agreement.

(b) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties hereto.

(c) **Captions.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(d) **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(e) Severability. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(f) Waiver of Breach. Any waiver by either Party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

(g) Cumulative Remedies. The rights and remedies of the Parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law.

(h) Amendment. This Agreement may not be modified except by an instrument in writing signed by the Parties hereto.

(i) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Notice. All notices provided for herein shall be in writing and shall be given by first-class mail, certified or registered, postage prepaid, addressed to the Parties at their respective addresses set forth above or at such other address(es) as may be designated by a Party from time to time in writing. Notice shall be deemed received and effective three calendar days after mailing.

(k) Time of Essence. Time is the essence of this Agreement.

(l) Costs. All costs and expenses, including attorneys' fees, incurred by each Party in conjunction with this Agreement shall be paid by the Party which has incurred such costs and expenses.

(m) Exhibits. The exhibits that are referenced herein and that are attached hereto are an integral part of this Agreement and are incorporated herein by reference.

(n) Integration Clause. There are no representations, warranties, covenants or agreements between the Parties as to the subject matter of this Agreement except as are specifically set forth in this Agreement. This Agreement contains the entire agreement between the Parties hereto pertaining to the matters that are set forth herein and supercedes all prior agreements, correspondence, memorandum, representations and understandings of the Parties related thereto. No representations have been made to induce the Parties hereto to enter into this Agreement except as set forth herein.

(o) Authority. Each individual executing this Agreement does thereby represent and warrant to any other individual so signing (and to each other entity for which another individual is signing) that the individual has been duly authorized to deliver this Agreement in the capacity and for the entity that is set forth where he signs.

DATED effective the date first written above.

ATTEST:

Linda W. Dunlavy, Recorder

CITY:

COTTONWOOD HEIGHTS, a Utah municipality

By _____
Kelvyn H. Cullimore, Jr., Mayor

QUESTAR GAS:

QUESTAR GAS COMPANY
a Utah corporation

By: _____

Its: _____

600510.1

Exhibit to
Reimbursement Agreement

(Attach Copy of Change Order No. 1)

**SECTION 00560
CHANGE ORDER NO. 1**

6/17/2013

PROJECT: "STREET IMPROVEMENT PROJECTS ALONG UNION PARK AVENUE AND 1300 EAST STREET, BETWEEN SOUTH SIDE OF I-215 FREEWAY AND EAST SIDE OF CREEK ROAD --- PROJECT # CHC.252"; for the City of Cottonwood Heights

CONTRACTOR: Staker & Parson Companies
89 West 13490 South Ste 100
Draper, Utah 84020

You are hereby requested to comply with the following changes from the contract plans and specifications.

Item No. (1)	DESCRIPTION OF CHANGES: quantities, units, prices, schedule, etc. (2)	Decrease (3)	Increase (4)
12.	Furnish, place and compact 1/2" hot mix asphalt surface course for 2-inch overlay, complete; including mix design, supplying asphalt material, placing and compacting asphalt material, and all appurtenant work <u> -91,800 s.f. \$0.88 </u>	<u>-\$80,784.00</u>	<u>\$0.00</u>
43.	Furnish, place and compact 1/2" hot mix asphalt surface course for 2-inch overlay, eastside of 1300 East from the Triangle to Creek Road in the Fall of 2014 (see attached drawing) including mix design, supplying asphalt material, placing and compacting asphalt material, and all appurtenant work (Due to Questar work) ** <u> 91,800 s.f. \$1.02 </u>	<u>\$0.00</u>	<u>\$93,636.00</u>
44.	Mobilization <u> 1 ls \$5,000.00 </u>	<u>\$0.00</u>	<u>\$5,000.00</u>
45.	Traffic control, complete <u> 1 ls \$3,400.00 </u>	<u>\$0.00</u>	<u>\$3,400.00</u>
	Total of Decreases:	<u>-\$80,784.00</u>	
	Total of Increases:		<u>\$102,036.00</u>
	Net contract change		<u>\$21,252.00</u>

** Subject to asphalt oil cost adjustment and fuel surcharge as per contract documents.
The Bench Mark Price for asphalt oil the week of this proposal is \$563.00 per ton.
The Bench Mark Price for diesel fuel the week of this proposal is \$3.882 per gallon.

