



**REQUEST FOR QUALIFICATIONS**

**FOR SERVICES AS**

**EMPLOYEE TRANSFER AND DISCHARGE HEARING OFFICERS – INDEPENDENT  
CONTRACTOR**

**PARK CITY, UTAH**

August 5, 2020

# **Park City Municipal Corporation Service Provider Agreement/Minor**

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## **Park City Municipal Corporation Service Provider Agreement/Minor**

### **ADVERTISEMENT NOTICE**

#### **EMPLOYEE TRANSFER AND DISCHARGE HEARING OFFICER-INDEPENDENT CONTRACTOR**

**Anticipated 40 hours annually as needed  
\$100.00/hr.**

Pursuant to UCA § 10-3-1106, will preside over an employee transfer and discharge hearing, including scheduling the hearing, taking and receiving evidence, and fully hearing and determining the matter which relates to the reason for the discharge, suspension, or transfer.

Subsequent to the discharge hearing, will draft a decision complete with findings of fact and conclusions of law. This is an appointed position by the Park City Mayor, with the advice and consent of the Park City Council. The appointment will be for a period of 1 year with the City's option to renew for 2 one year terms, with rate increase agreed to by the parties for each renewal not to exceed 15%.

This is an independent contractor position which is not a benefitted position. Compensation is based upon hours worked only. There are two (2) positions available, one (1) primary, and one (1) conflict.

#### **REQUIRED:**

- J.D. from accredited law school.
- Admission to Utah State Bar with active bar license and in good standing.
- Minimum of five (5) years' experience in the practice of law.
- Flexibility to preside over ad hoc hearings pursuant to a notice of appeal by a discharged employee.
- Anticipated forty (40) hours annually as needed.

#### **PREFERRED:**

- Employment law experience.
- Experience as an administrative law judge, pro tem judge, hearing officer, or related experience.

## **Park City Municipal Corporation Service Provider Agreement/Minor**

### **NOTICE OF SELECTION OF SERVICES**

Park City Municipal Corporation (“PCMC”) is seeking the services of two (2) qualified Hearing Officers, one (1) primary, and one (1) conflict, to provide services for the following:

#### **Employee Transfer and Discharge Hearing Officers – Independent Contractor**

If you are interested in submitting an RFQ, you may obtain the RFQ from [www.parkcity.org](http://www.parkcity.org) or Leah Langan, Executive Assistant, via email at [Leah.Langan@parkcity.org](mailto:Leah.Langan@parkcity.org).

A pre-submittal meeting will not be held.

The deadline for submitting a Statement of Qualifications is by 4:00 pm on Friday, September 4, 2020 in-person at the City Hall offices, Attn: Leah Langan, Executive Assistant, 445 Marsac Avenue, Park City, UT 84060, or via U.S. Mail at P.O. Box 1480, Park City, UT 84060, Attn: Leah Langan, Executive Assistant.

Park City Municipal Corporation reserves the right to reject any and all proposals for any reason.

**All questions shall be submitted in writing by 5:00 p.m. on Monday, August 31, 2020 to Leah Langan, Executive Assistant, via email to: [Leah.Langan@parkcity.org](mailto:Leah.Langan@parkcity.org).** Answers to questions will be posted on the Park City website by 5:00 p.m. on Wednesday, September 2, 2020.

**Park City reserves the right to reject any or all submissions received. Furthermore, the City shall have the right to waive any informality or technicality in submissions received when in the best interest of the City.**

