

**Park City Municipal Corporation  
Park City, Utah  
REQUEST FOR QUALIFICATIONS**



**Owner Representative and Project Management Services  
for the Arts & Culture Mixed-Use Development**

Issue date: November 7, 2019

**Proposal Due Date: By Tuesday, December 3, 2019, at 4:00 p.m. Mountain Time**

**Questions Due Date: November 19, 2019**

Nate Rockwood  
Director of Redevelopment & Capital Management  
(435)615-5179  
[nrockwood@parkcity.org](mailto:nrockwood@parkcity.org)

**Mail or Hand Delivery Submissions:**

Park City Municipal Corporation  
Budget Offices, 3<sup>rd</sup> Floor  
Attention: Nate Rockwood  
445 Marsac Ave.  
P.O. Box 1480  
Park City, UT 84060

In the absence of the project manager, proposals should be dropped off to the City Recorder, located at 445 Marsac Avenue, Third Floor – Executive Department, Park City, UT 84060.

Electronic Submission:

Email PDF format file directly to [nrockwood@parkcity.org](mailto:nrockwood@parkcity.org)

**Files may not exceed 7 megabytes**

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## 1. PROJECT PURPOSE AND BACKGROUND

### I. Introduction

Park City Municipal Corporation (“PCMC”) is issuing this Request for Qualifications (“RFQ”) for the services of qualified owner representative and project management consultants or team with direct knowledge, technical capability, and experience in working with arts organizations, local governments, and community residents to implement an Arts and Culture District development and operational vision.

PCMC is searching for creative, highly skilled, forward thinking, and collaborative consultants with an impressive record of success. Working with PCMC’s development partners, design consultants, elected officials, and staff, the selected consultant team will lead the Arts & Culture District’s established vision and conceptual designs through land-use entitlements including master plan and subdivision approval, design documentation completion, bidding, construction and occupancy project phases.

The development must be implemented consistent with the project’s goals:

- Accentuate views creating a sense of connection to the **natural beauty of the Wasatch Mountains** surrounding the site.
- Invite local residents, visitors and a diverse audience of all ages into a **Community Living Room**.
- Showcase the presence of **art and culture** by providing a **dynamic, vibrant** pedestrian experience that is inviting, unique and culturally relevant.
- Provide a **public gathering space** equipped to hold outdoor events and screenings to serve the entire district.
- Provide a **gracious experience** whether entering by foot, car, bus or bike.
- Provide a lively daytime and nighttime experience **leveraging the arts year round**.
- **Connect to other districts:** Rail Trail, Iron Horse, Main Street, Poison Creek, Prospector and the Sundance Theatre District (Ray Theater).
- Anticipate complimentary buildings that work well together and **communicate with each other** seamlessly.
- Allow parking to **accommodate public programs** and gatherings when not needed for cars.
- Create new arts and cultural **participation and opportunities** for Park City residents.
- Be sustainable with an appropriate mix of earned and contributed income.
- Showcase and incorporate the City’s **energy, transportation and housing goals**.
- Enhance the local and regional identity of Park City as an arts community.
- Be part of a **“complete community”** where residents want to live, work and play.

And consistent with Park City's community critical goals of:

- Housing - Middle Income, attainable and affordable housing
- Transportation - Congestion reduction; local and regional plans
- Energy - Energy conservation, renewable energy/carbon reduction and green building incentives
- Social Equity - equitable public administration of services, justice and social well-being

Furthermore, the project's development requires financial contribution and close coordination with the partner developers of the Sundance Institute ("SDI") and Kimball Art Center ("KAC") – each designing and building their own facility on the site.

SDI is dedicated to the discovery and development of independent artists and audiences. Through its programs, SDI seeks to discover, support, and inspire independent film, media, and theatre artists from the United States and around the world, and to introduce audiences to their new work. As a champion and curator of independent stories for the stage and screen, SDI provides and preserves the space for artists in film, theatre, film composing, and digital media to create and thrive. SDI was founded in 1981 to foster independence, risk-taking, and new voices in American film. Today, they provide 25 residential labs, grants exceeding \$3,000,000, and ongoing mentorships that support more than 900 artists each year. Each January, the Sundance Film Festival introduces a global audience to groundbreaking work and emerging talent in independent film.

