

**Park City Municipal Corporation**

**REQUEST FOR PROPOSALS (NON-BID) FOR**

*In-Pipe Acoustic Leak Detection, Location and Supporting  
Software*

NOTICE  
REQUEST FOR PROPOSALS (NON-BID)  
*In-Pipe Acoustic Leak Detection, Location and Supporting Software*

PROPOSALS DUE: By Wednesday, January 3, 2018 at 4:00 PM MST

PROJECT NAME: In-Pipe Acoustic Leak Detection, Location and Supporting Software

RFP AVAILABLE: November 29, 2017

PROJECT LOCATION: Upper Deer Valley

PROJECT DESCRIPTION (brief): Park City Municipal Corporation is requesting proposals for a complete in pipe acoustic leak detection and localization solution from an experienced professional service provider on approximately 15 miles of pipe in Upper Deer Valley.

PROJECT DEADLINE: October 1, 2018 for initial undertaking; with option to enter an up to five (5) year contract for similar services in other locations within the City.

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

CONTACT: *Jason Christensen, Water Resources Manager*  
[jason.christensen@parkcity.org](mailto:jason.christensen@parkcity.org)

**All questions shall be submitted in writing by Wednesday, December 20, 2017, at 4:00 PM MST.** Answers to questions will be posted as addendums to this Request for Proposals on the Park City website.

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

## **I. Introduction**

Park City Municipal Corporation (“City”) maintains a water system to meet the needs of its residents. This water system is located in mountainous terrain varying from 6,600 feet to over 9,000 feet in elevation. As of 2017, there are approximately 126 miles of finished water distribution system pipe, 1,091 hydrants, 3,827 valves, and 48 pressure zones. The City Council has a goal of reducing water consumption consistent with our 2014 Water Conservation Plan and also has a goal of reducing energy demand to assist in the City’s goal of becoming Carbon Neutral in the year 2022.

## **II. Scope of Project**

The City is requesting proposals for a complete in pipe acoustic leak detection and localization solution from an experienced professional service provider.

The City’s primary goal is reducing our Non-Revenue Water in the Upper Deer Valley District Metered Area (“UDVDMA”). Due to the sensitive nature of information regarding the location of water infrastructure, maps and detailed information about this District Metered Area will be withheld during this stage of procurement.

Instead of providing this information, professional service providers may assume the following about the UDVDMAs:

1. It contains 15 miles of pipe.
2. 94% of the pipe is Ductile Iron, the remainder is unknown.
3. 90% of the pipe is between 8-12” in diameter.
4. 10% of the pipe is between 4-6” in diameter.
5. It contains 6 Pressure Reducing Valves.

This site was previously partially surveyed by above ground leak detection equipment with no leaks detected.

We believe this area may be currently leaking considerable water on the difference between inputs into UDVDMAs and outputs as measured by customer meters.

Park City anticipates treating this deployment as a trial run, and leaving sensors out in the field for no more than six (6) months and between about April 15, 2018, and October 15, 2018. However, at the City’s sole discretion, it may choose to enter a multi-year contract that allows for similar services to be provided beyond this date.

The professional service provider shall:

1. Provide the Sensor Arrays necessary to detect and locate leaks.
  - a. It is anticipated these sensors will include Hydrophones, Pressure, and Remote Telemetry.
  - b. It is anticipated that 120v power will not be provided and that the sensor array will be battery powered with a battery life of at least two (2) months.
    - i. It is preferred that a solar power solution be available for the Sensor Array unless a multi-year battery option is available.
  - c. It is anticipated that to the maximum extent practicable, the Hydrophones and Pressure Sensors will be inserted through a fire hydrant connection and into water to gather data.
  - d. It is anticipated that sensors will be located at existing fire hydrants and be temporary in nature, such that they can be removed after a summer season.
  - e. It is anticipated that the Sensor Array be housed in a non-obtrusive box or cap and attached to the fire hydrant.
  - f. It is anticipated but not required that the Sensor Array be available for rental at a monthly rate and that rental payments be applied towards the purchase price of the Sensor Array.
  - g. It is anticipated that the Sensory Array will be transmitting data back to a remote server and that the professional service provider will provide equipment for the necessary backhaul. If cellular, the service provider will provide the necessary cellular modem.
2. Provide a Software as a Service monthly subscription that utilizes data gathered from the Sensor Array to identify and locate leaks.

It is anticipated the City shall:

1. Provide reasonably accurate geographic information system data on the UDVDMA in a form determined by the City in consultation with the professional service provider.
2. Install the Sensor Assembly on identified fire hydrants.
  - a. If fire hydrants are not feasible in certain locations, the City may provide a taped connection to the distribution pipe and install the equipment.
3. Provide data plans and/or sim cards for the cellular modem.
4. Use standard desktop and laptop personal computers to access the Software as a Service portal.

