Park City Municipal Corporation

REQUEST FOR PROPOSALS (RFP) NON-BID FOR
Recreation Management Software & Support
Updated 09/05/2018

NOTICE
REQUEST FOR PROPOSALS (NON-BID)
Recreation Management Software & Support

PROJECT NAME: Recreation Management Software & Support
RFP AVAILABLE: August 15, 2018
PROJECT LOCATION: 1200 Little Kate Road, Park City, UT

PROJECT DESCRIPTION:
Park City Recreation seeks intuitive, easy-to-use parks & recreation software and service in the form of training, maintenance, technical support and upgrades for Park City employees and patrons utilizing the software.

PROJECT DEADLINES:
Complete Proposals Due: August 31, 2018 4:00pm
Project completion: January 15, 2019

OWNER: Park City Municipal Corporation
                                P.O. Box 1480
                                Park City, UT 84060

CONTACT: Jessica Moran, Recreation Supervisor
                                jmoran@parkcity.org
                                All questions shall be submitted <u>in writing</u> via email by 4:00 pm August 29,
                                2018. Responses to questions will posted by 4:00 pm August 30, 2018.

Park City reserves the right to reject any or all proposals received. 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.   INTRODUCTION

PCMC requests proposals from qualified firms for software to be used as part of the daily operations at the Park City Municipal Athletic & Recreation Center. The software should include an easy-to-use and aesthetically pleasing interface (dashboard), financial reporting capabilities, website interface & online registration in addition to applications for facility booking, program registration, league scheduling (optional), ticket sales, membership pass sales & management, point-of-sale, customizable reporting capabilities, administrative controls, and payment processing.

II.   PURPOSE OF PROJECT

Park City Recreation is interested in recreation management software that will create efficiencies, conveniences, and accessibility to accurate real-time information for both staff and patrons. The department currently uses Vermont System's RecTrac & WebTrac. Customer engagement is the highest priority, and users who prefer online interaction should be able to register for programs, purchase tickets to special events, view league schedules, book facilities and have access to program and facility information with minimal inconvenience. The software will enhance and innovate the department's quality customer service by taking advantage of the conveniences offered by newer improved technology.

III.   PROJECT SCOPE

This project includes the provision and installation of software that will facilitate daily operations of the Park City Municipal Athletic & Recreation Center (PC MARC) and approximately 2 satellite facilities. Maintenance, training, and technical support will also be expected as part of this project.

1. Software Provision & Integration
Firms will be required to provide a complete parks & recreation software solution to facilitate daily operations at a recreation, fitness, tennis and aquatics center. Software should integrate with the City's financial system (Tyler Technologies Eden system).

2. Training
Providers are expected to offer training services upon installation of software. Training can be performed on-site or through other mediums, such as webinars. RFP's should include number of training hours provided upon installation and if it is in person or webinar, as well as on-going trainings and a detailed account of all charges associated with training, such as cost per hour.

3. Software Criteria and Minimum Requirements
The following list is included to provide City requirements and preferences for the project. This list should be considered minimum standards when proposing services and specific components. Alternatives may be considered where it is believed such alternatives exceed function, capability,

and overall system performance of the specified materials. Responsibility will be on the proposal to demonstrate superiority of alternative designs, functions, and methods presented.

a. General Requirements:

i. Software should be cloud-based and scaleable, able to accommodate 13,000 patron accounts at this time.

ii. Client software should be compatible with Windows 10.

iii. Web components should utilize HTML 5.1 and/or support most common browser types.

iv. Java based functions should not be used on the client computer.

v. Software updates and upgrades should be provided as needed.

vii. Technical support should be provided 24/7 at no additional cost, through online help, email or telephone service.

viii. Ongoing, quarterly training should be provided at no additional cost if required.

ix. Software should allow for the City to accept payments directly to the credit card processor of choice, without fees.

x. Software should integrate with current financial software (Eden), and perform the migration at no additional charge.

xi. Online registration should be available without transaction or convenience fees.

