



Lone Tree City Council Agenda Tuesday, July 15, 2014

Meeting Location: City Council Meeting Room, Lone Tree Civic Center, 8527 Lone Tree Parkway.

Meeting Procedure: The Lone Tree City Council and staff will meet in a public Study Session at 4:30pm. At 6:00pm and following the meeting, if necessary, the Council Meeting will adjourn and convene in Executive Session. If an Executive Session is not necessary, Council will recess for dinner. The Regular Session will be convened at 7:00pm. Study Sessions and Regular Sessions are open to the public, Executive Sessions are not. Comments from the public are welcome at these occasions: 1. Public Comment (brief comments on items not scheduled for a public hearing) 2. Public Hearings. Contact the City Clerk if special arrangements are needed to attend (at least 24 hours in advance).

4:30pm Study Session Agenda

1. South Suburban Park Foundation Trail Map
 2. Resolution 14-XX, HEAL Cities & Towns
 3. Independence Day Report
 4. Community Sign Plan Update
 5. Circulator Shuttle Advertisement Update
-

6:00pm Executive Session Agenda

1. Roll Call
 2. Executive Session
-

7:00pm Regular Session Agenda

3. Opening of Regular Meeting/Pledge of Allegiance
4. Amendments to the Agenda and Adoption of the Agenda
5. Conflict of Interest Inquiry
6. Public Comment
7. Announcements

City of Lone Tree Upcoming Events (more info available at www.cityoflonetree.com)

- City of Lone Tree Realtor Summit on July 16th from 11:30am-1pm at LTAC
- Lone Tree Free Pool Day on July 24th from 11:00am – 7:00pm
- Lone Tree Golf Day on July 26th from 2:00pm – 4:00pm
- Summer Concert featuring Moses Jones Band on August 2nd from 6:00 pm – 9:00 pm
- Lone Tree Free Pool Days on August 10th from 10:00 am – 6:00 pm

Lone Tree Arts Center Upcoming Events (more info available at www.lonetreeartscenter.org)

- “Chased” Tunes on the Terrace on July 25th at 8:00 pm
- “Motown Party” Tunes on the Terrace on August 1st at 8:00 pm
- “Once Upon a Time” Arts in the Afternoon LTAC on August 13th at 1:30 pm

8. Presentations
 - a. Wellspring Community Presentation
9. Consent Agenda
 - a. Minutes of the July 1, 2014 Regular Meeting
 - b. Claims for the Period of June 23 – July 7, 2014
 - c. Treasurer’s Report for May 2014
10. Administrative Matters
 - a. Approval of Shuttle Contract
 - b. **Resolution 14-15, APPOINTING NEIL RUTLEDGE TO ACT AS CITY ATTORNEY**
11. Council Comments
12. Adjournment



CITY OF LONE TREE STAFF REPORT

TO: Mayor Gunning and City Council

FROM: Kristen Knoll

THROUGH: Steve Hebert

DATE: July 8, 2014

FOR: July 15, 2014

SUBJECT: Wellspring Community Presentation

Summary

The Lone Tree Youth Commission presents Wellspring Community with a check for \$4,200. This is the total earnings from the Charity Bowl event at Brunswick Zone on Saturday, June 21, 2014.

Statistics related to the event:

- 90 people attended
- The event raised \$4,200 for Wellspring Community. This is a significant increase from last year when the Youth Commission raised just \$2,700.
- There was significant sponsorship support from some local businesses like Sky Ridge Hospital, Bellco Credit Union, Vectra Bank, Nationwide Insurance, Lone Tree Dentists and Orthodontics, Morgan Stanley, AXA Advisors and Hire Connections
- Smaller, local businesses donated in-kind prizes like Jack and Jill Hair Salon, Firehouse Subs, Yogurtini, Fox & Hound, Lone Tree Arts Center, Willow Creek Dental, Denver Zoo, Elitch's, Cornzapoppin and Core Power Yoga. In-kind donations were given to individuals and teams with the highest/lowest score, most strikes, spares, and gutter balls
- Several local businesses like Charles Schwab and Nationwide Insurance created corporate teams who participated in the event. Four City of Lone Tree employees also formed a team
- Youth Commissioners sold event t-shirts and Wellspring Community sold cookies, dog biscuits and cookie mix

Cost
N/A

Suggested Motion or Recommended Action
N/A

Background

For the third consecutive year, the Lone Tree Youth Commission has held a charity event to support the Castle Rock nonprofit, Wellspring Community. This is the first year the Youth Commission chose to host the event at Brunswick Zone as a bowling tournament.

**MINUTES OF A REGULAR MEETING
OF THE COUNCIL OF THE
CITY OF LONE TREE
HELD
July 1, 2014**

A regular meeting of the Council of the City of Lone Tree was held on Tuesday, July 1, 2014, at 6:00 p.m., at the Lone Tree City Council Chambers located at 8527 Lone Tree Parkway, Lone Tree, Colorado 80124.

