

TOWN OF PARKER COUNCIL AGENDA

September 19, 2022

Notes:

Town Council meeting packets are prepared several days prior to the meeting. This information is reviewed and studied by the Councilmembers eliminating lengthy discussions to gain a basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis on the part of Council.

Ordinances listed for first reading are being approved to introduce them. Public comment will be held upon second reading.

Public comment for items that are not on the agenda may be made in person or electronically at <http://parkeronline.org/CouncilPublicComment>. For those unable to provide comments in person or electronically through the website, please contact the Clerk's Office to make alternative arrangements. The Town Clerk can be reached at 303-805-3198. Public comments submitted electronically through the website that are received by 5:00 p.m. on the day of the regular or special Town Council meeting will be provided to the Town Council and will be included with the approved minutes of the Town Council meeting.

Public Viewing Only - YouTube: Town Council meetings may be viewed live on YouTube at www.youtube.com/townofparkerco.

PLEASE NOTE: Public participation is NOT available through YouTube.

1. TOWN COUNCIL MEETING SCHEDULE

- A. 5:00 P.M. – Call to Order Town Council Meeting and Roll Call**
- B. Executive Session – Immediately following Call to Order/Roll Call – (See Attached)**
- C. Reconvene Town Council Meeting at 7:00 P.M. or as soon thereafter as the regular public meeting can be conducted.**

2. PUBLIC COMMENTS (No action will be taken on these items.) *Public Comment is an opportunity for Town residents and other interested individuals to speak about items that are NOT on the agenda. This comment period is limited to 30 minutes total time, with each individual allowed a maximum of 3 minutes to speak. You must sign up ahead of time in order to comment, and that sign up begins 30 minutes before the start of the meeting. The Council will accommodate as many speakers as possible during this time—with preference to Town residents—but if public comment extends beyond the allotted 30 minutes, Town Council will continue the comment period at the end of the meeting, prior to adjourning for those who signed up before the meeting.*

3. REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

4. CONSENT AGENDA

Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless Council votes to remove an item for individual discussion. Ordinances on the Consent Agenda are for introduction only and will not be removed for discussion.

A. *APPROVAL OF MINUTES - September 6, 2022*

B. *ORDINANCE NO. 5.28.31 - First Reading*

A Bill for an Ordinance to Amend Chapter 5.02 of the Parker Municipal Code Regarding Liquor Manager Registration

*Department: Town Clerk, Chris Vanderpool
Town Attorney, Kristin Hoffmann*

Second Reading: October 3, 2022

- C. *ORDINANCE NO. 5.28.30 - First Reading*
A Bill for an Ordinance to Amend Chapter 5.02 of the Parker Municipal Code Regarding Exposure of Specified Anatomical Areas, Lewd or Indecent Displays, and Obscenity in Specially Licensed Businesses
Department: Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022
- D. *ORDINANCE NO. 3.01.128 - First Reading*
A Bill for an Ordinance to Amend Title 13 of the Parker Municipal Code Addressing Certain Definitions
Department: Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022
- E. *ORDINANCE NO. 5.06.32.1 - First Reading*
A Bill for an Ordinance to Amend Title 8 of the Parker Municipal Code Regarding Public Indecency
Department: Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022
- F. *RESOLUTION NO. 22-047*
A Resolution Accepting a Drainage Easement from McDonald's Real Estate Company for a portion of Lot 3, Douglas 234 Filing No. 6.
Department: Engineering and Public Works, Alex Mestdagh
- G. *CONTRACTS OVER \$100,000*
1. *Contract with CORE to Underground Overhead Power Lines Related to the Pikes Peak Drive Sidewalk Improvements Project (Sulphur Gulch Bridge to Mainstreet)*
Amount: \$144,291
Contractor: CORE Electric Cooperative (formerly known as IREA)
Department: Engineering and Public Works, Bob Exstrom
2. *Sales and Use Tax Auditor Contract*
Amount: \$94,992 Year 1
\$524,982 Full Contract Amount Including Year 1 and Option Years 2-5
Contractor: Revenue Recovery Group
Department: Finance, Jen Campbell
3. *Ken Garff Vehicle Purchases*
Amount: \$94,315
Contractor: Ken Garff Ford
Department: Engineering and Public Works, Jim Gilbert

H. *PROCLAMATION - Parker Childhood Cancer Awareness Month*

5. **PUBLIC HEARINGS**

A. **CHAMBERS ROAD NORTH OF BELFORD AVENUE RIGHT-OF-WAY ANNEXATION**

Applicant: Town of Parker
Location: Chambers Road between E-470 and Belford Avenue
Department: Community Development, Carson Byerhof
Engineering and Public Works, Chris Hudson
TRAKiT No.: ANX22-005

1. **RESOLUTION NO. 22-050**
A Resolution to Set Forth Town Council's Findings of Fact And Conclusions as to the Eligibility of the Chambers Road North of Belford Avenue Right-of-Way Property for Annexation into the Town of Parker
2. **ORDINANCE NO. 2.280 - Second Reading**
A Bill for an Ordinance Approving and Accomplishing the Annexation of Contiguous Unincorporated Territory Known as the Chambers Road North of Belford Avenue Right-of-Way Property in Douglas County

6. **RESOLUTIONS**

A. **RESOLUTION NO. 22-051**

A Resolution to Appoint Members to the Parker Youth Commission and to Appoint a Chair and Vice-Chair

Department: Town Manager, Cheri Sullivan

7. **ORDINANCES**

A. **ORDINANCE NO. 1.564 - Second Reading**

A Bill for an Ordinance to Approve Memoranda of Understanding Between Agencies By and Between the Town of Parker and Various Law Enforcement Agencies Concerning License Plate Recognition Sharing Detection Data and Hotlists

Department: Police, Jim Prior

B. **ORDINANCE NO. 1.565 - Second Reading**

A Bill for an Ordinance to Approve the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Human Services Concerning Adult Protection

Department: Town Attorney, Jamie Wynn
Police, Jim Prior

- C. **ORDINANCE NO. 1.566 - Second Reading**
A Bill for an Ordinance to Approve the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Department of Human Services Concerning Child Welfare

Department: Town Attorney, Jamie Wynn
Police, Jim Prior

- D. **ORDINANCE NO. 9.309.1 - Second Reading**
A Bill for an Ordinance to Approve the First Amendment to the Amended and Restated Intergovernmental Agreement By and Between the Town of Parker, Colorado and Cherry Creek South Metropolitan District No. 4

Department: Town Attorney, Jim Maloney

8. **PUBLIC COMMENTS CONTINUED IF NECESSARY**

9. **ADJOURNMENT**

Parker Town Council

Executive Session Agenda

September 19, 2022

“To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).”

1. My Mainstreet plan and downtown development/Confluence Companies
2. Proposed Assignment and Assumption Agreement (Looking Glass)

“To hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).”

3. Section 13.10.090, Utilities, of the Parker Municipal Code

“To consider personnel matters, pursuant to C.R.S. § 24-6-402(4)(f).”

4. Town Manager evaluation

**TOWN OF PARKER COUNCIL
MINUTES
SEPTEMBER 6, 2022**

Mayor Jeff Toborg called the meeting to order at 5:00 p.m. All Councilmembers were present with the exception of Cheryl Poage.

Town Attorney Kristin Hoffmann announced the topics for discussion in the Executive Session were four items. Under C.R.S. § 24-6-402(4)(e), the first item was regarding the My Mainstreet plan and downtown development/Confluence Companies. Under C.R.S. § 24-6-402(4)(b) there were three items as follows: 1. Section 13.04.200 of the Parker Municipal Code concerning uses permitted by special review; 2. Title 5 of the Parker Municipal Code concerning exposure of specified anatomical areas, lewd or indecent displays, and obscenity in specially licensed businesses; Title 8 of the Parker Municipal Code concerning public indecency; and Title 13 of the Parker Municipal Code concerning definitions relating to nudity and specified anatomical areas; and 3. C.R.S. § 32-1-905(2.5) Petition for Appointment of Directors – Pine Bluffs Metropolitan District.

EXECUTIVE SESSION

Joshua Rivero moved and Todd Hendreks seconded to go into Executive Session at 5:01 p.m. to hold a conference with the Town's attorney to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e) and to hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).

The motion was approved unanimously.

Joshua Rivero moved and Todd Hendreks seconded to come out of the Executive Session at 6:30 p.m.

The motion was approved unanimously.

Joshua Rivero moved and Todd Hendreks seconded to recess the meeting until 7:00 p.m.

The motion was approved unanimously.

REGULAR SESSION

Mayor Toborg reconvened the regular Town Council meeting at 7:00 p.m.

Councilmember Cheryl Poage joined the meeting at 7:00 p.m.

Mayor Toborg led the Council and audience in the Pledge of Allegiance.

SPECIAL PRESENTATIONS

Mayor Toborg presented a Proclamation to members of the Sons and Daughters of the American Revolution in recognition of Constitution Week, September 16-22, 2022.

PUBLIC COMMENTS

Written comments were received, distributed to Council, and entered into the record.

Arlynn Cook spoke about issues on Motsenbocker Road and does not feel that the traffic light has slowed down the speed. She was also concerned with semi-truck and construction traffic on the road. She requested that the speed limit be lowered and enforced.

Steve Jewett spoke about the completion of Chambers Road which was to begin this year and be completed in 2023, but no work has started as of today. He spoke about careless and dangerous drivers on Chambers and Motsenbocker Roads. He asked that Chambers receive priority for completion and that the Town find out why the project has not been completed.

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Each Councilmember reported on meetings and activities they had attended since the last Town Council meeting.

CONSENT AGENDA

A. APPROVAL OF MINUTES - August 15, 2022

B. ORDINANCE NO. 1.564 - First Reading

A Bill for an Ordinance to Approve Memoranda of Understanding Between Agencies By and Between the Town of Parker and Various Law Enforcement Agencies Concerning License Plate Recognition Sharing Detection Data and Hotlists

Department: Police, Jim Prior

Second September 19, 2022

Reading:

C. ORDINANCE NO. 2.280 - First Reading

A Bill for an Ordinance Approving and Accomplishing the Annexation of Contiguous Unincorporated Territory Known as the Chambers Road North of Belford Avenue Right-of-Way Property in Douglas County

Department: Community Development, Carson Byerhof

Second September 19, 2022

Reading:

D. ORDINANCE NO. 9.309.1 - First Reading

A Bill for an Ordinance to Approve the First Amendment to the Amended and Restated Intergovernmental Agreement By and Between the Town of Parker, Colorado and Cherry Creek South Metropolitan District No. 4

Department: Town Attorney, Jim Maloney

Second Reading: September 19, 2022

- E. *ORDINANCE NO. 1.565 - First Reading*
A Bill for an Ordinance to Approve the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Human Services Concerning Adult Protection
Department: Town Attorney, Jamie Wynn
Police, Jim Prior
Second September 19, 2022
Reading:
- F. *ORDINANCE NO. 1.566 - First Reading*
A Bill for an Ordinance to Approve the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Department of Human Services Concerning Child Welfare
Department: Town Attorney, Jamie Wynn
Police, Jim Prior
Second September 19, 2022
Reading:
- G. *License Agreement (Access to Parker Water Property) Between Parker Water and Sanitation District and the Town of Parker for the Purpose of Preliminary Investigations for the Becket and Woodman Drive Connectivity Project*
Department: Engineering and Public Works, Nathan Klass
- H. *CONTRACTS OVER \$100,000*
1. *Final Design Contract for Dransfeldt Widening (Mainstreet to Pony Express)*
Amount: \$211,200
Contractor: Fellsburg Holt & Ullevig
Department: Engineering and Public Works, Bob Exstrom
2. *Renewal of Contract for Workorder Management System*
Amount: \$38,760
Contractor: Beehive Industries
Department: Engineering and Public Works, Jim Gilbert

Joshua Rivero moved to approve Consent Agenda Items 5A through 5H.

Laura Hefta seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

PUBLIC HEARINGS

A. TWENTY MILE VILLAGE F2 AMD 1 L9 B1 – Gas Station - Use by Special Review (Continued from June 27 & July 18, 2022)

Applicant: LAI Design Group

Location: The site is located at the southeast corner of Twenty Mile Road and Pony Express Drive

Department: Community Development, Carson Byerhof

TRAKiT No.: Z22-003

The Public Hearing was opened at 7:22 p.m.

The applicant is requesting Use by Special Review (UbSR) approval to allow a gasoline service station with a convenience store on an unused commercial property. The subject property, Lot 9 Block 1 of the Twenty Mile Village subdivision, is located in the Mixed-Use Commercial/Light Industrial Planning Area within the Clarke Farms PD. The PD zoning permits gasoline pumps with a convenience store subject to the special review process.

The subject property was previously developed with a miniature golf facility that was approved in 2002 but is unused and abandoned. The property is in poor condition and the property owner has used the site for the outdoor storage of boats, campers and recreational vehicles. The outdoor storage is not a permitted use and the property owner has recently ceased this activity to abate the zoning violation.

The applicant proposes to demolish the existing miniature golf facility and replace it with a gasoline service station and commercial building for a convenience store and other commercial uses in the multi-tenant structure. The service station may only be permitted through a UbSR approval because this use may have impacts upon adjacent properties as well as the surrounding area. The UbSR process is intended to address those uses that may be appropriate within a zone district but have potential impacts that require an enhanced level of review to identify and mitigate impacts when deciding if the use is appropriate at the location proposed.

The applicant is requesting Town Council consideration of its UbSR application subject to the nine (9) criteria for approval set forth in the Land Development Ordinance and outlined in the staff report. As part of this review, consideration should be given to potential impacts upon

adjacent properties, especially the existing residential neighborhood located on the west side of Twenty Mile Road. The applicant has proposed to locate the two-story building between the residential area and the gas pumps to mitigate the impact on the residences, along with providing a landscape buffer.

The Planning Commission held a public hearing for the proposed UbSR application on June 9, 2022 and voted to recommend that Town Council approve the application subject to the conditions outlined in the staff report.

Applicant: Jennifer Carpenter with LAI Design Group, 88 Inverness Circle East, Englewood, and Traffic Operations Engineer Chris McGranahan with LSC Engineers, 1889 York Street, Denver, gave a presentation on the project.

Public Comment: None.

The Public Hearing was closed at 7:59 p.m.

John Diak moved to approve, based on staff findings, subject to the following conditions:

1. That the Use by Special Review materials submitted to the Community Development Department on April 26, 2022, shall be the approved Use by Special Review materials.
2. A building and grading permit shall be required for any interior or exterior work completed on site.
3. The approval shall expire twelve (12) months after the date of approval unless a Site Plan application has been approved and a building permit application has been submitted. The Community Development Director, upon written request, may grant a ninety-(90) day extension.
4. Gas tank vent pipes shall not be freestanding and shall vent through the canopy structure.
5. The applicant shall provide a decorative, masonry knee wall with a minimum height of three (3) feet designed to match the architecture of the principal building along the north end of the parking lot and canopy area. In addition to meeting minimum landscaping standards set within the Town of Parker Land Development Ordinance, the applicant shall be required to plant a minimum of one (1) tree and five (5) shrubs (or shrub and ornamental grass substitutions as allowed in §13.06.070(1)(5) of the Parker Land Development Ordinance) per 25 feet of lineal edge along the north and west property lines. At maturity, landscaping shall be dense enough to fully screen parking and driving areas on site. Required decorative knee wall and enhanced landscaping shall be reviewed and approved through the Site Plan process.
6. The building shall be constructed as a multi-tenant building, allowing for the convenience store and additional tenant spaces to preserve the intent of the mixed-use Commercial and Light Industrial Planning Area designation in the Clarke Farms Planned Development Guide.