PROJECT: "STREET IMPROVEMENT PROJECTS ALONG UNION PARK AVENUE AND 1300 EAST STREET, BETWEEN SOUTH SIDE OF I-215 FREEWAY AND EAST SIDE OF CREEK ROAD --- PROJECT # CHC.252"; for the City of Cottonwood Heights

CONTRACTOR: Staker & Parson Companies
89 West 13490 South Ste 100
Draper, Utah 84020

You are hereby requested to comply with the following changes from the contract plans and specifications. _____

Item No.	DESCRIPTION OF CHANGES: quantities, units, prices, schedule, etc.	Decrease	Increase
(1)	(2)	(3)	(4)

_____ The sum of \$ 21,252.00 is added to the total contract price. The total adjusted contract price to date is \$1,252,857.00.

_____ This document shall become an amendment to the contract and all provisions of the contract will apply hereby.

Accepted by Contractor: _____ Date: _____
Staker & Parson Companies

Recommended by Inspector: _____ Date: _____
Inspector

Recommended by Engineer: _____ Date: _____
GILSON ENGINEERING, INC.

Approved by Owner: _____ Date: _____
Cottonwood Heights

ACTION ITEM 5.2

RESOLUTION NO. 2013.37

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-37

A RESOLUTION APPROVING AN INDEPENDENT CONTRACTOR
AGREEMENT WITH PRECISION CONCRETE CUTTING, INC.
(2013-14 FISCAL YEAR)

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights (the "*City*") met in regular session on 27 August 2013 to consider, among other things, approving an independent contractor agreement (the "*Agreement*") with Precision Concrete Cutting, Inc. ("*Precision*") whereunder Precision would provide concrete cutting, concrete grinding and other forms of sidewalk trip hazard mitigation and related services to the City during the City's 2013-14 fiscal year; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the attached Agreement is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2013-37, shall take effect immediately upon passage.

PASSED AND APPROVED effective 27 August 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Kory Solorio, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 27th day of August 2013.

RECORDED this ___ day of August 2013.

603752.1

Independent Contractor Agreement

THIS INDEPENDENT CONTRACTOR AGREEMENT (this "*Agreement*") is entered into effective 1 July 2013 by and between **COTTONWOOD HEIGHTS**, a Utah municipality ("*City*") and **PRECISION CONCRETE CUTTING, INC.**, a Utah corporation ("*Contractor*").

RECITALS:

- A. Contractor has significant experience in removing trip hazards from sidewalks.
- B. City is in need of such services.
- C. City desires to retain Contractor to remove trip hazards from sidewalks in City's public right-of-way, as specified in this Agreement.
- D. The parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Employment of Contractor.** City hereby engages Contractor, and Contractor hereby agrees, to perform all services necessary or desirable to remove trip hazards from sidewalks within City (as designated by City in writing from time to time), up to the maximum contract amount as set forth in paragraph 3 below.

2. **Detailed Description of the Services.** In furtherance of this Agreement, Contractor shall do, perform, and carry out in a good, professional manner, the following services (the "*Services*"):

(a) *Elimination of Trip Hazards.* Contractor shall eliminate all trip hazards (up to a maximum height of 2") by saw cutting all such trip hazards in accordance with the Americans with Disabilities Act requirements. Each offset will be tapered at a 1:8 slope and shall have a smooth uniform appearance and texture.

(b) *Saw Cut.* All saw cutting shall be taken to the zero point of differential settlement and to the edges of the sidewalk to eliminate trip hazards the full width of the sidewalk.

(c) *Cleaning.* All debris and concrete dust shall be cleaned from the sidewalk surface as well as surrounding areas, sidewalks, driveway, landscaping or other objects in vicinity of the work. Any damage to adjacent landscaping, sprinklers, grass, etc. shall be repaired and otherwise returned to as good of condition as existed prior to such work.

3. **Fees for Services.** City shall pay Contractor for Services actually performed as described on the attached exhibit; provided, however, that the maximum amount to be paid to Contractor for all Services performed under this Agreement shall not exceed \$75,000.

4. **Method of Payment.** Contractor shall submit monthly to City a detailed invoice setting forth the Services performed since the last monthly billing, and specifying the charges therefor computed as specified on the attached exhibit. Provided that the aggregate amount of all previous invoices and the current invoice does not exceed the total maximum compensation specified in section 3 hereof, City shall pay (or provide a reasoned objection to) the amount set forth in the current invoice within 30 days after receipt.