Attendance

In attendance were:

James D. Gunning, Mayor
Jacqueline Millet, Mayor Pro Tem
Harold Anderson, Council Member
Kim Monson, Council Member
Susan Squyer, Council Member

Also in attendance were:

Seth Hoffman, City Manager
Jennifer Pettinger, City Clerk
Steve Hebert, Deputy City Manager
Jeff Holwell, Economic Development Director
Chief Jeffery Streeter, Lone Tree Police Department
Kristin Baumgartner, Finance Director
Jennifer Drybread, Senior Planner
Lisa Rigsby Peterson, Lone Tree Arts Center Director
Gary White, City Attorney, White, Bear and Ankele, P.C.
Neil Rutledge, Assistant City Attorney, White, Bear and Ankele, P.C.
John Cotten, Public Works Director, TST, Inc.

Call to Order

Mayor Gunning called the meeting to order at 6:07 p.m., and observed that a quorum was present.

Executive Session

Mayor Gunning announced City Council intends to convene in Executive Session. Neil Rutledge, Assistant City Attorney, stated the Executive Session is for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, personnel matters, and/or instructing negotiators, under C.R.S. Section 24-6-402 (4)(e) concerning a franchise agreement. Mayor Pro Tem Millet moved, seconded by Council

Member Squyer, for City Council to recess and convene in Executive Session for the reasons stated. The motion passed with a vote of 5-0.

Council adjourned to an Executive Session at 6:08 p.m.

Following a short recess, the Executive Session was convened at 6:08 p.m.

The Executive Session was adjourned at 6:49 p.m.

Mayor Gunning reconvened the meeting in Regular Session at 7:04 p.m., following a short recess.

Pledge of Allegiance

Mayor Gunning led those assembled in reciting the Pledge of Allegiance.

Amendments to the Agenda

There were no amendments to the agenda.

Conflict of Interest

There was no conflict of interest.

Public Comment

Bill Robertson, 9278 E. Aspen Hill Circle, said he encouraged Mr. MacGregor to attend to assist him.

Doug MacGregor, 7434 Indian Wells Cove, asked Council to speak louder so he could hear.

Announcements

Sophia Kenny, Youth Commissioner, gave Council an update on the Youth Commission.

Mayor Gunning announced upcoming events.

Consent Agenda

Mayor Gunning noted the following items on the Consent Agenda, which consisted of:

- § *Minutes of the June 17, 2014 Regular Meeting*
- § *Claims for the period of June 9-23, 2014*

Council Member Squyer moved, Council Member Monson seconded, to approve the Consent Agenda. The motion passed with a vote of 5-0.

Community Development

*RidgeGate Section 15 Filing 21, 1st Amdt SIP (New Town Builders Townhomes) #SP14-26R and
RidgeGate Section 15 Filing 21, 1st Amdt Replat (New Town Builders Townhomes) #SP14-29R*

Jennifer Drybread, Senior Planner, introduced the items. Darryl Jones, Coventry Development, Kevin Puccio, Director of Community Development for New Town Builders, and Kevin Yoshida, applicant's architect from the Abo Group, spoke about the project and answered questions from City Council.

Mayor Gunning suggested the two items be postponed for staff to work with the applicant regarding Council's concerns and to gather more information. The applicant agreed to the postponement.

Police Department

Approval of IGA of the Colorado Information Sharing Consortium (CISC)

Chief Jeffery Streeter introduced the item.

Council Member Anderson moved, Council Member Squyer seconded, to approve the IGA of the Colorado Information Sharing Consortium (CISC). The motion passed with a vote of 5-0.

Administrative Matters

RESOLUTION 14-13, ADOPTING THE AMENDED CITY OF LONE TREE FEE SCHEDULE

Jennifer Pettinger, City Clerk and Matt Archer, Chief Building Official, introduced the item. Council Member Monson suggested amending the Electrical Permit Fee Schedule to incorporate a hybrid of the previous fees for projects under \$20,000.

Council Member Monson moved, Mayor Pro Tem Millet seconded, to approve **Resolution 14-13, ADOPTING THE AMENDED CITY OF LONE TREE FEE SCHEDULE** as Matt Archer presented and amending the electrical permit fee schedule in this manner:

Delete "Not more than \$2,000.00=\$100.00" and replace with "Not more than \$300=\$30.00"

Add "More than \$300.00 but not more than \$2,000.00=\$35"

Add “More than \$2,000.00 but not more than \$20,000.00=\$15.00 per thousand or fraction thereof of total valuation”

Change the following line from “\$2,000.00” to “\$20,000.00”.

The motion passed with a vote of 4-0, with Council Member Squyer abstaining.

RESOLUTION 14-14, APPOINTING A MEMBER TO THE CITY OF LONE TREE AUDIT COMMITTEE

Mayor Pro Tem Millet introduced the item.

Mayor Pro Tem Millet moved, Council Member Squyer seconded, to approve **Resolution 14-14, APPOINTING A MEMBER TO THE CITY OF LONE TREE AUDIT COMMITTEE (Suzanne Gibson)**. The motion passed with a vote of 5-0.

Approval of IGA with OmniPark Metropolitan District for Circulator Shuttle

Torie Brazitis, Management Analyst, introduced the item.

Council Member Squyer moved, Council Member Anderson seconded, to approve the IGA with OmniPark Metropolitan District for Circulator Shuttle. The motion passed with a vote of 5-0.