7. The orientation and locations of the canopy, building, and architectural knee wall shall be consistent with the submitted conceptual site plan and shall be determined in their final design and location through the Site Plan process.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

B. AVALON BAY/COYLE ANNEXATION

Applicant:	Avalon Bay Communities, Inc.
Location:	The site is located at the southeast corner of Stroh Road and Crowfoot Valley Road
Department:	Community Development, Julia Duncan
TRAKiT No.:	ANX22-006

The Public Hearing was opened at 8:05 p.m.

The Coyle property is a 33.4 acre parcel of land that is located in unincorporated Douglas County at the southeast corner of the intersection of Stroh Road and Crowfoot Valley Road adjacent to the Stroh Ranch and Hess Ranch Planned Developments. It is largely undeveloped except for a small single-family house and several accessory structures that are remnants of previous agricultural use. The subject property is located at a major gateway into the Town from the south along the Crowfoot Valley Road corridor.

On July 18, 2022, the Town Council approved Resolution 22-042 which determined that the Annexation Petition substantially complies with § 31-12-107(l) and set the public hearing date of September 6, 2022 to determine eligibility for annexation into the Town.

The Town has identified the Coyle property as a candidate for future annexation through the annual Three-Mile Plan and the Parker 2035 Master Plan. Therefore, the proposed annexation is consistent with the Town's land use policy as expressed in both plans. Further, the subject property is eligible for annexation because it is located within the Town's Planning Area (urban growth boundary) and satisfies the contiguity requirements of the Act, C.R.S. § 31-12-104(a). The Town is required to process the Annexation Petition subject to the Act and the standards of review contained in the Municipal Code and Town Charter. The Town Council has the final decision-making authority for the submitted Annexation Petition because annexation is a legislative act.

Approval of Resolution No. 22-045 will determine that the subject property is eligible for annexation into the Town as provided by the Act. Additionally, the Town Charter requires that all properties annexed into the Town also be zoned at the same time. The property owner and their development partner have submitted a rezoning application that is being processed concurrently with the Annexation Petition. If Town Council approves Resolution No. 22-045, then it will consider the Annexation Petition and Rezoning application together at the November 7, 2022 public hearing.

Applicant: Lindsay Lyda, 950 17th Street, Denver, attorney for the applicant, gave a brief presentation.

Public Comment: Arlynn Cook, Parker, spoke about her concerns with additional traffic generated from the annexation, and Bruce Cunningham, Parker, asked if the annexation would be subsidized by current Parker residents.

The Public Hearing was closed at 8:15 p.m.

RESOLUTION NO. 22-045

A Resolution to Set Forth Town Council's Findings of Fact and Conclusions as to the Eligibility of the Coyle Property Annexation into the Town of Parker.

Todd Hendreks moved to approve Resolution No. 22-045 and set the annexation ordinance public hearing for November 7, 2022.

Joshua Rivero seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

C. COMPARK VILLAGE SOUTH REPLAT

Applicant: Century at Compark Village

Location: South side of future Belford Avenue west of Chambers Road

Department: Community Development, Julia Duncan

TRAKiT No.: SUB21-065

The Public Hearing was opened at 8:17 p.m.

The applicant is proposing the replat of an existing unbuildable tract to create a buildable tract and to vacate the existing 19.5-foot by 55-foot portion of right-of-way (ROW). It has been determined the section of ROW in question is no longer needed because the surrounding land has been platted and there is adequate land for planned streets and roads. There have been numerous replats of the subject property over the years and the area surrounding the unbuildable tract has been platted for future development. The purpose of the replat and proposed ROW vacation is to allow the development within Lot 1 Compark Village Filing 1, 2nd Amendment to proceed while removing unnecessary infrastructure that will not be utilized.

A previous replat of the property, the Compark Village South Filing No 2, 1st Amendment, dedicated the subject ROW to the Town and anticipated that Deertrack Lane would continue its current path from the adjacent property to the west to the intersection of Wolf Fox Street and east onto the proposed Lot 1. With the current filing and associated public improvements, Deertrack Lane is no longer proposed to be extended and the previously dedicated ROW is no longer needed. In addition to the ROW vacation, the applicant will modify the public storm sewer at the intersection of Deertrack Lane and Wolf Fox Street to stay within the new roadway limits.

The proposed replat for Compark Village Filing 1, 2nd Amendment will create one (1) 13.97 acre residential parcel for future residential development and one (1) 1.03 acre drainage tract. The property owner has proposed a multi-family residential development with required parks and open space that is being processed through a site plan application.

The Town requires the SIA to secure public improvements associated with the proposed replat. The SIA requirements include construction of a pedestrian trail along Happy Canyon Creek including a connection to the existing E-470 trail and additional public improvements.

Public Comment: None.

The Public Hearing was closed at 8:25 p.m.

1. Replat

John Diak moved to approve the Compark Village South Filing No. 1, Amendment 2 Replat, based on staff findings.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

2. Subdivision Improvement Agreement

Laura Hefta moved to approve the Compark Village South Filing No. 1, Amendment 2 Subdivision Improvement Agreement, based on staff findings.

Anne Barrington seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

D. PARKER DOWNS F3 AMD 1 L2 - Use by Special Review

Applicant: MHLK Properties

Location: South side of Longs Way east of Dransfeldt Road

Department: Community Development, Carson Byerhof

TRAKiT No.: Z22-021

The Public Hearing was opened at 8:27 p.m.

The applicant, MHLK Properties, has submitted a Use by Special Review (UbSR) application to permit the repurposing of an existing building with a proposed auto service and repair use. The subject property, Lot 2 of the Parker Downs subdivision, is located on the south side of Longs Way between Dransfeldt Road and Parker Road in a Modified Commercial zoning district. The zoning at Section Two (2) permits auto and truck repair subject to the Special Review process.

The original site plan for the subject property was approved in 1999 and included two (2) identical commercial buildings. The building that the applicant proposes for auto and truck repair use was originally occupied by Kwal Paints and then Ponderosa Petroleum. The applicant plans to repurpose the building that Ponderosa Petroleum occupied and operate Hoover Mercedes on the property for the repair and service of Mercedes-Benz vehicles.

Auto and truck repair is permitted through the Special Review process in the Modified Commercial zoning district for the site. A UbSR zoning approach is utilized when a proposed use may have unique characteristics and/or generate potentially negative impacts that require additional review and mitigation of impacts beyond those uses that are permitted on a by-right basis within a zoning district. Additionally, the UbSR process requires an applicant to address, and the Town Council to consider, whether the proposed use meets, or has the potential to meet, subject to conditions, the nine (9) approval criteria set forth in the Land Development Ordinance and outlined in the Planning Commission staff report.

A UbSR is an evaluation of the proposed use and not a site plan, so it does not include review of detailed site design, development standards or construction methods. The review of the latter items occurs during the site plan and building permit process if the UbSR is approved. The applicant has submitted a site plan adjustment application with improvements focused primarily upon additional landscaping and screening of parking and driving areas on the subject property.

The Planning Commission held a public hearing for the proposed UbSR application on August 25, 2022 and voted to recommend that Town Council approve the application subject to the conditions outlined in the staff report.

Applicant: Michael Hoover, Parker, owner MHLK Properties, gave a brief presentation on the project and answered questions.

Public Comment: Bruce Cunningham, Parker, spoke about environmental concerns regarding the property he was leaving.

The Public Hearing was closed at 8:36 p.m.

John Diak moved to approve, based on staff findings, subject to the following conditions:

1. That the Use by Special Review materials submitted to the Community Development Department on April 26, 2022, shall be the approved Use by Special Review materials.
2. A building and grading permit shall be required for any interior or exterior work completed on site.
3. This approval shall expire twelve (12) months after the date of approval unless a building permit has been applied for and a Site Plan has been approved. The Community Development Director, upon written request, may grant a ninety-(90) day extension.
4. The applicant shall provide additional landscaping and screening of the parking and driving areas on the site to mitigate visual impacts.
5. All hazardous and environmentally toxic materials shall be properly collected and disposed/recycled according to State and Federal regulations. Fluid spills shall be immediately cleaned and remediated to address spills and prevent hazardous runoff.
6. The electric gate on the south side of the property shall be installed with an "Opticom" remote opening device for emergency access for first responders.

Anne Barrington seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

ORDINANCES

A. ORDINANCE NO. 9.213.1 - Second Reading

A Bill for an Ordinance to Approve the Amended and Restated Intergovernmental Agreement Between the Town of Parker and Douglas County Concerning Joint Animal Sheltering

Department: Town Attorney, Jamie Wynn

Prior to 2014, the Town of Parker was utilizing animal sheltering services as an independent entity. In 2014, the Town entered into an IGA with Douglas County for the ability to utilize the services of the Dumb Friends League (DFL) under the agreement Douglas County already had in place with the DFL. The Town received significant cost savings by entering into this IGA with Douglas County and has continued to utilize the services of the DFL for animals that are in the Town's custody for various reasons and that require sheltering and certain other services. The costs for each year are provided by the County to the Town by July 1 of the year prior, so the Town can properly budget for the expense. The Town and Douglas County recently met to discuss the IGA and updated or removed certain provisions to conform to standardized language, as well as to ensure that IGA accurately reflects the procedures that are currently in place. Neither the process by which the yearly costs are calculated nor the services available to the Town through the IGA have been modified.

Public Comment: None.

Todd Hendreks moved to approve Ordinance No. 9.213.1 on second reading.

Cheryl Poage seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

B. ORDINANCE NO. 1.563 - Second Reading**A Bill for an Ordinance Approving the Purchase and Sale Agreement Between the Town of Parker and Confluence Companies Concerning the Sale of the Five (5) My Mainstreet Parcels Owned by the Town of Parker**

Department: **Town Manager, Bo Martinez**
 Town Attorney, Kristin Hoffmann and Jim Maloney

The purpose of this agenda item is for the Town Council to consider the sale of five parcels of real property owned by the Town ("Town Parcels") to Confluence Companies, LLC ("Buyer"), for the phased development of the My Mainstreet project. The Project includes one parcel of real property owned by the Parker Authority for Reinvestment ("PAR Parcel") and the five Town Parcels which include the Pine Curve parcel, the Schoolhouse Gym parcel, the EastMain parcel, the PACE Lot 2A parcel, and the PACE Lot 2B parcel (collectively the "Parcels"). The PAR Parcel (Lot 1A-1, Parker Central Area, Filing No. 1, Amendment 2) is the subject of a separate purchase and sale agreement (the "PAR Agreement") which will be considered by the Parker Authority for Reinvestment Board ("PAR") during a PAR meeting following the Town Council meeting.

The purchase price for the Town Parcels is \$16,055,507.07. The Town Agreement does not go into effect until: (1) the Buyer signs the Agreement; (2) the Town Council approves the Town Agreement by ordinance on second reading; (3) the Buyer signs the PAR Agreement; and (4) PAR approves the PAR Agreement. Within fourteen days after the effective date, the Buyer will deliver a Development Agreement to the Town for the phased development of the Town Parcels and the PAR Parcel as part of the My Mainstreet project. The Development Agreement will generally address: (1) the specific project to be developed on each Parcel, including the parking garage to be constructed east of the PACE Center; (2) the performance deadlines for obtaining governmental approvals for each Parcel; (3) the performance deadlines for commencing construction for each Parcel; (4) the Public Benefits Credit for the Parcels and the corresponding reduction in the purchase price; and (5) the public investment tools that will be used to close the financial gap in order to complete the My Mainstreet project on the Town Parcels and the PAR Parcel.

On or before November 7, 2022, the Buyer and the Town must agree to the form of the Development Agreement to be submitted for consideration by the Town Council, which deadline may be extended by the Town Administrator for an additional ninety (90) days. If the Buyer and the Town are not able to agree on the form of the Development Agreement or the Town Council and the Buyer do not approve the Development Agreement, then, in that event, the Town Agreement and the PAR Agreement will terminate. Similarly, if the Buyer and PAR are not able to agree on the form of the Development Agreement or PAR and the Buyer do not approve the Development Agreement, then, in that event, the Town Agreement and the PAR Agreement will terminate.

Buyer: Tony DeSimone of Confluence Companies gave a brief presentation on the project.

Opened for public comment at 9:23 p.m.

Public Comment: The following, all of Parker, spoke in favor of this item: Susan Bertocchi, Omar Castillo, Diane Roth, Brandi Wilks, Phil Kramer, Denise Haack, Kristopher Schnell, Cameron Camplin, Tony Mango, and Shelli Mango.

The following, all of Parker, spoke regarding this item but did not express support or opposition: Kathy Gloisten, Cheryl Hardy, and Peter Saint-Andre.

The following, all of Parker, spoke in opposition to this item: Robert Cox, Victoria Hawkins, Kathleen Zafari, and Kristine King.

Closed the public comment period at 10:08 p.m. Joshua Rivero moved to approve Ordinance No. 1.563 on second reading.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - no

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved 5-1 with Cheryl Poage voting in opposition.

ADJOURNMENT

Anne Barrington moved to adjourn the Regular Meeting at 10:25 p.m.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

Susan L. Irvine, Deputy Town Clerk

Jeff Toborg, Mayor



Request for Town Council Action

Date: September 19, 2022

Submitted By: Chris Vanderpool, Town Clerk

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 5.28.31 - First Reading**
A Bill for an Ordinance to Amend Chapter 5.02 of the Parker Municipal Code Regarding Liquor Manager Registration
Department: Town Clerk, Chris Vanderpool
Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022

EXECUTIVE SUMMARY

This ordinance, if approved, would align the Town's Municipal Code with the provisions of HB 22-1415, which was passed during the recent legislative session. The ordinance modifies the requirements for certain types of liquor-licensed businesses, more specifically, hotel and restaurant licensees, tavern licensees, and lodging and entertainment licensees, to register a manager.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Prior to HB 22-1415:

Liquor licensees were required to designate a manager who supervises the sale of alcohol at their premises. New licensees were required to submit the name of their manager with their application to the state and local licensing authorities. If the existing licensee failed to report a change in registered managers to the state and local authorities, their licenses could be suspended.

In addition, licensees that maintained multiple premises were required to have a separate registered manager for each licensed premises. If the registered manager for any licensed premises changed, the licensee was required to notify the state and local licensing authorities within five days, and assign a new manager within 30 days of the change.

Lastly, state and local licensing authorities were empowered to refuse to accept any person as a licensee based on their "character, record, and reputation." Licensing authorities were authorized to conduct a criminal background check into any person a licensee sought to designate as their registered manager. Licensing authorities could charge up to a \$75 fee to

compensate the local authority for the costs incurred in conducting a background check to assess the putative manager's character, record, and reputation.

After HB 22-1415:

HB 22-1415 removed the penalty for failure to report a change in the registered manager of a liquor-licensed establishment. Under this legislation, the licensee is required to pay a \$30 fee (previously \$75) to both the state and local licensing authorities in the event of a change of manager occurs at the establishment. The requirement that hotel and restaurant, tavern, and lodging and entertainment licensees designate a separate manager for each licensed premises was repealed. Lastly, the ability of the state and local authorities to object to a liquor manager based on their "character, record, and reputation" has been removed, along with the fees associated with criminal background checks.

Since matters related to liquor regulations are matters of statewide concern, the Town is required to conform its liquor regulations to the amendments contained in HB 22-1415.

On August 18, 2022, the Special Licensing Authority reviewed the changes and recommended approval of the ordinance attached to this staff memorandum.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



ENHANCE ECONOMIC
VITALITY

ATTACHMENTS

1. Ordinance No. 5.28.31

RECOMMENDED MOTION

I move to approve Ordinance No. 5.28.31 on first reading and to schedule second reading for October 3, 2022, as part of the consent agenda.

