



Park City Municipal Corporation

in partnership with

Sundance Institute and the Kimball Art Center

**Arts and Culture District Mixed-Use Development
Project**

**Request for Proposals
Arts & Culture Visioning, Programming,
and Planning Specialist Consultant
Services**

**Submittal deadline: By Friday, September 15, 2017, at
4:00 p.m.**

Park City Municipal Corporation
Community Development Office
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060
(435) 615-5177

Staff contact: Nate Rockwood

Email: nrockwood@parkcity.org

RFP Website: <http://www.parkcity.org>

**NOTICE OF REQUEST FOR PROPOSALS FOR ARTS & CULTURE VISIONING,
PLANNING, AND PROGRAMMING SPECIALIST CONSULTANT SERVICES**

Park City Municipal Corporation (“PCMC”) in partnership and collaboration with Sundance Institute and the Kimball Art Center, is seeking the services of qualified professional consultants or groups with direct knowledge, technical capability, and experience in working with arts organizations, local governments, and community residents to define an Arts and Culture District development and operational vision; assess the opportunity and capacity for the planning and implementation of the District; and provide guide goals, priorities, and objectives for the following project:

Arts and Culture District Mixed-Use Development Project

RFP AVAILABLE:

A copy of the RFP can be obtained electronically by emailing nrockwood@parkcity.org. Any modifications or addendums to this RFP will be made in redlined form on the website on Wednesday, August 30, 2017, by 5:00 pm.

PROPOSALS DUE:

Proposal submittals must be received **by e-mail** no later than **4:00 p.m. on Friday, September 15, 2017**, at: nrockwood@parkcity.org.

PROJECT LOCATION: Bonanza Park, Park City Utah, more particularly described as parcel numbers PSA-46-A, PSA-46-RE-B, PSA-46-RE-C, PSA-46-RE-D, KBC-A, KBC-B, PCA-110-G-1, PCA-110-G-2-A, and PCA-110-G-3.

OWNER/CONTACT: Nate Rockwood, Capital Budget and Project Manager
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

All questions shall be submitted in writing no later than Tuesday, September 5, 2017, by 2:00 p.m. via e-mail to: nrockwood@parkcity.org

Park City Municipal Corporation reserves the right to reject any or all proposals received for any reason. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

I. Project Description

Park City Municipal Corporation (PCMC) in partnership and collaboration with Sundance Institute and the Kimball Art Center, seeks proposals for visioning, planning, and programming consultant services for an Arts and Culture District mixed-use project property currently under contract in the Bonanza Park area identified above, as well as the surrounding public roads and accesses. PCMC desires to obtain a consultant who will assess and analyze the current environment, needs, and interests of the invested parties and community stakeholders as it relates to arts and culture as well as future possibilities and opportunities. The work outlined in the RFP includes leadership and management in best practices and existing research, meeting and input facilitation, identification of grant and other funding opportunities, and development of a detailed project scope of work for the purposes of developing and operating a new Arts and Culture District in Park City with the Sundance Institute (“SI”) and Kimball Art Center (“KAC”) as the primary anchor owner-occupants.



While Park City has hosted the Sundance Film Festival since 1985 and the Kimball Arts Festival since 1976, the City Council, led by outgoing Mayor Jack Thomas (an architect by profession), embarked to cement the City’s place as a center for arts and culture for future generations. In July 2017, PCMC signed letters of intent with SI ([Letter of Intent - Sundance Institute](#)) and KAC ([Letter of Intent – Kimball Art Center](#)), and entered into a purchase agreement for 5.25 acres at

the southwest corner of Kearns Blvd. and Bonanza Drive in Park City, Utah. There are some known goals and the consultant should expect to work closely with the Mayor, the community, KAC, SI and lead staff to create a successful vision for a community altering project. The SI and KAC desire to locate their headquarter operations in the District. In addition to a new SI and KAC facilities and amenities within the newly established Arts and Culture District, PCMC intends to develop sub-grade and surface parking, a bus transit hub, multi-use open areas, and additional support retail, food and beverage facilities, housing, and potential other commercial uses that support the goals and priorities of the Arts and Culture District. The following information is provided to offer an idea of the scale of the project; however, this information is also preliminary and conceptual and intended to change as the initial planning and programming of the site develops further.

