



**Park City Municipal Corporation**

**Clark Ranch Housing Project**

**Request for Proposals (Non-Bid)  
Land Surveying and Consultant Services**

**Submittal deadline: By 4:00 p.m. on Thursday, August 26, 2021**

Park City Municipal Corporation

Community Development Office

445 Marsac Avenue

P.O. Box 1480

Park City, UT 84060

(435) 615-5177

Staff contact: Elyse Kats

Affordable Housing Specialist

Email: [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org)

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

**NOTICE OF REQUEST FOR PROPOSALS FOR LAND SURVEYING &  
CONSULTANT SERVICES (NON-BID)**

Park City Municipal Corporation (“PCMC” or the “City”) is seeking the services of a qualified land planning team to determine the developable feasibility and to provide entitlement services for the following project:

**Clark Ranch Land Surveying and Consultant Services**

**RFP AVAILABLE:**

A copy of the RFP can be obtained electronically by emailing Elyse Kats at [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org). Any modifications or addendums will be made in redlined form on the website on Thursday, August 19, 2021, by 4:00 pm.

**PROPOSALS DUE:**

Proposal submittals must be received **via e-mail by 4:00 p.m. on Thursday, August 26, 2021**, at: [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org).

**PROJECT LOCATION:** Clark Ranch, Parcels SS-121-X & PP-26-X, west of Hwy 40, in unincorporated Summit County, Utah

**OWNER/CONTACT:** Elyse Kats, Affordable Housing Specialist  
Park City Municipal Corporation  
P.O. Box 1480  
Park City, Utah 84060

**All questions shall be submitted in writing by 2:00 p.m. on Thursday, August 19, 2021, via e-mail to:** [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org).

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

## **I. Project Description**

PCMC seeks proposals for land planning and entitlement services for part of the City-owned Clark Ranch property located in Summit County. The work outlined in the RFP includes land surveying, development analysis including slope, access, soils, and utilities, and entitlement services, consistent with Park City's Land Management Code. PCMC is seeking responses from land surveying and planning companies licensed in the State of Utah to conduct this work. The City's standard purchasing and procurement policies apply.

## Clark Ranch

The City owned land at Clark Ranch is two parcels - SS-121-X & PP-26-X. The land analysis is specific to the property west of Hwy 40 ("Clark Ranch"). The parcels west of Hwy 40 are 250.74 acres in size. The City is looking at the possibility of developing single/multifamily homes on a yet-to-be-determined portion of the parcels. The property is within Summit County boundaries, and may need to be annexed, zoned, and entitled within Park City limits. In addition, the property may contain historic mining soils that will need to be studied and reported. The property also has significant slopes, and a steep slope analysis would need to be conducted.



*Figure 1 Clark Ranch Western Portion*

## II. Site Information

### *Zoning & Existing Conditions*

The current Summit County zoning code identifies the zoning on the subject site as Mountain Remote (“MR”). The site lies across Hwy 40. Only the property west of Hwy 40 will be surveyed, annexed, and entitled. Prior to construction, the City’s Land Management Code (“LMC”) requires the property to be included within a platted subdivision and that the improvements meet all the requirements of the LMC. The land planning team will procure site survey information and conduct necessary platting approvals to identify a developable lot of record, concurrent to the design process. Slope and soils studies will also be needed.

## III. Scope of Work

The proposal to PCMC shall outline an approach to the needs listed below and shall include an estimated range of total costs to perform the following work for all tasks associated with the Clark Ranch project.

It is anticipated that the specific services to be provided by the land surveying team will include:

### **Task 1 – Determine the development potential for the Clark Ranch with a focus on affordable community housing**

#### *Land Analysis that meets the City’s Annexation Policy Plan, General Plan and [Sensitive Land Overlay](#)*

- Understand and report the developable feasibility of the land
- Analyze max density
- Analyze view corridors, vantage points, and ridgelines
- Complete a steep slope analysis
- Complete an access analysis, including anticipated costs
- Complete a utilities and soils analysis, including anticipated costs
- Evaluate the site for any historical structures
- Evaluate the site for mining hazards
- Evaluate appropriate density for the site in accordance with the General Plan and consider potential [Community Transition District](#) or [Residential Development District](#) zoning, or other recommended zoning for affordable housing development on the site with possible complementary commercial uses
- Evaluate the implications of applying for an Affordable Master Planned Development or Master Planned Development permit on the site
- Evaluate traffic and circulation for development of the site

- Analyze Land Management Code application to the land, specifically the Annexation Policy Plan
- Present the concept plans to City Council for review and feedback
- Calculate impact and permitting fees (such as water) for development
- Agendas/summaries in monthly team meetings with the City
- Work plan, including schedule showing all submittals
- Report on developable land feasibility and presentation to City Council