## **Park City Municipal Corporation Service Provider Agreement/Minor**

### **PARK CITY MUNICIPAL CORPORATION Employee Transfer and Hearing Officers Professional Service Agreement**

#### Summary Sheet - Request for Qualifications

1. Project: The Hearing Officer position is an appointed position by the Park City Mayor, with the advice and consent of the Park City Council. The appointment will be for a period of 1 year with the City's option to renew for 2 one year terms, with rate increase agreed to by the parties for each renewal not to exceed 15%. This is an independent contractor position which is not a benefitted position. Compensation is based upon hours worked at a rate of One Hundred Dollars (\$100.00) per hour, for an anticipated forty (40) hours annually.
2. Requested Services: The Service Provider, an Employee Transfer and Discharge Hearing Officer, will preside over employee transfer and discharge hearings, including scheduling the hearing, taking and receiving evidence, and fully hearing and determining the matter which relates to the reason for the discharge, suspension, or transfer. Subsequent to the hearing, the Service Provider will draft a decision complete with findings of fact and conclusions of law.
3. Advertisement Dates: August 29, 2020 and September 2, 2020
4. Statement of Qualifications Due by 4:00 p.m. on Friday, September 4, 2020.
5. Five (5) copies of the qualifications numbered sequentially from 1 to 5 on the upper right hand corner of the cover shall be delivered in-person to Park City Municipal Corporation, Attn: Leah Langan, Executive Assistant, Park City Municipal Corporation, 445 Marsac Avenue, Park City, UT 84060, or via U.S. Mail at P.O. Box 1480, Park City, UT 84060.. Proposals will not be accepted after the 4:00 p.m. deadline.
6. Selection and consideration of award of Professional Service Agreement: anticipated by September 10, 2020.

The dates for selection and award are approximate. The award of Professional Service Agreement is subject to approval by City Council.

# **Park City Municipal Corporation Service Provider Agreement/Minor**

## **I. Introduction**

### Project Background:

Pursuant to UCA § 10-3-1106, a Hearing Officer will preside over an employee transfer and discharge hearing, including scheduling the hearing, taking and receiving evidence, and fully hearing and determining the matter which relates to the reason for the discharge, suspension, or transfer. Subsequent to the discharge hearing, will draft a decision complete with findings of fact and conclusions of law. This is an appointed position by the Park City Mayor, with the advice and consent of the Park City Council. The appointment will be for a period of 1 year with the City's option to renew for 2 one year terms, with rate increase agreed to by the parties for each renewal not to exceed 15%. This is an independent contractor position which is not a benefitted position. Compensation is based upon hours worked only. There are two (2) positions available, one (1) primary, and one (1) conflict.

## **II. Qualifications**

### Requirements:

- J.D. from accredited law school.
- Admission to Utah State Bar with active bar license and in good standing.
- Minimum of five (5) years' experience in the practice of law.
- Flexibility to preside over ad hoc hearings pursuant to a notice of appeal by a discharged employee.
- Anticipated forty (40) hours annually as needed.
- Throughout the term of this Agreement, Service Provider will maintain active membership in the Utah State Bar. In the event that Service Provider fails to maintain Utah State Bar membership, this Agreement will be rendered null and void, and no further payment under this Agreement will be made to Service Provider unless and until he/she has remedied any defect in the licensure.

### Preferred:

- Employment law experience.
- Experience as an administrative law judge, pro tem judge, hearing officer, or related experience.

## **III. Scope of Services**

## **Park City Municipal Corporation Service Provider Agreement/Minor**

The Service Provider, an Employee Transfer and Discharge Hearing Officer, will preside over employee transfer and discharge hearings, including scheduling the hearing, taking and receiving evidence, and fully hearing and determining the matter which relates to the reason for the discharge, suspension, or transfer. Subsequent to the hearing, the Service Provider will draft a decision complete with findings of fact and conclusions of law.

### **a. Agreement Term**

The term of the Professional Service Agreement will be for a period of 1 year with the City's option to renew for 2 one year terms, with rate increase agreed to by the parties for each renewal not to exceed 15%.

### **b. Compensation and Method of Payment**

No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in the Agreement. Payments for services provided shall be made monthly following the performance of such services. The City will pay Service Provider at the rate of One Hundred Dollars (\$100.00) per hour. City will compensate Service Provider for his/her actual time in providing legal service pursuant to the Agreement. The Service Provider shall submit to the City Attorney or his designee on forms approved by the City Attorney, a monthly invoice for services rendered during each month of the term of service.

### **c. Reporting**

The Service Provider shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly by the 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 the Agreement, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to the Agreement. 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 the Agreement for six (6) years after expiration of the Agreement. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period. Nothing herein shall apply to any records or matters protected by attorney-client privilege.

## **Park City Municipal Corporation Service Provider Agreement/Minor**

### **d. Agreement Form**

The proposed form of agreement between PCMC and Hearing Officers is PCMC's standard form Professional Service Agreement Minor as modified for Employee Transfer and Discharge Hearing Officers, a copy of which is attached hereto as **Exhibit "A"**.