The professional service provider may:

- a. Provide information on flow meters capable of meeting similar criteria as the Sensor Array.
  - i. Provide information on integration options with Sensus Analytics and/or Sensus RNI 4.x

- ii. Provide information on integration options with Ignition SCADA system.
  - iii. Provide information on automating a water mass balance calculation between SCADA meters, Sensus AMI meters, and the professional service provider identified flow meters.
- b. Propose any additional service that they believe furthers the City’s goal as identified above.

**III. Intentionally Omitted.**

**IV. Content of Proposal**

Proposals will be evaluated on the criteria listed below. Proposals shall be limited to ten (10) pages.

Topic	Description
Expertise	Professional Service Provider’s experience and ability to cite successful use of its solution to identify and locate water leaks.
Scenario Price	Cost estimate for Sensors and Software as a Service based on the data provided in Section II and assuming an ideal layout of the distribution system. The City will negotiate actual price with one (1) or more potential professional service providers based on actual conditions after the proposal due date.
Timeline	Ability to meet the City’s proposed timeline.
Software Security	Demonstration through certifications and commitments to Information Technology best practices that Park City’s information is secure.
Presentation of Information	The overall organization and content of the Proposal. Brevity is appreciated.
Changes requested to requirements of Section VI.	<b>Changes to the Park City Municipal Standard Service Provider Agreement may disqualify a professional service provider and are discouraged. Requested changes may be counted against the provider.</b>

Park City Municipal Corporation 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. Proposals shall be valid for six (6) months.

**Price may not be the sole deciding factor.**

## V. Selection Process

Proposals will be evaluated on the factors listed in Section IV, Content of Proposal, above.

The selection process will proceed on the following schedule:

- A. Proposals will be received by Park City by 4:00 p.m. Wednesday, January 3, 2018, at the Public Works Office located at 1053 Iron Horse Drive in Park City, UT, Attn: Jason Christensen, Water Resources Manager.
- B. A selection committee comprised of City staff will review all submitted RFPs.
- C. It is anticipated that City Council will vote on the contract award on February 15, 2018.

## VI. Park City Municipal Standard Service Provider Agreement Minor

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

If Proposer takes exception to any term or condition set forth in this RFP and/or the Sample Agreements and any of its Exhibits and Attachments said exceptions must be clearly identified in the response to this RFP. **All questions about the insurance requirements or indemnification language found in paragraphs 7 and 8 of the sample agreement must be resolved with Park City prior to submitting an RFP.** Any questions not resolved prior to the submittal deadline will not be considered. Said exceptions and accepted resolutions must be clearly identified in the response to the RFP. **Exceptions or deviations to any of the terms and conditions must be submitted in a separate section of the document accompanying offeror's proposal identified as "Exceptions." The nature and extent of requested changes/such exceptions to our standard agreement (i.e., unwillingness to comply with our insurance/indemnity provision) counts against a bidder.** The City shall be the sole determiner of the acceptability of any exception.

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

## **VII. Information to be submitted**

To be considered, five (5) copies of the proposal must be received at the Park City Public Works Office, Attn: Jason Christensen, Water Resources Manager, 1053 Iron Horse Drive, Park City, UT 84060, by Wednesday, January 3, 2018, at 4:00 p.m.

### **If submitting by mail, submit to:**

Park City Municipal Corporation  
Attention: Public Utilities Department, Jason Christensen  
P.O. Box 1480  
Park City, Utah 84060

## **VIII. Preparation of Proposals**

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

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

## **IX. Proposal Information**

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

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

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

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

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

F. If bidder 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.

**SAMPLE**

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

THIS AGREEMENT is made and entered into in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and \_\_\_\_\_, a \_\_\_\_\_, ("Service Provider", collectively, the City and the Service Provider are referred to as ("the Parties").

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities;

WHEREAS, sufficient City resources are not available to provide such services;

WHEREAS, the service provided to the City carries minimal insurance risk; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

**1. SCOPE OF SERVICES.**

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

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

**2. TERM.**

No work shall occur prior to the issuance of a Notice to Proceed which cannot occur until execution of this Agreement, which execution date shall be commencement of the term and the term shall terminate on \_\_\_\_\_ or earlier, unless extended by mutual written agreement of the Parties.

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

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- C. For all “extra” work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as “Exhibit B,” or if none is attached, as subsequently agreed to by both Parties in writing.
- D. The Service Provider shall submit to the City Manager or her designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.
- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.
- F. Service Provider acknowledges that the continuation of this Agreement after the end of the City’s fiscal year is specifically subject to the City Council’s approval of the annual budget.

**4. RECORDS AND INSPECTIONS.**

- A. The Service Provider shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement, including (but not limited to) that which is necessary to sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement, and

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

shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement.

