

Park
City Municipal Corporation (“PCMC” or “City”)
REQUEST FOR PROPOSALS (RFP) (NON-BID) FOR
Residential Property Management Services

Respondents or their agents are instructed not to contact City employees, agents or contractors of the City, selection committee members, the Mayor’s office or staff, members of the City Council, or attempt to externally manipulate or influence the procurement process in any way, other than through the instructions contained herein, from the date of release of this RFP to the date of execution of the agreement resulting from this solicitation. City, in its sole discretion, may disqualify a Respondent for violation of this provision.

REQUEST FOR PROPOSALS (NON-BID)

PCMC is inviting proposals from qualified persons or firms (“Respondent” or “Property Manager”) to provide property management services for City-owned residential units to be occupied by City employees. Term of the contract is for 3 years beginning January 1, 2025, and ending December 31, 2028.

PROPOSALS DUE: By October 11, 2024, at 5pm MDT

Submit proposals electronically *via Utah Public Procurement Place (“U3P”)*. The proposals will be opened after the submission deadline.

In the event of difficulty submitting proposals electronically, proposals can be dropped off at the office of the City Recorder, located at 445 Marsac Avenue, Third Floor – Executive Department, Park City, UT 84060. Proposals submitted to the City Recorder must be delivered on a zip drive. No paper copies may be submitted.

RFP AVAILABLE: The RFP will be available on September 17, 2024, on the U3P and PCMC websites. Any modifications to the RFP or responses to questions submitted will be added as an addendum to the RFP posted on the U3P and PCMC websites. It is the responsibility of Respondents to regularly check for addenda.

QUESTIONS: All questions regarding this RFP must be submitted in writing to the U3P webpage by September 27, 2024, at 5pm. **Please do not submit the same question multiple times.**

PROJECT LOCATION: Multiple addresses within Park City – See Attachment 3

PROJECT DESCRIPTION (brief): Management of City-owned or leased units rented to City Employees. Currently there are 49 units, with three to be added later in 2025 and potentially more during term of the contract.

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

CONTACT: *Rhoda Stauffer, Housing Program Manager*
Rhoda.stauffer@parkcity.org

Proposals will remain valid for 90 days after submission. PCMC reserves the right to reject any or all proposals received for any reason. Furthermore, PCMC reserves the right to change dates or deadlines related to this RFP. PCMC also reserves the right to waive any informality or technicality in proposals received when in the best interest of PCMC.

I. Introduction.

Affordable housing continues to be a top priority for the City Council. Ensuring that members of Park City Municipal Corporation’s workforce can live locally and are not forced to commute from other regions is critical to City Council’s environmental as well as diversity goals, helping Park City to remain an inclusive community of diverse economic and cultural opportunities.

In a demonstration of leadership, commitment, and designation of resources, Park City Municipal Corporation (“PCMC” or “City”) owns a small inventory of residential units for the purpose of housing City employees in circumstances such as recruitment, seasonal, housing transitions, or emergencies.

PCMC seeks proposals for property management services for City-owned residential properties reserved for occupancy by City employees. The number of units (“Properties”) to be managed is currently at 49 with three to be added later in 2025 and potentially more during the 3-year term of the contract.

II. Scope of Project.

The proposal shall outline an approach to each item covered by the property management scope of services listed below. The scope of services will not include the marketing to or screening of any tenants. The City will handle the screening of potential tenants and forward contact information to the Property Manager once they are approved. The selected proposer will be expected to sign a 3-year contract.

The Property Manager’s responsibilities shall include, but not be limited to, the following:

A. Management of Properties:

- Conduct ordinary and usual business affairs of City relating to the management, leasing and operation of residential properties and implement, or cause to be implemented, the policies of the City for the conduct of such business affairs in accordance with the guidelines provided.
- Where necessary, contract for gas, electricity, water and such services as necessary for the proper operation of each Property.
- Keep Properties in clean and sightly condition and make (or cause to be made) all repairs, alterations, replacements, and installations as approved by the City.
- Provide 24-hour emergency contact for emergency repairs and report emergencies to the City by the next business day.

- Execute, administer and enforce terms of all rental agreements, in compliance with federal, state and local laws and make executed rental agreements available to the City as needed.
- Monitor Properties on a regular basis for repairs and preventive maintenance, and after conferring with the City, contract with vendors to provide repair, maintenance, janitorial, landscaping and pest control services, as needed or directed.

B. Record Keeping:

- Receive and collect rent and all other monies payable to the City by all tenants and licensees in the Properties.
- Institute all necessary legal actions or proceedings for the collection of rent or other income from the Properties.
- Prepare and submit to the City quarterly financial reports relating to the management and operation of the Properties for the preceding three (3) months.
- Maintain proper records with respect to leasing, management, and operation of the Properties (i.e., receipts, disbursements, etc.).
- Ensure control over accounting and financial transactions as is reasonably required to protect the City's assets from loss or diminution.

C. Notice to the City:

- Notify the City promptly of any personal injury or property damage occurring to or claimed by any tenant or third party with respect to the Properties.
- Notify the City immediately of any fire, accident, or other casualty, condemnation proceedings, rezoning or other governmental order, lawsuits or threat thereof.