xii. Software must be PCI/DSS compliant.

xiii. Customization of reports should be offered at no additional charge.

xiv. Implementation plan needs to be included.

xv. Data should be stored in a secure manner and be accessible by the City. If the data is not stored on site, appropriate backup and restore options should be in place.

b. Start up and Acceptance Test

i. Install the software, server, and database systems and provide adjustments and updates to achieve expected performance.

ii. Verify the importing and exporting of data if needed.

iii. Demonstrate a responsive user experience.

iv. Testing to verify that the performance of the system and its components meet design parameters.

v. Coordinate the proper backup and recovery procedures with PCMC IT staff.

vi. City staff member(s) shall be involved in implementation and testing to validate system performance.

c. Operation and Maintenance (O&M) Manual

i. Provide 2 sets of operation, maintenance, and technical manuals for the software system.

ii. Provide training video, or allow the recording of training session for ongoing use by PCMC.

iii. Include trouble-shooting and safety precautions specific to the software.

d. On-Site Training

i. Within 10 days of the start-up and acceptance test, provide a minimum of 2 hours of training to City personnel on all aspects of routine operation, maintenance, monitoring and

safety of the software.

e. System Warranty & Maintenance

i. 5-year complete system warranty: warrants the complete installed and operational system including all equipment, labor, and materials for a period of 5 years from final start-up and acceptance test.

ii. During the 5-year complete system warranty, submitter shall provide all necessary maintenance as frequent as necessary including routing monitoring, maintenance, and replacements.

4. Schedule for Project Implementation and Completion

The timeline for project completion is negotiable, but a tentative completion should be planned for January 15, 2019.

IV.   Content of Proposal:

Interested firms shall provide one (1) hard copy *and* a PDF electronic version of their proposal. Proposals shall be limited to thirty (30) pages and should include the following information:

1. Cover Page:
   a. Name, address, email, and website of the company.

2. Narrative of the Firm's Qualifications and Relevant Experience:
   a. Experience of overall firm and key personnel
   b. Licensing information
   c. Recent work history for similar projects.
   d. Contact information for at least three clients in the Intermountain West.
   e. A description of any arbitration and/or litigation in which your company, or any subcontractor, is currently engaged or which was resolved within the five years preceding the date on which you submit your proposal.
   f. A statement of whether your company, or any of your proposed sub-contractors, ever filed for reorganization or bankruptcy. If so, please provide dates and resolution.

3. Produce and Service Proposal:
   a. Identify proposed system including detailed information from the submitter on all system components. System component details must, at a minimum, be provided for the following items:
      i. Software
      ii. Training
      iii. Maintenance
      iv. Technical Support
   b. Provide performance data and warranty information on system components

4. A summary of intentions to work collaboratively with PCMC.

5. Project Work Schedule:
   a. Provide a comprehensive timeline for each phase of the work including meetings with City staff, data migration (if applicable), training, data input, and implementation. This should be as realistic as possible since this will be part of the contractual agreement.

6. A statement indicating that the firm will provide the insurance. The chosen firm will be expected to provide the City with a Certificate of Insurance. General Liability coverage shall be a minimum of $1,000,000 with PCMC listed as an additional insured. Workers' Compensation Insurance is also required per statutory requirements. See the Service Provider Agreement, included as Attachment A, for all relevant insurance requirements.

7. Cost Proposal
   a. Cost proposal shall include all costs incurred by the submitter during the bonding, design, installation, start-up, and warranty periods.
   b. Cost proposal must be itemized and include, at a minimum, the above mentioned categories in addition to detailed costs for materials involved.
   c. Cost proposal should include any discount that would be given for collaborative work or marketing/branding opportunities.
   d. If there is a conflict between the written and numerical cost amounts, the written amount shall supersede.

Price may not be a sole deciding factor.