- PCMC will build and own structured and surface parking to meet the needs of the new development.
- PCMC will build and own a bus transit facility on the site.
- SI, KAC, and PCMC have agreed to jointly design the new Arts and Culture District.
- The Master Plan Development and Plat Amendment process through the Planning Commission and City Council will conform to the height and design standards included within the General Plan, Land Management Code, and other relevant regulatory requirements.
- PCMC will develop between 60,000 and 90,000 square feet of additional building space plus walkways, plazas, and outdoor amenities that contribute to the vibrancy of the new development.
- SI anticipates a new film festival headquarters that is approximately 40,000 to 50,000 square feet including exhibit, theater, and office spaces.
- KAC anticipates a new 30,000 to 40,000 square foot facility including gallery, studios, and office and entertaining space.

Arts and culture programs, services, and activities play an important role in a community's social and economic well-being. Activities may include festivals, live performances, films, exhibits, art education, public art, and social gatherings. The consultant will be expected to obtain input from existing art and business stakeholders, adjacent property owners, the local Park City School District, Park City Summit County Arts Council/Project ABC, and other local non-profit and government/educational partners. Additionally, the Arts and Culture District will be used year-round as a destination area for both tourists and local residents; have the ability to be transformed and used for special event activities, and be a net-zero energy development focused on the long term health of the community. Design of the Arts & Culture District itself, as well as the individual buildings therein, should inspire creative thought and enterprise.

II. Site Information

Zoning & Existing Conditions

The current Park City Municipal Land Management Code ("LMC") identifies the zoning on the subject site as General Commercial ("GC"). The proposed building and site improvements lay across several City-owned metes and bounds parcels. Prior to construction, the City's LMC requires the property to be included within a platted subdivision and that all improvements meet all of the requirements of the LMC for the zone. PCMC will provide site survey information and

conduct necessary platting approvals to identify a developable lot of record, concurrent to the programming process. PCMC will also procure preliminary soil (geo-tech) and environmental information on the site.

III. Scope of Work

A. Phases of Work

Phase 1

The first phase of work is anticipated to take no more than two (2) months' time and includes weekly meetings and activities to accomplish: (1) Stakeholder information gathering; (2) education of stakeholders on arts and culture development and operations best practices and case studies; (3) community engagement and communication to educate and receive input; (4) assessment of tenant mix, built facilities, and operational needs and opportunities; and (5) recommendations of an arts and culture district vision, goals, priorities, identifying of grant and other funding strategies, program of spaces and site amenities to be included in the new development, and a long term operational management plan including roles and responsibilities.

Phase 2

The second phase of work is anticipated to take six (6) to eight (8) months and includes bi-monthly check-ins with the stakeholders and review of design development documents by a separately hired design consultant team to develop documents for Master Plan Development (MPD) approvals through the Planning Commission, and Plat Amendments through the Planning Commission and City Council. The arts and culture consultant will review and provide written comments in a timely fashion evaluating and monitoring that the project is further developing in compliance with the established vision, goals, priorities, program, and operational needs, as well as jointly present as needed to community members, the Planning Commission, and City Council.

Phase 3

The last phase of the work is similar to Phase 2, anticipated to take six (6) to eight (8) months, and includes bi-monthly check-ins and reviews of design documents with the stakeholders and final design architects, landscape architects, engineers, and any specialty consultants needed to complete the construction documents needed to receive building permits and construct the project. The arts and culture consultant will review design and construction documents and provide written comments in a timely fashion evaluating and monitoring that the project is further developing in compliance with the established vision, goals, priorities, program, and operational needs. Participation in public presentations as needed to community members, the Planning Commission, and City Council will only be required for significant changes to the vision, goals, priorities, or design based on unforeseen conditions or new information that necessitated a change.