ORDINANCE NO. 5.28.31, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 5.02 OF THE PARKER MUNICIPAL CODE REGARDING LIQUOR MANAGER REGISTRATION

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Section 5.02.635 of the Parker Municipal Code is hereby amended as follows:

5.02.635 Manager registration.

(a) A person licensed pursuant to this Division as a hotel and restaurant licensee, tavern licensee, or a lodging and entertainment facility licensee shall manage the premises himself or herself or shall employ a ~~separate and distinct~~ manager on the premises and shall register the name of the manager with the Town. ~~No person shall be a registered manager for more than one (1) licensed premises.~~

(b) Such person licensed shall register any change in managers to the Town within thirty (30) days of the change. ~~Failure to register a change in managers shall be grounds for suspension of a license.~~

~~(c) The Town may refuse to accept any person as a registered manager unless the person is satisfactory to the Town as to character, record and reputation. In determining a registered manager's character, record and reputation, the Town may have access to criminal history record information furnished by a criminal justice agency, subject to any restrictions imposed by such agency.~~

Section 2. Safety Clause. The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin S. Hoffmann, Town Attorney



Request for Town Council Action

Date: September 19, 2022

Submitted By: Kristin Hoffmann, Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 5.28.30 - First Reading**
A Bill for an Ordinance to Amend Chapter 5.02 of the Parker Municipal Code Regarding Exposure of Specified Anatomical Areas, Lewd or Indecent Displays, and Obscenity in Specially Licensed Businesses
Department: Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022

EXECUTIVE SUMMARY

This proposed ordinance will amend Title 5 to redefine “lewd or indecent displays” to comply with current law. Additional amendments are made to Chapter 5.07, to refer to the revised definitions of “specified anatomical areas” and “specified sexual activities” contained in Title 13, and to Chapter 5.10, concerning massage treatment, to prohibit the exposure or touching of the upper chest area for obscene purposes, or the exposure or touching of “specified anatomical areas” while on the premises.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The PACE Center is scheduled to screen the Rocky Horror Picture Show in late October. In examining the code provisions related to the screening, it was discovered that Section 5.02.950 (Showing of films, etc., depicting acts prohibited) prohibits a liquor licensee from showing a film depicting any act prohibited by Article 2, which includes “lewd or indecent displays.” “Lewd or indecent displays” include the display of the female breast. Thus, the definition of “lewd and indecent displays,” combined with Section 5.02.950, would prohibit the screening of a movie, such as the Rocky Horror Picture Show, which displays the female breast. Recent case law makes it unlawful and considered unconstitutional to continue to consider exposure of the female breast as nudity. Based on this recent case law and the desire to update the Town’s liquor licensing regulations to allow the showing of movies such as the Rocky Horror Picture Show in a liquor-licensed establishment such as the PACE Center or a movie theater, staff is recommending that the Town redefine “lewd or indecent displays” to comply with current law and to address other areas of Title 5 where the female breast is distinguished and treated differently than men.

The ordinance modifies the definition of “lewd or indecent displays” and adds a definition of “obscene.” In addition, it amends Section 5.02.930 of the Code to refer to “specified anatomical areas” rather than nudity and amends Section 5.02.940 of the Code to prohibit obscene displays and exposure of “specified anatomical areas” in addition to prohibiting lewd or indecent displays. Finally, it amends Section 5.02.950 to only prohibit those films that are lewd or indecent displays or obscene as defined by Colorado law.

Additionally, it modifies Chapter 5.07 to refer to the revised definitions of “specified anatomical areas” and “specified sexual activities” defined in Title 13.

Finally, it modifies Chapter 5.10, concerning massage parlors, to prohibit any massage treatment that involves the exposure of the upper chest area for obscene purposes or the exposure or touching of “specified anatomical areas” while on the premises.

On August 18, 2022, the Special Licensing Authority reviewed the proposed liquor code amendments and recommended approval to the Town Council.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



FOSTER COMMUNITY
CREATIVITY AND
ENGAGEMENT

ATTACHMENTS

1. Ordinance No. 5.28.30

RECOMMENDED MOTION

I move to approve Ordinance No. 5.28.30 on first reading and to schedule second reading for October 3, 2022, as part of the consent agenda.

ORDINANCE NO. 5.28.30, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO AMEND TITLE 5 OF THE PARKER MUNICIPAL CODE REGARDING EXPOSURE OF SPECIFIED ANATOMICAL AREAS, LEWD OR INDECENT DISPLAYS, AND OBSCENITY IN SPECIALLY LICENSED BUSINESSES

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Section 5.02.860 of the Parker Municipal Code is hereby amended to amend the definitions of "*Lewd or indecent displays*" and to add the definition of "*obscene*" to read as follows:

5.02.860 Definitions.

* * *

Lewd or indecent displays means performing acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law as being "*obscene*";

b. The touching, caressing or fondling of the ~~breast~~ upper-body breast or chest area, buttocks, anus or genitals of any person which are prohibited by law as being "*obscene*"; and

c. The displaying of the human post-pubertal genitals, pubic ~~hair region, or~~ anus, vulva or genitals; and

d. ~~The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and the areola only are covered.~~

* * *

Obscene shall be defined as set forth in C.R.S. § 18-7-101(2), as the same may be amended from time to time.

Section 2. Section 5.02.930 of the Parker Municipal Code is hereby amended to read as follows:

5.02.930 Exposure of specified anatomical areas ~~Nudity~~ on premises.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages, or fermented malt beverages shall permit any person who is present in-person to

appear ~~in a state of nudity~~ within or upon the premises while exposing “specified anatomical areas,” as that term is defined in Title 13 of this Parker Municipal Code.

Section 3. Section 5.02.940 of the Parker Municipal Code is hereby amended to read as follows:

5.02.940 Indecent displays.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages, or fermented malt beverages shall permit within or upon the premises any lewd or indecent display, nor any obscene display. No licensee shall permit any person to be present in-person while exposing “specified anatomical areas,” as that term is defined in Title 13 of this Parker Municipal Code ~~lewd or indecent display by any person within or upon the premises.~~

Section 4. Section 5.02.950 of the Parker Municipal Code is hereby amended to read as follows:

5.02.950 Showing of films, etc., depicting acts prohibited.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages, or fermented malt beverages shall permit the showing of films, still pictures, electronic reproduction or other visual reproductions depicting any act or live performance that is a lewd or indecent display, or obscene, as those terms are defined in prohibited by this Article.

Section 5. Section 5.07.360 of the Parker Municipal Code is hereby amended to read as follows:

5.07.360 Generally.

A person who operates or causes to be operated a sexually oriented business, which exhibits on the premises in a peep booth or similar viewing area, a film, video cassette or other video reproduction which depicts “specified sexual activities” or “specified anatomical areas,” as those terms are defined in Title 13 of this Parker Municipal Code, shall comply with the requirements of this Article.

Section 6. Section 5.07.620 of the Parker Municipal Code is hereby amended to read as follows:

5.07.620 Conduct in sexually oriented businesses.

a. No licensee, manager or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall appear within or upon the premises while exposing “specified anatomical areas,” as that term is defined in Title 13 of this Parker Municipal Code ~~be in a state of nudity~~. It is a specific defense to prosecution for a violation of this Section that an employee of a sexually

oriented business exposed such “specified anatomical area” during the employee's bona fide use of a rest room, or during the employee's bona fide use of a dressing room which is accessible only to employees.

b. No licensee or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle any the breasts, anus, genitals or other “specified anatomical areas,” as that term is defined above, of any person.

Section 7. Section 5.10.170 of the Parker Municipal Code is hereby amended to read as follows:

5.10.170 Unlawful acts.

a. It is unlawful for any person:

* * *

9. While on the licensed premises, To administer a massage or permit any massage to be administered to any patron who, during the massage treatment whose has their upper-body breast or chest area exposed for obscene purposes, as that term is defined in this Article, or whose other “specified anatomical areas,” as that term is defined in Title 13 of this Parker Municipal Code, are genitals, anus exposed for any purpose or female breasts are exposed during the massage treatment; and no patron of a massage parlor shall during a massage knowingly expose his or her their upper-body breast or chest area for obscene purposes, as defined in this Article, or knowingly expose any other “specified anatomical areas,” as that term is defined in Title 13 herein, genitals, anus for any purpose or female breasts during a massage;

10. While on the licensed premises, To intentionally touch or permit any other person to touch the upper-body breast or chest area for obscene purposes, as that term is defined herein, or to intentionally touch or permit any other person to touch any other “specified anatomical areas,” as that term is defined in this Article, for any purpose genitals, anus or female breasts of any other person while on the licensed premises;

* * *

Section 8. Safety Clause. The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 9. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 10. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this _____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this _____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin S. Hoffmann, Town Attorney



Request for Town Council Action

Date: September 19, 2022

Submitted By: Kristin Hoffmann, Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 3.01.128 - First Reading**
A Bill for an Ordinance to Amend Title 13 of the Parker Municipal Code Addressing Certain Definitions
Department: Town Attorney, Kristin Hoffmann
Second Reading: October 3, 2022

EXECUTIVE SUMMARY

This proposed ordinance will amend the definitions for “nudity or state of nudity,” “semi-nudity,” “specified anatomical areas” and “specified sexual activities” to make them gender-neutral, based on recent case law.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Currently, the definitions for “nudity or state of nudity,” “semi-nudity,” “specified anatomical areas” and “specified sexual activities” refer specifically to the female breast. Based on recent case law, the purpose of the proposed amendment is to make the references gender-neutral by instead referring to the “upper-body breast or chest area of any person.”

The Planning Commission reviewed the proposed amendments at its meeting on September 8, 2022, and recommended approval to the Town Council.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 3.01.128

RECOMMENDED MOTION

I move to approve Ordinance No. 3.01.128 on first reading and to schedule second reading for October 3, 2022, as part of the consent agenda.

ORDINANCE NO. 3.01.128, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO AMEND TITLE 13 OF THE PARKER MUNICIPAL CODE ADDRESSING CERTAIN DEFINITIONS

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Section 13.02.010 of the Parker Municipal Code is amended to revise the definitions of “nudity or state of nudity,” “semi-nudity,” “specified anatomical areas,” and “specified sexual activities” to read as follows:

13.02.010 Definitions.

* * *

Nudity or state of nudity means the showing of ~~the human~~ post-pubertal human male or female genitalia genitals, pubic ~~hair~~ region, ~~or~~ buttocks, anus, or upper-body breast or chest area of any person with less than a fully opaque covering; ~~the showing of the female breast with less than a fully opaque covering of any part of the nipple or~~ the exposure of any device, costume or covering which gives the appearance of or simulates post-pubertal human the genitals, pubic ~~hair~~ region, buttocks, anus, or upper-body breast or chest area of any person ~~natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.~~

* * *

Semi-nudity means a state of dress in which clothing covers no more than the post-pubertal human the genitals, pubic region, and upper-body breast or chest area of any person ~~and areolae of the female breast~~, as well as portions of the body covered by supporting straps or devices.

* * *

Specified anatomical areas includes any of the following:

- a. Less than completely and opaquely covered post-pubertal human genitals, pubic region, buttocks, anus, or the upper-body breast or chest area of any person ~~or female breasts below a point immediately above the top of the areolae~~; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities includes any of the following:

a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or **the upper-body breast or chest area of any person female breasts.** ...

* * *

Section 2. **Safety Clause.** The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. **Severability.** If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin S. Hoffmann, Town Attorney



Request for Town Council Action

Date: September 19, 2022

Submitted By: Chris Vanderpool, Town Clerk
Kristin Hoffmann, Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 5.06.32.1 - First Reading**
A Bill for an Ordinance to Amend Title 8 of the Parker
Municipal Code Regarding Public Indecency
Department: Town Attorney, Kristin Hoffmann
Second October 3, 2022
Reading:

EXECUTIVE SUMMARY

This proposed ordinance will amend the definition of “state of nudity” with respect to Section 8.06.060 - Public Indecency, based on recent case law.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

In Section 8.06.060 (Public Indecency) of the Code, the definition for “state of nudity” refers specifically to the female breast. Based on recent case law, the purpose of the proposed amendment is to make the references gender-neutral by removing them.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 5.06.32.1

RECOMMENDED MOTION

I move to approve Ordinance No. 5.06.32.1 on first reading and to schedule a second reading for October 3, 2022, as part of the consent agenda.

ORDINANCE NO. 5.06.32.1, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO AMEND TITLE 8 OF THE PARKER MUNICIPAL CODE REGARDING PUBLIC INDECENCY

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Section 8.06.060 of the Parker Municipal Code is hereby amended to read as follows:

8.06.060 Public indecency.

* * *

b. For purposes of this Section, “state of nudity” means the showing of the post-pubertal human ~~male or female genitalia~~ genitals, pubic ~~hair region~~, or buttocks, or anus with less than a fully opaque covering; ~~the showing of the female breast with less than a fully opaque covering of any part of the nipple; or the exposure of any device, costume or covering which gives the appearance of or simulates the post-pubertal human genitals, pubic hair region, buttocks, or anus, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.~~

* * *

Section 2. Safety Clause. The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this _____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this _____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin S. Hoffmann, Town Attorney



Request for Town Council Action

Date: September 19, 2022

Submitted By: Alex Mestdagh, Engineering Service Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **RESOLUTION NO. 22-047**
A Resolution Accepting a Drainage Easement from
McDonald's Real Estate Company for a portion of Lot 3,
Douglas 234 Filing No. 6.

Department: **Engineering and Public Works, Alex**
Mestdagh

EXECUTIVE SUMMARY

This resolution accepts the conveyance of a drainage easement covering drainage improvements proposed with the site plan for Lot 3, Douglas 234 Filing No. 6.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town's stormwater criterion requires that drainage easements be dedicated over all storm drainage facilities located on private property. The drainage easements are necessary to ensure the long-term operation and maintenance of drainage infrastructure to minimize flooding and protect the quality of stormwater runoff.

The Engineering Department has reviewed and approved the construction drawings for the drainage facilities associated with an approved site plan Lot 3, Douglas 234 Filing No. 6. Since the drainage facilities are being constructed as part of a site plan process, and not a plat, the easements are required to be dedicated by a separate instrument.

FINANCIAL IMPACT

As the drainage improvements proposed with the easement will be the maintenance responsibility of the property owner, there is no financial impact to the Town.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Vicinity Map

2. Resolution 22-047

RECOMMENDED MOTION

I move to approve Resolution No.22-047, as part of the consent agenda.



Drainage Easement
Vicinity Map



RESOLUTION NO. 22-047, Series of 2022

TITLE: A RESOLUTION ACCEPTING THE CONVEYANCE OF A DRAINAGE EASEMENT FROM MCDONALD'S REAL ESTATE COMPANY, FOR A PART OF LOT 3, BLOCK 10, DOUGLAS 234 FILING NO. 6

WHEREAS, the Town Council of the Town of Parker desires to accept the grant of an easement for the purpose of the maintenance of a drainage pipe and appurtenant drainage facilities;

WHEREAS, Section 1.06.010 of the Town of Parker Municipal Code requires the acceptance of a conveyance of real property to the Town be effectuated by resolution; and

WHEREAS, the Town Council of the Town of Parker desires to accept the grant of an easement specified hereinbelow to the Town by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The Town Council of the Town of Parker hereby accepts the conveyance of certain property interests for the purpose of the maintenance of a drainage pipe and appurtenant drainage facilities from McDonald's Real Estate Company, for a part of Lot 3, Block 10, Douglas 234 Filing No. 6, as provided in the Drainage Easement Agreement attached as **Exhibit 1** and incorporated by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

RESOLVED AND PASSED this _____ day of _____, 2022.

TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

EXHIBIT 1

DRAINAGE EASEMENT AGREEMENT

THIS DRAINAGE EASEMENT AGREEMENT (the "Easement Agreement") is made this ____ day of _____, 2022, by and between McDonald's Real Estate Company, a Delaware corporation, having an address of 711 Jorie Boulevard, 3rd Floor, Oak Brook, Illinois 60523 ("Grantor"), and the Town of Parker, a Colorado home rule municipality, having an address of 20120 East Mainstreet, Parker, Colorado 80138 ("Grantee").

RECITALS

- A. Grantor constructed a drainage pipe and appurtenant drainage facilities (the "Drainage Facilities") within its privately-owned property.
- B. Pursuant to Section 4.08.090(b) of the Parker Municipal Code, the Grantor is responsible for the maintenance of the Drainage Facilities. However, the Grantee may choose to maintain the Drainage Facilities if the Grantor fails to do so in order to protect the public health, safety, and welfare from stormwater runoff damage.
- C. Grantee desires to acquire an easement for the purpose of the maintenance of the Drainage Facilities on and through the property more particularly described and depicted in **Exhibits A and B** ("Easement Property"), attached hereto and incorporated herein by this reference; and
- D. Grantor is willing to grant an easement to Grantee for the aforesaid purposes on the terms and conditions set forth hereinbelow.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration by Grantee to Grantor, the covenants of Grantee herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey unto Grantee, its successors, assigns, lessees, licensees and agents, an easement under and through the Easement Property, for the purpose of providing the maintenance of the Drainage Facilities. Subject to the terms of this Easement Agreement, Grantee shall also have the specific rights of ingress and egress for the construction, reconstruction, operation and maintenance of a drainage pipe and appurtenant drainage facilities; additionally, Grantee shall have the right to remove impediments to operation and maintenance of the Easement Property such as trees, asphalt and sidewalks. Grantee further agrees to coordinate all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Easement Property with Grantor so as to minimize any disruption to Grantor's property.

2. Unencumbered Title. Grantor warrants that the Easement Property is free and clear of all liens and encumbrances that could have any impact on the easement granted to the Grantee by this Agreement.

3. Operation and Maintenance.

a. The operation and maintenance of the Drainage Facilities described herein and located within the Easement Property shall be the responsibility of the Grantor; provided, however, that Grantee shall have the right to maintain the Drainage Facilities in the event Grantee, in its sole discretion, determines to enter the Easement Property for the operation and/or maintenance of the Drainage Facilities as set forth in subsection b. hereinbelow. The Grantor acknowledges and agrees that the Grantee has the right to enter the Easement Property to maintain and operate the Drainage Facilities covered by Chapter 4.08 of the Parker Municipal Code or to maintain and operate the Drainage Facilities in the manner described herein.

b. If Grantor fails to adequately maintain the Drainage Facilities located within the Easement Property, and (i) the Grantee fails to correct the maintenance problem within fourteen (14) days after the date of written notice from Grantee (the "Correction Period"); or (ii) fails to begin to clean, cure or correct such problem within fourteen (14) days after receipt of notice if such problem cannot be reasonably cleaned, cured or corrected within the Correction Period, and fails to diligently prosecute such cleaning, cure or correction to completion, then Grantee may correct the maintenance problem as provided herein. Notwithstanding the foregoing, Grantee may, in the event of an emergency, as determined by Grantee in its sole discretion, clean, cure or correct any damage caused by Grantor's failure to adequately maintain the Drainage Facilities located within the Easement Property. The Grantor shall reimburse the Grantee for the cost of such maintenance to the extent that (i) the Drainage Facilities and/or the type of maintenance performed by Grantee are not covered by Chapter 4.08 of the Parker Municipal Code, as amended, or (ii) if the Drainage Facilities and/or the type of maintenance performed by the Grantee is covered by Chapter 4.08 of the Parker Municipal Code, as amended, and the Grantee determines in its sole discretion that there are not sufficient funds available for such maintenance. If Grantor fails to reimburse Grantee for the cost of such maintenance, within thirty (30) days after receipt of an invoice from Grantee describing the corrective or maintenance action taken, the unpaid amount shall constitute a lien on the Easement Property until paid in full, with priority over all other liens, except general tax liens, which liens shall be certified to the Douglas County Treasurer and collected in the same manner as other taxes are collected. Grantor further agrees that Grantee may also pursue any and all other remedies available at law or in equity.

4. Grantor Defined. The word "Grantor" as used herein, whenever the context requires or permits, shall include the heirs, personal representatives, beneficiaries, successors, grantees and assigns of the owners of the land through which the easement runs, or the respective owners from time to time of portions thereof. The burdens and benefits of this Easement Agreement shall be deemed covenants running with the real property identified on **Exhibit A**. Notwithstanding any contrary provision in this Easement Agreement, however, any obligation under this Easement Agreement which is to be performed by the owner of any land which is burdened by this Easement Agreement shall be enforceable only against the then owner of such land, and not against any such owner's predecessors in interest.

5. Covenants of Grantee. Grantee hereby represents, covenants and warrants in favor of Grantor, and its successors and assigns, as follows:

a. Grantee shall protect the Easement Property, and the adjacent lands of Grantor over which Grantee has rights of ingress and egress, from damage caused, in whole or in part, by acts

or omissions of Grantee, its employees, agents, contractors, subcontractors, assigns, lessees, licensees and agents.

b. Grantee shall not cause or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees or licensees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), pollutants or contaminants, as defined by CERCLA, or hazardous waste, as defined by the Resource, Conservation and Recovery Act ("RCRA"), including, but not limited to, asbestos and/or urea formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored or deposited on, over or beneath the Easement Property or any other lands owned by Grantor.

6. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby.

7. Miscellaneous.

a. Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

b. This easement constitutes all of the agreements, understandings and promises between the parties hereto, with respect to the subject matter hereof.

c. This easement shall be of no force and effect until this easement is duly and validly executed by all parties hereto.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the date and year first above written.

GRANTOR: MCDONALD'S REAL ESTATE COMPANY, a Delaware corporation

[Name/Title]

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, as _____ of McDonald's Real Estate Company.

My commission expires: _____

(S E A L)

Notary Public

GRANTEE: TOWN OF PARKER

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

Exhibit "A"
25' Drainage Easement

Legal Description:

A parcel of land situated in the Southeast $\frac{1}{4}$ of Section 29, Township 6 South, Range 66 West, of the 6th P.M., being a part of Lot 3, Block 10, Douglas 234 Filing No. 6 as recorded April 15, 2021 at Reception No. 2021049799, Town of Parker, County of Douglas, State of Colorado, being more particularly described as follows:

Commencing at the Southeasterly corner of said Lot 3;
Thence S73°54'02"W along the Southerly Line of said Lot 3 a distance of 76.88 feet to the **Point of Beginning**;
Thence continuing S73°54'02"W along said Southerly Line a distance of 25.00 feet;
Thence N16°05'58"W a distance of 30.00 feet;
Thence S73°54'02"W a distance of 166.49 feet;
Thence S18°12'03"E a distance of 4.26 feet;
Thence S73°58'09"W a distance of 16.35 feet;
Thence N18°12'03"W a distance of 29.26 feet;
Thence N73°54'02"E a distance of 248.43 feet to a point on the Westerly Line of a 25' Drainage Easement recorded at Reception No. 2021049799, Douglas County, Colorado records;
Thence S13°07'09"E along said Westerly Line a distance of 25.03 feet;
Thence S73°54'02"W a distance of 38.38 feet;
Thence S16°05'58"E a distance of 30.00 feet to the **Point of Beginning**.

Parcel Contains (7,003 Square Feet) 0.1608 Acres.

Bearings are based on the Easterly Line of Lot 3, bearing S13°07'09"E as referenced on the plat of Douglas County 234 Filing No 6.

Distances are expressed in U.S. Survey Feet and decimals thereof. A U.S. Survey Foot is defined as exactly 1200/3937 meters.

Date Prepared: December 20, 2021
Date Of Last Revision: February 9, 2022
Prepared By: Charles N. Beckstrom, PLS No. 33202
For And On Behalf Of
Engineering Service Company
14190 East Evans Avenue
Aurora, Colorado 80014
Phone: (303) 337-1393



Exhibit "B"
25' Drainage Easement

Legal Description:

A parcel of land situated in the Southeast $\frac{1}{4}$ of Section 29, Township 6 South, Range 66 West, of the 6th P.M., being a part of Lot 3, Block 10, Douglas 234 Filing No. 6 as recorded April 15, 2021 at Reception No. 2021049799, Town of Parker, County of Douglas, State of Colorado, being more particularly described as follows:

Commencing at the Northeasterly corner of said Lot 3;
Thence S71°47'57"W along the Northerly Line of said Lot 3 a distance of 228.43 feet to the **Point of Beginning**;
Thence S18°12'03"E a distance of 8.00 feet;
Thence N71°47'57"E a distance of 187.56 feet to a point on the Westerly Line of a 25' Drainage Easement recorded at Reception No. 2021049799, Douglas County, Colorado records;
Thence S13°07'09"E along said Westerly Line a distance of 25.10 feet;
Thence S71°47'57"W a distance of 210.34 feet;
Thence N18°12'03"W a distance of 33.00 feet to a point on said Northerly Line;
Thence N71°47'57"E along said Northerly Line a distance of 25.00 feet to the **Point of Beginning**

Parcel Contains (5,486 Square Feet) 0.1259 Acres.

Bearings are based on the Easterly Line of Lot 3, bearing S13°07'09"E as referenced on the plat of Douglas County 234 Filing No 6.

Distances are expressed in U.S. Survey Feet and decimals thereof. A U.S. Survey Foot is defined as exactly 1200/3937 meters.

Date Prepared: December 20, 2021

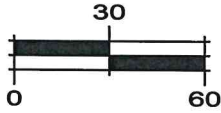
Date Of Last Revision:

Prepared By: Charles N. Beckstrom, PLS No. 33202

For And On Behalf Of
Engineering Service Company
14190 East Evans Avenue
Aurora, Colorado 80014
Phone: (303) 337-1393



ILLUSTRATION FOR "EXHIBIT B"



Scale: 1" = 60'

LOT 2, BLOCK 10,
DOUGLAS 234 FILING NO. 6

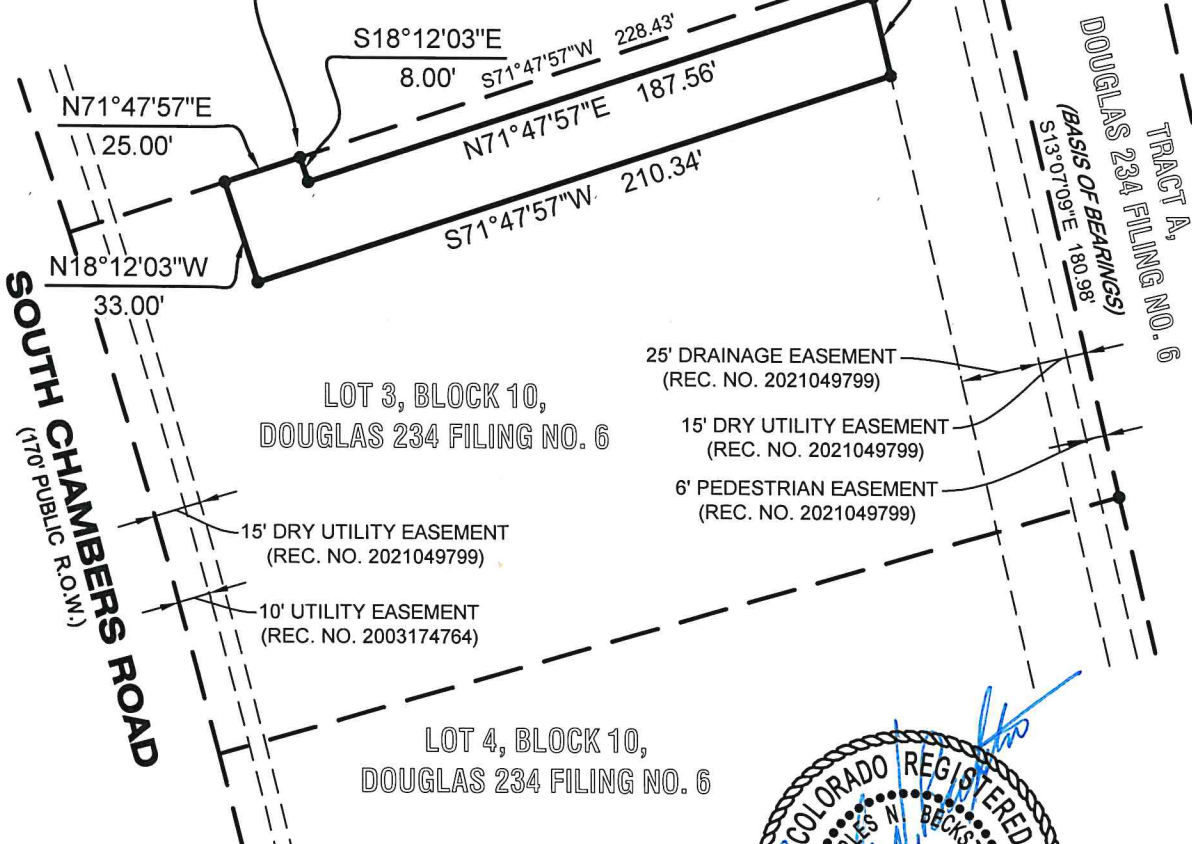
50' MULTI-USE NON-EXCLUSIVE
UTILITY EASEMENT
(REC. NO. 2021049799)

50' ACCESS EASEMENT
(REC. NO. 2021049814)

**POINT OF
COMMENCEMENT**

NE'ERLY CORNER OF LOT 3,
BLOCK 10, DOUGLAS 234
FILING NO. 6

POINT OF BEGINNING



LOT 3, BLOCK 10,
DOUGLAS 234 FILING NO. 6

15' DRY UTILITY EASEMENT
(REC. NO. 2021049799)

10' UTILITY EASEMENT
(REC. NO. 2003174764)

25' DRAINAGE EASEMENT
(REC. NO. 2021049799)

15' DRY UTILITY EASEMENT
(REC. NO. 2021049799)

6' PEDESTRIAN EASEMENT
(REC. NO. 2021049799)

LOT 4, BLOCK 10,
DOUGLAS 234 FILING NO. 6



**ENGINEERING
SERVICE
COMPANY** 14190 East Evans Avenue
Aurora, Colorado 80014
P 303.337.1393 | F 303.337.7481

PARCEL CONTAINS
5,486 SQUARE FEET
0.1259 ACRES

TOWN OF PARKER

Drawn By: **SAM** Checked By: **SAM** Project No.: **337.101** Date: **12/16/2021**

Scale: **1"=60'** File Name: **K:\Projects\McDonald's Corporation\Parker, CO-Chambers & Hess Rd\CD\Exhibits\Exhibits_Parker, CO-Chambers & Hess Rd\RI Datum.dwg**

Note: This exhibit does not represent a monumented survey. It is intended only to depict the attached description.

