



**Park City Municipal Corporation
100 Marsac Avenue Housing Project**

**Request for Proposals (Non-Bid)
Architectural Consultant Services**

Submittal deadline: By 4:00 p.m. on Thursday, March 21, 2019

Park City Municipal Corporation
Community Development Office
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060
(435) 615-5177

Staff contact: Jason Glidden
Housing Development Manager
Email: jglidden@parkcity.org

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

**NOTICE OF REQUEST FOR PROPOSALS FOR ARCHITECTURAL
CONSULTANT SERVICES (NON-BID)**

Park City Municipal Corporation (“PCMC”) is seeking the services of a qualified design team to prepare design, engineering, and entitlement services for the following project:

Marsac Avenue Housing Project – 100 Marsac Avenue

RFP AVAILABLE:

A copy of the RFP can be obtained electronically by emailing Jason Glidden at jglidden@parkcity.org. Any modifications or addendums will be made in redlined form on the website on Thursday, March 14, 2019, by 5:00 pm.

PROPOSALS DUE:

Proposal submittals must be received **via e-mail by 4:00 p.m. on Thursday, March 21, 2019**, at: jglidden@parkcity.org.

PROJECT LOCATION: 100 Marsac Avenue, Park City Utah

OWNER/CONTACT: Jason Glidden, Housing Development Manager
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

All questions shall be submitted in writing by 2:00 p.m. on Thursday, March 14, 2019, via e-mail to: jglidden@parkcity.org.

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

I. Project Description

Park City Municipal Corporation (“PCMC”) seeks proposals for survey, platting, architecture, and engineering services for an affordable housing project on City owned property at 100 Marsac Avenue, Park City, Utah. PCMC is the owner and developer of the projects. The work outlined in the RFP includes survey and platting, planning, entitlements, and architectural and engineering design of the properties. PCMC is seeking responses from architects licensed in the State of Utah to act as the Primary Architect for the project.

100 Marsac Avenue

The City owned land at 100 Marsac Avenue is split into two parcels. These parcels together are 2.1 acres in size. The City is looking to develop single/multifamily family homes on the parcels with access coming from Marsac Avenue. The previous owner had started the Master Planned Development (MPD) process and had submitted a complete application. During the MPD process, secondary access issues were identified and led to litigation with adjacent property owners. In addition, the property contains contaminated soils that will need to be mitigated during development. The City has access to documentation regarding the MPD, litigation, and soil issues on the property. These documents can be found [HERE](#) and should be used to assist in the scope of work described below. The City may bring in additional development partners for this project.



Figure 1 Affordable Housing Areas

The Primary Architect will develop the schematic drawings and work with the project team to finalize the project scope and budget. At the discretion of PCMC, award of the contract may be considered to the primary architect to take the drawings through to completion of construction drawing and construction administration. Should additional tasks beyond schematic design be awarded, the primary architect will also be the “Architect of Record”, and be the primary interface with the City agencies in the permit and construction tasks, and shall sign and seal appropriate drawings, statements, and certifications. They will also provide input as appropriate during all tasks of design on codes and standards in Park City and conformance thereto. Additionally, the Primary Architect will complete the necessary entitlement, planning process, and obtain any required governmental approvals and permits with Park City Community Development.

II. Site Information

Zoning & Existing Conditions

The current Park City Municipal Land Management Code (LMC) identifies the zoning on the subject site as Historic Residential (HR1). The proposed building site lies across two City owned metes and bounds parcels. Prior to construction, the City's LMC requires the property to be included within a platted subdivision and that the improvements meet all the requirements of the LMC for the zone. The design team will procure site survey information and conduct necessary platting approvals to identify a developable lot of record, concurrent to the design process. A local vendor is preferred. PCMC will provide preliminary soil (geo-tech) and environmental information on the site as well as documentation on the secondary access issues associated with the property. Both of these issues will have to be addressed as part of the scope of service.

III. Scope of Work

The proposal to PCMC shall outline an approach to the needs listed below and shall include an estimated range of total costs to perform the following work for all tasks associated with the 100 Marsac Housing project.

The City will provide a basic plan outlining the unit types, density, phasing, and other important site or design considerations.

