



**Request for Proposals
2014 Annual Historic Preservation Award**

January 2015

Request for Proposals for art for the 2014 Annual Historic Preservation Award.

Park City Municipal Corporation (PCMC) Planning Department is seeking proposals from artists to design and produce the following:

Art to Commemorate the 2014 Annual Historic Preservation Award

If you are interested in submitting a proposal, a copy of the RFP can be obtained as of Tuesday, January 20, 2015, from Park City Municipal Corporation, 445 Marsac Avenue, Park City UT; email Anya Grahn, anya.grahn@parkcity.org; or electronically at www.parkcity.org

Proposals must be submitted no later than 5:00 p.m. Friday, February 13, 2015, at Park City Municipal Corporation—Planning Department, 445 Marsac Avenue, PO Box 1480, Park City, UT 84060.

The 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, Park City Municipal Corporation shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

**PARK CITY MUNICIPAL CORPORATION
PUBLIC ART**

Summary Sheet - Request for Proposals

1. **Project:** Park City Municipal Corporation is seeking proposals from artists to design and produce art for the Historic Preservation Board's annual Historic Preservation Award. All media, materials, and themes will be considered based, in part, upon the following criteria:
 - a) The art will be installed and publically displayed in City Hall.
 - b) The art piece(s) shall reflect this year's Historic Preservation Award recipient—the garage at 101 Prospect Avenue.
 - c) The project budget will not exceed \$800 for a single art piece. *Cost will be a consideration for selection.*
 - Art pieces shall be approximately twenty-four (24") by eighteen inches (18") and no more than twenty-four inches (24") square.
 - Should the piece be framed art, the piece must measure approximately twenty-four (24") by eighteen inches (18") and be no more than twenty four inches (24") square, not including the frame. A frame should be added to the piece and be no more than three inches (3") in width.
 - e) An eight inch (8") by ten inch (10") photograph of the art piece or photo replication of the painting shall be provided. This photograph will be framed by the Planning Department and awarded to the property owners or managers of the Historic Preservation Award recipient by City Council in May.
2. **Project Location:** City Hall, 445 Marsac Avenue, Park City
3. **Requested Services:** Design and produce the annual Historic Preservation Award to hang in a public area of City Hall, Park City
4. **Proposals Due:** Friday, February 13, 2015, no later than 5:00 pm.
5. **Submittal Requirements.** Five (5) copies of the proposal, shall be mailed or delivered to Park City Municipal Corporation—Planning Department, Attn: Anya Grahn, 445 Marsac Avenue, P.O. Box 1480, Park City, UT 84060. Proposals will not be accepted after the 5:00 pm deadline on Friday, February 13, 2015. ***Proposal budgets shall be included in the submittal.***
6. **Selection Committee Meeting** will be held in late February, 2015. Two (2) to three (3) proposals may be selected for interviews, which will be scheduled as necessary. Final selection is tentatively scheduled to be made by Friday, March 6, 2015.

I. Introduction and Project Description

Over the course of the last year, the Historic Preservation Board (HPB) has indicated as part of their Visioning goals the intent to continue the Preservation Awards program. The awards program is to be based on a Project utilizing the *Design Guidelines for Historic Districts and Historic Sites* and the focus of the award may change from year to year. The Board has agreed that the HPB Preservation Award should not compete with any of the Historical Society's awards, but complement the existing joint preservation efforts already taking place and highlight the *Design Guidelines for Historic Districts and Historic Sites* by which all development in the Historic Districts must comply.

Properties are selected for this award based on the following categories:

- Adaptive Re-Use
- Infill Development
- Excellence in Restoration
- Sustainable Preservation
- Embodiment of Historical Context
- Connectivity of Site

In 2011, the HPB recognized the exemplary adaptive reuse of the High West Distillery and the City commissioned artist Sid Ostergaard to create an oil painting depicting the structure. The Washington School House Hotel received the 2012 Historic Preservation Award, and the City commissioned an oil painting by Jan Perkins. The Historic Preservation Board then selected the residential artist Bill Kranstover to depict 515 Main Street and Dori Pratt to paint 929 Park Avenue in 2013. All of these paintings are showcased on the main level of City Hall.