Adjournment

There being no further business, Mayor Gunning adjourned the meeting at 9:11 p.m.

Respectfully submitted,

Jennifer Pettinger, CMC, City Clerk



CITY OF LONE TREE
STAFF REPORT

TO: Mayor Gunning and City Council

FROM: John P. Cotten, P.E. and Torie Brazitis

DATE: June 8, 2014

FOR: June 15th Council Meeting

SUBJECT: Circulator Shuttle Service Agreement

Summary

The Agreement is with Western Parking Management, LLC, doing business as Western Transportation Services. A Request for Proposals to operate the Lone Tree Circulator Shuttle, now known as the Lone Tree Link, was prepared and two firms submitted valid proposals. The two proposers were interviewed and Western Parking Management was selected.

The Agreement covers the operation of the Link and associated details. The salient features of the service are:

- § Service will commence on September 17, 2014 and the Agreement automatically renews for a period of 4 – 12 month terms, subject to annual appropriation by the Lone Tree City Council.
- § The Agreement provides for three buses with a fourth spare bus in case of mechanical faults or in the event that the City determines that it desires to add a fourth bus to the service.
- § The service will operate from 6:00 AM to 7:00 PM on weekdays.
- § The buses will be 13 passenger vehicles equipped with two wheelchair positions, a wheelchair lift and one bike rack capable of carrying two bikes.
- § The shuttles will primarily operate in a circular route with stops at the Charles Schwab campus, SkyRidge Hospital, ParkRidge Corporate Center, the Lincoln Light Rail station, the Entertainment District and Kaiser Permanente.
- § From 6:00 AM to 7:30 AM, the buses will run an abbreviated route with two buses shuttling between the Lincoln Light Rail station and the Charles Schwab campus and the third bus shuttling between the Lincoln Light Rail station and SkyRidge hospital.
- § The cost of the service is based upon an hourly rate for time actually in service and includes the four buses including drivers, supervisors, training,

a mobile application, permits, licenses and fees, insurance, fuel and maintenance and is as follows:

- 1st 12 months - \$41.56 per service hour
- 2nd 12 months - \$42.81 per service hour
- 3rd 12 months - \$44.09 per service hour
- 4th 12 months - \$46.77 per service hour

- § The City will be responsible to pay for the cost of design and installation of wraps for the four buses and to pay for removal of the wraps at the end of the contract.
- § The Agreement allows for a cost adjustment should the cost of gasoline exceed \$4.00 per gallon.

Cost

The cost for the service is expected to be approximately \$439,000 in the first year of service and will increase to approximately \$494,000 in the fourth year of service. These costs will increase should the City determine that either the service hours or the number of buses in service should be increased.

Suggested Motions

I move to approve the Circulator Shuttle Service Agreement with Western Parking Management for operation of the Lone Tree Circulator Shuttle and authorize the City Manager to make non-substantive revisions to the Agreement and to execute the Agreement.

Background

This Agreement institutes the shuttle service that the City has contemplated for several years and will provide a valuable service to a number of businesses along the Park Meadows Drive corridor. It will particularly facilitate the ability of employees of those businesses to more easily use the RTD light rail and bus services to travel to their workplaces without relying on a private vehicle. This is expected to have an identifiable benefit to congestion reduction as well as air quality enhancement.

CIRCULATOR SHUTTLE SERVICE AGREEMENT
BETWEEN THE CITY OF LONE TREE
AND WESTERN PARKING MANAGEMENT, LLC

This Shuttle Service Agreement (the “**Agreement**”) is made this ____ day of _____, 2014, by and between Western Parking Management LLC d/b/a Western Transportation Services (“**OPERATOR**”), and THE CITY of Lone Tree (“**THE CITY**”). OPERATOR and THE CITY are hereafter sometimes collectively referred to as the “**Parties**” and singularly referred to as the “**Party**.”

RECITALS

WHEREAS, THE CITY wishes to operate a Circulator Shuttle Route (the “**Operation**”) and is in need of a professionally operated Shuttle service to provide transportation for operating partners employees, patients, agents and members of the public at no charge to riders; (the “**Services**”); and

WHEREAS, OPERATOR is in the business of furnishing shuttle services including personnel and desires to provide such Services for the operation.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Parties agree as follows:

ARTICLE I - APPOINTMENT

1.1 The Agreement. This Agreement shall include and incorporates the requirements, conditions, obligations and promises of: 1) THE CITY’s Request for Proposals (RFP) to Provide Circulator Shuttle Services in the City of Lone Tree, Colorado, dated April 2014 (the “RFP”); and 2) OPERATOR’s The City of Lone Tree Circulator Shuttle Services Proposal, dated May 19, 2014 (the “Proposal”). The RFP and the Proposal shall be interpreted as consistent with all other terms and conditions in this Agreement, wherever possible. To the extent this Agreement conflicts with the terms and conditions contained in the RFP or the PROPOSAL, the terms and conditions in this Agreement shall control.

1.2 Services Provided by OPERATOR. OPERATOR hereby agrees to provide the Services to THE CITY during the term of this Agreement, and any extension hereof, in accordance with the terms and conditions set forth in this Agreement. OPERATOR is to provide transportation services for THE CITY and its partners on times and specified routes as determined by THE CITY.