5. **Services Performed in a Professional, Reasonable Manner.** Contractor shall perform the Services in a professional, reasonable, responsive manner in compliance with all laws and applicable standards of performance. Subject to the foregoing, the exact nature of how the Services are to be performed and other matters incidental to providing the Services shall remain with Contractor.

6. **Personnel, Equipment and Facilities.** Except as otherwise specified in this Agreement, Contractor shall at its sole cost furnish all supervision, personnel, labor, equipment, materials, supplies, communication facilities, vehicles for transportation and identification cards, and shall obtain all licenses and permits, necessary or incidental to performing any and all of the Services. Contractor shall not use City staff as a means to perform the Services in lieu of using Contractor's own staff.

7. **Term.** This Agreement shall be effective on the date hereof and shall terminate at 11:59:59 p.m. on 30 June 2014.

8. **Assignment and Delegation.** Contractor shall not assign or delegate the performance of its duties under this Agreement without City's prior written consent.

9. **Independent Contractor Status.** Contractor shall perform the Services as an independent contractor, and all persons employed by Contractor in connection herewith shall be employees or independent contractors of Contractor and not employees of City in any respect.

(a) **Control.** Contractor shall have complete control and discretion over all personnel providing Services hereunder.

(b) **Salary and Wages.** City shall not have any obligation or liability for the payment of any salaries, wages or other compensation to personnel providing Services hereunder.

(c) **No Employment Benefits.** All personnel providing Services are and shall be and remain Contractor's employees, and shall have no right to any City pension, civil service, or any other City benefits pursuant to this Agreement or otherwise.

10. **Termination.** Either party may terminate this Agreement upon 30 days' prior written notice to the other party. Neither party shall have any liability to the other for damages nor other losses because of termination of this Agreement, provided; however, City shall pay Contractor all amounts due for actual work performed within the scope of Services, as specified herein.

11. **Indemnification.** Contractor shall defend, indemnify, save and hold harmless City (including, without limitation, its elected and appointed officers, employees, successors and assigns) from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorneys' fees and cost of suit), relating to or arising in any way from the Services provided, or to be provided, hereunder. Contractor shall so defend, indemnify, save and hold harmless City whether such demands, liabilities, claims, damages, actions and/or proceedings are attributable to the simple negligence, gross negligence, recklessness or intentional misconduct of Contractor (or any officers, employees, agents, subcontractors, etc. of Contractor), or under any other applicable legal theory, and shall be effective whether or not such negligence, recklessness or other misconduct reasonably was foreseeable. Nothing herein shall, however, require Contractor to indemnify as provided in this section with respect to (a) City's own negligence or intentional misconduct, or (b) any demand, liability, claim, damage, action and/or proceeding not alleged to relate to the Services provided, or to be provided, by Contractor hereunder.

12. **Insurance.** Without limiting any indemnity or other obligations of Contractor hereunder, Contractor shall, prior to commencing work hereunder, secure and continuously thereafter (throughout the term of this Agreement) carry with insurers the following insurance coverage in policies which include provisions or endorsements naming City and its designees as an additional insured, and shall furnish proof thereof satisfactory to City prior to commencement of performance of the Services hereunder, and thereafter promptly when requested:

(a) **Commercial general liability insurance** coverage with a minimum single limit of \$1,000,000.00, with a deductible not to exceed \$5,000. The coverage shall include bodily injury and property damage liability coverage, contractual liability coverage, products and completed operations coverage, as well as coverage to protect against and from all loss by reason of injury to persons or damage to property, including Contractor's own workers and all third persons, property of City and all third parties based upon and arising out of the negligent performance of Contractor's operations hereunder, including the operations of its subcontractors of any tier.

(b) **Business automobile liability insurance** coverage with a minimum single limit of \$1,000,000.00 for bodily injury and property damage with respect to Contractor's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Services. Contractor may elect to not provide this coverage if no Contractor-owned or hired automobiles are used in performance of the Services, provided, however, that Contractor shall defend, indemnify and hold City harmless from any and all claims, damages, actions, proceedings, fees (including attorneys fees) and costs incurred by City arising from or in any way related to use of any automobile by Contractor or any of its employees, subcontractors or other related parties in performance of the Services.