KAC has been a pillar of Park City's art community since 1976. Exhibitions provide local access to nationally renowned artists and works and include quarterly Art Talks. Admission to their museum to see renowned exhibitions has remained free since day one. They provide over 300 visual art classes to youth and adults each year, including welding, encaustic, painting, drawing, photography, stained glass and more in our studios. Their Arts Education Program partners with K-12 schools and bridges a critical gap to provide immersive and quality art classes to youth who would not receive an arts education in their school without our programming. Their outreach programs illustrate vibrant partnerships that enhance our community through art. Their largest event of the year is the annual Park City Kimball Arts Festival held the first weekend in August, which brings over 225 jury-selected artists from around the country to Park City for approximately 50,000 attendees to enjoy.

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 gathering. Additionally, the Arts and Culture District

is to be used as a year-round destination area for both tourists and local residents, and have the ability to be transformed and used for special event activities.

## II. Background

In July 2017, PCMC entered into a purchase agreement for 5.25 acres at the southwest corner of Kearns Blvd. and Bonanza Dr. It is a mixed-use property zoned as General Commercial and requires integration of the surrounding site multi-modal accesses - including close coordination with offsite utility improvement, the Munchkin Road extension and re-build (between Bonanza Drive and Homestake Road) projects. SDI and KAC desire to locate their headquarter operations on this site. In addition to new SI and KAC facilities and amenities, PCMC is developing a sub-grade and structured parking, a bus transit hub, multi-use open plaza areas, and additional support flexible artist commercial areas, food and beverage, affordable housing, and potential other uses that support the goals and priorities of the Arts and Culture District.

In December 2017, PCMC selected the design team of Lake Flato and MHTN to lead the master planning efforts of the entire Arts and Culture District and design the PCMC funded building and site amenities. SDI and KAC are proceeding with their own design teams for their individual buildings. The following summary information is provided to convey the scale of the project; however, the information is provided in more detail in Appendix B, remains conceptual, and will change and refine as the design develops further:

- PCMC will build approximately 170K square feet of structured parking to meet the needs of the new development, and will build and own a bus transit facility on the site.
- PCMC will build approximately 80K square feet of additional support flexible artist commercial areas, food and beverage, affordable housing, and potential other uses that support the goals and priorities of the Arts and Culture District.
- PCMC is building their scope of the development as a net-zero energy development focused on the long term health of the community.
- SDI will build approximately 40K square feet of film arts studio, screening, exhibit, administrative offices and a café/bar in a stand-alone building.
- KAC will build approximately 30K square feet of visual arts exhibit, studio, classroom, administrative offices and a restaurant in a stand-alone building.

## 2. SCOPE OF WORK

PCMC is issuing this RFQ for qualified consulting services who will provide services to PCMC and be responsible for serving as the PCMC's project manager leading the project through the land use entitlement processes; facilitating and negotiating development and operational agreements between PCMC, SDI and KAC as the anchor owner occupants; and overseeing the implementation phases of design development, construction document, bidding, and construction administration. The work outlined in this RFQ requires experience and best

practice leadership and management in development implementation of a new Arts and Culture District in Park City.

This RFQ's owners' representative and project manager will:

- Coordinate all project matters at the delegation of the designated PCMC project lead and manager.
- Maintain an organized filing system for all project documents and records. At the project's completion the records will be turned over to PCMC or at any time at PCMC's request.
- Schedule, attend, conduct, and record minutes as requested.
- Assist in making presentations about the project to the governing bodies and public.
- Provide monthly reports containing (a) status of the project; (b) comparison of the project's established budget to the actual costs to-date; (c) comparison of the project's established schedule to the actual work completed to date; (d) summary of changes to the design or anticipated costs; (e) a status of any outstanding issues requiring action or approval by PCMC; and (f) any other reports concerning the project feasibility and progress.
- Reviewing and ensuring the timely processing of any PCMC project consultant invoice or pay application.
- Facilitate discussions and provide recommendations to PCMC on how to improve the project's energy efficiency, cost efficiency, and schedule efficiency.
- Assist in the bidding of construction and/or construction management services for the project.
- Coordinate obtaining all the necessary building permits or other necessary construction approvals.
- Assist in any site logistic plans in preparation of and during construction.
- Assist in procurements and agreements with potential leases of PCMC spaces within the project.
- Assist in the review of any change orders.
- Assist in the design and construction coordination of any off-site improvements related to the project.
- Notify PCMC of any project scope, schedule, budget, or contractual compliance of the design professionals and contractor in an urgent and timely manner.
- Advise on any recommended special inspections or third party verifications that would help to ensure the success of the project.
- Ensure project construction records are complete and provided to PCMC per their contract obligations or make thorough and clear recommendations of how to rectify a non-compliance situation.

- Assist in developing an occupancy plan for PCMC spaces.

## I. Project Description

The anticipated project phasing and schedule for the: (1) land use approvals; (2) purchase/sale, development and operational agreements negotiation and execution between the development partners; and (3) design development through construction administration and occupancy are as follows:

### A. Phases of Work

#### Phase 1 Land Use Entitlements & Application Process

The first phase of work is anticipated to take six to nine months' time and includes coordinating under the project lead's direction the submission and review communications between the design consultants, PCMC's planning staff and any other regulatory agency or department. The Park City Municipal Code Land is available online ([link](#)).

#### Phase 2 Development & Operational Agreements

The second phase of work is anticipated to take six to eight months and includes weekly meetings and coordination with the PCMC project lead and legal counsel on developing the necessary development and operation agreements between SDI, KAC and PCMC.

#### Phase 3 Design Development

General oversight, at the direction of PCMC's project lead, of the design consultant as they develop the drawings with more specificity and detail than in conceptual design.

#### Phase 4 Construction Documents

General oversight, at the direction of PCMC's project lead, of the design consultants as they finalize all the technical design and engineering including structural engineering and detailing, heating air conditioning and ventilation systems, plumbing, electrical, gas, energy calculations, and all products and materials are selected and scheduled. Multiple drawing sets, including a filing set for building permit approvals and a set of bidding for construction are anticipated. The project also anticipates multiple permit and bid packages including demolition, site preparation, footings and foundations, and for separate buildings.

#### Phase 5 Permits & Bidding

General oversight, at the direction of PCMC's project lead, of the building permit and bidding process and progress and monitoring compliance with PCMC codes, requirements, and consultant contracts. Multiple contractors will submit bids on the job. Again, multiple permit and bid packages including demolition, site preparation, footings and foundations, and potentially separate buildings are anticipated.

#### Phase 6 Construction Administration

General oversight, at the direction of PCMC's project lead, of the construction process and progress and monitoring compliance with PCMC codes, requirements, and consultant contracts.

Requires visiting the job site during construction to see progress and ensure the contractor is following the plan and reviewing the contractor’s monthly invoices to confirm work completion. Also requires being available to answer questions and provide additional information as to issues that arise as well as reviewing requested change orders. This phase is completed when the final inspections are finished and PCMC obtains all Certificates of Occupancy

Phase 7 Occupancy & Post Occupancy Evaluation

Tenants of PCMC owned buildings are expected to occupy the spaces when the construction is complete. This phase includes assisting the PCMC project lead with logistics and getting accustomed to the new facilities. Due to net zero design requirements, post occupancy evaluations will be required.

Some Phases may occur concurrently. See Project Schedule below.

**II. Project Schedule**

	2019	2020	2021	2022	2023	2024
<b>Phase 1</b>	X	X				
<b>Phase 2</b>	X	X				
<b>Phase 3</b>	X	X				
<b>Phase 4</b>		X	X			
<b>Phase 5</b>		X	X			
<b>Phase 6</b>			X	X	X	
<b>Phase 7</b>						X

**3. PROPOSAL SUBMITTAL REQUIREMENTS**

**I. Proposal Format**

The proposal shall be no longer than twenty (20) pages when printed double-sided. Proposals shall be presented in a well-organized and concise manner. If paper copies are submitted, please use only one staple and do not bind. Please provide non-recyclable covers or tabs.