B. Proposed Project Timeline Milestone Goals

- Contract award by October 6, 2017.
- Visioning exercises complete by October 20, 2017.

- Community/Stakeholder input and scoping complete by November 10, 2017.
- Final reports and deliverables for Phase 1 work by November 30, 2017.
- Phase 2 work completed sometime between June and August 2018.
- Phase 3 work completed sometime between December 2018 and March 2019.
- Project groundbreaking spring 2019.

The above dates are preferred schedule goals; however, based on the proposer's availability and recommendations, alternate timeframes will be considered.

C. Scope of Services and Deliverables

1. Leadership/Management

Leadership and management duties will include developing, facilitating, identifying grant and other funding opportunities, and implementing a comprehensive work plan of engagement with SI, KAC, PCMC City Council, PCMC staff, State of Utah, and outreaching to twelve (12) community stakeholder groups and six (6) individual community stakeholders through targeted individual meetings. Facilitate and lead four public open houses, two (2) in October for listening/input and two (2) in November for feedback on consultant research and recommendations.

2. Research and Analysis

Research and analysis work includes generating and presenting adequate information and analysis about existing arts and culture district development, grant and other funding opportunities, and operations/management to stakeholders and community members to reach needed decisions, and consensus among the project stakeholders to define the project adequately to design the physical facilities, site amenities, and operational plans. The research also includes understanding and documenting needs and desires of the SI, KAC, PCMC City Council, PCMC staff, and community members.

3. Public Engagement and Dialogue

Public engagement for this planning and programming of an arts and culture district effort includes identifying, coordinating, and implementing a variety of tools and activities to gain clarity and buy-in to the future development and operations that will serve as a guide for the future design phases. Meetings, workshops, images, data, graphics, narratives, development of project website/content, and public presentations are examples of expected public engagement efforts that will be incorporated into the work plan.

4. Evaluation and Assessment/Professional Recommendations

Evaluation and assessment work of the input of needs and desires of the SI, KAC, PCMC City Council, PCMC staff, and community members includes providing adequate analysis to make recommendations about the physical development and operations of the arts and culture district to achieve buy-in of the project stakeholder and decision makers.

5. Design Oversight

The selected arts and culture district consultant will review future designs as they develop through schematic design, design development, and construction documents to ensure priorities and goals of the Arts and Culture District are maintained through implementation. Additional analysis or public presentations will be required if changes are made that affect the project vision, goals, priorities, or design direction.

The proposal to PCMC shall outline an approach to the needs listed below and shall include an estimated range of total costs to perform the following work for all tasks. The City anticipates contracting with the selected consultant for all phases of work described below.

The proposal to PCMC shall outline an approach to the following needs for both lots and shall include an estimated range of total costs to perform the following work. It is anticipated that the specific services to be provided by the Consultant Team will include:

Phase 1

- Review existing documents regarding the development of a Park City Arts and Culture District and land use applicable to the site.
- Organize and document weekly team meetings with SI, KAC, and PCMC.
- Present education and assessment of arts and culture case studies and best practices, including standards and comparisons against other communities with similarities both nationally and internationally.
- Gather and assess community input and participant interest in the arts and culture district.
- Research opportunities for supportive owners/tenants/partners to reside in the district including, but not limited to, complimentary not-for-profits, private business, housing, etc. that will ensure long term and year-round vibrancy of the development.
- Facilitate visioning sessions with SI, KAC, and PCMC to build consensus between the parties.
- Facilitate community input meetings and workshops.
- Coordinate with SI, KAC, and PCMC liaisons as necessary to define current and future roles and responsibilities to meet the objectives of achieving a successful arts and culture district.
- Make physical development and ongoing management recommendations of short, medium, and long-term goals along with quantitative and qualitative measurements of success in achieving stated goals.
- Review and provide recommendations for future architectural and engineering design team request for proposals.
- Identify grant and other funding opportunities.

Deliverables:

- Written agendas and summary minutes of weekly team meetings.
- Work Plan, including schedule showing all tasks, activities, and submittals.
- Presentation and research narrative and graphic materials.