ARTICLE II –OBLIGATIONS OF THE OPERATOR

2.1 Service Areas. OPERATOR will conduct Circular Shuttle Transportation for the following partners as a whole, with THE CITY itself as the project manager and point of contact for OPERATOR:

- THE CITY of Lone Tree
- Charles Schwab
- Sky Ridge Medical Center
- Kaiser Permanente Colorado
- Park Ridge Corporate Center (OmniPark Metropolitan District)

THE CITY reserves the right to alter the location for Services, including the timing and number of stops, upon notice to OPERATOR. It is mutually understood that THE CITY of Lone Tree is entering into a pilot transportation program that may require flexibility and adjustable schedules. Hours of operation and number/type of vehicles may change as needs of the service fluctuate. Both parties agree to work in concert to ensure that transportation objectives are met in a timely manner and the Circular Shuttle delivers effective service.

2.2 Hours of Operation. Unless as otherwise set forth in this Agreement, OPERATOR will provide the number of trained and uniformed drivers and shuttles to provide the Services during the hours of normal operation as determined by THE CITY. Initial plans call for the hours of normal operation to be as follows:

Monday thru Friday

Three Shuttles in rotation 6:00 AM – 7:00 PM

The initial agreement is for up to 203 hours of service per week. THE CITY reserves the right to increase or decrease the hours as required to meet the demands of the service. Any service above 297 hours or below 203 per week must be mutually agreed upon by THE CITY and OPERATOR prior to billing cycle.

2.3 Equipment and Supplies.

- a. OPERATOR shall furnish four shuttles able to transport 13 passengers with 2 wheelchair positions to provide the services for the circular shuttle service. OPERATOR will provide one shuttle equal to size and capacity to be used as a

backup shuttle in the event of mechanical failures and increased service requested by THE CITY.

- b. The OPERATOR agrees to facilitate the wrap of these shuttles with materials, installation costs and designs supplied by THE CITY no later than September 7, 2014 (10 days before the start of service). CITY will pay for the removal of said wraps upon termination of this Agreement or replacement of shuttle per CITY request.
- c. Except as specifically provided as an obligation of THE CITY under this Agreement, OPERATOR shall provide and maintain at its sole cost and expense the necessary equipment, supplies, and vehicles to permit the timely and professional completion of the Services, including, but not limited to repair, maintenance and upkeep of all vehicles used by OPERATOR for the provision of the Services.
- d. In the event that THE CITY and OPERATOR reasonably determines that additional or larger capacity shuttle vehicles are reasonably necessary to meet the demand for providing efficient service, THE CITY and OPERATOR agree to work together in good faith to negotiate terms for the increase in the number or capacity of the shuttle vehicles.
- e. OPERATOR shall be responsible for maintaining radio/communications control of all vehicles in-service and for maintaining the daily dispatch log. Each vehicle shall have a two-way radio or other communication device and GPS Tracking device. Additionally, it is a priority of THE CITY that the OPERATOR and its drivers coordinate closely with the RTD Call-N-Ride service that operates in the same area of THE City for a different purpose. The OPERATOR agrees to work with RTD to communicate to the public the limitations of their respective services and coordinate transfers of riders between them.
- f. The OPERATOR shall secure access to and use of an operations and maintenance facility sufficient to enable the OPERATOR to effectively manage and operate the circulator shuttle service.
- g. OPERATOR will maintain the clean, professional appearance of the vehicles throughout the operating day at its expense and will be responsible for removing litter and debris from inside the vehicles. OPERATOR will clean the interior surfaces thoroughly and wash the exterior of the vehicles to maintain the high standards of THE CITY.
- h. OPERATOR is solely responsible for the cost of maintaining and repairing of the vehicles. In the event a vehicle is temporarily or permanently out of service, OPERATOR shall be solely responsible for providing a substantially comparable replacement vehicle within 30 minutes.

2.4 Personnel.

- a. OPERATOR will, at its own expense, recruit, employ, train and properly supervise all employees necessary to provide the services. All personnel employed by the OPERATOR will at all times and for all purposes be solely in the employment of the OPERATOR. OPERATOR shall insure that all persons providing services hereunder shall have valid and current driver's licenses issued by the State of Colorado (if applicable, CDL License A, B, or C, with passenger endorsement).
- b. All OPERATOR's employees will be screened before being hired. Such screenings shall include criminal background checks and a check of the applicant's driving record. Additionally, all OPERATOR's employees will be subject to pre-employment and random drug screening. Upon request by THE CITY, OPERATOR will provide THE CITY with all background and screening information regarding such employee.
- c. OPERATOR will meet the minimum requirements for all employees who may come in any contact with shuttle riders, including but not limited to:
 1. No conviction or pending charges for driving while intoxicated or under the influence of controlled substances within the preceding five years.
 2. No accumulation of more than five (5) points on any State issued driver's license in the past five (5) years.
 3. No addiction to the use of alcohol or controlled substances.
 4. No outstanding warrants for arrest.
 5. Able to read, write and speak English.
 6. Training of vehicle drivers in all operational procedures relating to the services provided, including a minimum of 40 hours of training on:
 - i. Colorado motor vehicle laws, local municipality regulation, (CDL permit testing, CDL pre-trip, CDL maneuvers, CDL road test when required).
 - ii. Defensive Driving (8 hours minimum).
 - iii. Route maps and instructions.
 - iv. Schedules, pullouts, destination codes, timed transfers, etc.
 - v. Accident and incident procedures and reports.
 - vi. Radio /communication procedures.
 - vii. Passenger relations, customer service and information, diversity issues, security awareness.
 - viii. Lift procedures, loading and securing mobility devices, blind passenger exercises, calling transfer points/ major intersections.
 - ix. ADA regulations, service animals, elderly.
 7. Testing throughout training to measure retention, service changes, uniforms, timepieces, rules and regulations, regular safety meetings and on-going training.