## **Task 2 – Entitlement and Annexation of Clark Ranch**

### *Entitlement*

- Using the information from Task 1, create and submit an annexation petition on behalf of the Housing Authority and/or Community Development that follows State and City [Annexation](#) requirements, and go through the approval process, including a zoning recommendation, and a recommendation of which areas of the property to develop. Annexation is a legislative decision by the City Council after recommendation from the Planning Commission. Nothing herein shall limit the City Council’s decision to approve or deny the annexation in accordance with applicable regulations.
- Biweekly internal meetings with City staff and annexation committee
- Presentations to the Planning Commission and City Council for an estimate of five to ten meetings, with the possibility of additional meetings

## **IV. Submittal Requirements**

### **A. Cover Letter (maximum of 1 page)**

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

### **B. Statement of Qualifications (Maximum of 8 pages)**

Each respondent must demonstrate in their submittal that they have the professional capabilities and the organizational and administrative experience needed to accomplish this project. The page count does not include index, dividers, or separation sheets that contain no information, or short form resumes of team individuals.

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

1. **Statement of Approach of Team:** Describe the specialized experience and project approach of the team. Indicate the team leader and their specific role. Briefly discuss the approach to team management and organization. Describe the firm's approach to conceptual site planning for housing projects, cost estimation, and control.
2. **Understanding of Work and Outline of Project Schedule:** Demonstrate knowledge of work to be performed. Provide an outline of the schedule noting the critical path items. If team believes there are potential challenges, those challenges should be noted along with potential solutions to address these challenges.
3. **Firm/Team Qualifications and Experience in Park City:** Demonstrate professional experience in land surveying, consultation, and planning. An example of recent previous work is required as well as descriptions of the scope of work and management tasks provided by the firm or team. Demonstrate recent, relevant experience, particularly in Park City.
4. **Proposed Project Team Members:** Submit a written description of the team composition, disciplines, and the primary role of each firm or individual on the team indicating respective roles, responsibilities, and related experience and qualifications. Also include an organizational chart. The information must clearly indicate the team leader for the team for this project and the responsible party in each firm who will be providing the required professional experience. If a team approach is used, provide example of projects completed by the team. If proposer utilizes third parties for completing RFP requirements, list what portion of the RFP will be completed by third parties and the name, if known, of the third party.
5. **Individual Experience:** Provide a description of the background of the key members of the team and their specific participation in previous projects that would directly relate to the work to be done for this project. This may be done in descriptive text or in a short- form (one page or less) resume.
6. **Quality Control:** Describe the ability to undertake and complete quality projects on time and within budget. Indicate current workload and the capacity of the firm to undertake this project. Has the firm or individual engaged in litigation, arbitration, or mediation as a result of design errors of omission? If yes, please explain.
7. **List of References:** List three (3) references with which the team or key members of the team have worked in the last five (5) years, for projects of similar size or scope, indicating projects done. Provide all contact information, such as address, telephone number, fax number, and email address. Proposals that do not provide a completed section for references will not be considered further.

**C. Supplemental Material (maximum of 4 pages)**

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

**D. Work Plan**

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

**E. Insurance**

The Design Professional 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 Design Professional, their agents, representatives, employees, or subcontractors. The Design Professional shall provide a Certificate of Insurance evidencing:

1. 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 Design Professional 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.

2. Automobile Liability insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
3. Professional Liability (Errors and Omissions) insurance with annual limits no less than One Million Dollars (\$1,000,000) per occurrence. If written on a claims-made basis, the Design Professional warrants that the retroactive date applicable to coverage precedes the effective date of this agreement; and that continuous coverage will be maintained for an extended reporting period and tail coverage will be purchased for a period of at least three (3) years beginning from the time that work under this agreement is complete.



4. Workers Compensation insurance limits written as follows:  
Bodily Injury by Accident Five Hundred Thousand Dollars (\$500,000) each accident; Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee, Five Hundred Thousand Dollar (\$500,000) policy limit.
5. The City shall be named as an additional insured on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Design Professional and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. Should any of the above described policies be cancelled before the expiration date thereof, Design Professional 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.
6. The Design Professional'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. Design Professional Services Agreement Statement.**

A copy of the City's standard Design Professional Services Agreement is included as **Exhibit "A"** attached hereto and made a part hereof. 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.

**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 INQUIRES. ANY CHANGES TO PARK CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISION SHALL BE APPROVED AT PARK CITY'S SOLE DISCRETION.**

#### **V. Fee Schedule**

Fees should be outlined with the proposed costs for the services including:

- Fixed hourly rates for the Conceptual, Preliminary, Schematic and Design Development.