- Project website web content with accurate information updated weekly.
- Final development and operations vision, goals, funding strategies, priorities, and recommendations report. The final report must include: (1) Documentation and analysis of best practices and case study research plus stakeholder and public outreach and input; (2) assessment and alignment of relevant existing plans and studies; and (3) identified vision and priorities, objectives, defined needs and requirements, recommendations, funding strategies, and success metrics for the built program, occupancy uses, and routine plus special event operations.
- Written review comments and recommendations for future architectural and engineering design team request for proposals.

Phases 2 and 3

- Organize and document bi-monthly team meeting.
- Review submitted design progress documents.
- Prepare for and participate in-person in scheduled update presentations to the public and City Council (up to six presentations throughout Phase 2 and Phase 3 work).
- Coordinate with SI, KAC, and PCMC staff and others as necessary on changes and decisions that are different than the established Phase 1 recommendations.

Deliverables:

- Written agendas and summary minutes of bi-monthly team meetings.
- Written review comments of design progress documents.
- Presentation materials.
- Up-to-date project website.
- Grant application written content and support materials.

IV. Submittal Requirements

A. Cover Letter (maximum of 1 page)

Present a brief understanding of PCMC needs based upon the information provided in the Scope of Work. Summarize qualifications most relevant to this project. Identify team and clearly indicate the single contact and authorized representative (principal-in-charge) of the Applicant with mailing address, telephone, fax numbers, and e-mail address. The representative shall certify that the information provided in response to this Request for Proposals is true and accurate. Maximum of one (1) page.

B. Statement of Qualifications (Maximum of 8 pages)

Each respondent must demonstrate in their submittal that they have the professional capabilities and the organizational and administrative experience needed to accomplish this project. A concise presentation will be appreciated. The page count does not include index, dividers, or separation sheets that contain no information, or short-form resumes of team individuals. Maximum of eight (8) pages.

The Statement of Proposals should contain specific responses to the following requested items:

1. **Statement of Approach of Team:** Describe the specialized experience and project approach of the team. Indicate the team leader and his/her specific role. Briefly discuss the approach to team management and organization. Describe the firm's approach to visioning, planning, programming, and development of arts and culture districts.
2. **Understanding of Work and Outline of Project Schedule:** Demonstrate knowledge of work to be performed. Provide an outline of the schedule noting the critical path items. If team believes there are potential challenges, those challenges should be noted along with potential solutions to address those challenges. Demonstrated ability to meet the proposed timeline is essential.
3. **Firm/Team Qualifications and Experience:** Demonstrate professional experience in visioning, planning, programming, and development of arts and culture districts both nationally and internationally. Examples of recent previous work are required as well as descriptions of the scope of work and management tasks provided by the firm or team. *Photographs of completed projects are encouraged.*
4. **Proposed Project Team Members:** Submit a written description of the team composition, disciplines, and the primary role of each firm or individual on the team indicating respective roles, responsibilities, and related experience and qualifications. Also, include an organization chart. The information must clearly indicate the team leader for the team for this project and the responsible party in each firm who will be providing the required professional experience. If a team approach is used, provide example of projects completed by the team. No changes of assigned consultant team is allowed without the consent of PCMC after the consultant contract is awarded
5. **Individual Experience:** Provide a description of the background of the key members of the team and their specific participation in previous projects that would directly relate to the work to be done for this project. This may be done in descriptive text or in a short-form (one page or less) resume.
6. **Quality Control:** Describe the ability to undertake and complete quality projects on time and within budget. Indicate current workload and the capacity of the firm to undertake this project. Has the firm or individual engaged in litigation, arbitration, or mediation as a result of design errors of omission? If yes, please explain.
7. **List of References:** List three (3) references with which the team or key members of the team have worked with in the last five (5) years, for projects of similar size or scope, indicating projects done. Provide all contact information, such as address, telephone number, fax number, and email address. Proposals that do not provide a completed section for references will not be considered further.

C. Supplemental Material (Maximum of 4 pages)

The Applicant can provide supplemental material to support the firm's selection for this process.