- d. All employees of OPERATOR shall wear appropriate professional uniforms furnished by the OPERATOR and approved by THE CITY, when on duty at the Premises; OPERATOR's employees will conduct themselves in a manner consistent with the standards, quality, and image of THE CITY.
- e. OPERATOR will establish policies to ensure that all of its employees adhere to similar appearance and conduct policies as employees of THE CITY.
- f. OPERATOR's employees shall be prohibited from soliciting or accepting gratuities.
- g. OPERATOR shall immediately discontinue the provision of Services to THE CITY by any employee driver of OPERATOR in the event the employee's driver's license is suspended or revoked or the employee tests positive to a drug screening. If THE CITY is dissatisfied with an employee of OPERATOR, THE CITY may request OPERATOR to discontinue the provision of Services to THE CITY by such employee by written notice directed to OPERATOR, and OPERATOR shall permanently replace such employee's Services with another employee within five business days after the date of such notice.

2.5 Licenses, Permits and Taxes.

- a. OPERATOR will comply with and observe all current and future applicable federal, state and local laws and regulations, and will, at its expense, pay any taxes incident to the operation of the Services and secure and pay for any and all required licenses and permits.
- b. OPERATOR shall, at its sole risk and expense, secure all necessary Colorado PUC approvals for this route and service before the service start date of September 17, 2014. The bus must be approved by the PUC to provide service, beginning on that date.
- b. OPERATOR shall treat all individuals who, on behalf of OPERATOR, perform Services pursuant to this Agreement as employees and shall withhold and pay employment taxes for which it is liable under federal, state, and local law.

2.6 Record Keeping and Reporting

- a. OPERATOR shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for THE CITY.
- b. All costs incurred in connection with this project and any relevant financial records and documents shall be recorded in accounts separate from those used for other business activities.
- c. Summary reports shall be provided monthly to the contract administrator. The

monthly reports shall be received no later than the 10th calendar day of the following month. The format to be used for these monthly summaries shall be developed by the OPERATOR in cooperation with THE CITY.

1. Daily Records: Vehicle trip sheets shall be maintained by vehicle and reports to be retained by the OPERATOR to be used in compiling the monthly reports. Vehicle trip data must be available to THE CITY upon request.
2. Logs: Logs shall be compiled daily, and cover each vehicle OPERATOR, vehicle number and vehicle shift. The log shall include odometer readings, total hours, revenue hours, or billing hours, total miles, first pick-up, and last drop off for each shift, and indicating times of lunches, breaks, road calls and any other service interruptions.
3. Accounting: The OPERATOR shall submit a monthly invoice to THE CITY for the services rendered during the reporting period. All invoices and related records will be available for inspection and /or independent audit at the election of THE CITY.
4. Performance Standard Reports:
 - i. On-Time Performance Standards: maintain on-time performance within zero minutes early and five minutes late of scheduled times. 95% of all scheduled times reported monthly to city
 - ii. Missed Trips: Complete scheduled trips in their entirety and within 10 minutes of scheduled time
 - iii. Miles Between Road Calls
 - iv. Preventative Maintenance Inspections
 - v. Complaints
 - vi. Complaint Response and Resolution
 - vii. Safety
 - viii. Monthly reports and record keeping

ARTICLE III - THE CITY'S OBLIGATIONS

3.1 Shuttle Access. THE CITY shall provide for adequate and convenient loading and unloading zones for the shuttles with proper licensing and permits for use of said loading and unloading zones.

3.2 OPERATOR's Parking. OPERATOR will provide an area adequate in size for shuttle equipment from which to operate the Services and will assign adequate parking spaces for the storage of vehicles.

3.3 **Communication Equipment.** THE CITY will provide radios, cell phones, vehicle chargers for the radios, and a secure location for safekeeping off hours for use by OPERATOR's employees as necessary for the provision of the Services.

ARTICLE IV - TRADEMARKS AND TRADE NAMES

4.1 **THE CITY's Name.** OPERATOR shall not use the words "THE CITY Of Lone Tree" or operating partners or any trademark or trade style belonging to THE CITY for any purpose whatsoever, unless provided otherwise by law or written agreement between the Parties. OPERATOR may use approved signage on the shuttles for rider convenience.