**II. Proposal Content**

The following items must be addressed in any submitted proposal:

**A. Cover Letter.**

Submit a clear and concise cover letter identifying the following:

- Name of proposing organization.



- Primary contact person working on the project and their contact information.
- Proposing organization's contact information.
- Why PCMC should select the submitted proposal.
- Acknowledgement of RFQ Amendments (if any).

**A. Qualifications and Experience.**

Submit the following information:

- Similar experience of the proposing organization illustrating relevant projects of work related to the technical aspects and processes described in this RFQ's scope of work. Include sub-consultant (if any) capabilities as related to the scope of work and site specific projects of a similar nature to Park City's new Arts & Culture District project.
- Describe 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 this project and the responsible party in each firm who will be providing the required professional experience. If a team approach is used, provide examples of projects completed by the team.
- 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 these challenges.
- Understanding of Work and Outline of Project Schedule.
- Describe 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 resume.
- 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.
- List three (3) references with which the team or key members of the team have worked 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.
- Any supplemental material to support the firm's selection for this process.

**C. Work Plan.**

Provide a preliminary and high level work plan identifying the team approach such as recommended tasks to be accomplished, the positions or individuals anticipated to execute each task, estimated hours for each task and proposed deliverables, key milestone dates, and suggested priorities in accomplishing this type of development project. Provide suggestions for any additional services which may enhance the value and/or affect the overall economy and effectiveness of 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.

- D. Evidence of Ability to Obtain Insurance.
- 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.
  - Automobile Liability insurance with a combined single limit of not less than Two Million Dollars (\$2,000,000) each accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.
  - Professional Liability (Errors and Omissions) insurance (if applicable) with annual limits no less than One Million Dollars (\$1,000,000) per occurrence. Service Provider agrees to continue to procure and maintain professional liability insurance coverage meeting these requirements for the applicable period of statutory limitation of claims (or statute of repose, if applicable) after the project completion or termination of this Agreement. 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 endorsement (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.
  - Workers Compensation insurance and Employers Liability coverage with Workers Compensation limits complying with statutory requirements, and Employer's Liability Insurance limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for bodily injury by accident, and One Million Dollars (\$1,000,000) each employee for injury by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Park City Municipal Corporation for all work performed by the Service Provider, its employees, agents and subcontractors.
  - Park City Municipal Corporation, its officers, officials, employees, and volunteers are to be covered as additional insureds on general liability and auto

liability insurance policies, with respect to work performed by or on behalf of the Service Provider including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed 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.

- 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. 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.
- 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.
- G. Professional Services Agreement Statement.  
A copy of the City's standard Professional Services Agreement is included in the Attachments Section of this RFQ. 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.
- H. Fee Schedule.  
Fixed hourly rates for each person who will be assigned, titles, and applicable rates. For example: Joan Smith, Principal In-Charge, \$150 per hour; and any anticipated additional reimbursable expense rates.

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. 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.

The instructions in this section provide guidance and information to respondents to this RFQ to prepare and submit concise responses. The purpose is to establish the format and contents of the proposal so that the responses are complete, contain essential information, and can be easily evaluated.

#### 4. EVALUATION METHOD

##### I. Evaluation Criteria

CRITERIA	Weighting
<b><i>QUALIFICATIONS</i></b>	
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
<b><i>SCHEDULE</i></b>	
Approach to the project and schedule outlining critical path items.	15 percent
<b><i>Compensation Rates</i></b>	
Hourly Rate Schedule	10 percent

##### II. Selection Procedure

- A. All respondents must address submittal requirements outlined in *Section 3, Proposal 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 RFQ, if stipulated in a submittal, while possibly necessary in the view of the submitting respondent, may result in disqualification.
- B. After evaluation of the complete proposals received in response to this RFQ, City staff and other community representatives as part of the selection committee may conduct interviews with one or more applicants.
- C. 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.
- D. 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.

- E. 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.
- F. 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.
- G. 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.