Services performed to be held in confidence and Property Manager shall not use or disclose to others any confidential or proprietary information of the City including but not limited to data, information, plans, programs, processes, costs, etc.

III. Contents of Proposal and Evaluation Criteria.

- A. Cover Letter (maximum of 1 page)** Present a brief understanding of the City's needs based upon the information provided in the scope of services. Summarize qualifications most relevant to this project, identify team, and clearly indicate the single contact and authorized representative (principal-in-charge) of the proposer with mailing address, telephone and fax numbers, and e-mail address.

The representative of Respondent must certify that the information and terms provided in response to this Request for Proposal is true, accurate, and valid for ninety (90) days from submittal.

- B. Statement of Qualifications (Maximum of 3 double-sided pages):** Each Respondent must demonstrate in its submittal that it has the professional capabilities, and the organizational and administrative experience needed to accomplish this project. A concise presentation will be appreciated. The page count does not include index, dividers, or separation sheets that contain no information, or short form resumes of team individuals.

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

1. **Statement of Approach:** Describe the specialized experience and project approach of the team. Indicate the team leader and his/her specific role. Briefly discuss the approach to team management and organization. Describe the firm/team's approach to cost estimation and control.
2. **Property Management Experience:** Provide information on similar or relevant projects which team members have executed. Note the different types of property management under contract within the past five (5) years, including any property management experience in Park City.
3. **Qualifications:** Demonstrate professional experience in similar residential property management, successful vendor hiring and management, successful vendor/owner dispute management, and compliance with Utah State laws. Provide description of experience in handling difficult lease holders with firmness and equanimity.
4. **Proposed Project Team Members:** Submit a written description of the firm or team composition, disciplines, and the primary role of each individual on the team indicating respective roles, responsibilities, and related experience and qualifications. Also include an organization chart. The information must clearly indicate the team leader for the team for this project and the responsible party in each firm who will be providing the required professional experience. If Respondent utilizes third parties for performing any portion of the scope of services, identify what services will be completed by third parties and the name, if known, of the third party.
5. **List of References:** List three (3) references with which the firm/team or key members of the team have worked in the last five (5) years, for projects of similar size or scope. 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 5 double-sided pages): The applicant can provide any supplemental material to support the firm/team's selection for this process.

D. Evidence of Ability to Obtain Insurance:

Respondent shall provide evidence of the ability to obtain insurance on the following basis:

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

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

If written on a claims-made basis, the proposer 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.

4. 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 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 proposer, its employees, agents and subcontractors.

5. Crime insurance or a fidelity bond covering employee dishonesty and theft must be procured and maintained for the duration of the agreement with limits no less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence.
 6. Park City Municipal Corporation, its officers, officials, employees, and volunteers are to be covered as additional insureds on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the proposer including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the proposer and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance.
 7. Should any of the above-described policies be cancelled before the expiration date thereof, proposer 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.
 8. The proposer'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. For any claims related to this agreement, the proposer's insurance coverage shall be primary insurance coverage with respect to Park City Municipal Corporation, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Park City Municipal Corporation, its officers, officials, employees, or volunteers shall be excess of the proposer's insurance and shall not contribute with it.
- E. Fee Schedule:** Provide a detailed schedule of proposed fees including the following:
- Base per-unit management fee for occupied and unoccupied units,
 - Hourly fee for work of each employee from general manager to maintenance,
 - Hourly administrative and financial management fees, and
 - Hourly fee for oversight of special projects.

Please provide an average per unit cost including all the above categories by which the contract may be increased for units that may be added to the City's current inventory.

Also provide a description of your financial management systems for clients and how often accounts will be balanced, and a net revenue payment sent to the City.

PCMC reserves the right to reject any and all proposals for any reason. Proposals lacking required information will not be considered. 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. The award of contract is subject to approval by City Council.

- F. Evaluation:** Proposals will be evaluated on the criteria listed below. Proposals are limited to **10 (ten) double sided pages**.

If Respondent proposes to use a third party (subcontractor, subconsultant, etc.) for completing all or a portion of the scope of service requirements, state the name and identify the portion of the scope of service to be completed by a third party.

All respondents must address submittal requirements outlined in **Section III, Content of Proposal**, above. Non-responsive submittals (those not conforming to the RFP requirements) will be disqualified. Each applicant bears the sole responsibility for the items included or not included in its submittal. Deviations from or exceptions to the terms and specifications contained within this RFP, if stipulated in a submittal, while possibly necessary in the view of the submitting applicant, may result in disqualification.

After evaluation of the complete proposals, a Selection Committee made up of staff from applicable City departments may choose to conduct interviews with one or more of the applicants. At the conclusion of the interviews, the Selection Committee shall rank the applicants, in the order of preference.

Negotiations, including the final scope of services, shall then be conducted with the highest-ranking applicant. If a contract satisfactory to PCMC can be negotiated at a fair and reasonable fee, 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 ranked applicant.

PCMC reserves the right to complete the selection process without interviews and may choose to base selection solely on the information supplied in the Request for Proposals. PCMC reserves the right to select the applicant(s) whose

qualifications, in PCMC’s sole judgment, best meet the needs of PCMC. PCMC reserves the right to reject any and all applications.