The proposal to PCMC shall outline an approach to the following needs for both lots and shall include an estimated range of total costs to perform the following work. It is anticipated that the specific services to be provided by the Consultant Design Team will include:

Task 1 – Project Management, Concept Design review and Schematic Design

Project Management and Review Concept and Documents

- Organize and document weekly team meetings.
- Work to complete overall development goals, scoping, site assessment, concept design, net-zero goals and housing program.
- Bring the concept plans to City Council for review and feedback.
- Complete a preliminary land use and building code review with the City to confirm requirements for zoning, entitlements, land use, site, utilities, and building construction permits (including fire, life, and safety issues).
- Prepare and submit a Historic District Design Review – Pre (HDDR-Pre) application - while this is not in the historic zone, an early submittal to the PCMC Planning Department for acceptance may streamline the process.

Deliverables:

- Agendas/summaries weekly team meetings.
 - Work plan, including schedule showing all submittals.
 - Concept designs reviewed by City Council
 - Historic District Design Review – Pre (HDDR-Pre) Application
- Pre-MPD meeting with Staff

Develop Schematic Design

- Develop the schematic design including plans, elevations and cross sections, as well as three-dimensional project massing and computer imaging.
- Conduct a boundary survey and supplement the topographic survey if necessary.
- Prepare a plat amendment for the project to create one lot.(if needed)
- Prepare a preliminary estimate of probable project costs.
- Coordinate with utility companies to help develop Schematic Design plans.
- Develop criteria that will capture the most cost-effective sustainable design components.
- Develop a preliminary material template, building elevations, and site and building sections to illustrate the overall site character.
- Support the City's outreach process by supplying graphic materials representing building and site plans, material examples, and project layout for the purpose of public meetings, City Council meetings, and posting on the City's project website. The City shall take the lead in all public outreach efforts.

Deliverables:

- Technical memo, plans, elevations, and building massing drawings (written and graphic form) identifying the size, range of amenities, functional arrangements such as parking, access, circulation, and general building arrangements, and the relationship of new construction to existing facilities.
- Graphic materials representing building and site plans, materiality and project layout for the purpose of public meetings, City Council meetings, and posting on the City's project website.
- Site plan, floor plan(s), sections, an elevation, and other illustrative materials through computer images, renderings, or models. The drawings shall include overall dimensions.
- Supplemental topographic survey.
- Plat Amendment to create one lot.
- A final schematic design level estimate of probable costs for the entire project budget including construction costs, soft costs, miscellaneous costs, and other owner's costs. A third party estimate will be necessary for independent cost estimating.
- Anticipate 3 public meetings for presentation including City Council and Planning Commission.
- Possible refinement of drawings based on public meetings and reviews.
- Proposed plan and assumption of costs to meet the City's Net-zero goals.
- An updated project schedule.

Task 2 - Design Document Development Tasks

Design Development

- Prepare and submit for the City's approval, Design Development documents consisting of plats, drawings, delineation of equipment, mechanical and communications requirements, colors, and final selection of materials, specifications, and other documents, all of which fix and describe the architectural, mechanical, and electrical systems conforming to Park City Green Building standards and Net-zero goals.
- Prepare a life cycle cost analysis to assist in final systems decisions.
- Work with City and utility companies to produce Design Development drawings and plans.

- Update estimate of probable project costs. Consultant will promptly advise the City of the impact that special design details, materials, and equipment items may have on construction costs.
- Perform cost effectiveness adjustments to design as required by the City.
- Prepare all necessary documents for value engineering to assist City representatives in making value engineering decisions. Prepare any additional designs and/or specifications as a result of value engineering.
- Prepare subdivision/condo plat/MPD in accordance with Park City Municipal LMC.
- Present the Design Development drawings to Planning Commission (2-3 meetings for Master Plan Development) and to City Council (1 meeting).
- Provide for development entitlements for planning, zoning, building, and engineering requirements.
- Cost estimate and schedule of construction.