25' DRAINAGE EASEMENT

A PART OF LOT 3, BLOCK 10, DOUGLAS 234 FILING NO. 6
SITUATED IN THE SE 1/4 OF SECTION 29, T.6S., R.66W., OF THE 6TH P.M.
TOWN OF PARKER, COUNTY OF DOUGLAS, STATE OF COLORADO



Request for Town Council Action

Date: September 19, 2022

Submitted By: Bob Exstrom, Project Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **Contract with CORE to Underground Overhead Power Lines Related to the Pikes Peak Drive Sidewalk Improvements Project (Sulphur Gulch Bridge to Mainstreet)**

Amount: \$144,291

Contractor: CORE Electric Cooperative (formerly known as IREA)

Department: Engineering and Public Works, Bob Exstrom

EXECUTIVE SUMMARY

This agenda item is for the approval of a contract with CORE Electric Cooperative to underground overhead power lines related to the Pikes Peak Drive Sidewalk Improvements Project (Sulphur Gulch Bridge to Mainstreet).

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town is currently starting the final design phase of the Pikes Peak Drive Sidewalk Improvements Project (Sulphur Gulch Bridge to Mainstreet). The main goal of the project is to widen sidewalks, provide new pedestrian lighting and improve drainage. The project was introduced and supported by Town Council in October 2021, and a contract for conceptual/preliminary design services was approved by Town Council in December 2021.

To accommodate the widened sidewalks, select overhead power lines owned by CORE must be moved underground. CORE provided the design and cost estimate for the work and intends to subcontract to one of their approved contractors. The work is tentatively scheduled to begin in December 2022 and will take approximately four to six weeks to complete.

FINANCIAL IMPACT

Funding for this contract has been appropriated in the Power Line Undergrounding Fund (301-4310). The contract amount includes a 10% contingency held by the Town for unforeseen conditions.

STRATEGIC GOAL(S)



SUPPORT AN
ACTIVE COMMUNITY



ENHANCE ECONOMIC
VITALITY



PROMOTE A SAFE AND
HEALTHY COMMUNITY

ATTACHMENTS

None

RECOMMENDED MOTION

I move to approve the staff recommendation as a part of the consent agenda.



Request for Town Council Action

Date: September 19, 2022

Submitted By: Jen Campbell, Finance Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **Sales and Use Tax Auditor Contract**

Amount: **\$94,992 Year 1**
\$524,982 Full Contract Amount
Including Year 1 and Option Years 2-5

Contractor: **Revenue Recovery Group**

Department: **Finance, Jen Campbell**

EXECUTIVE SUMMARY

This agenda item is for the approval of a contract with Revenue Recovery Group to assist the Sales Tax Department with sales and use tax audits.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

This contract is to assist the Sales Tax Department with sales and use tax audits as follows:

- Assist with the selection of potential audits. Prepare and submit an annual audit plan for review and approval by the Town.
- Perform sales and building use tax audits to determine compliance with the Town's sales and use tax code.
- Provide a technical review of all audits prior to submission to the Town.
- Provide comprehensive and defensible audit reports, work papers, correspondence, filings, analysis and calculations pertaining to the errors identified in the audit.
- Provide support, as needed, to the Town for taxpayer negotiations and protested assessment hearings.

FINANCIAL IMPACT

Year 1: \$94,992

Option Year 2: \$99,744

Option Year 3: \$104,724

Option Year 4: \$109,968

Option Year 5: \$115,464

STRATEGIC GOAL(S)



ENHANCE ECONOMIC
VITALITY

ATTACHMENTS

None

RECOMMENDED MOTION

I move to approve the staff recommendation, as a part of the consent agenda.



Request for Town Council Action

Date: September 19, 2022

Submitted By: Jim Gilbert, Deputy Director of Operations

Reviewed By: Michelle Kivela, Town Manager

Title: **Ken Garff Vehicle Purchases**

Amount: **\$94,315**

Contractor: **Ken Garff Ford**

Department: **Engineering and Public Works, Jim Gilbert**

EXECUTIVE SUMMARY

On February 7, 2022, Town Council approved the purchase of fleet replacement vehicles through Ken Garff Ford. This Agenda item is an additional purchase of fleet vehicles from the same dealership. All of these vehicles are being purchased through a competitive bid award with this dealership. The contract awarded by Arapahoe County (RFP-19-48), includes a cooperative capacity, which allows the Town of Parker the ability to purchase items that have been competitively bid and are available to other entities for the same pricing. This is an efficient means of purchasing equipment and has been an acceptable practice.

The vehicles being purchased include one (1) Ford 1/4-ton Ranger pickup, one (1) Ford Transit Cargo van, and an adjusted price quote for one (1) Ford 1-ton pickup.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Parker's Financial and Budget Policy includes provisions for the Town to acquire goods and services using contracts based on competitive solicitations received by other government agencies. Arapahoe County issued an award to Ken Garff Ford Greeley (RFP-19-48) for the purchase of 2022 model year vehicles, which includes various vehicle makes and models. The vehicles specified are included on this award and reflect a competitive bid price, defined options, and required minimum service requirements.

The pricing for the vehicles noted above include:

- 2023 Ford Ranger pickup with spare keys - \$32,605.00
- 2023 Ford Transit Cargo van with HVAC package - \$54,415.00
- 2023 Ford F350 with flatbed and spare keys - \$61,728.00 (an increase of \$7,295 from

the original quoted price)

FINANCIAL IMPACT

The purchase of this equipment is accounted for in this year's budget. No further budgetary impacts are anticipated.

STRATEGIC GOAL(S)

SUPPORT AN
ACTIVE COMMUNITY



FOSTER COMMUNITY
CREATIVITY AND
ENGAGEMENT



PROMOTE A SAFE AND
HEALTHY COMMUNITY

ATTACHMENTS

None

RECOMMENDED MOTION

I move to approve the staff recommendation, as a part of the consent agenda.

PROCLAMATION

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection report cancer is the leading cause of death by disease among U.S. children between infancy and age 15. This tragic disease is detected in more than 16,000 of our country's young people every year. An estimated 400,000 children and adolescents are diagnosed with cancer globally each year; and

WHEREAS, one in five of our nation's children loses his or her battle with cancer. Many infants, children and teens will suffer from long-term effects of comprehensive treatment, including secondary cancers; and

WHEREAS, founded nearly thirty years ago by Steven Firestein, a member of the philanthropic Max Factor cosmetics family, the American Cancer Fund for Children, Inc., Kids Cancer Connection, Inc. and Lions Clubs International are dedicated to helping these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at Children's Hospital Colorado in Aurora, Rocky Mountain Hospital for Children in Denver, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor toy distributions, pet-assisted therapy, family sailing programs, Laughternoon - Laughter is Healing, KCC Supercar Experience, positive appearance services, educational programs and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer.

NOW, THEREFORE, I, Jeff Toborg, by virtue of the authority vested in me as Mayor of the Town of Parker, Colorado do hereby proclaim the month of September 2022, as

PARKER CHILDHOOD CANCER AWARENESS MONTH

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of September, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk



Request for Town Council Action

Date: September 19, 2022

Submitted By: Carson Byerhof, Associate Planner
John Fussa, Community Development Director
Chris Hudson, Deputy Director of Engineering

Reviewed By: Michelle Kivela, Town Manager

Title: **CHAMBERS ROAD NORTH OF BELFORD AVENUE
RIGHT-OF-WAY ANNEXATION**

Applicant: Town of Parker

Location: Chambers Road between E-470 and Belford Avenue

Department: Community Development, Carson Byerhof
Engineering and Public Works, Chris Hudson

TRAKiT No.: ANX22-005

EXECUTIVE SUMMARY

The Town of Parker is proposing to annex the Chambers Road right-of-way (ROW) from E-470 south to the vicinity of the future intersection with Belford Avenue that is currently under construction.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

In 2016, the Town annexed and zoned the Chambers Highpoint Planned Development (PD) located at the southwest corner of Chambers Road and E-470. However, the annexation did not include the adjacent Chambers Road ROW. The Chambers Highpoint Annexation Agreement requires the construction of Belford Avenue west of Chambers Road and a new traffic signal at the intersection of Chambers Road and Belford Avenue.

Belford Avenue west of Chambers Road is now under construction and a new traffic signal at the intersection of Chambers Road and Belford Avenue will be installed as part of the project. The section of Chambers Road adjacent to Chambers Highpoint PD, including the intersection of Chambers Road and Belford Avenue, is still in Douglas County. The County has requested that the Town assume responsibility for the operation and maintenance of the new traffic signal.

The new traffic signal at the intersection of Chambers Road and Belford Avenue will serve the

Chambers Highpoint PD and is necessary for traffic operations on Belford Avenue. The Town already maintains the existing traffic signals at the E-470 interchange with Chambers Road traffic to the north. It is therefore appropriate for the Town to assume maintenance responsibility for the new traffic signal that is required by the Town through the Chambers Highpoint Annexation Agreement. The proposed annexation will align the Town's boundaries with the adjacent Chambers Highpoint PD and support the future maintenance of the new traffic signal at the intersection of Chambers Road and Belford Avenue.

The Town has identified the Chambers Road ROW adjacent to the Chambers Highpoint PD as a candidate for future annexation through the annual Three-Mile Plan and the Parker 2035 Master Plan. Therefore, the proposed annexation is consistent with the Town's land use policy as expressed in both plans. Further, the subject property is eligible for annexation because it is located within the Town's Planning Area established in the Parker 2035 Master Plan and satisfies the contiguity requirement of the Municipal Annexation Act, C.R.S. § 31-12-104(a). The Town is required to process the Annexation Petition subject to the standards of review contained in the Municipal Code, Town Charter and the Act. The Town Council has the final decision-making authority for the submitted Annexation Petition because annexation is a legislative act.

On August 1, 2022, the Town Council approved Resolution No. 22-044 which determined that the Annexation Petition substantially complies with C.R.S. § 31-12-107(1) and set the required public hearing on the Annexation Petition for September 19, 2022.

On September 6, 2022, the Town Council approved Ordinance No. 2.280 on first reading and scheduled a second reading for September 19, 2022.

FINANCIAL IMPACT

None

STRATEGIC GOAL(S)



INNOVATE WITH
COLLABORATIVE
GOVERNANCE



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

1. Vicinity Map
2. Resolution No. 22-050
3. Ordinance No. 2.280

RECOMMENDED MOTION

I move to approve Resolution No. 22-050.

I move to approve Ordinance No. 2.280 on second reading.

RESOLUTION NO. 22-050, Series of 2022

TITLE: A RESOLUTION TO SET FORTH TOWN COUNCIL’S FINDINGS OF FACT AND CONCLUSIONS AS TO THE ELIGIBILITY OF THE CHAMBERS ROAD NORTH OF BELFORD AVENUE RIGHT-OF-WAY PROPERTY FOR ANNEXATION INTO THE TOWN OF PARKER

WHEREAS, an annexation petition was filed with the Town Clerk requesting the annexation of certain unincorporated territory located in the County of Douglas and State of Colorado, otherwise known as the Chambers Road North of Belford Avenue Right-of-Way property, and hereafter described in **Exhibit 1** attached hereto and made a part hereof (the “Property”);

WHEREAS, said petition was forwarded by the Town Clerk to the Town Council;

WHEREAS, the Town Council of the Town of Parker, Colorado, found substantial compliance of said petition with Colo. Rev. Stat. § 31-12-107;

WHEREAS, the Town Council of the Town of Parker, Colorado, conducted a public hearing as required by law to determine the eligibility for annexation of the Property;

WHEREAS, public notice of such public hearing was given as required by law;

WHEREAS, the public hearing on the annexation petition was conducted in accordance with the requirements of the law; and

WHEREAS, pursuant to Colo. Rev. Stat. § 31-12-110, the Town Council, sitting as the governing body of the Town of Parker, Colorado, is required to set forth its findings of fact and its conclusion as to the eligibility of the Property for annexation to the Town of Parker.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. A plan for that area encompassing the Property has been adopted by the Town Council, pursuant to Colo. Rev. Stat. § 31-12-105(1)(e).

Section 2. Not less than one-sixth (1/6th) of the perimeter of the Property is contiguous with the existing boundaries of the Town of Parker, as required by law.

Section 3. A community of interest exists between the Property and the Town of Parker, and the Property will be urbanized in the near future.

Section 4. The Property is integrated or is capable of being integrated within the Town of Parker.

Section 5. The limitations of the Municipal Annexation Act and the Constitution of the State of Colorado do not prevent the annexation of the Property or any part thereof since:

a. No land in the territory to be annexed which is held in identical ownership and consists of either a single tract or parcel, or two or more contiguous tracts or parcels, has been divided or portion thereof excluded from the area to be annexed without the written consent of the owners thereof;

b. No land in the territory to be annexed which is held in identical ownership and comprises twenty (20) or more acres, having an assessed valuation for ad valorem tax purposes in excess of \$200,000.00 in the year next preceding the annexation, has been included in the area to be annexed without the written consent of the landowners;

c. No proceedings have been commenced by another municipality for the annexation of all or part of the territory to be annexed by the Town of Parker; and

d. The annexation will not result in the detachment of the area from the school district in which it is currently located.

Section 6. The petition(s) for the annexation of the Property meets the requirements of law and are in proper order for annexation for the Property.

Section 7. No election is required, pursuant to Colo. Rev. Stat. § 31-12-107(2) or any other law of the State of Colorado or the Town of Parker, and no additional terms and conditions within the meaning of Colo. Rev. Stat. § 31-12-111 are to be imposed on the annexation of the Property.

Section 8. The proposed annexation will not have the effect of extending a municipal boundary more than three (3) miles in any direction from any point of the Town boundary in any one year.

Section 9. The entire width of any street or alley to be annexed is included within the annexation.

Section 10. The Property is eligible for annexation to the Town of Parker and all requirements of law have been met for such annexation, including the requirements of section 30 of article II of the state constitution and the applicable requirements of Colo. Rev. Stat. §§ 31-12-104 and 31-12-105, as amended.

Section 11. The ordinances annexing the Property to the Town of Parker shall be considered by this Town Council, pursuant to Colo. Rev. Stat. § 31-12-111.

RESOLVED AND PASSED this _____ day of _____, 2022.

TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

EXHIBIT 1

Legal Description

A parcel of land being that portion of Chambers Road As shown in Stonegate Filing No. 16, recorded at Reception No. 00091584 in the official records of the Douglas County, Colorado Clerk and Recorder's Office, lying north of the southeasterly extension of the southerly boundary of that certain parcel of land described at Reception No. 2010056675 in said official records, situated in the northwest quarter of Section 8, Township 6 South, Range 66 West of the Sixth Principal Meridian, said County and State.

Containing an area of 1.092 acres, (47,578 square feet), more or less.

ORDINANCE NO. 2.280, Series of 2022

TITLE: A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY KNOWN AS THE CHAMBERS ROAD NORTH OF BELFORD AVENUE RIGHT-OF-WAY PROPERTY IN DOUGLAS COUNTY

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Town Council of the Town of Parker, Colorado, a written petition for annexation to and by the Town of Parker, Colorado, of that property described in the attached **Exhibit 1** (the "Property"), being contiguous unincorporated territory situated, lying, and being in the County of Douglas, State of Colorado;

WHEREAS, the Town Council of the Town of Parker, Colorado has conducted a public hearing, as required by law, to determine the eligibility for annexation of the Property; and

WHEREAS, the Town Council of the Town of Parker, Colorado, has satisfied itself concerning the eligibility for annexation of the Property, and concerning the conformance of the proposed annexation to the applicable law and the annexation policy of the Town of Parker, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, THAT:

Section 1. The annexation by and to the Town of Parker, State of Colorado, of the Property, situated, lying, and being in the County of Douglas, State of Colorado, meets all requirements of law and the annexation policy of the Town of Parker, and therefore, the said annexation is hereby approved.

Section 2. More than fifty percent (50%) of the owner(s) of more than fifty percent (50%) of the Property have petitioned for annexation.