Evaluation Criteria Weighting

Criteria	Weighting
Evidence of team’s ability to perform the required services	25 percent
Qualifications/expertise of the key personnel on the team	20 percent
Past performance and record of successful contracts for similar work	25 percent
Transparency of fee structure	30 percent

The selection committee will consider all documents, the presentation/interview if applicable, the response to the RFP, information gained while evaluating responses, and any other relevant information to make its determination. The committee will select the Respondent which, in the committee's sole judgment, is best able to provide Residential Property Management Services

NOTE: Price may not be the sole deciding factor.

PCMC reserves the right to reject any and all proposals for any reason. Proposals lacking required information will not be considered. The award of a contract may be subject to approval by City Council.

IV. Government Records Access and Management Act.

PCMC will maintain a nonpublic process for the duration of this solicitation in accordance with Government Records Access and Management Act, Title 63G, Chapter 2 of the Utah Code (“GRAMA”). Pursuant to Utah Code § 63G-2-305(6), all records related to this RFP, including but not limited to proposals, evaluation, and selection procedures, and any records created during the evaluation and selection process will remain nonpublic records. After execution of a contract, all submittals will be treated as public records in accordance with the requirements of GRAMA unless otherwise claimed by the Respondent as exempt from disclosure pursuant to Utah Code § 63G-2-309, as amended. The burden of claiming an exemption shall rest solely with each Respondent. Respondent shall submit any materials for which Respondent claims an exemption from disclosure marked as “Confidential” and accompanied by a statement from Respondent supporting the exemption claim. PCMC shall make reasonable efforts to notify Respondent of any GRAMA requests for documents submitted under an exemption claim. Respondent waives any claims against PCMC related to disclosure of any materials pursuant to GRAMA. Please note the following:

- a. Respondent must not stamp all materials confidential. Only those materials for which a claim of confidentiality can be made under GRAMA, such as trade

secrets, pricing, non-public financial information, etc., should be stamped.

- b. Respondent must submit a letter stating the reasons for the claim of confidentiality for every type of information that is stamped “Confidential.” Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury. Failure to timely submit a written basis for a claim of “Confidential” may result in a waiver of an exemption from disclosure under GRAMA.
- c. For convenience, a Business Confidentiality Request Form (“BCR Form”) is attached to this RFP as **Attachment 1**. Respondent must submit a completed BCR Form at the time of submission of any proposal.

V. Ethics.

By submission of a proposal, Respondent represents and agrees to the following ethical standards:

REPRESENTATION REGARDING ETHICAL STANDARDS: Respondent represents that it has not: (1) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees of bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 3.1 of the Park City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 3.1 of the Park City Code.

VI. Selection Process.

Proposals will be evaluated on the criteria listed in Section III, Contents of Proposal and Evaluation Criteria, above.

The selection process will proceed on the following anticipated schedule:

- A.** A selection committee comprised of qualified people, which may include City staff or representatives from other public and private stakeholders, will open, review and evaluate all proposals.
- B.** The selection committee may conduct interviews with the highest ranked Respondents. If applicable, interview requirements will be provided to those

Respondents selected for further consideration.

- C. Final selection of the top-ranked proposal and preparation of contract.
- D. All contracts with an aggregate cost over the term that exceeds \$100,000 require approval of the City Council.
- E. Contract execution.

Following completion of the evaluation and establishment of the ranking, negotiations for contract purposes may be initiated with the top ranked Respondent. In the event that an agreement is not reached, PCMC may enter into negotiations with the next highest-ranked Respondent.

VII. PCMC Standard Agreement Required.

- a. The successful Respondent will be required to enter into PCMC'S standard Professional Services Agreement. A form of the standard agreement is attached to this RFP as **Exhibit "A"** and incorporated herein.
- b. **ANY REQUEST FOR CHANGES RELATED TO INDEMNIFICATION OR INSURANCE PROVISIONS CONTAINED IN PCMC'S STANDARD AGREEMENT MUST BE SUBMITTED NO LATER THAN THE PROPOSAL/SUBMITTAL DEADLINE. ANY REQUESTED CHANGES TO PCMC'S STANDARD INSURANCE AND INDEMNIFICATION PROVISIONS MAY BE APPROVED IN THE SOLE DISCRETION OF PCMC.**

A Respondent must be authorized to do business in Utah at the time of contract execution. If Respondent's address is within the 84060 zip code, a valid PCMC business license is required.

VIII. General Provisions.

- a. No Representations or Warranty. It is the responsibility of each Respondent to carefully examine this RFP and evaluate all of the instructions, circumstances and conditions which may affect any proposal. Failure to examine and review the RFP and other relevant documents or information will not relieve Respondent from complying fully with the requirements of this RFP. Respondent's use of the

information contained in the RFP is at Respondent's own risk and no representation or warranty is made by PCMC regarding the materials in the RFP.