Deliverables

- Updated Design Development level technical memo, plans, elevations, building drawings, and computer imaging further clarifying the size, range of amenities, functional arrangements such as parking, access, circulation, and general building arrangements.
- A technical memo clearly presenting a life-cycle cost analysis of proposed building systems and materials.
- Necessary approvals from regulatory agencies for entitlements and permits.
- A final Design Development level estimate of probable costs for the entire Project Budget including construction costs, soft costs, miscellaneous costs, and other owner's costs.
- MPD Application.
- An updated project schedule.
- A value engineering report identifying line item costs and the pros and cons of possible revisions to proposed materials or design necessary to meet the project budget.
- Weekly (or schedule as determined by team) meetings.
- Participation and presentation materials for public meetings including, but not limited to, 3D renderings, models, and fly-throughs.

IV. Submittal Requirements

A. Cover Letter (maximum of 1 page)

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

B. Statement of Qualifications (Maximum of 8 pages)

Each respondent must demonstrate in their submittal that they have the professional capabilities and the organizational and administrative experience needed to accomplish this project. 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 Proposals should contain specific responses to the following requested items:

- 1. Statement of Approach of Team:** Describe the specialized experience and project approach of the team. Indicate the team leader and his/her specific role. Briefly discuss the approach to team management and organization. Describe the firm's approach to conceptual site planning for housing projects, cost estimation, and control.
- 2. Understanding of Work and Outline of Project Schedule:** Demonstrate knowledge of work to be performed. Provide an outline of the schedule noting the critical path items. If team believes there are potential challenges, those challenges should be noted along with potential solutions to address these challenges.
- 3. Specific Affordable Housing Project Experience:** Provide information on similar or relevant projects which team members have executed. Note projects completed within budget and schedule.
- 4. Sustainable Development:** Describe the firm's commitment to environmentally sound and sustainable practices and professional experience in applying sustainable practices to reach net zero in new construction. Specific examples of delivering net zero projects should be highlighted.
- 5. Firm/Team Qualifications and Experience in Park City:** Demonstrate professional experience in site planning, housing design, infrastructure design, cost estimation, and implementation. An example of recent previous work is required as well as descriptions of the scope of work and management tasks provided by the firm or team. *Photographs of completed projects are encouraged.* Demonstrate recent, relevant experience particularly in the Park City market and specifically in the affordable housing market.
- 6. Proposed Project Team Members:** Submit a written description of the team composition, disciplines, and the primary role of each firm or individual on the team

indicating respective roles, responsibilities, and related experience and qualifications. Also include an organizational chart. The information must clearly indicate the team leader for the team for this project and the responsible party in each firm who will be providing the required professional experience. If a team approach is used, provide example of projects completed by the team. If 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.

7. **Individual Experience:** Provide a description of the background of the key members of the team and their specific participation in previous projects that would directly relate to the work to be done for this project. This may be done in descriptive text or in a short-form (one page or less) resume.
8. **Quality Control:** Describe the ability to undertake and complete quality projects on time and within budget. Indicate current workload and the capacity of the firm to undertake this project. Has the firm or individual engaged in litigation, arbitration, or mediation as a result of design errors of omission? If yes, please explain.
9. **List of References:** List three (3) references with which the team or key members of the team have worked in the last five (5) years, for projects of similar size or scope, indicating projects done. Provide all contact information, such as address, telephone number, fax number, and email address. Proposals that do not provide a completed section for references will not be considered further.

C. Supplemental Material (Maximum of 4 pages)

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

D. Work Plan

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

E. Evidence of Ability to Obtain Insurance.

1. General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage. The Service Provider shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

2. **Automobile Liability** insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
3. **Professional Liability** (Errors and Omissions) insurance written on claims made basis with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence.
4. **Workers Compensation** Workers Compensation insurance limits written as follows:

 Bodily Injury by Accident Five Hundred Thousand Dollars (\$500,000) each accident;
 Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee,
 Five Hundred Thousand Dollars (\$500,000) policy limit.
5. The City shall be named as an additional insured on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that, should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. The City reserves the right to request certified copies of any required policies.
6. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

F. Professional Services Agreement Statement. A copy of the City's standard Service Provider/Professional Services Agreement is included as Exhibit "A" attached hereto and made a part hereof.. Please include a statement indicating that you (1) accept the Agreement as is or (2) propose changes and specify. The nature and extent of requested changes to our standard contract (i.e., unwillingness to comply with the City's insurance/indemnity provision) will count against a proposal.