(c) **Workers' compensation insurance** coverage as required by applicable workers' compensation and employer's liability statutes.

The foregoing insurance policies shall be through reputable, licensed insurers reasonably acceptable to City, and specifically shall provide that such insurance may not be terminated or reduced without at least 30 days' prior written notice to City.

13. **Laws and Regulations.** Contractor shall at all times comply with all applicable laws, statutes, rules, regulations, and ordinances, including without limitation, those governing wages, hours, desegregation, employment discrimination, workers' compensation, employer's liability and safety. Contractor shall comply with equal opportunity laws and regulations to the extent that they are applicable.

14. **Alcohol and Drug-Free Work Place.** All personnel during such time that they provide Services shall not be under the influence of alcohol, any drug, or combined influence of alcohol or any drug to a degree that renders the person incapable of safely providing the Services. Further, all personnel during such time that they provide Services shall not have sufficient alcohol in his body, blood, or on his breath that would constitute a violation of UTAH CODE ANN. § 41-6-44 or any measurable controlled substance in his body that would constitute a violation of UTAH CODE ANN. § 41-6-44.6.

15. **Non-Exclusive Rights.** Nothing in the Agreement is to be construed as granting to Contractor any exclusive right to perform any or all Services (or similar services) now or hereafter required by City.

16. **Conflict Resolution.** Except as otherwise provided for herein, any dispute between the parties regarding the Services which is not disposed of by agreement shall be decided by City, which shall provide written notice of the decision to Contractor. Such decision by City shall be final unless Contractor, within 30 calendar days after such notice of City's decision, provides to City a written notice of protest, stating clearly and in detail the basis thereof. Contractor shall continue its performance of this Agreement during such resolution. If the parties do not thereafter agree to a mutually-acceptable resolution, then they shall resolve the dispute pursuant to section 17 below.

17. **Claims and Disputes.** Unresolved claims, disputes and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, Contractor shall continue to perform the Services during any such litigation proceedings and City shall continue to make undisputed payments to Contractor in accordance with the terms of this Agreement.

18. **Notices.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

City: COTTONWOOD HEIGHTS
Attn. Mike Allen, Public Works Director
1265 East Fort Union Blvd., Suite 250
Cottonwood Heights, UT 84047

with a copy to: Wm. Shane Topham
CALLISTER NEBEKER & MCCULLOUGH
10 East South Temple, 9th Floor
Salt Lake City, UT 84133

Contractor: PRECISION CONCRETE CUTTING, INC.
3191 North Canyon Road
Provo, UT 84604

19. **Additional Provisions.** The following provisions also are integral to this Agreement:

(a) **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

(b) **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

(c) **Applicable Law.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

(d) **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

(e) **Time.** Time is the essence hereof.

(f) **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

(g) **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

(h) **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

(i) Severability. In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(j) Litigation. If any action, suit or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

(m) Authorizations. Each person signing this Agreement represents and warrants that he is authorized to sign this Agreement for the party indicated.

DATED effective the date first-above written.

CITY:

ATTEST:

COTTONWOOD HEIGHTS

Linda W. Dunlavy, Recorder
Date signed _____

By: _____
Kelvyn H. Cullimore, Jr., Mayor
Date signed _____

CONTRACTOR:

ATTEST:

PRECISION CONCRETE CUTTING, INC.,
a Utah corporation

By: _____
Its: _____

By: _____
Jared Taylor, _____

Exhibit to Independent Contractor Agreement

Contractor shall be paid for Services performed on the basis of \$27.45 per inch-foot of trip-hazard removal performed.

Inch-feet shall be calculated by multiplying the average depth of the cut by the width of the cut. For example, if a joint is cut 1" on one side and tapered to 0" on the other side of a full 4-foot wide sidewalk, the number of inch-feet would be calculated as follows:

$$\frac{1" + 0"}{2} \times 4' = 2 \text{ inch-feet}$$

$$2 \text{ inch-feet} \times \$27.45/\text{inch-foot} = \$54.90$$

All invoices must show the address of the work; the depth, length and width of the cut; the inch-foot calculation; and the resulting charge.

Contractor's process for removal of trip hazards to the specifications in this Agreement are protected by the following patents. Contractor is a sole-source provider for the Services.