Section 3. Upon the effective date of this Annexation Ordinance, the Property shall become subject to the Municipal Laws of the State of Colorado pertaining to cities and to the Charter, ordinances, resolutions, rules and regulations of the Town of Parker, except general taxation, which shall be effective on and after January 1 of the next succeeding year following the passage of this Annexation Ordinance.

Section 4. Considering all of the foregoing, and based on the conviction that annexation of the Property to the Town of Parker will serve the best interests of the Town of Parker and the owner(s) of the Property, the Property is hereby annexed to the Town of Parker, Colorado.

Section 5. The Town Clerk shall file for recording three (3) certified copies of the Annexation Ordinance and three (3) certified copies of the Annexation Map for the Property with the Clerk and Recorder of the County of Douglas, State of Colorado.

Section 6. The Annexation Map showing the boundaries of the newly annexed territory, as above described, shall be kept on file in the office of the Douglas County Clerk and Recorder.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 8. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 9. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

EXHIBIT 1

Legal Description

A parcel of land being that portion of Chambers Road As shown in Stonegate Filing No. 16, recorded at Reception No. 00091584 in the official records of the Douglas County, Colorado Clerk and Recorder's Office, lying north of the southeasterly extension of the southerly boundary of that certain parcel of land described at Reception No. 2010056675 in said official records, situated in the northwest quarter of Section 8, Township 6 South, Range 66 West of the Sixth Principal Meridian, said County and State.

Containing an area of 1.092 acres, (47,578 square feet), more or less.



Request for Town Council Action

Date: September 19, 2022

Submitted By: Cheri Sullivan, Community Relations Liaison

Reviewed By: Michelle Kivela, Town Manager

Title: **RESOLUTION NO. 22-051**
A Resolution to Appoint Members to the Parker Youth Commission and to Appoint a Chair and Vice-Chair
Department: Town Manager, Cheri Sullivan

EXECUTIVE SUMMARY

The purpose of this Resolution is to appoint the Chair, Vice-Chair and members to the Parker Youth Commission.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Parker Youth Commission consists of nine (9) members, initially appointed with staggered terms so that five (5) are appointed for two-year terms and four (4) are appointed for one-year terms. Thereafter, Commissioners will be appointed to two-year terms. The Vice-Chair will be appointed for a one-year term, whereas upon completion of the Vice-Chair's term, the Vice-Chair will assume the role of the Chair. For the initial year, the Chair will be appointed for a one-year term. Thereafter, the Vice-Chair will assume the role of the Chair upon completion of the Vice-Chair's term.

The purpose of the Parker Youth Commission, as defined in the Ordinance, is to provide a means for youth in the Town of Parker to learn about government, participate in the process and to represent and articulate the needs of the community's youth.

Duties and responsibilities include:

- Serve in an advisory capacity to the Town Council, and:
 - Acquire a greater knowledge of and appreciation for the American political system through active participation
 - Make recommendations to the Mayor and Town Council on matters affecting youth in Parker and identify opportunities to increase youth participation and involvement in local government
 - Relay information from the commission to the community through sharing updates about commission opportunities, activities, events, projects and other important

updates relevant to and for Parker's youth

- Serve the youth of Parker by:
 - Informing the Parker municipal government of the needs and wishes of youth
 - Planning and implementing social, educational, public safety, cultural and recreational activities for youth
 - Organizing and performing service projects, events or functions that benefit the Parker community
 - Creating recognition programs for youth
 - Working with the Mayor, Council, Department Directors, schools, civic clubs and service organizations to provide service and leadership opportunities for youth

The individuals recommended to be appointed satisfy the following requirements:

- Must reside within the Town of Parker service area; however, youth with strong ties to Parker (attend school, work, etc.) that reside in Douglas County may also be considered for membership
- Must attend a Colorado-recognized high school or home school in grades 9 – 12
- Must be willing to regularly attend Commission meetings
- Must demonstrate community interest and a willingness to serve the youth and Parker community
- May not be currently employed by the Town of Parker

Thirteen (13) candidates meeting the requirements for service applied for appointment to the Youth Commission and they were interviewed between August 29 and August 31, 2022. The Review Committee consisted of Town Councilmembers Anne Barrington and Cheryl Poage, Community Relations Liaison Cheri Sullivan, Recreation Manager Errin Koon and Outreach Coordinator Bri Rock.

The Review Committee recommends the Town Council approve Resolution No. 22-051 which would accomplish the following:

1. Appoint nine (9) regular members to the Parker Youth Commission.
 - a. Appoint the following four (4) members to the Parker Youth Commission for a one-year term, ending on August 31, 2023:
 1. Marco Becerra Colon
 2. Joey Jung
 3. Brayden Parsons
 4. Iris Pixler
 - b. Appoint the following five (5) members to the Parker Youth Commission for a two-year term, ending on August 31, 2024:

1. Amara Fantl
2. Carson Flowers
3. Noor Reslan
4. Sarah Goudjil
5. Aarav Varma

2. Appoint Iris Pixler as Chair of the Parker Youth Commission for a one-year term, ending on August 31, 2023.

3. Appoint Amara Fantl as Vice-Chair of the Parker Youth Commission for a one-year term, ending on August 31, 2023. Upon completion of the Vice-Chair's term, the Vice-Chair will assume the role of the Chair for a one-year term, ending on August 31, 2024.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)

FOSTER COMMUNITY
CREATIVITY AND
ENGAGEMENT

ATTACHMENTS

1. Resolution No. 22-051

RECOMMENDED MOTION

I move to approve Resolution No. 22-051.

RESOLUTION NO. 22-051, Series of 2022

TITLE: A RESOLUTION TO APPOINT MEMBERS TO THE PARKER YOUTH COMMISSION AND TO APPOINT A CHAIR AND VICE-CHAIR

WHEREAS, the Town Council of the Town of Parker desires to appoint nine (9) regular members to the Parker Youth Commission;

WHEREAS, the Town Council desires to appoint Iris Pixler as the Chair of the Parker Youth Commission;

WHEREAS, the Town Council desires to appoint Amara Fantl as the Vice-Chair of the Parker Youth Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The Town Council of the Town of Parker hereby appoints nine (9) regular members to the Parker Youth Commission, for the terms specified in **Exhibit A**, which is attached hereto and incorporated by this reference.

Section 2. The Town Council hereby appoints Iris Pixler as the Chair of the Parker Youth Commission.

Section 3. The Town Council hereby appoints Amara Fantl as the Vice-Chair of the Parker Youth Commission.

RESOLVED AND PASSED this ____ day of _____, 2022.

TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

EXHIBIT A

1. Appointment of four (4) regular Parker Youth Commission members for a term up to and including August 31, 2023.

- a. Marco Becerra Colon
- b. Joey Jung
- c. Brayden Parsons
- d. Iris Pixler

2. Appointment of five (5) regular Parker Youth Commission members for a term up to and including August 31, 2024.

- a. Amara Fantl
- b. Carson Flowers
- c. Sarah Goudjil
- d. Noor Reslan
- e. Aarav Varma



Request for Town Council Action

Date: September 19, 2022

Submitted By: James Prior, Commander
Jamie Wynn, Deputy Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 1.564 - Second Reading**
A Bill for an Ordinance to Approve Memoranda of Understanding Between Agencies By and Between the Town of Parker and Various Law Enforcement Agencies Concerning License Plate Recognition Sharing Detection Data and Hotlists
Department: Police, Jim Prior

EXECUTIVE SUMMARY

The Town of Parker Police Department recently purchased license plate readers for some of the patrol vehicles, as well as access to a national database that includes information obtained from various law enforcement agencies and commercial entities around the country. Certain law enforcement agencies are requesting the Town enter into a Memorandum of Understanding (MOU) related to the shared information. Staff is requesting Town Council approve this ordinance authorizing the MOUs that have been received to date, as well as all future MOUs from the law enforcement agencies participating in the database, after review by the Town Attorney's Office and provided they are deemed to be substantively similar to the sample attached to the ordinance.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Automated license plate reader (ALPR) systems combine high-speed cameras and sophisticated software to capture and convert license plate images into data that can be compared with information in other databases. Cameras used in ALPRs may be mobile or stationary and are small enough to be mounted on police cars. These high-tech devices allow the Parker Police Department to compare plate numbers against those of stolen cars or cars being driven by persons suspected of being involved in criminal activities. Automatic license plate recognition eliminates the tedious process of manually recording numbers. When a vehicle speeds by, it is difficult for an officer to immediately record a car's license plate number. The ALPRs record the license plate number in real-time. Automatic processes relieve officers of tedious and time-consuming tasks, giving valuable time back to them during their shift. Alerts can be raised from the ALPR system to officers and advise them why the vehicle is of interest. It can silently record the time and location of the match for later review, which can aid investigations.

The Town of Parker Police Department recently purchased license plate readers for some of the patrol vehicles, as well as access to a national database that includes information obtained from various law enforcement agencies and commercial entities around the country. Access to this database and the information contained within the database could assist in pursuing certain criminal investigations. Some of the law enforcement agencies that upload information into the database are requesting the Town of Parker enter into a Memorandum of Understanding (MOU) with that individual agency in order to share information. As the received MOUs have all been based on a template provided by the service, with the only difference being the individual agencies' information, Staff is requesting the Town Council authorize approval of the MOUs that have been received to date, as well as the approval of all future MOUs from the law enforcement agencies participating in the database, after review by the Town Attorney's Office and provided they are deemed to be substantively similar to the sample attached to the ordinance.

FINANCIAL IMPACT

There are no additional financial impacts at this time.

STRATEGIC GOAL(S)

ATTACHMENTS

1. Ordinance No. 1.564

RECOMMENDED MOTION

I move to approve Ordinance No. 1.564 on second reading.

ORDINANCE NO. 1.564, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE MEMORANDA OF UNDERSTANDING BETWEEN AGENCIES BY AND BETWEEN THE TOWN OF PARKER AND VARIOUS LAW ENFORCEMENT AGENCIES CONCERNING LICENSE PLATE RECOGNITION SHARING DETECTION DATA AND HOTLISTS

WHEREAS, each Memorandum of Understanding Between Agencies allows for the sharing of collected license plate recognition data (*e.g.*, scanned license plates) and hotlists (defined as “informational data files” which can contain information on stolen or wanted vehicles, including vehicles associated with Amber Alerts) for law enforcement agencies that are a part of the Vigilant Solutions hosted system;

WHEREAS, any future Memorandum of Understanding from a requesting law enforcement agency related to the Vigilant Solutions hosted system is anticipated to be substantially similar, if not identical, with the exception of the requesting agency’s name and location, to the sample that has been provided to and reviewed by this Town Council; and

WHEREAS, the ability to have access to this information as well as to share information with other agencies provides for increased law enforcement efficiency and effectiveness; and

WHEREAS, the agreement to enter into each Memorandum of Understanding is based on an intentional clicking of a box stating that the Parker Police Department agrees to share and receive information with the respective law enforcement agency requesting the Memorandum of Understanding.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves Memoranda of Understanding Between Agencies by and between the Town of Parker and various law enforcement agencies concerning license plate recognition sharing detection data and hotlists, a sample of which attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Town to enter into all current and future individual Memoranda of Understanding, subsequent to review and approval by the Town Attorney’s Office to confirm that the specific Memorandum of Understanding is substantially similar to the sample attached hereto.

Section 2. **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING BETWEEN AGENCIES

License Plate Recognition (LPR) Equipped

Law Enforcement Agencies

FOR SHARING LPR DETECTION DATA AND HOTLISTS

I. OVERVIEW

A. Introduction:

The purpose of this "Memorandum of Understanding" (MOU) is to outline conditions under which the Agency Parties and will share and use "LPR detection data" (scanned plates) and/or "hotlist" information as defined on the last page of this MOU. The Motorola Solutions' hosted system provides for simple point-and-click data sharing between credentialed Agency Managers with data sharing privileges enabled by their respective agencies.

This MOU provides a basic understanding for the sharing of data between agencies; any additional requirements (liabilities, governing law, etc) should be documented separately in a written agreement between agencies.

B. Background:

License Plate Recognition (LPR) is a computer-based system that utilizes emerging technology to capture a color image, as well as an infrared image, of the license plate of a vehicle. The infrared image is converted into a text file utilizing Optical Character Recognition (OCR) technology. The text file is automatically compared against an "informational data file," also known as a "hotlist," and can contain information on stolen or wanted vehicles as well as vehicles associated with Amber Alerts, warrant subjects, and agency defined-information.

LPR cameras can be mobile (mounted on vehicles) or on fixed positions such as freeway overpasses or traffic signals. LPR systems have all the necessary equipment to scan

plates, notify the user of a vehicle hit, and upload the LPR detection data into an LPR repository for retention and research.

The Agencies entering into this MOU, realizing the mutual benefits to be gained by sharing information, seek to share LPR detection data and/or hotlist information as defined on the last page of this MOU.

II. AUTHORIZED RELEASE OF INFORMATION

A. Sharing of Information:

Each Agency Party authorizes access to its LPR detection data and/or hotlist information as defined on the last page of this MOU residing in its Motorola Solutions account to other Agency Parties as permitted by applicable state law. An Agency Party that does not want certain information made available to any other Agency Party is responsible for ensuring that the information is not made available for data sharing. There is no obligation to share LPR detection data and/or hotlist information with any Agency Parties based solely on this MOU.

B. Limitation on Information Sharing:

LPR detection data and/or hotlist information shall only be shared with or released to authorized employees of the Agency Parties who have an approved login and password ("Authorized Users"), and a need and/or right to know.

III. INFORMATION OWNERSHIP

A. Ownership:

Each Agency Party retains control of all information in its account. Each Agency Party is responsible for creating, updating, and deleting records in its own account according to its own retention policies. Each Agency Party shall use reasonable efforts to ensure the completeness and accuracy of its data.

B. Release of Information:

Agency Parties and authorized users shall release or make available information accessed from an LPR account only to persons or entities authorized to receive LPR information.

C. Unauthorized Requests:

If an Agency Party receives a request for information in an LPR account by anyone who is not authorized to receive information from the LPR account, that Agency Party shall refer the request to the law enforcement agency that originated the requested information ("Source Agency").

D. Public Record Requests, Subpoenas and Court Orders:

Any Agency Party receiving a public records request, subpoena, or court order ("Legal Request") for information in an LPR account not authored by or originated by that Agency Party shall immediately provide a copy of the Legal Request to the Source Agency, prior to providing a response to the Legal Request.

IV. USER ACCESS

A. Login Application Process:

Each Agency Party's Agency Manager is responsible for management of user accounts at that Agency Party. Each Agency Party agrees that all authorized users shall be limited to current employees who are legally authorized to review criminal history data for crime prevention and detection purposes. Each potential user shall submit a request for a login and password to the Agency Manager. The Agency Manager shall have discretion to deny or revoke individual access for their respective agency.

B. Login Assignment:

Each Authorized User will be issued a user login and a password by the Agency Manager. Authorized Users may be assigned to groups that have different levels of access rights based on the level of restriction of the information.

C. Termination of Logins:

Each Agency Manager is responsible for timely removal of any login accounts as Authorized Users leave the Agency, no longer qualify for access into the system, or are denied access by the Agency Manager for any other reason.

D. Intended Use:

Each Authorized User agrees that LPR detection data, hotlist information, and the networking resources are to be used solely for law enforcement purposes only and consistent with the law. Authorized Users shall not use or share the information for any unethical, illegal, criminal, or commercial purpose.

E. Limitations on Use of Logins:

An Authorized User shall not access information in an LPR repository by using a name or password that was assigned to another user. An Authorized User shall not give his or her password to another person, including another user, to access the system.