D. Work Plan

Provide a preliminary work plan identifying the tasks to be accomplished, the positions or individuals anticipated to execute each task, hours anticipated for each task, proposed deliverables proposed schedule, management plan, and timeline for completing the project. The exact scope, timeline, deliverables, and not-to-exceed total for services will be negotiated with the selected Consultant Team prior to execution of the contract.

E. Evidence of Ability to Obtain Insurance.

1. General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury, and property damage. The Service Provider shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the State risk manager every two (2) years and stated in Utah Admin. Code R37-4-3.
2. **Automobile Liability** insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
3. **Professional Liability** (Errors and Omissions) insurance written on claims made basis with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence.
4. **Workers Compensation** Workers Compensation insurance limits written as follows:

Bodily Injury by Accident Five Hundred Thousand Dollars (\$500,000) each accident;
Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee,
Five Hundred Thousand Dollars (\$500,000) policy limit.
5. The City shall be named as an additional insured on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the certificate of insurance. The certificate of insurance shall warrant that, should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. The City reserves the right to request certified copies of any required policies.
6. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

F. Professional Services Agreement Statement. A copy of the City's standard Professional Services Agreement is attached hereto as Exhibit "A". Please include a statement indicating that you (1) accept the Agreement as is or (2) propose changes and specify. The nature and extent of requested changes to our standard contract (i.e. unwillingness to comply with the City's insurance/indemnity provision) will count against a proposal.

V. Fee Schedule

The not-to-exceed fee for each phase of work and task should be outlined with the proposed costs for the services and include:

- Fixed hourly rates for each person who will be assigned, titles, and applicable rates. For example: John Smith, Architect I, \$75 per hour.
- Any additional reimbursable expenses.

The fee for the work outlined in the phases and tasks will be done with a not to exceed total amount. The proposal must include a list of hourly billing rates for all personnel involved in the project for the Lead Consultant as well as Sub-Consultants in the case of addition of mutually agreed upon scope. A not-to-exceed fee (including estimated hours or a flat rate and any additional reimbursable expenses) proposal for services shall be submitted as part of the proposal. The exact scope, timeline, deliverables, and not-to-exceed total will be negotiated with the selected Consultant Team prior to execution of the contract.

Price may not be the sole deciding factor.

VI. Selection Process

All respondents must address submittal requirements outlined in **Section IV, Submittal Requirements**. Each respondent bears the sole responsibility for the items included or not included in its submittal. Deviations from or exceptions to the terms and specifications contained within this RFP, if stipulated in a submittal, while possibly necessary in the view of the submitting respondent, may result in disqualification.

After evaluation of the complete proposals received in response to this RFP, City staff and other community representatives as part of the selection committee may conduct interviews with one or more Applicants.

During any interviews, Applicants will be encouraged to elaborate on their qualifications, experience, performance data, project approach, and staff expertise relevant to the project. PCMC expects the key personnel proposed for the project to be present at the interviews.

At the conclusion of the interviews, the Selection Committee shall rank, in the order of preference, the Applicants whose professional qualifications and proposed services are deemed most meritorious.

Negotiations, including the final scope of work, shall then be conducted with the Applicant ranked first. If a contract satisfactory to PCMC can be negotiated at a fee considered fair and reasonable, the award shall be made to that Applicant. Otherwise, negotiations with the Applicant shall be formally terminated and the City will move on to the next Applicant.

Park City Municipal's policy is, subject to Federal, State, and Local procurement laws, to make reasonable attempts to support Park City businesses by purchasing goods and services through local vendors and service providers.

PCMC reserves the right to complete the selection process without proceeding to an interview process, and may choose to select based on the information supplied in the Statement of

Qualifications. PCMC reserves the right to select the Applicant(s) whose qualifications, in the City's sole judgment, best meet the needs of the City. Award of contract is subject to approval by the City Council of Park City.