ARTICLE V – COMPENSATION

5.1 **Hourly Fees.** THE CITY agrees to pay to OPERATOR a fee of:

- \$41.56 per service hour year one
- \$42.81 per service hour year two
- \$44.09 per service hour year three
- \$46.77 per service hour year four

Additional shuttle hours and management hours shall be invoiced at the normal billable rate. When service is requested by THE CITY outside the scope, OPERATOR may invoice hours at 1.5 times over-time pay rates.

5.2 **Fuel Expenses.** Fuel costs will be paid by OPERATOR as included in hourly billing rate. In the event fuel costs rise above \$4.00 average cost actual fuel cost difference will be charged to THE CITY or renegotiations of hourly bill rate will occur.

5.3 **Additional Expenses.** Except as otherwise provided herein, OPERATOR understands and agrees that it will be responsible for the payment of all its expenses incurred in providing the Services set out in this Agreement, including the cost of vehicles, drivers and supervisors salaries, payroll taxes, benefits, data processing, and supplies, auto liability insurance, licenses and permits, repairs and maintenance, claims and all other fees related to the Services.

5.4 **Invoices.** OPERATOR shall submit a monthly invoice to THE CITY indicating (a) the relevant time period; (b) the total number of employee hours worked during that period; and (c) the amount of compensation due for that period.

ARTICLE VI – INSURANCE

- 6.1 Insurance Coverage for Services.** OPERATOR shall furnish and maintain at it's sole expense, for the entire term of this Agreement, the following insurance coverage for the Services:
- a. **Comprehensive General Liability Insurance.** OPERATOR agrees to acquire and maintain, at its own expense, during the term of this Agreement and any extension thereof, a policy or policies of general liability insurance, including without limitation coverage for personal injury, bodily injury, death, property damage, contractual liability for the protection of THE CITY, as its interest may lie, insuring against any and all claims, damages, liability, judgments, costs, and expenses related to the acts and omissions of OPERATOR in providing the Services under this Agreement, that are caused by or arise out of any omission, fault, negligence or other misconduct by OPERATOR, its agents, servants, or employees. Such policy or policies shall provide coverage in an amount of not less than (\$1,000,000.00) each occurrence for bodily injury/property damage. OPERATOR shall send THE CITY a copy.
 - b. **Automotive Liability Insurance.** OPERATOR agrees to acquire and maintain, at its own expense, during the term of this Agreement and any extension thereof, automobile liability insurance covering the Services, with a combined single limit of not less than Five Million Dollars (\$5,000,000.00) million per occurrence. Such insurance shall indemnify and hold THE CITY harmless for any and all claims, damages, liability, judgments, costs, attorney fees, paralegal fees or any other fees related to the Services resulting from or arising out of any such claims of or occurrences of damage to said vehicles of others that are caused by, or arise out of any omission, fault, negligence or other misconduct by OPERATOR, its agents, servants, independent contractor, or other employees. Such insurance shall name THE CITY as an additional insured and shall waive subrogation against THE CITY. OPERATOR shall furnish THE CITY with proof on Insurance
 - c. **Worker's Compensation Insurance.** OPERATOR shall provide workers' compensation insurance including employer's liability insurance in accordance with the laws of the State of Colorado and shall provide THE CITY with proof of said insurance.
 - d. **Umbrella/Excess Insurance.** OPERATOR shall provide excess liability insurance in an amount not less than Two Million Dollars (\$2,000,000.00) for excess liability over the coverages provided by all primary insurance policies referenced above. OPERATOR shall provide proof of said insurance.

6.2 General Insurance Provisions. OPERATOR agrees that every policy of insurance required under this Agreement and any extension thereof:

- a. shall be placed with a financially sound and reputable insurance company and licensed to do business in the State of Colorado, and which shall be reasonably acceptable to THE CITY;
- b. shall be in a form reasonably acceptable to THE CITY;
- c. shall name THE CITY as an additional insured, as its interest may appear
- d. shall be provided to THE CITY upon the full execution of this Agreement.

6.3 Indemnification & Claims.

- a. **Indemnification by OPERATOR.** OPERATOR hereby indemnifies and holds harmless THE CITY, its officers, directors, employees, subsidiaries affiliated companies, from and against any and all claims, damages, liabilities, costs and expenses, that are caused by or arise out of any omission, fault, negligence or other misconduct by OPERATOR, its agents, servants, independent contractors, or employees in rendering the Services hereunder.
- b. **Indemnification by THE CITY.** To the extent permitted by law, THE CITY hereby indemnifies and holds harmless, the OPERATOR, its employees, subsidiaries, parents, and affiliated companies, from and against any and all claims, damages, liabilities, costs and expenses, that are caused by or arise out of any omission, fault, negligence or other misconduct by THE CITY, its agents, servants, independent contractors, or employees in rendering the Services hereunder.

ARTICLE VII - TERM AND TERMINATION

7.1 Term. The term of this Agreement shall commence on September 17th, 2014, or such other date as agreed to in writing by the Parties, and shall continue for a period of twelve (12) months from the Services start date (the “Initial Term”). This Agreement shall be automatically renewable for a twelve (12) month term (“Renewal Term”) for three (3) consecutive twelve (12) month terms at the end of the Initial Term under the pricing, terms and conditions set forth in this Agreement. THE CITY is a political subdivision. The Parties agree that an automatic renewal cannot occur if THE CITY’s City Council does not budget for payment in any given fiscal year of THE CITY. At the expiration of the Renewal Term, this Agreement shall continue on a month-to-month basis, terminable by either Party upon 30 days written notice, or may be renewed by both

parties concurring. THE CITY will be required to pay any early termination fees incurred in the event of termination prior to three (3) 12 month terms.