- b. Cost of Developing Proposals. All costs related to the preparation of the proposals and any related activities are the sole responsibility of the Respondent. PCMC assumes no liability for any costs incurred by Respondents throughout the entire selection process.
- c. Equal Opportunity. PCMC is committed to ensuring equitable and uniform treatment of all Respondents throughout the advertisement, review, and selection process. The procedures established herein are designed to give all parties reasonable access to the same fundamental information.
- d. Proposal Ownership. All proposals, including attachments, supplementary materials, addenda, etc., will be retained as property of PCMC and will not be returned to the Respondent.
- e. Modification of RFP. 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 the contract execution. PCMC will provide written notice to Respondents of any cancellation and/or modification.
- f. Financial Responsibility. No proposal will be accepted from, or contract awarded to, any person, firm or corporation that is in arrears to PCMC, upon debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the PCMC, or that may be deemed irresponsible or unreliable by PCMC. Respondents may be required to submit satisfactory evidence demonstrating the necessary financial resources to perform and complete the work outlined in this RFP.
- g. Local Businesses. PCMC's policy is to make reasonable attempts to promote local businesses by procuring goods and services from local vendors and service providers, in compliance with Federal, State, and local procurement laws.

IX. Exhibits

- a. Attachment 1: Request for Protected Status
- b. Attachment 2: Copy of Professional Services Agreement

Attachment 1

REQUEST FOR PROTECTED STATUS

(Business Confidentiality Claims under Utah's Government Records Access and Management Act ("GRAMA"), Utah Code § 63G-2-309)

I request that the described portion of the record provided to Park City Municipal Corporation be considered confidential and given protected status as defined in GRAMA.

Name: _____

Address: _____

Description of the portion of the record provided to Park City Municipal Corporation that you believe qualifies for protected status under GRAMA (identify these portions with as much specificity as possible) (attach additional sheets if necessary): _____

The claim of business confidentiality is supported by (please check the box/boxes that apply):

- () The described portion of the record is a trade secret as defined in Utah Code § 13-24-2.
- () The described portion of the record is commercial or non-individual financial information the disclosure of which could reasonably be expected to result in unfair competitive injury to the provider of the information or would impair the ability of the governmental entity to obtain the necessary information in the future and the interest of the claimant in prohibiting access to the information is greater than the interest of the public in obtaining access.
- () The described portion of the record would cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Utah Code § 11-13-103(4).

REQUIRED: Written statement of reasons supporting a business confidentiality claim as required by Utah Code § 63G-2-305 (1) –(2) (attach additional sheets if necessary):

NOTE: Claimant shall be notified if the portion of the record claimed to be protected is classified as public or if the determination is made that the portion of the record should be disclosed because the interests favoring access outweigh the interests favoring restriction of access. Records claimed to be protected under this business confidentiality claim may not be disclosed until the period in which to bring the appeal expires or the end of the appeals process, including judicial appeal, **unless the claimant, after notice, has waived the claim by not appealing the classification within thirty (30) calendar days.** Utah Code § 63G-2-309(2).

Signature of Claimant: _____

Date: _____

Attachment 2

CONTRACT# _____

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“**Agreement**”) is between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation (“**PCMC**”), and [insert NAME OF SERVICE PROVIDER], a [insert state of incorporation or formation] [insert “corporation,” “limited liability company,” or other entity type] (the “**Service Provider**”).

PCMC and Service Provider want to enter into an agreement for the Service Provider to perform the services and tasks as specified below.

The parties therefore agree as follows:

ARTICLE 1 – SCOPE OF SERVICES.

Scope of Services. Service Provider shall perform the services and tasks identified and designated as Service Provider responsibilities throughout this Agreement and as outlined in **Schedule A** attached to this Agreement (“**Scope of Services**”).

- A. Service Provider Representative. Service Provider designates [insert name of Service Provider representative] as the authorized representative vested with the authority to act on behalf of the Service Provider. Service Provider may change its designated representative by providing written notice to PCMC.
- B. PCMC Representative. PCMC designates [insert project manager name] or their designee as its representative who has the authority to act on behalf of PCMC.

ARTICLE 2 – TERM.

This Agreement will become effective as of the date the last party signed it as indicated by the date associated with that party’s signature. The term of this Agreement ends at midnight on [insert date in format MM/DD/YYYY] unless terminated sooner or extended as provided in this Agreement.

OPTIONAL: PCMC may at its sole option extend the term of this Agreement for [insert number] additional period(s) of [insert “year(s)” “month(s)” or other time period] each by notifying Service Provider in writing at least thirty days prior to the expiration of this Agreement.

ARTICLE 3 – COMPENSATION, INVOICING, AND PAYMENT.

- A. Compensation. For performance of the Scope of Services, PCMC shall pay a total fee in an amount not to exceed **\$[insert numeric dollar amount]**. Any work performed beyond the defined Scope of Services requires a written request from PCMC. Compensation for such additional work shall adhere to the terms outlined in **Schedule B**, if attached. In the absence of a **Schedule B**, any compensation for extra work shall be determined based on a mutually agreed-upon written agreement between both parties.
- B. Invoicing and Payment. Service Provider shall invoice PCMC on a monthly basis for services completed during that period. PCMC shall pay Service Provider within 30 days of receipt of each invoice. Requests for earlier payment will be considered if a discount is offered for the earlier payment. For services that remain unpaid for a period exceeding 60 days, interest will accumulate at a rate of six percent per annum.