V.   Evaluation Criteria and Selection Process:

PCMC will evaluate proposals based on completeness, qualifications & experience, ability to comply with requirements mentioned herein, and overall quality of the RFP response. Park City may request additional information on the proposal if insufficient or unclear details are provided.   Proposals should either agree to the standard contract (included as part of this RFP) "as is" or request changes to the form as part of the proposal; however, RFP responders should understand that the City is not required to make adjustments to the standard contract. The nature and extent of any requested changes to the standard City contract will be considered as part of the evaluation process. **ANY INQUIRIES RELATED TO INDEMNIFICATION OR INSURANCE PROVISIONS CONTAINED IN PARK CITY MUNICIPAL CORPORATION'S STANDARD AGREEMENT MUST BE SUBMITTED TO PARK CITY MUNICIPAL CORPORATION NO LATER THAN THE PROPOSAL/SUBMITTAL DEADLINE. PARK CITY MAY, IN ITS SOLE DISCRETION, CONSIDER SUCH INQUIRIES. ANY CHANGES TO PARK CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISION SHALL BE APPROVED AT PARK CITY'S SOLE DISCRETION.** All proposals shall be good for up to 180 days after receipt. Firms should note that price may not be the sole deciding factor. Proposals will be judged on practical terms such as:

1. Clarity of proposal and thoroughness of response (completeness of package).
2. Experience in providing Parks & Recreation Software determined by narrative of firm's qualifications, experience of key personnel, recent work history and references. Respondents should highlight work history demonstrating the ability to undertake the coordination and execution of the project within the aggressive timeline.

3. Ability to be responsive and available to City staff and community members, including working with the Recreation Department to ensure a final project that will facilitate the objectives of PCMC.
4. Professional References – applicants should list and provide contact information for at least three (3) references, preferably within the Intermountain West.
5. Cost.

The selection committee will be comprised of PCMC employees and patrons who will review the proposals based on the information provided. Following a review of the written proposals and finalist interviews (if needed) the selection committee will make a final selection and award the services contract. The City reserves the right to enter into discussions with the offeror(s) determined to be reasonably susceptible of being selected for award, or to enter into exclusive discussions with the offeror whose proposal is deemed most advantageous, whichever is in the City's best interest, for the purpose of negotiation. In the event that exclusive negotiations are conducted and an agreement is not reached, the City reserves the right to enter into negotiations with the next highest ranked offeror without the need to repeat the formal solicitation process. The City reserves the right to reject any or all proposals received for any reason. **Proposals lacking required information will not be considered.** Furthermore, the City shall have the right to waive any informality or technical defect in proposals received when in the best interest of the City.

Offerors should review the required insurance coverage and notice of policy cancellation requirements that will be part of the resulting contract. Such insurance information is provided in the Sample Agreement. Future proposed pricing must include associated insurance costs. The selected offeror will be required to provide insurance certificates meeting all requirements at the time of contract execution.

All responses, inquiries, and correspondence relating to this RFP and all reports, charts, displays, schedules, attachments, exhibits, and other documentation produced by the offeror that are submitted to the City, as part of the proposal or otherwise, shall become the property of the City when received by the City and may be considered public information under applicable law. The City is subject to the disclosure requirements of the Government Records Access and Management Act, Title 63, Chapter 2, Utah Code Annotated ('GRAMA"). All submittals shall be public records in accordance with government records regulations ("GRAMA") unless otherwise designated by the applicant pursuant to UCA § 63G-2-309, as amended. **Any material considered by the offeror to be proprietary must be accompanied by a written claim of confidentiality and a concise written statement of reasons supporting the claim. Blanket claims that the entire RFP is confidential will be denied**. The City cannot guarantee that any information will be held confidential. Under Section 63-2-304 of GRAMA, if the offeror makes a claim of confidentiality, the City, upon receipt of a request for disclosure, will determine whether the material should be classified as public or protected, and will notify the offeror of such determination. The offeror is entitled under GRAMA to appeal an adverse determination. **The City is not obligated to notify the offeror of a request, and will not consider a claim of confidentiality, unless the offeror's claim of confidentiality is made in a timely basis and in accordance with the GRAMA.**

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

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.

Award of contract is subject to approval by City Council.