## **IV. Selection Process**

The selection process will occur in two (2) phases:

### **A. Request for Qualifications (Statement of Qualifications)**

1. Open request for qualifications and information from interested individuals.
2. All respondents must address submittal requirements outlined in Section V, Submittal Requirements.
3. Review of submittals and qualifications followed by selection of up to five (5) respondents for further consideration (short list).
4. Respondents advised of selection results.
5. Presentation of qualifications from short-listed respondents and interview from selection committee. Review of qualifications for Professional Service Agreement.
6. Selection of Hearing Officers.

PCMC will engage a selection committee to review submitted Statements of Qualifications by short-listed respondents. The committee may include members of the PCMC staff, contracted consulting representatives, business stakeholder representative, and industry representatives.

In the initial phase of evaluation, the selection committee will review all properly submitted Statements of Qualifications. Non-responsive submittals (those not conforming to the RFQ requirements) will be eliminated. The remaining submittals will be evaluated to eliminate those, which in the judgment of the selection committee, fail to offer sufficient merit to warrant further consideration. 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.

After conclusion of evaluation of Statements of Qualifications, the short listed respondents will be reviewed in preparation for the interviews. The interviews will be conducted at Park City's City Hall. Based on evaluation of qualifications and interviews, two (2) Hearing Officers will be selected, one (1) primary, and one (1) conflict.



## **Park City Municipal Corporation Service Provider Agreement/Minor**

### **V. Submittal Requirements**

Each respondent must demonstrate in their submittal that they have the professional capabilities and the organizational and administrative experience needed to accomplish this project.

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

#### **1. Specific Experience**

Provide information on similar or pertinent work experience completed by you in the past ten (10) years indicating the names and telephone numbers of employers or references. At minimum the respondent shall have a J.D from an accredited law school, a minimum of five (5) years' experience in the practice of law, ability to maintain a flexible schedule, hold a current Utah State Bar license, and be in good standing. Respondents with employment law experience, administrative law judge, pro tem judge, or hearing officer experience is preferred.

#### **2. List of References**

List five (5) references, including previous employers, etc., with which you have worked with in the past five (5) years. Give individual and firm name and telephone number.

#### **3. Additional Information**

Provide other information you feel is relevant to indicate your abilities to be a successful hearing officer of this nature or to give a better understanding of your qualifications.

### **VI. Submittal of Statement of Qualifications**

Please submit five (5) copies of the Statement of Qualifications. Limit the response to five (5) pages of written material including any visual material such as sketches, photographs, etc. A concise presentation will be appreciated. The page count does not include index, dividers, or separation sheets that contain no information.

**Interested individuals must submit their Statement of Qualifications by 4:00 pm, Friday, September 4, 2020.** The proposal must be delivered in-person to the offices of Park City Municipal Corporation, City Hall, 445 Marsac Avenue, Park City, UT 84060, Attn: Leah Langan, Executive Assistant, or via U.S. Mail to P.O. Box 1480, Park City, UT 84060. Submittal shall include five (5) copies of the proposal numbered sequentially from 1 to 5 on the upper right hand corner of the cover.

## **Park City Municipal Corporation Service Provider Agreement/Minor**

The envelope must indicate the individual(s) making the submittal and be addressed as follows:

**Request for Qualifications, Employee Transfer and Discharge Hearing Officers  
Attn: Leah Langan, Executive Assistant**

Faxed proposals will not be accepted.

### **VII. Criteria for Selection**

The following listed criteria will be used in the evaluation of the respondents and the determination of the selection of the short-listed respondents. The list is not in order of priority; some criteria will receive more weight than others.

1. Experience (evidence of applicable work experience).
2. Claims Management Skills/Experience (experience in claims resolution and avoidance; ability to minimize and manage claims).
3. The nature and extent of requested changes to the Park City Professional Services Agreement (i.e., unwillingness to comply with this RFQ's requirements or our Professional Services Agreement may count against a respondent).

### **VIII. Requests for Additional Information**

**All questions shall be submitted in writing by 5:00 p.m. on Monday, August 31, 2020, via email to: Leah.Langan@parkcity.org.** Final modification or addendum will be made on the website by 5:00 p.m. on Wednesday, September 2, 2020.

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. All proposals shall remain good for thirty (30) days from submittal. Park City Municipal reserves the right to change any dates or deadlines. It is the Park City policy, 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.

**Park City Municipal Corporation Service Provider Agreement/Minor**

**EXHIBIT “A”**

**PARK CITY MUNICIPAL CORPORATION  
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT  
(MINOR)**

This Service Provider/Professional Services Agreement - Minor (the “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, (“City”), and \_\_\_\_\_, (“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;

WHEREAS, the service provided to the City carries minimal insurance risk; 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 (\$\_\_\_\_\_).