ARTICLE 4 – SERVICE STANDARDS AND COMPLIANCE WITH LAWS.

Service Standards. Service Provider shall be responsible for the quality of all services performed by its employees, agents, subcontractors, and all other persons (collectively, “**Subcontractors**”) performing any services under this Agreement. All services shall be executed with competence and in conformity with the standard of care, diligence, and skill typically exercised by professionals within the Service Provider’s field.

Conformance to Laws. In providing services under this Agreement, Service Provider and its Subcontractors shall comply with all applicable federal, state, PCMC, and other local laws, regulations, and ordinances, including applicable licensure and permit requirements, regulations for certification, operation of facilities, and accreditation, employment laws, and any other standards or criteria described in this Agreement.

E-Verify. Service Provider shall register and participate in E-Verify or an equivalent program for each employee employed within the state of Utah if this Agreement is entered into for the physical performance of services within Utah, unless exempted by Utah Code § 63G-12-302. Service Provider shall require that each of its Subcontractors, at every tier, certify under penalty of perjury that each Subcontractor has registered and is participating in E-Verify or an equivalent program, to the extent applicable.

ARTICLE 5 – RECORDS AND INSPECTIONS.

- A. Records. Service Provider shall keep any records, documents, invoices, reports, data, information, and all other material regarding matters covered, directly or

indirectly, by this Agreement for six years after expiration of this Agreement. This includes everything necessary to properly reflect all expenses related to this Agreement and records of accounting practices necessary to assure proper accounting of all expenses under this Agreement.

B. Inspection of Records. Service Provider shall make all of the records referenced in this section available for inspection to PCMC, its authorized representatives, the State Auditor, and other government officials authorized to monitor this Agreement by law. Service Provider must permit PCMC or its authorized representative to audit and inspect any data or other information relating to this Agreement. PCMC reserves the right to initiate an audit of the Service Provider's activities concerning this Agreement, at the expense of PCMC, utilizing an auditor selected by PCMC.

C. Government Records Access and Management Act. PCMC is subject to the requirements of the Government Records Access and Management Act, Title 63G, Chapter 2 of the Utah Code (“GRAMA”). All materials submitted by Service Provider related to this Agreement are subject to disclosure unless the materials are exempt from disclosure under GRAMA. The burden of claiming an exemption from disclosure rests solely with Service Provider. Any materials for which Service Provider claims an exemption from disclosure based on business confidentiality as provided in Utah Code § 63G-2-309 (or successor provision) must be marked as “Confidential” and accompanied at the time of submission by a statement from Service Provider explaining the basis for the claim. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury. PCMC 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 PCMC related to disclosure of any materials pursuant to GRAMA.

ARTICLE 6 – RELATIONSHIP OF PARTIES.

- A. Independent Contractor. The parties intend that Service Provider is an independent contractor and not an employee of PCMC. Except as specifically provided in this Agreement, the parties intend that Service Provider has no authority to act on behalf of PCMC.
- B. Subcontractor Relationship. The Service Provider shall have full control and authority over performance and activities of its Subcontractors throughout the execution of this Agreement. It is the sole responsibility of Service Provider to ensure that its Subcontractors adhere to the terms and conditions outlined in this Agreement. Furthermore, Service Provider shall bear full responsibility for any actions or omissions of its Subcontractors.

- C. Treatment of Assets. Neither party will have an interest in the intellectual property owned or licensed by the other party, unless otherwise agreed by the parties in writing. PCMC will become the owner of all deliverables, work product, and other materials specifically created by the Service Provider and its Subcontractors under this Agreement.

ARTICLE 7 – INDEMNIFICATION.

Definitions. In this Agreement, the following definitions apply:

- (1) **“Indemnifiable Losses”** means the aggregate of Losses and Litigation Expenses.
- (2) **“Litigation Expense”** means any reasonable out-of-pocket expense incurred in defending a Proceeding or in any related investigation or negotiation, including court filing fees, court costs, arbitration fees, witness fees, and attorneys’ and other professionals’ fees and disbursements.
- (3) **“Loss”** means any amount awarded in, or paid in settlement of, any Proceeding, including any interest but excluding any Litigation Expenses.
- (4) **“Proceeding”** means any investigation, claim, judicial, administrative, or arbitration action or lawsuit, or other cause of action of every kind or character, brought by third parties against PCMC, its agents, employees, or officers, that arises out of this Agreement or the performance of this Agreement by Service Provider or its Subcontractors or subconsultants of any tier, or anyone acting under Service Provider’s direction or control, including after the expiration or termination of this Agreement.

Indemnification. Service Provider shall indemnify PCMC and its agents, employees, and officers against all Indemnifiable Losses arising out of a Proceeding, except to the extent the Indemnifiable Losses were caused by the negligence or willful misconduct of PCMC.

Obligation to Defend. Service Provider shall, at its sole cost and expense, defend PCMC and its agents, employees, and officers from and against all Proceedings, provided that Service Provider is not required to defend PCMC from any Proceeding arising from the sole negligence of PCMC or its agents, employees, or officers.