- 7.2 **Termination for Cause.** Except as otherwise provided herein, it is expressly understood and agreed that either Party shall have the right to terminate this Agreement in the event the other Party materially breaches this Agreement if such breach has been called to the attention of the breaching Party in writing via certified mail and the breaching Party has not cured such breach within ten (10) days of receipt of such written notice. In that event, the non-breaching Party shall thereupon have the right to cancel and terminate the Agreement upon written notice delivered to the breaching Party via certified mail.
- 7.3 **Termination in the Event of Bankruptcy.** This Agreement may be terminated immediately for cause by either Party if the other Party files a petition in bankruptcy, is adjudicated as bankrupt, or takes advantage of the insolvency laws of any jurisdiction, makes an assignment for the benefit of creditors, is voluntarily or involuntarily dissolved or has a receiver, trustee, or other court officer appointed with respect to its property.
- 7.4 **Termination without Cause.** This Agreement may be cancelled at any time without cause or penalty by either party upon thirty (30) day advanced written notice.

ARTICLE VIII - MISCELLANEOUS

- 8.1 **Notices.** All notices shall be in writing and shall be sent registered or certified mail, addressed to the first given above unless that Party has given notice of a new address pursuant to the terms of this Agreement.

To OPERATOR-
Western Parking LLC

To THE CITY of Lone Tree

Michelle Yardeny, Vice President
Western Parking Mgt. LLC
501 Park Ave West
Denver, CO 80205

Seth Hoffman, City Manager
City of Lone Tree
9220 Kimmer Drive, Suite 100
Lone Tree, CO 80124

Or to such other persons or places as either Party may from time to time designate by notice.

- 8.2 **Successors and Assigns.** The provisions hereof will be binding upon and inure to the benefit of the Parties and to their respective successors and assigns. This Agreement cannot be assigned by either Party without the prior written notice of the other.

- 8.3 **Equal Employer.** OPERATOR affirms that it is an Equal Opportunity Employer and will comply with all laws and regulations prohibiting employment discrimination in the performance of this Agreement.
- 8.4 **Waiver.** A failure of either Party to insist upon or enforce any term or provision or to exercise any right, option, or remedy of this Agreement, or to require at any time, performance of any provision hereof shall not be construed as a waiver of any such term or provision. No waiver by either Party of any term or provision hereof shall be binding unless made in writing and signed by such Party.
- 8.5 **Severability.** If any provisions of this Agreement are held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.
- 8.6 **Jurisdiction and Venue.** This Agreement shall be interpreted, construed and enforced pursuant to and in accordance with, the laws of the State of Colorado. Douglas County, Colorado shall be the exclusive venue and jurisdiction for any litigation, arbitration, special proceeding or other proceeding between the Parties that may be brought, or arise out of, in connection with or by reason of this Agreement.
- 8.7 **Right to Audit.** At THE CITY'S request, OPERATOR will promptly furnish THE CITY with any detail or documentation to verify OPERATOR's compliance with the terms and conditions of this Agreement. From time to time and upon reasonable prior written notice, THE CITY may audit, or appoint a nationally recognized auditor or other independent auditor reasonable acceptable to OPERATOR to audit OPERATOR's provision of services to ensure Vendor's compliance with the terms and conditions of this Agreement. Any such audit will be conducted during regular business hours. OPERATOR will identify and cooperate with THE CITY (or its representative) with reasonable access to all relevant equipment and records. Each party will bear all costs and expenses incurred by such party in connection with preparing for, conducting or complying with such audit, unless the audit reveals OPERATOR has breached a material term of the Agreement, in which case OPERATOR shall reimburse THE CITY for the cost of the auditor.
- 8.8 **Independent Contractor status.** This Agreement is one for independent contractor services. OPERATOR is an independent contractor and shall not be considered an employee of THE CITY for purposes of any federal or state law. THE CITY shall not be obligated to secure and shall not provide any employment benefits of any kind or type to or for OPERATOR, including but not limited to worker's compensation, disability insurance, errors and omissions insurance, vacation or sick leave, retirement contributions, or other benefits. OPERATOR shall be responsible for any federal and

state income tax withholding on moneys earned pursuant to this Agreement. This Agreement does not create a partnership, association or other business entity.