- The fixed hourly rates are to show the persons who will be assigned, titles, and applicable rates. For example: John Smith, Architect I, \$75 per hour.
- Any additional reimbursable expenses.
- Rates for any additional studies that may be required as part of the annexation and Affordable Master Planned Development or Master Planned Development review criteria in the City's Land Management Code.

Award of contact is subject to City Council approval. Upon approval, PCMC will then contract with the selected proposer.

Price may not be the sole deciding factor. If there is a difference between the written and numerical amount, the written amount shall supersede.

## **VI. Selection Process**

All respondents must address submittal requirements outlined in **Section IV, Submittal Requirements**. Each respondent bears the sole responsibility for the items included or not included in its submittal. Proposals lacking required information will not be considered.

After evaluation of the complete proposals received in response to this RFP, City staff and other community representatives as part of the selection committee may conduct interviews with one or more applicants. The nature and extent of requested changes to our standard contract (i.e., unwillingness to comply with our insurance/indemnity provision) will be evaluated.

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

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

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

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

PCMC reserves the right to complete the selection process without proceeding to an interview process and may choose to select based on the information supplied in the Statement of Qualifications. PCMC reserves the right to select the applicant(s) whose qualifications, in the City's sole judgment, best meet the needs of the City. Award of contract is subject to approval by the City Council of Park City. No appeal process during the selection process applies.

**Evaluation Criteria Weighting**

<b>CRITERIA</b>	<b>Weighting</b>
<b>QUALIFICATIONS</b>	
Understanding of work to be completed.	15 percent
Qualifications/expertise of team	15 percent
Expertise in following the Park City planning, land surveying, and entitlement/ annexation approval processes.	15 percent
Experience completing successful projects in Park City/Summit County or similar communities.	20 percent
<b>SCHEDULE</b>	
Approach to the project and schedule outlining critical path items.	10 percent
<b>COST</b>	
Proposed Fee Schedule	25 percent

**VII. Submittal Instructions**

Proposal submittals must be received by **4:00 p.m. on Thursday, August 26, 2021**, via email to **Elyse Kats, Affordable Housing Specialist**, at [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org).

Expansive and elaborate statements are discouraged.

E-mails should be no larger than seven (7) megs. Respondents must ensure receipt of materials by the time and date specified. The proposal can be no longer than twenty (20) pages excluding attachments. Only one (1) copy is needed for submission.

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

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

**VIII. Tentative Schedule of Selection Process:**

- |                                       |   |
|---------------------------------------|---|
| 1. Responses to the RFP deadline:     | <b>By 4 p.m. on Thursday, August 26, 2021</b> |
| 2. Selection Committee Meeting        | Week of August 30, 2021                       |
| 3. Interview for Selected Applicants: | Week of August 30, 2021 (if necessary)        |
| 4. Selection of Firm:                 | Week of September 6, 2021                     |
| 5. Finalize and Award Contract:       | Week of September 6, 2021                     |
| 6. Notice to Proceed:                 | Week of September 20, 2021                    |
| 7. Phase 1 Project Completion by:     | Week of November 29, 2021                     |
| 8. Phase 2 Project Completion by:     | Week of January 24, 2022                      |

**Park City Municipal Corporation reserves the right to change any dates or deadlines.**

**IX. Requests for Additional Information**

**Any questions concerning the submittal or the project shall be sent by 4:00 p.m. on Thursday, August 19, 2021, in written form via email inquiry to the attention of Elyse Kats, at [elyse.kats@parkcity.org](mailto:elyse.kats@parkcity.org). If you wish to receive a copy of all questions received and responses provided, please check the City website each Friday evening.**

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

**EXHIBIT "A"**

**PARK CITY MUNICIPAL CORPORATION  
DESIGN PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and \_\_\_\_\_, a \_\_\_\_\_, ("Design Professional"), collectively, the City and the Design Professional 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 Design Professional represents that the Design Professional 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 Design Professional 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 Design Professional responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

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

**2. TERM.**

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

commencement of the term and the term shall terminate on \_\_\_\_\_ or earlier, unless extended by mutual written agreement of the Parties.

**3. COMPENSATION AND METHOD OF PAYMENT.**

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Design Professional except for services identified and set forth in this Agreement.
- C. For all “extra” work the City requires, the City shall pay the Design Professional 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 Design Professional 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 Design Professional 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 Design Professional reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.
- F. Design Professional 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 Design Professional 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 Design Professional 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.