U.S. Pat. No. 6,827,074

U.S. Pat. No. 6,896,604

U.S. Pat. No. 7,000,606

U.S. Pat. No. 7,143,760

U.S. Pat. No. 7,201,644

U.S. Pat. No. 7,402,095

ACTION ITEM 5.3

RESOLUTION NO. 2013.38

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-38

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
WITH IHC HEALTH SERVICES, INC. CONCERNING
POLICE OFFICER SECONDARY EMPLOYMENT

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights (the "*City*") met in regular session on 27 August 2013 to consider, among other things, approving and ratifying a "Memorandum of Understanding Regarding Off-Duty Police Officers" (the "*MOU*") with IHC Health Services, Inc. ("*IHC*") concerning IHC's employment of off-duty officers of the City's police department; and

WHEREAS, the Council has reviewed the form of the MOU, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve and ratify the City's entry into the MOU as proposed;

NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the attached MOU is hereby approved, that authorized officers of the City may execute and deliver the MOU on behalf of the City, and that any prior execution and delivery of the MOU by such officers is hereby ratified.

This Resolution, assigned no. 2013-38, shall take effect immediately upon passage.

PASSED AND APPROVED effective 27 August 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Kory Solorio, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 27th day of August 2013.

RECORDED this ___ day of August 2013.

603757.1

CONSENT CALENDAR

**UNAPPROVED MINUTES
JULY 30, 2013**

DRAFT

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL MEETING HELD TUESDAY, JUNE 30, 2013, AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBERS

Members Present: Mayor Kelvyn Cullimore, Councilman Mike Shelton, Councilman Tee Tyler, Councilman Mike Peterson, Councilman Scott Bracken was excused

Staff Present: City Manager John Park, Police Chief Robby Russo, Public Works Director Mike Allen, Assistant Fire Chief Mike Watson, Public Relations Specialist Stephanie Archibald, City Attorney Shane Topham, Deputy City Manager Linda Dunlavy, Finance Director Steve Fawcett

1.0 WELCOME/PLEDGE/ACKNOWLEDGEMENTS

1.1 Mayor Kelvyn Cullimore called the meeting to order at 7:00 p.m. and welcomed those attending.

1.2 The Pledge of Allegiance was led by Councilman Peterson.

2.0 CITIZEN COMMENTS

2.1 Tobi Paulos stated that she believes the issue of Mr. Cobb's snakes has become a private property rights issue. A photograph was presented showing Mr. Cobb and one of his many snakes on his front lawn. She shared concern regarding the large number of snakes Mr. Cobb owns and the stigma it has placed on the City.

2.2 Thomas Cobb detailed a recent home fire that involved several snakes. He reported that he currently possesses 27 snakes, although he is permitted to keep 29. The largest snake measures seven feet and the smallest is approximately 14 inches.

2.3 Dave Jensen, from Wasatch Snake Pet Removal, reported that he removes rattlesnakes under state license. He reported that Mr. Cobb is not housing venomous animals and those who are should be punished.

2.4 Mike Littlefield, a neighboring resident, shared concern regarding Mr. Cobb running a snake mill.

2.5 Debra Cobb expressed frustration with neighbors counting the number of cars that come to her home. She believes that more time and energy should be directed toward animals that pose a danger to the community.

2.6 Jennifer Scott, a Cottonwood Heights resident, shared concern over how the number of pets in a home is currently regulated.

2.7 Mike Hanson explained that he feels this issue is dividing the community.

2.8 Dr. Laurel Harris considered the stock piling of ammunition to be much more hazardous than living next door to a snake enthusiast.

2.9 Mayor Cullimore stated that the following week there will be a presentation from Snake Specialist Dr. Baker who will provide the foundation for the Council to debate. No resolution will be passed at that time. The health, safety, and welfare of the citizens will be of utmost importance and the Council will make a determination as to whether Mr. Cobb's exotic pets pose a danger. Mayor Cullimore further detailed personal property rights. He stated that the Council's decision will establish a long-term impact and may be precedent setting.

3.0 **REPORTS/PROCLAMATIONS/RECOGNITIONS**

Standing Monthly/Quarterly Reports

3.1 **Monthly Financial Report**

Finance Director Steve Fawcett presented the financial report for June. He reported that real property taxes are at 103% of the estimated budget. Sales tax revenue is expected to reach over \$5 million, for the first time since 2008.