Key Proposal Dates
August 15, 2018	RFP distributed
September 10, 2018	Proposals Due by 10:00am
September 11-13, 2018	Selection committee review of proposals
September 14 & 17, 2018	Interview finalists (if needed)
September 27, 2018	City Council Approval (Tentative Date)
October 1, 2018	Contract signed and project kickoff
January 15, 2019	Final project deadline

Requests For Additional Information
Upon RFP distribution and notice, any questions concerning the submittal or the project shall be sent in written form via email inquiry to the attention of Jessica Moran at jmoran@parkcity.org If you wish to receive a copy of all questions received and responses provided with regard to this RFP, please send an email to jmoran@parkcity.org with Recreation Software RFP Question Request in the Subject Line. Responses to questions will be sent to the account from which the email request originated. Directions for accessing the questions and answers will be provided by return email.

Project Manager
Questions or communications regarding this RFP should be directed to:
Jessica Moran
Recreation Department
Park City Municipal Corporation
jmoran@parkcity.org

VI.   PROPOSAL INFORMATION

A.   Equal Opportunity. The City will make every effort to ensure that all offerors are treated fairly and equally throughout the entire advertisement, review, and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.

B.   Proposal Ownership. All proposals, including attachments, supplementary materials, addenda, etc., shall become the property of the City and will not be returned to the offerors.

C.   Rejection of Proposals. The City reserves the right to reject any or all proposals received. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

D.   No proposal shall be accepted from, or contract awarded to, any person, firm, or corporation that is in arrears to the City, upon debt or contract or that is a defaulter, as surety or otherwise, upon any obligation to the City, or that may be deemed irresponsible or unreliable by the City. Offerors may be required to submit satisfactory evidence that they have the necessary financial resources to perform and complete the work outlined in this RFP.

E.   Park City Municipal Corporation'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.

F.   If offeror utilizes third parties for completing RFP requirements, list what portion of RFP will be completed by third parties and the name, if known, of the third party.

PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of 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 ($_____).

Service Provider shall abide by the requirements in Exhibit "B "Technology Support, Infrastructure & Security" which is attached hereto and incorporated herein.

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 C," 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 form 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 negligent 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.

PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

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) 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.   Data Breach and Privacy / Cyber Liability Insurance including coverage for
        failure to protect confidential information and failure of the security of the
        Service Provider's computer systems or the City's systems due to the
        actions of the Service Provider which results in unauthorized access to the
        City's data. The limit applicable to this policy shall be no less than Five
        Million Dollars ($5,000,000) per occurrence, and must apply to incidents
        related to the Cyber Theft of the City's property, including but not limited
        to money and securities.

PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

F.   Technology Errors and Omissions Insurance with a limit of no less than Five Million Dollars ($5,000,000) for damages arising from computer related services including but not limited to the following:

- Consulting;
- Data Processing;
- Programming;
- System Integration;
- Hardware or Software Development;
- Installation;
- Distribution or Maintenance;
- Systems Analysis Or Design;
- Training; and
- Staffing or Other Support Services.

The policy shall include coverage for third party fidelity including cyber theft and protect the City as "Additional Insured". It is acceptable that the Data Breach and Privacy / Cyber Liability Insurance and Technology Errors and Omissions insurance be provided on the same policy. The additional insured protection afforded the City must be on a primary and non-contributory basis. All policies must include a waiver of subrogation in favor of the City.

G.   The City shall also 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.

H.   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, Service Provider will not discriminate against any qualified person in matters of compensation and other terms, privileges, and conditions of employment because of: race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions. 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.   Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions.

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.

PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

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.
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PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES 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

_____

PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

STATE OF UTAH   )
) ss.
COUNTY OF SUMMIT   )

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 (if as to a corporation) or Member Resolution (if as to a limited liability company), 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"

<u>SCOPE OF SERVICES</u>

Technology Support, Infrastructure & Security

1. Definitions

"
City Data" / "information" is any data provided, shared, created or managed by the City.