ANY INQUIRIES RELATED TO INDEMNIFICATION OR INSURANCE PROVISIONS CONTAINED IN PARK CITY MUNICIPAL CORPORATION'S STANDARD AGREEMENT MUST BE SUBMITTED TO PARK CITY MUNICIPAL CORPORATION NO LATER THAN THE PROPOSAL/SUBMITTAL DEADLINE. PARK CITY MAY, IN ITS SOLE DISCRETION, CONSIDER SUCH INQUIRES. ANY CHANGES TO PARK CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISION SHALL BE APPROVED AT PARK CITY'S SOLE DISCRETION.

V. Fee Schedule

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

- o Fixed hourly rates for the Conceptual, Preliminary, Schematic and Design Development.
- o Percentage of the Design Development Cost estimate to be used as a basis for the Construction Documents and Construction Administration Phase.

- The fixed hourly rates are to show the persons who will be assigned, titles, and applicable rates. For example: John Smith, Architect I, \$75 per hour.
- Any additional reimbursable expenses.
- Rates for any additional studies that may be required as part of the MPD review criteria in the [LMC](#).

Award of contract is subject to City Council approval. Upon approval, PCMC will then contract with the selected proponent. PCMC will either award both projects to one bidder or will award each project to two separate bidders.

Price may not be the sole deciding factor.

VI. Selection Process

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

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

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

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

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

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

PCMC reserves the right to complete the selection process without proceeding to an interview process, and may choose to select based on the information supplied in the Statement of Qualifications. PCMC reserves the right to select the applicant(s) whose qualifications, in the City's sole judgment, best meet the needs of the City. Award of contract is subject to approval by the City Council of Park City.

Evaluation Criteria Weighting

CRITERIA	Weighting
QUALIFICATIONS	
Understanding of work to be completed.	10 percent
Qualifications/expertise of team members in high density affordable housing in resort communities.	15 percent
Qualifications/expertise of team members in net zero design.	15 percent
Expertise in following the Park City planning, building, and engineering approval processes.	20 percent
Experience completing successful projects in Park City/Summit County Projects or similar communities.	5 percent
SCHEDULE	
Approach to the project and schedule outlining critical path items.	20 percent
COST	
Proposed Fee Schedule	15 percent

VII. Submittal Instructions

Proposal submittals must be received by **4:00 p.m. on Thursday, March 21, 2019, via email to Jason Glidden, Housing Development Manager, at jglidden@parkcity.org.**

Expensive and elaborate statements are discouraged.

E-mails should be no larger than seven (7) megs. Respondents must ensure receipt of materials by the time and date specified.

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

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

VIII. Tentative Schedule of Selection Process:

- | | |
|---------------------------------------|--|
| 1. Responses to the RFP deadline: | By 4 p.m. on Thursday, March 21, 2019 |
| 2. Interview for Selected Applicants: | Week of March 25, 2019 (if necessary) |
| 3. Selection of Firm: | Week of April 1, 2019 |
| 4. Finalize and Award Contract: | Week of April 7, 2019 |
| 5. Notice to Proceed: | Week of April 14, 2019 |

Professional Service Agreement (Design Professional)

Revised 05.08.2018

IX. Requests for Additional Information

Any questions concerning the submittal or the project shall be sent by 4:00 p.m. on Thursday, March 14, 2019, in written form via email inquiry to the attention of Jason Glidden, at jglidden@parkcity.org. If you wish to receive a copy of all questions received and responses provided, please check the City website each Friday evening.

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

EXHIBIT "A"

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

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and _____, a _____, ("Design Professional"), collectively, the City and the Design Professional are referred to as (the "Parties)."

WITNESSETH:

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

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

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

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

1. SCOPE OF SERVICES.

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

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

2. TERM.

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

3. COMPENSATION AND METHOD OF PAYMENT.

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

4. RECORDS AND INSPECTIONS.

- A. The Design Professional shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement, including (but not limited to) that which is necessary to sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement.