Tender. Service Provider’s obligation to defend will arise upon PCMC’s tender of defense to Service Provider in writing. If PCMC fails to timely notify Service Provider of a Proceeding, Service Provider will be relieved of its indemnification obligations to the extent that Service Provider was prejudiced by that failure. Upon receipt of PCMC’s tender of defense, if Service Provider does not promptly notify PCMC of its acceptance of the defense and thereafter duly and diligently defend PCMC and its agents,

employees, and officers, then Service Provider shall pay and be liable for the reasonable costs, expenses, and attorneys' fees incurred in defending the Proceeding and enforcing this provision.

Legal Counsel. To assume the defense, Service Provider must notify PCMC of their intent to do so. Promptly thereafter, Service Provider shall retain independent legal counsel that is reasonably acceptable to PCMC.

Settlement. After Service Provider assumes the defense of a Proceeding, Service Provider may contest, pay, or settle the Proceeding without the consent of PCMC only if that settlement (1) does not entail any admission on the part of PCMC that it violated any law or infringed the rights of any person, (2) provides as the claimant's sole relief monetary damages that are paid in full by Service Provider, and (3) requires that the claimant release PCMC and its agents, employees, and officers from all liability alleged in the Proceeding.

Waiver. Service Provider expressly agrees that the indemnification provision herein constitutes the Service Provider's waiver of immunity under Utah Code § 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to PCMC by reason of entering into this Agreement except as expressly provided herein.

No Limitation. The indemnification obligations of this Agreement shall not be reduced by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Service Provider or Subcontractor under workers' compensation acts, disability benefits acts, or other employee benefit acts.

Interpretation. The parties intend that the indemnity and defense provisions in this Article shall be interpreted so as to be enforceable to the fullest extent permitted by law, but nothing herein shall be interpreted to violate public policy.

Environmental Indemnity. Service Provider shall indemnify PCMC, its agents, employees, and officers for any Indemnifiable Losses from a Proceeding arising out of Service Provider's violation of federal, state, or local environmental laws or regulations, and shall include but not be limited to all cleanup and remedial costs, diminution in value of property, and any fines or fees imposed as a result.

ARTICLE 8 – INSURANCE.

At its own cost and expense, Service Provider shall maintain the following mandatory insurance coverage to protect against claims for injuries to persons or property damage that may arise from or relate to the performance of this Agreement by Service Provider, its agents,

representatives, employees, or Subcontractors for the entire duration of this Agreement or for such longer period of time as set forth below. Prior to commencing any work, Service Provider shall furnish a certificate of insurance as evidence of the requisite coverage. The certificate of insurance must include endorsements for additional insured, waiver of subrogation, primary and non-contributory status, and completed operations.

- A. Commercial General Liability Insurance. Service Provider shall maintain commercial general liability insurance on a primary and non-contributory basis in comparison to all other insurance, including PCMC's own policies of insurance, for all claims against PCMC. The policy must be written on an occurrence basis with limits not less than \$1,000,000 per occurrence and \$3,000,000 aggregate for personal injury and property damage. Upon request of PCMC, Service Provider must increase the policy limits to at least the amount of the limitation of judgments described in Utah Code § 63G-7-604, the Governmental Immunity Act of Utah (or successor provision), as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3 (or successor provision).
- B. Automobile Liability Coverage. Service Provider shall maintain automobile liability insurance with a combined single limit of not less than \$2,000,000 per accident for bodily injury and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.
- C. Professional Liability Insurance. [Delete if NOT applicable] Service Provider shall maintain professional liability insurance with annual limits not less than \$1,000,000 per occurrence. If written on a claims-made basis, Service Provider shall maintain professional liability insurance coverage meeting these requirements for the applicable period of statutory limitation of claims (or statute of repose, if applicable) after completion of the Scope of Services or termination of this Agreement.
- D. Workers' Compensation Insurance and Employer's Liability. Service Provider shall maintain workers' compensation insurance with limits not less than the amount required by statute, and employer's liability insurance limits of at least \$1,000,000 each accident, \$1,000,000 for bodily injury by accident, and \$1,000,000 each employee for injury by disease. The workers' compensation policy must be endorsed with a waiver of subrogation in favor of "Park City Municipal Corporation" for all work performed by the Service Provider, its employees, agents, and Subcontractors.
- E. Umbrella/Excess Coverage. The insurance limits required by this section may be met by either providing a primary policy or in combination with umbrella / excess liability policy(ies). To the extent that umbrella/excess coverage is used to satisfy the limits of coverage required hereunder, the terms of such coverage must be following form to, or otherwise at least as broad as, the primary underlying coverage, including amending the

"other insurance" provisions as required so as to provide additional insured coverage on a primary and non-contributory basis, and subject to vertical exhaustion before any other primary, umbrella/excess, or any other insurance obtained by the additional insureds will be triggered.