"Service Provider" Is the contract holder that manages employees, contractors or affiliates having access to PCMC infrastructure or data for specific defined purpose.

"Process, Processed, or Processing" means any operation or set of operations performed upon City Data, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying the data.

"Data Masking" The process of modifying records to conceal City Data, especially when such records are copied from a production environment to a non-production environment.

"The Information Technology Department" is responsible for the administration of this policy. If you have any questions regarding this policy, please contact the Information Technology Department 435-615-5123, 5123@parkcity.org.

"Service Provider's Third Party Security Auditor" is defined as a third party organization which provides security audits of Service Provider's Information Processing Systems.

"Provider" is defined as any company supplying a service for Service Provider's Information Processing System (such as a Data Center, Managed Service, or Data Circuit).

"Security Breach" is defined as an unauthorized access to Service Provider's software or Data Center facilities, Information Processing Systems or networks used to service, store, or access City Data.

"Sensitive Information" is defined as any Personally Identifiable Information or any information not publicly available (i.e. – clients, passwords, financial information, employee information, schedules, technology infrastructure, closed reports, draft notes, etc.).

"Written Request of the City" is defined as a request received by Service Provider by a City on official letter head signed by an officer of the City.

2. Information Classification

Classification is used to promote proper controls for safeguarding the confidentiality of information. Regardless of classification the integrity and accuracy of all classifications of information must be protected. The classification assigned and the related controls applied are dependent on the sensitivity of the information. Information must be classified according to the most sensitive detail it includes. Information recorded in several formats (e.g., source document, electronic record, report) must have the same classification regardless of format. The following levels are to be used when classifying information:

3. Internal Information

Internal Information is intended for unrestricted use within PCMC, and in some cases within affiliated organizations such as Service Provider business partners for non-sales purposes. This type of information is already widely-distributed within PCMC, or it could be so distributed within the organization without advance permission from the information owner. Examples of Internal Information may include: personnel directories, internal policies and procedures, most internal electronic mail messages.

Any information not explicitly classified as Sensitive Information, PII or Public will, by default, be classified as Internal Information.

Unauthorized disclosure of this information is not permitted.

4. Public Information

Public Information has been specifically approved for public release by a designated authority within each entity of Service Provider. Examples of Public Information may include material posted to approved public internet web pages.

This information may be disclosed outside of Service Provider.

5. Security Policy

Formal Security Policy. Consistent with the requirement of this Document, Service Provider will create and provide to City an information security policy that is approved by Service Provider's management, published and communicated and agreed to be adhered to by all Service Provider's employees, contractors and affiliates.

Security Policy Review. Service Provider will review the information security policy at planned intervals or if significant changes occur to ensure its continuing suitability, adequacy, and effectiveness and may revise such policy, from time to time. Changes resulting in a lower standard of security or service must be agreed to by PCMC prior to adoption.

6. Asset Management.

Acceptable Use. Service Provider will implement policies and procedures for the

acceptable use of information and assets which is no less restrictive than industry best practice for the classification of such Information and consistent with the requirements of this Document.

Equipment Use While on City Premises. While on City's premises, Service Provider will not connect hardware (physically or via a wireless connection) to City internal systems or networks unless necessary for Service Provider to perform Processing under this Document. This hardware is subject to be inspected and, or, scanned by PCMC IT Department directly or by automated means before use.

Personally-owned Equipment: Sensitive Information, with the exception of Business Contact Information, may not be stored on any employee owned equipment.

7. Human Resources Security

Removal of Access Rights. The access rights of all Service Provider employees to Service Provider Information Processing Systems or media containing Sensitive Information will be removed immediately upon termination of their employment, contract or agreement, or adjusted upon change.

8. Physical and Environmental Security.

Secure Areas. Service Provider will secure all areas, including loading docks, holding areas, telecommunications areas, cabling areas and off-site areas that contain Information Processing Systems or media containing information by the use of appropriate security controls in order to ensure that only authorized personnel are allowed access and to prevent damage and interference. The following controls will be implemented:

Visitors to secure areas will be supervised.