- 8.9 Entire Agreement; Modification.** This Agreement constitutes the entire agreement of the Parties concerning the subject matter hereof and supersedes all previous representations, understandings and agreements of the Parties, whether oral or written, concerning the same. This Agreement may only be modified by a written document signed by the Parties hereto.
- 8.10 Resolution of Disputes.** The Parties shall make every attempt to resolve their differences in an amicable manner. In the event of litigation arising out of or in connection with this Agreement between the Parties hereto, the prevailing Party shall be entitled to recover reasonable attorney's fees and expenses incurred in the prosecution or defense thereof.
- 8.11 No Waiver of Governmental Immunity.** Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to THE CITY, its officials, officers, contractors, employees, agents, volunteers, consultants or any other person acting on behalf of the THE CITY and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
- 8.12 Annual Appropriation.** Notwithstanding any provision of this Agreement to the contrary, the THE CITY is not obligated by this Agreement to make any payments in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or to make payments from any funds of THE CITY other than funds appropriated for the payment of current expenditures. All payment obligations of THE CITY under this Agreement do not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of THE CITY.
- 8.13 No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement.
- 8.14 Illegal Aliens.** OPERATOR hereby states that it does not knowingly employ or contract with illegal aliens and that OPERATOR has participated in or has attempted to participate in the E-Verify Program or the Colorado Department of Labor and Employment Program (as

defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. OPERATOR affirmatively makes the following declarations:

- A. OPERATOR shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated herein and will participate in the E-Verify Program or Colorado Department of Labor and Employment Program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated herein.
- B. OPERATOR shall not knowingly enter into a contract with a Subcontractor that fails to certify to OPERATOR that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated herein.
- C. OPERATOR has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Colorado Department of Labor and Employment Program.
- D. OPERATOR is prohibited from using either the E-Verify Program or the Colorado Department of Labor and Employment Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- E. If OPERATOR obtains actual knowledge that a Subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, OPERATOR shall be required to:
 - i. Notify the Subcontractor and the THE CITY within three (3) days that OPERATOR has actual knowledge that the Subcontractor is employing or contracting with an illegal alien.
 - ii. Terminate the contract with the Subcontractor if within three (3) days of receiving the notice required above the Subcontractor does not stop employing or contracting with the illegal alien; except that OPERATOR shall not terminate the contract with the Subcontractor if during such three (3) days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.
- F. OPERATOR shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

- G. If OPERATOR violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the THE CITY may terminate the Agreement. If the Agreement is so terminated, OPERATOR shall be liable for actual and consequential damages to the THE CITY.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written.

THE CITY:

OPERATOR:

THE CITY OF LONE TREE

WESTERN PARKING MANAGEMENT, LLC

By: _____

By: _____
Scott Eirish,
President, WPM LLC



CITY OF LONE TREE
STAFF REPORT

TO: Mayor Gunning and City Council

FROM: Steve Hebert, Deputy City Manager

DATE: July 9, 2014

FOR: July 15, 2014 City Council Meeting

SUBJECT: Resolution No. 14-15, Appointing Neil Rutledge to Act as City Attorney on an Interim Basis

Summary

The City's Home Rule Charter, Article VIII, Section 1, requires the City Council to appoint a City Attorney to be the legal advisor of the Council, serving at the pleasure of the Council. Resolution 13-22, appointed Gary R. White, of White Bear and Ankele, P.C., as the City Attorney. Mr. White is leaving on an approximate one-year sabbatical. In the interim, it is proposed that Mr. Neil Rutledge, of White Bear and Ankele P.C., be appointed to act as City Attorney in all legal matters, with authority to engage or use associates and/or special counsel as Mr. Rutledge deems appropriate after advising the City Council. This appointment would expire upon the resumption of the duties of City Attorney by Mr. White.

Cost

There is no cost to the City.

Suggested Motion or Recommended Action

I move to approve Resolution No. 14-15, Appointing Neil Rutledge to Act as City Attorney.

**CITY OF LONE TREE
RESOLUTION NO. 14-15**

**A RESOLUTION APPOINTING NEIL RUTLEDGE
TO ACT AS CITY ATTORNEY**

WHEREAS, the City of Lone Tree Home Rule Charter, Article VIII, Section 1, requires the City Council to appoint a City Attorney to be the legal advisor of the Council, serving at the pleasure of the Council; and

WHEREAS, the City Council, by Resolution 13-22, appointed Gary R. White, of White Bear and Ankele, P.C., as the City Attorney, continuing his longstanding tenure in that position; and

WHEREAS, Mr. White is on a sabbatical expected to take approximately one year; and

WHEREAS, during Mr. White's absence, the City Council wishes to ensure continuity in the duties and services provided by the City Attorney; and

WHEREAS, Neil Rutledge, of White Bear and Ankele, P.C., has served as Assistant City Attorney for the City for over seven years; and

WHEREAS, the City Council has worked closely with Mr. Rutledge and has confidence in his legal skills and abilities; and

WHEREAS, Mr. Rutledge possesses the necessary qualifications and experience required by the City Charter to act as City Attorney; and

WHEREAS, the City Council wishes to appoint Mr. Rutledge to act as City Attorney in Mr. White's absence;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF LONE TREE, COLORADO:**

Neil Rutledge, of White Bear and Ankele P.C., is hereby appointed to act as City Attorney in all legal matters, with authority to engage or use associates and/or special counsel as Mr. Rutledge deems appropriate after advising the City Council. This appointment shall expire upon the resumption of the duties of City Attorney by Gary R. White.

APPROVED AND ADOPTED THIS 15th DAY OF JULY, 2014.

THE CITY OF LONE TREE

James D. Gunning, Mayor

ATTEST

Jennifer Pettinger, CMC, City Clerk

(SEAL)