- F. Insured Parties. Each policy and all renewals or replacements, except those policies for Professional Liability, and Workers Compensation and Employer's Liability, must name PCMC (and its officers, agents, and employees) as additional insureds on a primary and non-contributory basis with respect to liability arising out of work, operations, and completed operations performed by or on behalf of Service Provider.
- G. Waiver of Subrogation. Service Provider waives all rights against PCMC and any other additional insureds for recovery of any loss or damages to the extent these damages are covered by any of the insurance policies required under this Agreement. Service Provider shall cause each policy to be endorsed with a waiver of subrogation in favor of PCMC for all work performed by Service Provider, its employees, agents, and Subcontractors.
- H. Quality of Insurance Companies. All required insurance policies must be issued by insurance companies qualified to do business in the state of Utah and listed on the United States Treasury Department's current Department of Treasury Fiscal Services List 570, or having a general policyholders rating of not less than "A-" in the most current available A.M. Best Co., Inc.'s, Best Insurance Report, or equivalent.
- I. Cancellation. Should any of Service Provider's required insurance policies under this Agreement be cancelled before the termination or completion of this Agreement, Service Provider must deliver notice to PCMC within 30 days of cancellation. PCMC may request and Service Provider must provide within 10 days certified copies of any required policies during the term of this Agreement.
- J. Additional Coverage. Notwithstanding anything to the contrary, if Service Provider has procured any insurance coverage or limits (either primary or on an excess basis) that exceed the minimum acceptable coverage or limits set forth in this Agreement, the broadest coverage and highest limits actually afforded under the applicable policy(ies) of insurance are the coverage and limits required by this Agreement and such coverage and limits must be provided in full to the additional insureds and indemnified parties under this Agreement. The parties expressly intend that the provisions in this Agreement will be construed as broadly as permitted to be construed by applicable law to afford the maximum insurance coverage available under Service Provider's insurance policies.
- K. No representation. In specifying minimum Service Provider's insurance requirements, PCMC does not represent that such insurance is adequate to protect Service Provider

from loss, damage or liability arising from its work. Service Provider is solely responsible to inform itself of types or amounts of insurance it may need beyond these requirements to protect itself.

ARTICLE 9 – NONDISCRIMINATION.

- A. Nondiscrimination. Service Provider shall not discriminate against any employee or applicant for employment because of race; ethnicity; color; pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; gender identity; or military status.
- (1) Policy. Service Provider shall implement an employment nondiscrimination policy, if Service Provider does not already have such a policy, to effectuate the prohibition in this section; and
 - (2) Subcontractor Flow-Through. Service Provider shall incorporate the foregoing non-discrimination provisions in all subcontracts or assignments under this Agreement and take action as required to ensure full compliance with the provisions of this non-discrimination policy.

ARTICLE 10 – ASSIGNMENT/SUBCONTRACTING.

- A. Assignment. Service Provider shall not assign any portion of its performance under this Agreement without PCMC's written consent. Consent must be sought in writing by the Service Provider not less than 30 days before the date of any proposed assignment. PCMC reserves the right to reject assignment without cause. Any purported transfer in violation of this section will be void.
- B. Subcontracting. Service Provider shall obtain advance written consent from PCMC for any Subcontractor not identified in the Scope of Services.

ARTICLE 11 – TERMINATION.

- A. Convenience. Either party may terminate this Agreement for any reason or no reason by giving the other party at least 30 days' prior written notice. This Agreement will terminate at midnight at the end of the 30th day after that notice is effective. Service Provider must be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination, according to the provisions of this Agreement.
- B. For Cause. If Service Provider fails to comply with any provision of this Agreement and fails to correct noncompliance within three days of having received written notice, PCMC may immediately terminate this Agreement for cause by providing a notice of termination to Service Provider.

ARTICLE 12 – NOTICES.

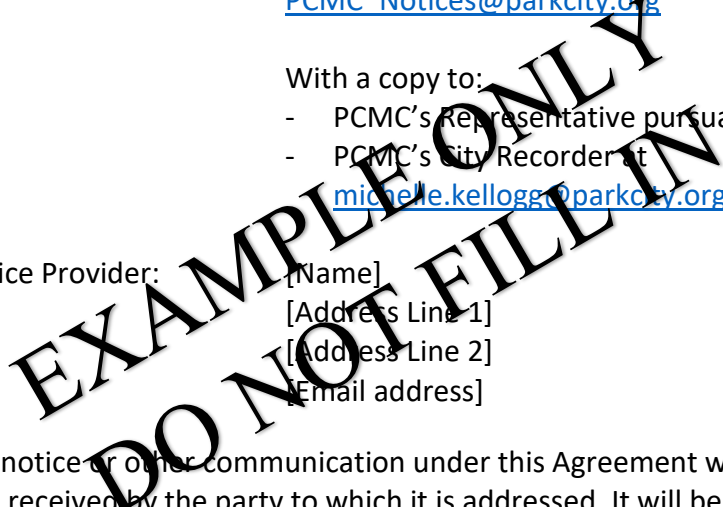
- A. Notice Addresses. For a notice or other communication to a party under this Agreement to be valid, it must be addressed using the information specified below for that party or any other information specified by that party in a notice delivered in accordance with this section.