9. Geographic Data Centers

Service Provider's data centers are geographically distributed and employ a variety of physical security measures. The technology and security mechanisms used in these facilities may vary depending on local conditions such as building location and regional risks. The standard physical security controls implemented at each Service Provider data center include the following: custom designed electronic card access control systems, alarm systems, interior and exterior cameras, and security guards. Access to areas where systems, or system components, are installed or stored are segregated from general office and public areas such as lobbies. The areas are centrally monitored for suspicious activity, and the facilities are routinely patrolled by security guards.

10. Environmental Security

Service Provider will protect equipment from power failures and other disruptions

caused by failures in supporting utilities. To minimize service interruption due to hardware failure, natural disaster, or other catastrophe, Service Provider implements a disaster recovery program at all of its data centers. This program includes multiple components to minimize the risk of any single point of failure.

11. Role Based Access
Service Provider restricts access to its data centers based on role, not position. As a result, most senior executives at Service Provider do not have access to Service Provider data centers

12. Communications and Operations Management.
Protections Against Malicious Code. Service Provider will implement detection, prevention, and recovery controls to protect against malicious software, which is no less than current industry best practice and perform appropriate employee training on the prevention and detection of malicious software.

Back-ups. Service Provider will perform appropriate back-ups of Service Provider Information Processing Systems and media containing City Data every <u>business day with end-of-month copy stored for 1-year</u> in order ensuring services and service levels described in this Document. Service Provider maintains a plan for responding to a system emergency or other occurrence (for example, fire, vandalism, system failure and natural disaster) that damages systems that contain Sensitive Information and Internal Information.

Media Handling. Service Provider will protect against unauthorized access or misuse of City Data contained on media.

Media and Information Disposal. Service Provider will securely and safely dispose of media containing Sensitive Information:

Maintaining a secured disposal log that provides an audit trail of disposal activities.

13. Exchange of Information
To protect confidentiality and integrity of Sensitive Information in transit, Service Provider will:

Perform an inventory, analysis, and risk assessment of all data exchange channels (including, but not limited to , SFTP, HTTP, HTTPS, SMTP, modem and fax) to identify and mitigate risks to Sensitive Information from these channels.

Monitor and inspect all data exchange channels to detect unauthorized information releases.

Ensure that appropriate security controls using approved data exchange

channels are employed when exchanging Sensitive Information.

14. Monitoring

To protect against unauthorized access or misuse of Sensitive Information residing on Service Provider Information Processing Systems, Service Provider will:

Employ current industry best practice security controls and tools to monitor Information Processing Systems and log user activities, exceptions, unauthorized information processing activities, suspicious activities and information security events. Logging facilities and log information will be protected against tampering and unauthorized access. Logs will be kept for at least 180 days.

Perform frequent reviews of logs and take necessary actions to protect against unauthorized access and implement policy and infrastructure as needed.

At Written Request of the City, make logs available to City to assist in investigations.

Ensure that the time clocks of all relevant Information Processing Systems are synchronized using a national or international time source.

Ensure common configuration and patch management information is maintained.

Based on the periodic assessment, measures will be implemented that reduce the impact of the threats by reducing the amount and scope of the vulnerabilities.

15. Access Control

User Access Management. To protect against unauthorized access or misuse of Sensitive Information a formal user registration and de-registration procedure for granting and revoking access and access rights to all Service Provider Information Processing Systems.

Employ a formal password management process using authentication and authorization controls that are designed to protect against unauthorized access.

Perform recurring reviews of Service Provider employees' access and access rights to ensure that they are appropriate for the users' role.

16. User Responsibilities

To protect against unauthorized access or misuse of Sensitive Information residing on Service Provider Information Processing Systems, Service Provider will:

Ensure that Service Provider Information Processing Systems users follow

current security practices in the selection and use of sufficiently strong passwords.

Ensure that unattended equipment has appropriate protection to prohibit access and use by unauthorized individuals.