# **PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT**

- C. The Design Professional 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 Design Professional 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 Design Professional's activities, which relate directly or indirectly to this Agreement.
  
- D. The City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated, 1953, as amended and Park City Municipal Code Title 5 ("GRAMA"). All materials submitted by Design Professional pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming and exemption from disclosure rests solely with Design Professional. Any materials for which Design Professional claims a privilege from disclosure based on business confidentiality shall be submitted marked as "confidential - business confidentiality" and accompanied by a concise statement from Design Professional 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 Design Professional of any requests made for disclosure of documents submitted under a claim of confidentiality. Design Professional 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 Design Professional/City relationship will be created by this Agreement. No agent, employee, or representative of the Design Professional shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Design Professional are not entitled to any of the benefits the City provides for its employees. The Design Professional 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.



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- B. In the performance of the services herein contemplated the Design Professional is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

## **6. DESIGN PROFESSIONAL EMPLOYEE/AGENTS.**

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

## **7. HOLD HARMLESS INDEMNIFICATION AND ATTORNEY FEES.**

- A. The Design Professional shall indemnify and hold the City and its agents, employees, and officers, harmless from any and all liability for damages, including 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 (1) the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or (2) the Design Professional's subconsultant's or subcontractor's negligence.
- B. The Design Professional shall also reimburse the City, including its agents, employees, and officers, and any other person for attorney fees or other costs incurred by the person in defending against a claim alleging liability for damages to the extent the attorney fees or costs were incurred due to (1) the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or (2) the Design Professional's subconsultant's or subcontractor's negligence.
- C. 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 to the extent of the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or the Design Professional's subconsultant's or subcontractor's negligence.
- D. The Design Professional expressly agrees that the indemnification provided herein constitutes the Design Professional'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 Design Professional claims or recovers compensation from the City for a loss or

# **PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT**

injury that Design Professional 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.

- E. Further, nothing herein shall require the Design Professional to hold harmless, defend, or reimburse 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.
- F. The Design Professional is required to maintain and to provide a standard of care consistent with other design professionals with the same or similar professional license, who normally provide projects, work, and/or services as is established in this Agreement in Park City, Utah. Accordingly, if the nature of the project, work, and/or services established in this Agreement requires specialized design expertise, the Design Professional is required to provide services consistent with the specialized design expertise established in this Agreement.
- G. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.
- H. The provisions of this section shall survive the expiration or termination of this Agreement.

## **8. INSURANCE.**

The Design Professional 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 Design Professional, their agents, representatives, employees, or subcontractors. The Design Professional 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 Design Professional 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

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state risk manager every two years and stated in Utah Admin. Code R37-4-3.

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

## **9. TREATMENT OF ASSETS.**

# **PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT**

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 Design Professional pursuant to this Agreement (contingent on City's performance hereunder).

## **10. COMPLIANCE WITH LAWS AND WARRANTIES.**

- A. The Design Professional, 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 Design Professional is required to have a valid Park City business license.
- C. The Design Professional 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 Design Professional shall register and participate in E-Verify, or equivalent program. The Design Professional agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.
- E. Design Professional shall be solely responsible to the City for the quality of all services performed by its employees or sub-contractors under this Agreement. Design Professional 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, Design Professional 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

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

## **13. CHANGES.**

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

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

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

## **15. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.**

- A. All work proposed by the Design Professional 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 Design Professional shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Design Professional shall promptly submit a termination claim to the City. If the Design Professional has any property in its possession belonging to the

## **PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT**

City, the Design Professional will account for the same, and dispose of it in a manner directed by the City.

- B. If the Design Professional fails to perform in the manner called for in this Agreement, or if the Design Professional 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 Design Professional setting forth the manner in which the Design Professional is in default. The Design Professional will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

### **17. NOTICE.**

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

### **18. ATTORNEYS FEES AND COSTS.**

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

**19. JURISDICTION AND VENUE.**

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

**20. SEVERABILITY AND NON-WAIVER.**

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.
- C. It is agreed by the Parties that the forgiveness of the non-performance of any provision of this Agreement does not constitute a subsequent waiver of the provisions of this Agreement. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.



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**21. ENTIRE AGREEMENT.**

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

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

**PARK CITY MUNICIPAL CORPORATION**

445 Marsac Avenue  
Post Office Box 1480  
Park City, UT 84060-1480

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

Attest:

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

Approved as to form:

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

**PARK CITY MUNICIPAL CORPORATION  
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**DESIGN PROFESSIONAL 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 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  
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**EXHIBIT "A"**

**SCOPE OF SERVICES**

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

PAYMENT SCHEDULE FOR “EXTRA” WORK