To PCMC: Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060-1480
Attn: City Attorney’s Office
PCMC_Notices@parkcity.org

With a copy to:

- PCMC’s Representative pursuant to Article 1.C.
- PCMC’s City Recorder at michelle.kellogg@parkcity.org.

To Service Provider: [Name]
[Address Line 1]
[Address Line 2]
[Email address]



- B. Delivery. A notice or other communication under this Agreement will be effective if it is in writing and received by the party to which it is addressed. It will be deemed to have been received as follows: (1) upon receipt as stated in the tracking system of a delivery organization that allows users to track deliveries; (2) when the intended recipient signs for the delivery; (3) when delivered by email to the intended recipient with a read receipt, an acknowledgement of receipt, or an automatic reply.
- C. Refusal or Inability to Deliver. If the intended recipient rejects or otherwise refuses to accept delivery, or if it cannot be delivered because of a change of address for which no notice was given, then delivery is effective upon that rejection, refusal, or inability to deliver.
- D. Time of Delivery. If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

ARTICLE 13 – MISCELLANEOUS PROVISIONS.

- A. Entire Agreement. This Agreement constitutes the entire understanding between the parties regarding the subject matter of this Agreement.
- B. Modification and Waiver. To be effective, any modification to this Agreement or to the Scope of Services must be in writing and signed by both parties. No waiver under this Agreement will be effective unless it is in writing and signed by the party granting the waiver (in the case of PCMC, by an individual authorized by PCMC to sign the waiver). A waiver granted on one occasion will not operate as a waiver on other occasions.
- C. Timely Performance. Service Provider shall complete the Scope of Services by any applicable deadline stated in this Agreement. Service Provider is liable for all reasonable damages to PCMC incurred as a result of Service Provider's failure to timely perform the Scope of Services required under this Agreement.
- D. Governing Law, Jurisdiction, Venue. Utah law governs all adversarial proceedings arising out of this Agreement or the subject matter of this Agreement. As the exclusive means of bringing adversarial proceedings to resolve any dispute arising out of this Agreement or the subject matter of this Agreement, a party may bring such a proceeding in courts of competent jurisdiction in Summit County, Utah.
- E. Severability. The parties acknowledge that if a dispute between the parties arises out of this Agreement or the subject matter of this Agreement, it would be consistent with the wishes of the parties for a court to interpret this Agreement as follows: (1) with respect to any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision; (2) if an unenforceable provision is modified or disregarded in accordance with this section, by holding that the rest of the Agreement will remain in effect as written; (3) by holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and (4) if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Agreement, by holding the entire Agreement unenforceable.
- F. No Non-Party Rights. Nothing in this Agreement is intended to grant rights of any kind to any non-party or create third-party beneficiary rights of any kind.
- G. Force Majeure. For purposes of this Agreement, a Force Majeure Event means any event or circumstance, regardless of whether it was foreseeable, that was

not caused by that party and that prevents a party from complying with any of its obligations under this Agreement, but a Force Majeure Event will not include any strike or labor unrest, an increase in prices, a change in general economic conditions, or a change of law. A party that is prevented by the occurrence of a Force Majeure Event from performing any one or more obligations under this Agreement will not be liable for any failure or delay in performing those obligations, on condition that the non-performing party uses reasonable efforts to perform. The non-performing party shall promptly notify the other party of the occurrence of a Force Majeure Event and its effect on performance. Thereafter, the nonperforming party shall update the other party as reasonably necessary regarding its performance. The nonperforming party shall use reasonable efforts to limit damages to the other party and to complete its full performance under this Agreement.

Each party is signing this Agreement on the date stated opposite that party's signature.

PARK CITY MUNICIPAL CORPORATION, a Utah
municipal corporation

Date: _____ By: _____

Matt Dias
City Manager

Attest:

**EXAMPLE ONLY
DO NOT FILL IN**

City Recorder's Office

Approved as to form:

City Attorney's Office

[insert NAME OF SERVICE PROVIDER]

Tax ID #: _____

PC Business License #: BL _____

Date: _____

By: _____

[insert name of individual signing]

[insert title of individual signing]

An authorized signer

**EXAMPLE ONLY
DO NOT FILL IN**

SCHEDULE A – SCOPE OF SERVICES

SCHEDULE B – FEE SCHEDULE FOR EXTRA WORK

Note: Any work in addition to or outside the Scope of Services in Schedule A shall be approved in advance in writing by PCMC and shall not exceed the contract price reflected in Article 3 of the Agreement.

**EXAMPLE ONLY
DO NOT FILL IN**

Attachment 3

Employee units as of August 15, 2024:

Address	# of Units	Type of Units
2015 Prospector Avenue	22	295 SF Studios
2105 Prospector Avenue	1	440 SF Studio
1940 Prospector Avenue #209	1	250 SF Studio
1616 Short Line Drive	13	350 SF Studios
Cooke Drive	6	2 & 3BR Duplexes
1465 Park Avenue	1	3 BR Condo
1330 Woodside Avenue	1	4 BR Home
1302 Norfolk Avenue	1	2 BR Home
7700 Marsac Avenue	2	295 SF Tiny Homes
1835 Three Kings	1	1 BR Condo