Ensure that Sensitive Information contained at employee workstations, including but not limited to paper and media display screens, is protected from unauthorized access and/or utilizes Data Masking.

17. Network Access Control

Access to internal, external and public network services that allow access to Service Provider Information Processing Systems shall be controlled. Service Provider will:

Ensure that current industry best practice standard authentication mechanisms for network users and equipment are in place and updated as necessary.

Ensure electronic perimeter controls are in place to protect Service Provider Information Processing Systems from unauthorized access.

Ensure sufficient authentication methods are used to control access by remote users.

Ensure physical and logical access to diagnostic and configuration ports is controlled.

18. Operating System Access Control

To protect against unauthorized access or misuse of Sensitive Information residing on Service Provider Information Processing Systems, Service Provider will:

Ensure that access to operating systems is controlled by a secure log-on procedure and limited to role based necessity.

Ensure that Service Provider Information Processing System users have a unique identifier (user ID). This account is used to identify each person's activity on Service Provider's Information Processing Systems network, including any access to employee or City data.

Ensure that the use of utility programs that are capable of overriding system and application controls are highly restricted and tightly controlled, with access limited to those employees whose specific job function requires such access.

Ensure that inactive sessions are automatically terminated when technically possible after a defined period of inactivity.

Employ idle time-based restrictions on connection times when technically possible to provide additional security for high risk applications.

Ensure that current industry best practice standard authentication mechanisms for wireless network users and equipment are in place and updated as necessary.

Ensure authentication methods are used to control access by remote users, with unique User Identifiers.

19. Information Systems Acquisition, Development and Maintenance

Security of System Files. To protect City Information Processing Systems and system files containing information, Service Provider will ensure that access to source code is restricted to authorized users whose specific job function necessitates such access.

Security in Development and Support Processes. To protect City information Processing Systems and system files containing Sensitive Information, Service Provider will:

Employ industry best practice security controls to minimize information dissemination.

Employ oversight quality controls and security management of outsourced software development.

Employ regular code reviews covering security vulnerabilities, including but not limited to buffer overflow, SQL injection, input validation, and commonly used vector attacks.

20. Information Security Incident Management

Reporting Information Security Events and Weaknesses. To protect City Information Processing Systems and system files containing information, Service Provider will:

Implement a process to ensure that Information Security Events and Security Breaches are reported through appropriate management channels as quickly as possible.

Train all employees, contractors, users of information systems and services regarding the report of any observed or suspected Information Security Events and Security Breaches.

Notify City by email or phone as soon as possible of all Information Security Events and Security Breaches. Following any such event or breach, Service Provider will promptly notify City whether or not Sensitive Information was compromised or released to unauthorized parties, the data affected and/or the details of the event or breach.

21. Business Continuity Management

Business Continuity Management Program. To ensure services and service levels described in this Document, Service Provider will:

Develop and maintain a process for business continuity throughout the organization that addresses the information security requirements needed for Service Provider's and its Providers' business continuity so that the provision of products and/or services provided is uninterrupted.

Maintain efforts to identify events that may cause interruptions to business processes, along with the probability and impact of such interruptions and the consequences for information security.

Develop and implement plans to maintain or restore operations and ensure availability of information at the required level and in the required time scales following interruption to, or failure of, critical business processes and provide City a copy of the same upon Written Request of the City.

Disaster Recovery. Service Provider has appropriate and reasonable disaster recovery measures in place designed to prevent any interruptions in Service to the City. Service Provider has established disaster contingency plans governing processes following a breach incident, which in particular address the following issues: (i) safety of personnel and third parties, (ii) losses of communications capability (e.g., voice, fax, data), (iii) loss of computer processing capabilities, and (iv) loss of access to physical office facilities.

22. Security Assessments

Initial and Recurring Security Assessments. Service Provider's Third-Party Security Auditor shall perform weekly static scans, monthly dynamic scans, and annual penetration testing. The results of these audits are available to Service Provider and the City with execution a Confidentiality Agreement with Service Provider.