Evaluation Criteria Weighting

CRITERIA	Weighting
QUALIFICATIONS	
Understanding of work to be completed.	25 percent
Qualifications/expertise of team members in visioning, planning, programming, and developing successful arts and culture districts.	50 percent
SCHEDULE	
Approach to the project and schedule outlining critical path items.	15 percent
COST	
Proposed Fee Schedule	10 percent

VII. Submittal Instructions

Proposal submittals must be received **by e-mail by 4:00 p.m. on Friday, September 15, 2017**, via email to: nrockwood@parkcity.org E-mails should be no larger than 7 megs. Respondents must ensure receipt of materials by the time and date specified.

Statements should be signed by a duly authorized official(s) of the firm(s). Consortia, joint ventures, or teams submitting proposals, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or legal entity which is not a subsidiary or affiliate with limited resources. Each submittal should indicate the entity responsible for execution on behalf of the team. If the firm submitting the proposal utilizes third parties for completing the RFP requirements, list what portion of the proposal will be completed by third parties and the name of the third party.

Firms or teams will be evaluated, among other things, as to relevant experience, ability to begin and complete the work, and feedback from references. Proposals will be good for sixty (60) days. Submissions will be subject to Government Records and Retention Management Act ("GRAMA") and may be subject to disclosure unless otherwise designated by the applicant pursuant to UCA § 63G-2-309, as amended.

VIII. Schedule of Selection Process:

- | | |
|---------------------------------------|--|
| 1. Responses to the RFP deadline: | By: 4:00 p.m. on Friday, September 15, 2017 |
| 2. Interview for Selected Applicants: | Week of September 18, 2017 (if necessary) |
| 3. Finalize and Award Contract: | Week of September 25, 2017 |
| 4. Notice to Proceed: | October 6, 2017 |

IX. Requests for Additional Information

Any questions concerning the submittal or the project shall be sent in written form via email inquiry to the attention of Nate Rockwood, at nrockwood@parkcity.org by Tuesday, September 5, 2017. If you wish to receive a copy of all questions received and responses provided, please check the City website each Friday evening.

Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFP and/or the project at any time and for any reason preceding contract award and reserves the right to accept or reject any or all proposals submitted pursuant to this request for proposals. Park City will provide respondents written notice of any cancellation and/or modification. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

EXHIBIT "A"
PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____, 20__, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and _____, a _____, ("Service Provider"), collectively, the City and the Service Provider are referred to as (the "Parties)."

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities;

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the Parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed _____ Dollars (\$_____).

The City has designated _____, or his/her designee as City's Representative, who shall have authority to act in the City's behalf with respect to this Agreement consistent with the budget contract policy.

2. TERM.

No work shall occur prior to the issuance of a Notice to Proceed which cannot occur until execution of this Agreement, which execution date shall be commencement of the term and the term shall terminate on

_____ or earlier, unless extended by mutual written agreement of the Parties.

3. COMPENSATION AND METHOD OF PAYMENT.

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- C. For all “extra” work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as “Exhibit B,” or if none is attached, as subsequently agreed to by both Parties in writing.
- D. The Service Provider shall submit to the City Manager or her designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.
- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.
- F. Service Provider acknowledges that the continuation of this Agreement after the end of the City’s fiscal year is specifically subject to the City Council’s approval of the annual budget.

4. RECORDS AND INSPECTIONS.

- A. The Service Provider shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement, including (but not _____ limited to) that which is necessary to sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement.
- B. The Service Provider shall retain all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement for six (6) years after expiration of the Agreement.

- C. The Service Provider shall, at such times and in such form as the City may require, make available for examination by the City, its authorized representatives, the State Auditor, or other governmental officials authorized by law to monitor this Agreement all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement. The Service Provider shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly to this Agreement.

- D. The City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated, 1953, as amended and Park City Municipal Code Title 5 ("GRAMA"). All materials submitted by Service Provider pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming and exemption from disclosure rests solely with Service Provider. Any materials for which Service Provider claims a privilege from disclosure based on business confidentiality shall be submitted marked as "confidential - business confidentiality" and accompanied by a concise statement from Service Provider of reasons supporting its claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury. The City will make reasonable efforts to notify Service Provider of any requests made for disclosure of documents submitted under a claim of confidentiality. Service Provider specifically waives any claims against the City related to any disclosure of materials pursuant to GRAMA.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The Parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

- B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and

direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the Parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work

hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

- A. General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage.