F. Audit Trail:

Each transaction is to be logged, to include a Case Number, and an audit trail created. Each Agency Manager shall conduct an internal audit on a periodic basis to ensure user queries are made for legitimate law enforcement purposes only. This information shall be recorded and retained to allow the agency manager to complete the internal audit. Each agency manager shall maintain the audit trail pursuant to the retention policies of that Agency Party. Requests for transaction logs shall be made in writing to the Agency Manager, who shall provide the logs to the requesting party within a reasonable amount of time.

V. CONFIDENTIALITY OF INFORMATION

A. Information Confidentiality:

Information in an LPR account is confidential and is not subject to public disclosure, except as required by law. Only Authorized Users are allowed to view and use the information in an LPR account. Otherwise, the information shall be kept confidential for purposes of not compromising active investigations or undercover operations, jeopardizing officer or public safety.

B. Internal Requests for Information:

An Authorized User who receives a request from a non-authorized requestor for information in an LPR account shall not release that information, but may refer the requestor to the Source Agency.

C. Removal or Editing of Records:

Agency Parties shall determine their own schedule for record deletion and other edits to their own data. This will be determined by policy and/or legal requirements.

VI. MOU TERMS

A. Term:

This MOU will commence upon its creation, which occurs on the date that the data share takes place within the Motorola Solutions hosted platform. It may be terminated at any time when an Agency Manager revokes data sharing access from another agency.

VII. EXECUTION OF MOU

This MOU is executed by the Parties below, for the below-described data. Each Party acknowledges that it has received a copy of this MOU, and will comply with its terms and conditions. Each Party certifies that he/she is authorized by its Party to execute this data sharing relationship.

Data Shared Between Parties:

Sharing Agency:

Agency Manager Authoring Share:

Title:

Receiving Agency:

Agency Manager Receiving Share:

Title:

Date of MOU:



Request for Town Council Action

Date: September 19, 2022

Submitted By: Jamie Wynn, Deputy Town Attorney
James Prior, Commander

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 1.565 - Second Reading**
A Bill for an Ordinance to Approve the Working
Memorandum of Understanding by and between the Town of
Parker and Douglas County Human Services Concerning
Adult Protection
Department: Town Attorney, Jamie Wynn
Police, Jim Prior

EXECUTIVE SUMMARY

Generally every four years, the Douglas County Department of Human Services (DHS) and the Town of Parker Police Department enter into a Memorandum of Understanding (MOU) related to the reporting of, responding to, and the investigation of, allegations regarding the mistreatment, exploitation, and self-neglect of at-risk adults. The MOU is adopted pursuant to statutory requirements obligating each county DHS and law enforcement agency to enter into cooperative agreements to coordinate the investigative duties to ensure the protection of at-risk adults.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The currently drafted Memorandum of Understanding (MOU) is an updated draft of an MOU entered into between the Douglas County Department of Human Services (DHS) and the Town of Parker Police Department (PD) in 2017. Generally, the MOU between DHS and Parker PD is entered into every four years, but with the recent pandemic, this one was slightly delayed. This MOU is for the purpose of coordinating the investigative duties of DHS and Parker PD to ensure the protection of at-risk adults. As the statutory citations in past MOUs have changed with some frequency, the current draft has removed most of the specific statutory citations to ensure the references continue to be accurate in the future, as well as removing exhibits that were not referenced in the MOU or included outdated citations. Substantively, the MOU is similar to the prior versions.

FINANCIAL IMPACT

None

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 1.565

RECOMMENDED MOTION

I move to approve Ordinance No. 1.565 on second reading.

ORDINANCE NO. 1.565, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE WORKING MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE TOWN OF PARKER AND DOUGLAS COUNTY HUMAN SERVICES CONCERNING ADULT PROTECTION

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Human Services concerning Adult Protection, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

EXHIBIT 1

**WORKING MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE TOWN OF PARKER
AND
DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES
AND
DOUGLAS COUNTY HUMAN SERVICES
ADULT PROTECTION**

PURPOSE:

To clarify the coordinated duties and responsibilities of the Douglas County Department of Human Services, Department of Adult Protective Services (“APS”) and the Town of Parker (“Town”) involved in reporting, responding to, and investigating reports regarding the mistreatment, exploitation, and self-neglect of at-risk adults.

This Memorandum of Understanding (“MOU”) is specific to the Town of Parker, Parker Police Department. Individually and collectively, the Town of Parker Police Department and the Douglas County Department of Human Services may be referred to as “Agency” or “Agencies.”

TERM OF MEMORANDUM OF UNDERSTANDING:

This MOU will commence upon the date of the final signature and will be in effect for no more than four (4) years. Changes in the MOU may be made at any time by mutual consent of APS and the Town. Nothing in this MOU shall substitute or represent a change in either Agency’s legally mandated responsibilities. APS and the Town may seek the consultation of respective state programs in the development or revision of the MOU.

STATUTORY AUTHORITY:

The Colorado Revised Statutes require each county department of human services and law enforcement agencies to develop and implement cooperative agreements to coordinate the investigative duties to ensure the best protection for at-risk adults.

PRINCIPALS OF THE MEMORANDUM OF UNDERSTANDING:

In accordance with the Colorado Revised Statutes, this MOU is made to ensure a coordinated response to reports of mistreatment, provide for special requests for assistance from one Agency to another, and arrange for joint investigation(s) when needed to maximize the effectiveness of the response. It is understood that joint investigations may be used as a means to coordinate the efforts of the involved Agencies, and that each individual Agency remains accountable to its own rules, policies, and statutes.

It is understood that APS shall accept reports of known or suspected mistreatment or self-neglect of at-risk adults. Reports made to APS indicating possible criminal activity must be referred to local law enforcement, as provided for in statute.

It is understood that APS is responsible for reporting and responding to allegations of abuse, neglect, and exploitations, as defined in the Colorado Code of Regulations.

It is understood that nothing contained herein shall be deemed to limit, waive, or in any way alter any statutory or constitutional authority or immunity held by the Town or any of its employees.

It is understood that nothing contained herein shall be deemed to subject the Town to any jurisdiction, regulation, or limitation of action not specifically imposed by any statute or constitutional provision. All statutory or constitutional authority or discretion possessed, held, or exercised by the Town or any of its employees is unaffected by this MOU. It is understood that nothing contained herein shall give rise to a cause of action against, or to incur or create liability by, the Town or any of its employees, brought by anyone, either in a personal or official capacity.

JOINT INVESTIGATION PROCEDURE AND GUIDELINES:

Some reports may need to be jointly investigated. Either APS or the Town, through the Parker Police Department, may request assistance from the other Agency in the investigation and assessment of the at-risk adult's safety and well-being.

The coordination between the Town of Parker Police Department and APS in conducting investigations will assist each Agency in ensuring the safety of the at-risk adult in the most expedient manner possible. All investigations conducted by the Town of Parker Police Department and APS shall not interfere with and shall cooperate with any investigation conducted by law enforcement.

RESPONDING TO REPORTS OF MALTREATMENT:

Joint investigations may be needed and can maximize the effectiveness of the civil and criminal investigative process. Should a joint investigation occur, it is understood that each Agency remains accountable to its own rules, policies and statutes. It is understood that each Agency shall accept reports of known or suspected mistreatment, abuse, exploitation, and neglect of at-risk adults.

Either Agency under this MOU may request assistance from the other agency for an assessment or investigation of an at-risk adult's safety or well-being. Either Agency may request stand-by assistance from another agency as well. Staff representing local mental health, domestic violence, and/or development disability agencies may also be part of a joint investigation. APS will be the lead Agency in noncriminal joint investigations. The applicable law enforcement Agency will be the lead Agency in criminal joint investigations. In the event of a joint investigation, a response plan will be developed between both the agencies.

Joint investigations or stand-by assistance may be utilized when:

- 1) there is pain and/or injury as demonstrated by but not limited to, substantial or multiple bruising, bleeding, malnutrition, dehydration, burns, fractures, poisoning, subdural hematoma, soft tissue swelling, human bite marks, rope burns, suffocation, history of repeated emergency room or hospital admissions or evidence of past injuries that have not properly healed;
- 2) unreasonable confinement or restraint has been imposed;
- 3) nonconsensual sexual contact or contact classified as a crime in Colorado;

- 4) caretaker - or any other person with legal standing or a person with undue influence on the client- neglect threatens the at-risk adult's safety or well-being;
- 5) financial exploitation has occurred or is occurring and the exploitation is a crime in Colorado;
- 6) it is determined prescription/medication fraud may be involved;
- 7) threats of violence, if the presence of firearms makes it unsafe or perceived to be unsafe for Douglas County Human Services caseworkers, intoxication, or any illegal activity is present that threatens the at-risk adult's or Department staff's safety; or
- 8) specialized interviewing skills might be required.

Additional warning signs of mistreatment, abuse, exploitation and neglect may be present. (See Attachment: Indicators of Mistreatment, Abuse, Exploitation and Neglect)

INFORMATION SHARING AND CONFIDENTIALITY:

The sharing of information, if not prohibited under statute, federal law, or other legal authority, including court orders, between the Town of Parker Police Department and APS will assist each Agency in understanding details about the case that will enable a more efficient approach to improving the safety of the client and provision of services. Additionally, each Agency shall maintain the confidentiality of any information exchanged pursuant to such joint investigations as required by statute, other legal authority, and each Agency's policies.

Statute, federal law, and other applicable authority, including each Agency's policies, regarding confidentiality for respective programs will be followed with respect to any information obtained by or shared between the agencies. A written release of information will be obtained from the client or the client's guardian when appropriate or when required by mandate or Agency policy.

Disclosure of APS program and case information shall be permitted only when authorized by law or ordered by the court. Pursuant to statute, APS staff is allowed to share with service providers and responsible parties involved in the matter the limited information necessary for improving the safety and protection of the victim.

Nothing contained herein shall be deemed an agreement by the Town of Parker Police Department to be governed, regulated, or subjected to the Health Insurance Portability and Accountability Act ("HIPPA") or any related provisions.

DISPOSITION OF REPORTS:

All referrals and reports shall be made available to the Town of Parker Police Department upon request at any time. The Report will include the following items if available and as reported:

- 1) name, address and age of the at-risk adult;
- 2) name and contact information for the reporter. If the reporter asks for anonymity, the Department will have a prior discussion with the Town of Parker Police Department;

- 3) name and address of the adult's caretaker, if any;
- 4) suspected or confirmed nature and extent of the adult's injury(ies), if any;
- 5) nature and extent of the condition(s) that already resulted in or will result in mistreatment, abuse, neglect, financial exploitation, and/or exploitation by other or self-imposed;
- 6) any and all reports or statements needed for a criminal prosecution; and
- 7) any other pertinent information.

ADULT PROTECTION TEAM:

The Department of Human Services' at-risk adult protection team ("Team") was created pursuant to Senate Bill 91-84 and Colorado Revised Statute 26-3.1-103(3). The Team consists of representatives from APS, Douglas County Sheriff's Office, other law enforcement agencies, the District Attorney's Office, mental health, developmental disabilities, and reasonable affiliated community agencies or representatives that have a bearing on this population. The Team may discuss referrals and open/pending cases only when they have convened in executive session, all public attendees have left, and all remaining members of the Team or consulting guests have signed a Confidentiality Statement. Team members function in a consultative role and may provide suggestions on how to address or proceed with difficult cases, access and coordinate resources, and involve other agencies/entities not present.

BUSINESS AND NONBUSINESS HOURS OF OPERATION:

APS accepts reports of abuse, exploitation, and neglect during normal business hours. Reports should be made to the Hotline at (303) 663-6270. During nonbusiness hours or in the event of a county/department closure, reporters should call 911 and the appropriate law enforcement agency will coordinate with APS. The law enforcement agency should fax reports to the Adult Protective Services Unit on the next business day at **877-285-8988** or APSReferrals@douglas.co.us and/or send reports to Adult Protective Services via the CARES shared reporting system.

[Remainder of page intentionally left blank. Signatures on following page.]

DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES

Dan Makelky, Director
Douglas County Human Services

Date

THE TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor
Town of Parker, Colorado

Date

ATTEST:

Chris Vanderpool, Town Clerk
Town of Parker, Colorado

Attachment:

Indicators of Mistreatment, Abuse, Exploitation and Neglect

Physical abuse includes hitting, slapping, pushing, kicking, burning, confining, or restraining an adult. Some signs of physical abuse are:

- Injuries, such as bruises, welts, burns, lacerations or abrasions, and fractures that are inconsistent with the explanation
- Human bite marks and/or hair loss by pulling
- Multiple injuries, especially in various stages of healing
- Signs of confinement, such as rope-burns on wrists, ankles, neck, torso
- A history of repeated emergency room or hospital admissions
- Evidence of past injuries that have not properly healed

Sexual abuse is sexual activity or touching without the adult's consent or understanding.

Some signs of sexual abuse are:

- Unexplained pregnancy or sexually transmitted disease
- Reported sexual assault
- Difficulty in walking or sitting
- Torn, stained, or bloody underclothing
- Bruises, bleeding, or other injuries of the genital or anal areas
- Vaginal discharge
- Unexpected reluctance to cooperate with toileting and/or physical examination of genitalia

Self-abuse is the infliction of injury to the adult by the adult's own hand or volition. Some signs of self-abuse are:

- Head injuries from repeated head banging
- Bleeding or malformed fingertips from excessive finger biting or finger sucking
- Injuries to genitalia from the insertion or rubbing of abrasive and/or sharp objects
- Self-inflicted cuts or skin tears
- Hair loss from hair pulling
- Suicide attempts

Neglect is a lack of physical care, health care, or necessary medication, food, shelter, or clothing provided to an at-risk adult by a caregiver. Some signs of caregiver neglect are:

- Untreated medical conditions.
- Improper administration of medications, other drugs, and/or alcohol to "control" the adult
- Malnourishment, indicated by fatigue, dizziness, weight loss and decreased immune system response
- Dehydration, indicated by persistent fatigue, lethargy, muscle weakness or cramps, headaches, dizziness, and confusion
- Unclean physical appearance, soiled clothing, decayed teeth, broken glasses, and overgrown nails
- Bedsores

- Being left alone for long periods of time when the adult is in need of supervision and assistance
- Frequent falls
- Unsanitary conditions in the home
- Wandering or getting lost
- History of fires or burns from smoking or cooking
- Confusion, disorientation, or memory impairment
- Inability to receive or communicate information regarding his/her needs

Financial Exploitation is the use of an at-risk adult's money or property for another's benefit.

Some signs of financial exploitation are:

- Unpaid monthly bills
- Bounced checks
- Missing income checks
- Income or assets are being or were used by a financial agent or other person without the adult's consent or without regard for the adult's wishes and directions
- Questionable transfers of assets or property
- Adult is denied access to his/her funds
- Abuse of authority granted under a power of attorney
- Identity theft
- Undue influence

Exploitation of at-risk adults may not always involve financial issues. Some examples of exploitation, other than financial exploitation, are:

- Forcing a frail adult to panhandle
- Using the home or property of the adult for the production, sale, and distribution of illicit drugs
- Prostituting an adult who is unable to effectively communicate or report such exploitation

Self-neglect occurs when an at-risk adult cannot or does not care for himself or herself.