## 5. PARK CITY MUNICIPAL STANDARD SERVICE PROVIDER AGREEMENT

A. The successful proposal will be required to enter into Park City's Professional Service Agreement, in its current form, with the City. A draft of the Agreement is attached to this RFQ. If there is a conflict between the written and numerical amount of the proposal, the written amount shall supersede.

**B. 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'S CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISIONS SHALL BE APPROVED IN PARK CITY'S SOLE DISCRETION.**

C. Any service provider who contracts with Park City is required to have a valid Park City business license.

### I. Information to be submitted

To be considered, a PDF format electronic file of the proposal must be sent to Nate Rockwood via email at [nrockwood@parkcity.org](mailto:nrockwood@parkcity.org) or on a thumb drive via mail to the Park City Budget Offices, 445 Marsac Ave., Park City, UT 84060 by Tuesday December 3, 2019, at 4:00 p.m. Mountain Time.

## II. Preparation of Proposals

A. Failure to Read. Failure to Read the Request for Qualifications and these instructions will be at the offeror's own risk.

B. Cost of Developing Proposals. All costs related to the preparation of the proposals and any related activities are the sole responsibility of the offeror. The City assumes no liability for any costs incurred by offerors throughout the entire selection process.

## III. 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 offeror.

C. Rejection of Proposals. Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFQ 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 qualifications. 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.

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 RFQ.

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 bidder utilizes third parties for completing RFQ requirements, list what portion of the RFQ will be completed by third parties and the name, if known, of the third party.

**Appendix A: Draft Professional Services Agreement**

APPENDIX "A"

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**PARK CITY MUNICIPAL CORPORATION  
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

This Service Provider/Professional Services Agreement (the "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 \_\_\_\_\_ (Insert state of incorporation) \_\_\_\_\_ (insert either "corporation" or "limited liability company"), ("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 on 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

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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, 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 an 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

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

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.

## **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

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

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 a combined single limit of not less than Two Million Dollars (\$2,000,000) each accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.

- C. Professional Liability (Errors and Omissions) insurance (if applicable) with annual limits no less than One Million Dollars (\$1,000,000) per occurrence. Service Provider agrees to continue to procure and maintain professional liability insurance coverage meeting these requirements for the applicable period of statutory limitation of claims (or statute of repose, if applicable) after the project completion or termination of this Agreement.

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 endorsement (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 and Employers Liability coverage with Workers Compensation limits complying with statutory requirements, and Employer's Liability Insurance limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for bodily injury by accident, and One Million Dollars (\$1,000,000) each employee for injury by disease.

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Park City Municipal Corporation for all work performed by the Service Provider, its employees, agents and subcontractors.

- E. Park City Municipal Corporation, its officers, officials, employees, and volunteers are to be covered as additional insureds on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Service Provider including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed 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.
- F. 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.
- G. 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.
- H. For any claims related to this Agreement, the Service Provider's insurance coverage shall be primary insurance coverage with respect to Park City Municipal Corporation, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Park City Municipal Corporation, its officers, officials, employees, or volunteers shall be excess of the Service Provider's insurance and shall not contribute with it.

## **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.

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

- 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 an equivalent program. The Service Provider agrees to verify employment eligibility through E-Verify, or an equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code § 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.

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

- 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 written consent of the City, as required by this paragraph, shall be deemed null and void.
- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper 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 an equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code § 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



## **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

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 below. 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.

# **PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

## **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 the 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.

**PARK CITY MUNICIPAL CORPORATION  
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

**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**, a  
Utah municipal corporation  
445 Marsac Avenue  
Post Office Box 1480  
Park City, UT 84060-1480

\_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Recorder's Office

Approved as to form:

\_\_\_\_\_  
City Attorney's Office

**PARK CITY MUNICIPAL CORPORATION  
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

**SERVICE PROVIDER NAME**

Address:

Address:

City, State, Zip:

Tax ID#: \_\_\_\_\_

PC Business License# BL\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

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 Operating Agreement/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

**PARK CITY MUNICIPAL CORPORATION  
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**PARK CITY MUNICIPAL CORPORATION  
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**EXHIBIT “B”**

PAYMENT SCHEDULE FOR “EXTRA” WORK