## **Park City Municipal Corporation Service Provider Agreement/Minor**

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. BAR MEMBERSHIP.**

Throughout the term of the agreement, Service Provider will maintain active membership in the Utah State Bar. In the event that Service Provider fails to maintain Utah State Bar membership, this Agreement will be rendered null and void, and no further payment under this Agreement will be made to Service Provider unless and until he/she has remedied any defect in the licensure.

### **3. 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.

### **4. 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 Attorney or her designee on forms approved by the City Attorney, a monthly invoice for services rendered during each month of the term of service. 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.

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- 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.
- G. The City will pay Service Provider at the rate of One Hundred Dollars (\$100.00) per hour. City will compensate Service Provider for his/her actual time in providing legal service pursuant to this agreement.

### **5. 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.

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- 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 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.

### **6. 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.

### **7. SERVICE PROVIDER EMPLOYEE/AGENTS.**

## **Park City Municipal Corporation Service Provider Agreement/Minor**

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.

### **8. 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. Service Provider does hereby remise, release, forever discharge and covenant not to sue Park City Municipal Corporation, its agents, servants, employees, officers, successors and assigns, and/or heirs, executors and administrators, and also any and all other persons, associations and corporations, whether herein named or referred to or not, and who, together with the above named, may be jointly and severally liable to the Service Provider, of and from any and all, and all manner of, actions and causes of action, rights, suits, covenants, contracts, agreements,

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judgments, claims and demands whatsoever in law or equity, including claims for contribution, arising from and by reason of any and all KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN bodily and personal injuries or death, damage to property, and the consequences thereof, which heretofore have been, and which hereafter may be sustained by the Service Provider or by any and all other persons, associations and corporations, whether herein named or referred to or not, from all liability arising out of, in connection with, or incident to the execution of this Agreement

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

### **9. 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 as follows:

- A. 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.

Service Provider shall submit with the signed Provider Service Agreement a certificate of insurance evidencing this coverage to the City.

- B. Auto liability insurance with limits as required by statutory law.
- 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



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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. 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.
- E. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- F. For any claims related to this Service Provider/Professional Services Agreement, the Service Provider's insurance coverage shall be primary insurance coverage as 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.

### **10. 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).

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### **11. 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 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.

### **12. 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

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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.

### **13. 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.

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**14. 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.

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

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Nothing herein is intended to confer rights of any kind in any third party.

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.

**16. 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.

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**17. 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.

**18. 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.

**19. 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.

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**20. 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.

**21. 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.

**22. 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. It is also agreed by the Parties that the forgiveness of the non-performance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

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**23. COUNTERPARTS.**

This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

**24. ELECTRONIC SIGNATURES.**

Each party agrees that the signatures of the parties included in this Agreement, whether affixed on an original document manually and later electronically transmitted or whether affixed by an electronic signature through an electronic signature system such as DocuSign, are intended to authenticate this writing and to create a legal and enforceable agreement between the parties hereto.

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

\_\_\_\_\_  
Matt Dias, City Manager

Attest:

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

Approved as to form:

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

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**SERVICE PROVIDER:**

Name:

Address:

City/State/Zip:

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

PC Business License #: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title



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**THE CITY REQUIRES THE SERVICE PROVIDER TO COMPLETE EITHER THE NOTARY BLOCK OR THE UNSWORN DECLARATION, WHICH ARE BELOW.**

STATE OF UTAH            )  
  ) ss.  
COUNTY OF SUMMIT    )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, 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 \_\_\_\_\_, and acknowledged that he/she signed it voluntarily for its stated purpose as \_\_\_\_\_ (title) for \_\_\_\_\_, a \_\_\_\_\_ corporation (or limited liability company).

\_\_\_\_\_  
Notary Public

I declare under criminal penalty under the law of Utah that the foregoing is true and correct. Signed on the \_\_\_\_ day of \_\_\_\_\_, 2020, at \_\_\_\_\_ (insert State and County here).

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

Signature: \_\_\_\_\_

**Park City Municipal Corporation Service Provider Agreement/Minor**

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**Park City Municipal Corporation Service Provider Agreement/Minor**

**EXHIBIT "B"**

**PAYMENT SCHEDULE FOR "EXTRA" WORK**