The Service Provider shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

- B. Automobile Liability insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
- C. Professional Liability (Errors and Omissions) insurance with annual limits no less than One Million Dollars (\$1,000,000) per occurrence. If written on a claims-made basis, the Service Provider warrants that the retroactive date applicable to coverage precedes the effective date of this agreement; and that continuous coverage will be maintained for an extended reporting period and tail coverage will be purchased for a period of at least three (3) years beginning from the time that work under this agreement is complete.
- D. Workers Compensation insurance limits written as follows:
Bodily Injury by Accident Five Hundred Thousand Dollars (\$500,000) each accident;
Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee, Five Hundred Thousand Dollar (\$500,000) policy limit.
- E. The City shall be named as an additional insured on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. Should any of the above described policies be cancelled before the expiration date thereof, Service Provider shall deliver notice to the City within thirty (30) days of cancellation. The City reserves the right to request certified copies of any required policies.
- F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

10. COMPLIANCE WITH LAWS AND WARRANTIES.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. Unless otherwise exempt, the Service Provider is required to have a valid Park City business license.
- C. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- D. If this Agreement is entered into for the physical performance of services within Utah the Service Provider shall register and participate in E-Verify, or equivalent program. The Service Provider agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.
- E. Service Provider shall be solely responsible to the City for the quality of all services performed by its employees or sub-contractors under this Agreement. Service Provider hereby warrants that the services performed by its employees or sub-contractors will be performed substantially in conformance with the standard of care observed by similarly situated companies providing services under similar conditions.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during

employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment. Any assignment made without the prior express consent of the City, as required by this part, shall be deemed null and void.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.
- D. Each subcontractor that physically performs services within Utah shall submit an affidavit to the Service Provider stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. § 63G-12-302.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both Parties. Such amendments shall be attached to and made part of this Agreement.

14. PROHIBITED INTEREST, NO THIRD PARTY RIGHTS AND NO GRATUITY TO CITY EMPLOYEES.

- A. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- B. Nothing herein is intended to confer rights of any kind in any third party.
- C. No City employee who has procurement decision making authority and is engaged in the procurement process, or the process of administering a contract may knowingly receive anything of value including but not limited to gifts, meals, lodging or travel from anyone that is seeking or has a contract with the City.

15. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

16. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days' written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.

- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days' written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

17. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the Parties on the last page of this Agreement. Notice is effective upon the date it was sent, except that a notice of termination pursuant to paragraph 16 is effective upon receipt. All reference to "days" in this Agreement shall mean calendar days.

18. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in connection with that action or proceeding.

19. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered within the State of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

20. SEVERABILITY AND NON-WAIVER.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.
- C. It is agreed by the Parties that the forgiveness of the non-performance of any provision of this Agreement does not constitute a subsequent waiver of the provisions of this Agreement. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

21. ENTIRE AGREEMENT.

The Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both Parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both Parties recognize time is of the essence in the performance of the provisions of this Agreement.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
Post Office Box 1480
Park City, UT 84060-1480

Diane Foster, City Manager

Attest:

City Recorder's Office

Approved as to form:

City Attorney's Office

SERVICE PROVIDER NAME

Address:

Address:

City, State, Zip:

Tax ID#: _____

PC Business License# BL_____

Signature

Printed name

Title

STATE OF UTAH)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20__, personally appeared before me _____, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she is the _____ (*title or office*) of _____, a _____ corporation (or limited liability company), by Authority of its Bylaws/Resolution of the Board of Directors or Member Resolution, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a _____ corporation (or limited liability company).

Notary Public

EXHIBIT “A”

SCOPE OF SERVICES

EXHIBIT “B”

PAYMENT SCHEDULE FOR “EXTRA” WORK