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

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

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The Parties intend that an independent Design Professional/City relationship will be created by this Agreement. No agent, employee, or representative of the Design Professional shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Design Professional are not entitled to any of the

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

benefits the City provides for its employees. The Design Professional will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

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

6. DESIGN PROFESSIONAL EMPLOYEE/AGENTS.

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

7. HOLD HARMLESS INDEMNIFICATION AND ATTORNEY FEES.

- A. The Design Professional shall indemnify and hold the City and its agents, employees, and officers, harmless from any and all liability for damages, including claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to (1) the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or (2) the Design Professional's subconsultant's or subcontractor's negligence.
- B. The Design Professional shall also reimburse the City, including its agents, employees, and officers, and any other person for attorney fees or other costs incurred by the person in defending against a claim alleging liability for damages to the extent the attorney fees or costs were incurred due to (1) the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or (2) the Design Professional's subconsultant's or subcontractor's negligence.
- C. If such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable to the extent of the Design Professional's breach of contract, negligence, recklessness, or intentional misconduct; or the Design Professional's subconsultant's or subcontractor's negligence.

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

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

- E. Further, nothing herein shall require the Design Professional to hold harmless, defend, or reimburse the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers.

- F. The Design Professional is required to maintain and to provide a standard of care consistent with other design professionals with the same or similar professional license, who normally provide projects, work, and/or services as is established in this Agreement in Park City, Utah. Accordingly, if the nature of the project, work, and/or services established in this Agreement requires specialized design expertise, the Design Professional is required to provide services consistent with the specialized design expertise established in this Agreement.

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

- H. The provisions of this section shall survive the expiration or termination of this Agreement.

8. INSURANCE.

The Design Professional shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Design Professional, their agents, representatives, employees, or subcontractors. The Design Professional shall provide a Certificate of Insurance evidencing:

- A. General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage.

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

The Design Professional shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

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

9. TREATMENT OF ASSETS.

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,

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

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

10. COMPLIANCE WITH LAWS AND WARRANTIES.

- A. The Design Professional, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. Unless otherwise exempt, the Design Professional is required to have a valid Park City business license.
- C. The Design Professional specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- D. If this Agreement is entered into for the physical performance of services within Utah the Design Professional shall register and participate in E-Verify, or equivalent program. The Design Professional agrees to verify employment eligibility through E-Verify, or equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.
- E. Design Professional shall be solely responsible to the City for the quality of all services performed by its employees or sub-contractors under this Agreement. Design Professional hereby warrants that the services performed by its employees or sub-contractors will be performed substantially in conformance with the standard of care observed by similarly situated companies providing services under similar conditions.

11. NONDISCRIMINATION.

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

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

compliance with local, State and federal laws prohibiting discrimination in employment.

- C. Design Professional will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Design Professional shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Design Professional shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Design Professional not less than thirty (30) days prior to the date of any proposed assignment. 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 Design Professional stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. § 63G-12-302.

13. CHANGES.

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

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

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

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

15. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Design Professional is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

16. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days' written notice to the other party. The Design Professional shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Design Professional shall promptly submit a termination claim to the City. If the Design Professional has any property in its possession belonging to the

PARK CITY MUNICIPAL CORPORATION DESIGN PROFESSIONAL SERVICES AGREEMENT

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

- B. If the Design Professional fails to perform in the manner called for in this Agreement, or if the Design Professional fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days' written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Design Professional setting forth the manner in which the Design Professional is in default. The Design Professional will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

17. NOTICE.

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

18. ATTORNEYS FEES AND COSTS.

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

19. JURISDICTION AND VENUE.

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

20. SEVERABILITY AND NON-WAIVER.

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

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

21. ENTIRE AGREEMENT.

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

**PARK CITY MUNICIPAL CORPORATION
DESIGN PROFESSIONAL SERVICES 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

DESIGN PROFESSIONAL NAME

Address:

Address:

City, State, Zip:

Tax ID#: _____

PC Business License# BL_____

Signature

Printed name

Title

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

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 20__, personally appeared before me _____, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she is the _____ (*title or office*) of _____, a _____ corporation (or limited liability company), by authority of its Bylaws/Resolution of the Board of Directors (if as to a corporation) or Member Resolution (if as to a limited liability company), and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a _____ corporation (or limited liability company).

Notary Public

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

EXHIBIT "A"

SCOPE OF SERVICES

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

EXHIBIT "B"

PAYMENT SCHEDULE FOR "EXTRA" WORK