Choice of lifestyle, by itself, is not proof of self-neglect. Some signs of self-neglect are:

- Untreated medical conditions
- Noncompliance with or inability to take medications as prescribed
- Malnutrition or dehydration
- Inadequate or inappropriate diet
- Unclean physical appearance, soiled clothing, decayed teeth, broken glasses, and/or overgrown nails
- Bedsores
- Frequent falls
- Unsanitary conditions in the home
- Wandering or getting lost
- History of fires or burns from smoking or cooking
- Confusion, disorientation, or memory impairment
- Inability to receive or communicate information regarding his/her needs



Request for Town Council Action

Date: September 19, 2022

Submitted By: Jamie Wynn, Deputy Town Attorney
James Prior, Commander

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 1.566 - Second Reading**
A Bill for an Ordinance to Approve the Working
Memorandum of Understanding by and between the Town of
Parker and Douglas County Department of Human Services
Concerning Child Welfare
Department: Town Attorney, Jamie Wynn
Police, Jim Prior

EXECUTIVE SUMMARY

Generally every four years, the Douglas County Department of Human Services (DHS) and the Town of Parker Police Department enter into a Memorandum of Understanding (MOU) to set forth the respective roles and responsibilities of each agency related to investigations involving allegations of child abuse and neglect. The MOU is adopted based upon the statutory authority of each agency with respect to investigations that involve child welfare matters.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The currently drafted Memorandum of Understanding (MOU) is an updated draft of an MOU entered into between the Douglas County Department of Human Services (DHS) and the Town of Parker Police Department (PD) in 2017. Generally, the MOU between DHS and Parker PD related to child welfare investigations is entered into every four years, but with the recent pandemic, this current one was slightly delayed. This MOU is for the purpose of coordinating the investigative duties of DHS and Parker PD to ensure the protection of children who may be suffering from abuse and/or neglect. As the statutory citations in past MOUs have changed with some frequency, the current draft has removed most of the specific statutory citations as well as updated other information. Substantively, the MOU is similar to the prior versions.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 1.566

RECOMMENDED MOTION

I move to approve Ordinance No. 1.566 on second reading.

ORDINANCE NO. 1.566, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE WORKING MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE TOWN OF PARKER AND DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES CONCERNING CHILD WELFARE

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Working Memorandum of Understanding by and between the Town of Parker and Douglas County Department of Human Services concerning Child Welfare, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

EXHIBIT 1

**WORKING MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE TOWN OF PARKER
AND
DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES

CHILD WELFARE**

Child abuse and neglect are community problems requiring a cooperative response from both law enforcement and child protection. In order to enhance the inter-disciplinary approach and protect the children of Douglas County, the following has been agreed upon by and between the Town of Parker ("Town") and the Douglas County Department of Human Services ("Department").

This Memorandum of Understanding ("MOU") is specific to the Town of Parker, Parker Police Department. Individually and collectively, the Town of Parker Police Department and the Douglas County Department of Human Services may be referred to as "Agency" or "Agencies."

The MOU is not meant to supersede either Agency's current policies or procedures for the investigation of child abuse and neglect. The goal of the MOU is to define the lines of communication between the responding Agencies that will result in cooperative, joint decision-making. This MOU will commence upon the date of the final signature and will be in effect for no more than four (4) years.

A. Purpose

This MOU sets forth the respective roles and responsibilities in joint investigations and allows for special requests by one Agency for assistance from the other Agency.

B. Intra-Familial Abuse and Neglect Cases

The Department of Human Services is primarily responsible for coordinating the investigations involving intra-familial abuse and neglect. Investigations will be done in conjunction with the Town. To the extent permitted by law, there will be open communication between the Agencies involved in the investigation. Law enforcement will make the determination as to whether a criminal investigation and action is warranted. The question of whether protective custody of the child/children is warranted will generally be determined by Douglas County Department of Human Services, the Office of the County Attorney and a Judicial Officer (judge or magistrate), or Law Enforcement. Generally, the Colorado Revised Statutes, Title 19, Children's Code is the relevant law, though other Statutes and legal authority may also be relevant for specific matters. The Department of Human Services will report to the Child Protection Team for any continued recommendations.

C. Third-Party Abuse and Neglect

The Town, through its Police Department, is responsible for the coordination and investigation of all third-party abuse and neglect matters, as defined by statute, in conjunction with Human Services, if appropriate. Specific third-party cases investigated by a law enforcement agency (with the exception of institutional abuse or neglect) will not require immediate notification to the County Department of Human Services, but will require submission of an investigative report to

the County Department for submission to the State Department, in the manner prescribed by the State Department, within sixty (60) days after the receipt of the report by the County Department.

D. Reports Requiring Joint Review and Investigations

Initial reports of sexual abuse, physical abuse, and severe neglect are to be reviewed by Douglas County Human Services and the Town, through its Police Department, and a decision will be made by those Agencies as to the need for a joint investigation. Statute requires reports of known or suspected child abuse or neglect to be made immediately to the county department or the local law enforcement agency. Statute mandates that investigations of intra-familial abuse be conducted in conjunction with the local law enforcement agency, to the extent that a joint investigation is possible and deemed appropriate, and any other appropriate agency. Statute also designates the local law enforcement agency as having primary responsibility for the investigation of abuse or neglect of a child by a third party over ten years of age. If the law enforcement agency determines that human services are necessary for the child, the Agency may request assistance from the county department and the county department shall immediately respond to the request for services or assistance, as deemed appropriate by the county department.

Specific cases which require Human Services investigation only will not require immediate telephone contact, but shall require written notification to the appropriate law enforcement agency be means of a written report. Copies of all reports are sent to the District Attorney, Law Enforcement Agencies (separated by jurisdiction), and Special Crimes Units.

E. Protective Custody

Pursuant to Statute, Law Enforcement officers may take a child into temporary custody without a court order. In most situations, the County Department of Human Services will facilitate the court order in conjunction with the County Attorney and the on-call judge, juvenile judge or magistrate.

F. Discretionary Joint Review and Investigation

Reports that may require a review and joint investigation are:

- 1) Death of a child with surviving siblings. Law enforcement may also coordinate investigations with the Coroner's Office;
- 2) Moderate to severe physical abuse by any relative, guardian, step-parent, spousal equivalent, boyfriend, girlfriend, and or other persons continuously in the child's home;
- 3) All serious head trauma injuries;
- 4) All injuries involving ruptured or damaged major organs, unexplained abdominal injuries or other injuries consistent with nonaccidental trauma;
- 5) All fractures, which are unexplained, multiple or in various stages of healing or where the reason given for the fracture is inconsistent with the injury;
- 6) All second- or third-degree burns, all cigarette burns and/or other burns consistent with nonaccidental trauma;

- 7) All other serious injuries, including serious bruising or injuries that constitute serious bodily injury, as defined by Statute, which are unexplained or inconsistent with the history provided;
- 8) Nonorganic failure to thrive;
- 9) Medical neglect that results in bodily injury, serious bodily injury or death;
- 10) Sexual abuse by any parent, relative, guardian, step-parent, spousal equivalent, boyfriend, girlfriend and other persons continuously in the child's home;
- 11) Repeated reports of abuse to the child or siblings or other children residing in the home;
- 12) Repeated law enforcement responses for domestic violence in the child's home;
- 13) Illegal drug activity in the child's residence;
- 14) Severe environmental neglect;
- 15) Suspected danger to county department investigators;
- 16) When a parent or guardian refuses access to the children by the county department, or refuses to permit medical examinations of the children;
- 17) The need for placement or protective custody is not otherwise specified;
- 18) Physical or sexual abuse in an institution or home day care, day care center, foster home, group home, residential child care facility or institution operation licensed by the Colorado State Department of Human Services;
- 19) Child tests positive for Schedule I or II controlled substance, or a child is found on the premise where a controlled substance is being manufactured or attempted to be manufactured;
- 20) Any other time one Agency requires the assistance of the other.

G. Joint Investigation Procedures

Once it has been determined that a joint investigation will be conducted the following procedures should be followed:

- 1) The receiving Agency will notify the other Agency as soon as possible. Each Agency will designate the persons to be notified and phone numbers where they can be reached. Record checks will also be completed and information shared when necessary by the Agencies involved;
- 2) The county department and the law enforcement agency will coordinate on the investigation and determine the responsibilities for each. In a criminal investigation the law enforcement agency is the lead investigator; however, child protection issues are the primary responsibility of the county department. Issues to be determined include, but are not limited to:

- a. When to initiate the investigation;
 - b. Where to conduct initial interview
(Sungate, as appropriate);
 - c. The order of interviews;
 - d. Preservation of evidence;
 - e. Follow up referrals for child and nonoffending parent.
- 3) The decision regarding removal of the children will be made by the county department of Human Services in coordination with law enforcement, the county attorney, and the court representative (judge or magistrate).
 - 4) Pursuant to Statute, every effort should be made to minimize the number of interviews conducted with a child witness or victim. If additional interviews are necessary to complete an investigation, efforts should be made to have the same interviewer. A competent interviewer, according to the standards adopted by the investigating agency, must conduct interviews, interviews should be videotaped when practical and such recordings shall be preserved as evidence in the enforcement and the county department will exchange investigative reports.
 - 5) If the child is placed by the county department, the county department will keep the law enforcement agency informed of the child's whereabouts and will inform the law enforcement agency of a contact person within the county department.
 - 6) When a child has been treated for the suspected abuse or neglect injuries or is currently in the hospital, the law enforcement agency and the county department will consult with the treating physicians in order to obtain accurate medical information and additional family information.
 - 7) If the county department has taken custody of a child that is hospitalized as a result of child abuse, it will notify law enforcement of the condition and whereabouts of the child on an ongoing basis.
 - 8) Law enforcement or the District Attorney's Office will notify the county department if criminal charges are filed naming a child in its custody as a victim. If criminal charges are filed naming a child in county department custody, the department will be included as a "victim notification" contact.

H. Other Responsibilities of Investigators

- 1) All reports shall be investigated within statutory requirements. If there is a report where law enforcement is not available, child protection will intervene to maintain the safety of the children and the integrity of the investigation.
- 2) Human Services will be available 24 hours a day to respond to reports or make arrangements with law enforcement to investigate.
- 3) The alleged perpetrator will be interviewed by both Agencies on all intra-familial reports and as requested by law enforcement on third-party reports, whenever possible.

- 4) If Human Services is unable to participate in the interview, caseworkers will be allowed to watch the interview whenever possible or have access to video or audio taped interviews.
- 5) If the alleged perpetrator refuses to be interviewed, Human Services will notify the perpetrator of the allegations and document all efforts made to interview the alleged perpetrator.
- 6) This MOU is approved with the understanding that all reports of abuse and neglect are unique and may require alternative procedures for completion of the investigation.

H. Case Documentation/Reports

Every effort shall be made to provide law enforcement access to information in the Department's case files during an investigation of child abuse/neglect on the part of either law enforcement or a joint investigation. The Department shall make the case file or a copy of the case file available for law enforcement officials. Law Enforcement shall contact the Child Welfare Manager when requesting necessary documentation. The Department will make every effort to have the information available within 24-72 hours of the requests, unless it is an emergency, in which case the information will be provided as soon as possible. In the event the Department is in need of a corresponding police report, every effort shall be made to provide the information to the appropriate contact at the County Human Services Department.

I. Confidentiality

Reports and investigative information shall be confidential and not available to the public. Disclosure of information, including the child's name and address, names of caretaker or family members, reporting party's name and address, and any other identifying information contained in the report shall be permitted only when authorized by law or ordered by the court, as outlined in the Colorado Revised Statutes.

J. Amendments/Agreements

This interagency MOU may be amended or revised as agreed upon by the undersigned Agencies. Notice of proposed changes to the main body of this interagency MOU must be submitted in writing and agreed upon by all identified Agencies.

[Remainder of page intentionally left blank. Signatures on following page.]

DOUGLAS COUNTY DEPARTMENT OF HUMAN SERVICES

Dan Makelky, Director
Douglas County Human Services

Date

THE TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor
Town of Parker, Colorado

Date

ATTEST:

Chris Vanderpool, Town Clerk
Town of Parker, Colorado



Request for Town Council Action

Date: September 19, 2022

Submitted By: Jim Maloney, Assistant Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.309.1 - Second Reading**
A Bill for an Ordinance to Approve the First Amendment to the Amended and Restated Intergovernmental Agreement By and Between the Town of Parker, Colorado and Cherry Creek South Metropolitan District No. 4
Department: Town Attorney, Jim Maloney

EXECUTIVE SUMMARY

The purpose of this Ordinance is to approve an amendment to the intergovernmental agreement with Cherry Creek South Metropolitan District No. 4 (the "District").

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

On June 15, 2020, the Town entered into an intergovernmental agreement with the District (the "IGA"). Exhibit C to the IGA describes, in part, certain improvements that the District is responsible for maintaining. The purpose of this amendment to the IGA is to provide that the District is responsible for the maintenance of the streetscape, including the treelawn, as described in the final plat for Tanterra Filing No. 1.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 9.309.1

RECOMMENDED MOTION

I move to approve Ordinance No. 9.309.1 on second reading.

ORDINANCE NO. 9.309.1, Series of 2022

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE FIRST AMENDMENT TO AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PARKER, COLORADO AND CHERRY CREEK SOUTH METROPOLITAN DISTRICT NO. 4

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the First Amendment to Amended and Restated Intergovernmental Agreement between the Town of Parker, Colorado, and Cherry Creek South Metropolitan District No. 4, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffmann, Town Attorney

EXHIBIT 1

TOWN OF PARKER FIRST AMENDMENT TO AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PARKER, COLORADO AND CHERRY CREEK SOUTH METROPOLITAN DISTRICT NO. 4

THIS FIRST AMENDMENT TO AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “First Amendment”) is made and entered into as of this ____ day of September 2022, by and between the TOWN OF PARKER, a home rule municipal corporation of the State of Colorado (the “Town”), and the CHERRY CREEK SOUTH METROPOLITAN DISTRICT NO. 4, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”). The Town and the District are collectively referred to as the Parties.

WITNESSETH

WHEREAS, pursuant to § 29-1-203, C.R.S., the Parties are authorized to cooperate and contract with one another to provide any function, service or facility each is authorized to provide; and

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the Amended and Restated Service Plan approved by the Town on June 15, 2020 by Town Council Resolution No. 20-021 (the “Service Plan”); and

WHEREAS, the Parties entered into an Amended and Restated Intergovernmental Agreement dated May 18, 2020, in order to memorialize various obligations of the Parties, including operations and maintenance responsibilities, as further described in the Service Plan (the “Agreement”); and

WHEREAS, the Parties desire to amend Exhibit C of the Agreement to provide for the operations and maintenance of streetscape improvements adjacent to the community pool and clubhouse; and

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Amendment of Exhibit C. Exhibit C to the Agreement is hereby amended to include the following:

- Streetscape, including the treelawn and median, located adjacent to Lot 1/Community Park Tract, as described in the final plat for Tanterra Filing No. 1

2. Prior Provisions Effective. Except as specifically amended as set forth above, all other provisions of the Agreement shall remain in full force and effect.

3. Counterpart Execution. This First Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

4. Incorporation. The recitals set forth above are incorporated in and made a part of this First Amendment.

[Signature Pages Follow.]

IN WITNESS WHEREOF, this First Amendment is executed by the Town and the District as of the date first above written.

TOWN OF PARKER, COLORADO

By: _____
Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Kristin Hoffman, Town Attorney

[Signature page 1 of 2 to First Amendment to IGA between the Town of Parker and Cherry Creek South Metropolitan District No. 4]

**CHERRY CREEK SOUTH
METROPOLITAN DISTRICT NO. 4**, a
quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
Kurt Wolter, President

ATTEST:

Kim Jensen, Secretary

***[Signature page 2 of 2 to First Amendment to IGA between the Town of Parker and Cherry
Creek South Metropolitan District No. 4]***