- B. The Service Provider shall retain all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement for six (6) years after expiration of the Agreement.
- C. The Service Provider shall, at such times and in such form as the City may require, make available for examination by the City, its authorized representatives, the State Auditor, or other governmental officials authorized by law to monitor this Agreement all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement. The Service Provider shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly to this Agreement.
- D. The City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated, 1953, as amended and Park City Municipal Code Title 5 ("GRAMA"). All materials submitted by Service Provider pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming and exemption from disclosure rests solely with Service Provider. Any materials for which Service Provider claims a privilege from disclosure based on business confidentiality shall be submitted marked as "confidential - business confidentiality" and accompanied by a concise statement from Service Provider of reasons supporting its claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury. The City will make reasonable efforts to notify Service Provider of any requests made for disclosure of documents submitted under a claim of confidentiality. Service Provider specifically waives any claims against the City related to any disclosure of materials pursuant to GRAMA.

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**5. INDEPENDENT CONTRACTOR RELATIONSHIP.**

- A. The Parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated, the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

**6. SERVICE PROVIDER EMPLOYEE/AGENTS.**

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

**7. HOLD HARMLESS INDEMNIFICATION.**

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers.

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

The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the Parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

- B. Service Provider does hereby remise, release, forever discharge and covenant not to sue PARK CITY MUNICIPAL CORPORATION, its agents, servants, employees, officers, successors and assigns, and/or heirs, executors and administrators, and also any and all other persons, associations and corporations, whether herein named or referred to or not, and who, together with the above named, may be jointly and severally liable to the Service Provider, of and from any and all, and all manner of, actions and causes of action, rights, suits, covenants, contracts, agreements, judgments, claims and demands whatsoever in law or equity, including claims for contribution, arising from and by reason of any and all KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN bodily and personal injuries or death, damage to property, and the consequences thereof, which heretofore have been, and which hereafter may be sustained by the Service Provider or by any and all other persons, associations and corporations, whether herein named or referred to or not, from all liability arising out of, in connection with, or incident to the execution of this Agreement
  
- C. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

### **8. INSURANCE.**

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors as follows:

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- A. Workers compensation insurance with limits as required by statutory law. Service Provider shall submit with the signed Provider Service Agreement a certificate of insurance evidencing this coverage to the City.
- B. Auto liability insurance with limits as required by statutory law.
- C. Professional Liability (Errors and Omissions) insurance (if applicable) with annual limits no less than One Million Dollars (\$1,000,000) per occurrence. If written on a claims-made basis, the Service Provider warrants that the retroactive date applicable to coverage precedes the effective date of this Agreement; and that continuous coverage will be maintained for an extended reporting period and tail coverage will be purchased for a period of at least three (3) years beginning from the time that work under this agreement is complete. Service Provider shall submit with the signed Provider Service Agreement a certificate of insurance evidencing this coverage to the City.
- D. Should any of the above described policies be cancelled before the expiration date thereof, Service Provider shall deliver notice to the City within thirty (30) days of cancellation. The City reserves the right to request certified copies of any required policies.
- E. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

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

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

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- B. Unless otherwise exempt, the Service Provider is required to have a valid Park City business license.
- C. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- D. If this Agreement is entered into for the physical performance of services within Utah the Service Provider shall register and participate in E-Verify, or equivalent program. The Service Provider agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.
- E. Service Provider shall be solely responsible to the City for the quality of all services performed by its employees or sub-contractors under this Agreement. Service Provider hereby warrants that the services performed by its employees or sub-contractors will be performed substantially in conformance with the standard of care observed by similarly situated companies providing services under similar conditions.

### **11. NONDISCRIMINATION.**

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, Service Provider will not discriminate against any qualified person in matters of compensation and other terms, privileges, and conditions of employment because of: race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions. Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, State and federal laws prohibiting discrimination in employment.
- C. Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic

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

information, sexual orientation, gender identity, or protected expressions.

- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

### **12. ASSIGNMENTS/SUBCONTRACTING.**

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment. Any assignment made without the prior express consent of the City, as required by this part, shall be deemed null and void.

- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.
- D. Each subcontractor that physically performs services within Utah shall submit an affidavit to the Service Provider stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. § 63G-12-302.

**13. CHANGES.**

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

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

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

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

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as

an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.

- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

**16. TERMINATION.**

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

**17. NOTICE.**

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

**18. ATTORNEYS FEES AND COSTS.**

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

**19. JURISDICTION AND VENUE.**

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

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

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

**21. ENTIRE AGREEMENT.**

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

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

**PARK CITY MUNICIPAL CORPORATION**

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

\_\_\_\_\_  
Diane Foster, City Manager

Attest:

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

Approved as to form:

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

**SERVICE PROVIDER:**

Name:  
Address:  
City/State/Zip:  
Tax ID#: \_\_\_\_\_  
PC Business License #: \_\_\_\_\_

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**EXHIBIT "B"**

PAYMENT SCHEDULE FOR "EXTRA" WORK