Overall, department expenditures are within budgeted amounts. The City Attorney’s budget has an overage, due to 13 months of contracted payments paid in one fiscal year and additional litigation expenditures.

A more economic year was reported for Community and Economic Development both expenditures and revenues were higher. Planning budget overspent by 5% due to personnel changes and an increase in building inspections which was offset by additional revenues. Mr. Fawcett next discussed General Fund balance issues.

Councilman Tyler asked what the time period after the end of a fiscal year is for transactions to settle.

Mr. Fawcett confirmed that settlement generally takes place within 90 days.

A complete report is available on the City’s website.

3.2 **Unified Fire Report**

Assistant Chief Mike Watson presented the Unified Fire Report for the month of June. He stated that in terms of call volumes Station 110 came in 5th and Station 116 came in 18th overall among all UFA stations. Station 110 had 150 total calls with 128 Advanced Life Support (ALS) calls resulting in 61 transports; and 22 Basic Life Support (BLS) calls resulting in 10 transports. Station 116 had 51 total calls with 42 Advanced Life Support (ALS) calls resulting in 6 transports; and 9 Basic Life Support (BLS) calls resulting in 1 transport.

Chief Watson reviewed the customer service report for Stations 110 and 116 including recognition of Steve Lawrence for his work with an elderly Cottonwood Heights resident, among other generous acts of service. Photographs of Butlerville Days were displayed.

Chief Watson reviewed fire drill safety and practicing for a home fire.

A complete report is available on the City’s website.

4.0 **ACTION ITEMS**

4.1 **Consideration of Resolution No. 2013-30 Approving an Agreement with Gilson Engineering for Engineering Services**

4.1.1 **MOTION:** Councilman Shelton moved to approve Resolution No. 2013-30. The motion was seconded by Councilman Tyler and passed unanimously on a roll call vote.

- 4.2 **Consideration of Resolution No. 2013-31 Approving and Ratifying the Appointment of a City Recorder**
- 4.2.1 **MOTION:** Councilman Tyler moved to approve Resolution No. 2013-31. The motion was seconded by Councilman Peterson and passed unanimously on a roll call vote
- 4.3 **Consideration of Resolution No. 2013-32 Approving Entry into an Interlocal Agreement Concerning a Regional Study for the Central Wasatch Mountains Known as “Wasatch Summit Phase I”**
- 4.3.1 Mayor Cullimore explained that the proposed resolution concerns Canyon Transportation. The City of Cottonwood Heights commit \$50,000 over the next two years toward this effort.
- 4.3.2 **MOTION:** Councilman Peterson moved to approve Resolution No. 2013-32. The motion was seconded by Councilman Tyler and passed unanimously on a voice vote
- 4.4 **Consideration of Resolution No. 2013-33 tentatively approving a Proposed Amended Compensation Schedule for Elective and Statutory Officers; Providing for Public Inspection of Such Schedule; Establishing the Time and Place of Public Hearing to Consider Adoption of such Schedule; and Provided for Publication of Such Public Hearing**
- 4.4.1 **MOTION:** Councilman Shelton moved to approve Resolution No. 2013-33. The motion was seconded by Councilman Peterson and passed unanimously on a roll call vote
- 4.5 **Consideration of Resolution No. 2013-34 Approving a Reimbursement Agreement with Questar Gas Company for Road Reconstruction**
- 4.5.1 The above item was postponed.
- 4.6 **Consideration of Resolution No. 2013-35 Approving Polling Locations (2013 Primary Municipal Elections)**
- 4.6.1 Mayor Cullimore explained the proposed resolution and stated that there will only be one polling location, which will be open on Election Day at City Hall. Citizens can also vote by mail.
- 4.6.2 **MOTION:** Councilman Tyler moved to approve Resolution No. 2013-35. The motion was seconded by Councilman Shelton and passed unanimously on a roll call vote.
- 5.0 **CONSENT CALENDAR**
- 5.1 **Approval of Minutes of July 9, 2013**
- 5.1.1 The minutes stood approved.
- 6.0 **ADJOURN BUSINESS MEETING AND RECONVENE WORK SESSION IN ROOM 250**
- 6.1 **MOTION:** Councilman Peterson moved to adjourn and reconvene the work meeting. The motion was seconded by Councilman Shelton and passed unanimously on a roll call vote. The business meeting adjourned at 8:10 p.m.