In December 2014, the HPB chose the garage at 101 Prospect as the recipient of the 2014 Historic Preservation Award.

II. Selection Process

The selection committee will choose finalists for the 2014 Historic Preservation Award project described in Section I above. The Awards Committee includes three (3) members of the Historic Preservation Board (HPB) as well as Planning Department staff.

Finalists may be invited to interview with the Awards Committee in February 2015. The Awards Committee will then select one (1) artist to create one (1) art piece honoring the Historic Preservation Award recipient, the garage at 101 Prospect.

III. Submittal Requirements

All artists and/or teams responding to the RFP must submit complete responses to the information requested in this Section and to note any exceptions to any information contained in the RFP. Applicants shall present information in a clear and concise manner following the format listed below:

A. Proposal.

1. Illustrations/photos. (2 page maximum, 8 1/2" x 11" maximum size). Visual support material and/or illustrations to show the proposal. Designs should be at least 75% complete (not just conceptual) and must display actual media, colors, and dimensions of the art piece(s).

2. Statement of Qualifications

Bio. Information on the artist or team, including a brief resume.

References. Provide names and contact information of three professional references.

3. Budget. A proposed budget, not to exceed \$800 per art piece shall be included in the proposal. If framed, the cost of framing should be included in the \$800 budget. Project cost will be considered as a criterion of selection.

Include proposed fee schedule which includes all costs associated with performance of the services specified, including but not limited to artist labor, materials costs, transportation, delivery, overhead, and anticipated fabrication and installation cost (if applicable). The service provider agreement specifies insurance requirements.

4. The nature and extent of requested changes to our standard commissioned art contract (attached).

Proposals lacking required information will not be considered.

IV. Submittal Instructions

Five (3) copies of responses to this RFP must be received on or before **5:00 p.m. MST on Friday, February 13, 2015**. Deliver, mail, or email proposals to:

Anya Grahn, Historic Preservation Planner
Park City Municipal Corporation—Planning Department
445 Marsac Avenue
PO Box 1480
Park City UT 84060
anya.grahn@parkcity.org

Transmittal and receipt of electronic items is at the risk of the offerer. Faxed proposals will not be accepted.

All costs related to the preparation of the proposals and any related activities are the sole responsibility of the artist and/or team. The City assumes no liability for any costs incurred by offerers throughout the entire selection process.

V. Criteria for Selection

The following listed criteria will be used in the evaluation of the proposals. The list is not in order of priority; some criteria will receive more weight than others. In addition, the Committee will also seek to choose artists with a range of backgrounds and experiences and working in a range of media, as well as to encourage new artists.

1. **Functionality and durability of art piece.**
2. **Clarity and completeness of proposal.** Illustrations/designs should be at least 75% complete and include actual media, colors, and dimensions of the proposed art.
3. **Creativity and uniqueness.**
4. **Cost.** Price may not be the sole deciding factor.
5. Park City Municipal's policy is, subject to Federal and 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.
6. **Applicant Experience.**
 - A. **Stimulate Excellence**
 - Qualifications and quality of previous work
 - Quality of submission
 - B. **Use Resources Wisely**
 - Sustainability of previous projects
 - Ability to work within the timeline
 - Experience in working within timelines and budgets
 - Feasibility and ease of installation

VI. Timeline

The schedule is contingent upon the City's project schedule and may be changed at any time.

Submittal Deadline	February 13, 2015	5PM
Selection	March 2015	
Anticipated completion	May 1, 2015	

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

VII. Requests for Additional Information

All questions concerning the submittal or the project must be submitted via mail or email inquiry to the attention of Anya Grahn, at Park City Municipal Corporation—Planning Department, PO Box 1480, 445 Marsac Avenue, Park City, Utah 84060; anya.grahn@parkcity.org prior to Friday, February 6, 2015.

VIII. Insurance Requirements

The selected artists and/or teams will bear the entire risk of loss or damage to the work during design, fabrication, packing, shipping, and installation. When the work is completely installed and formally accepted by Park City Municipal Corporation then Park City Municipal Corporation assumes the risk of loss.

IX. Contract

The selected proposals will be required to enter into the City's standard Commissioned Art Contract in a form to be approved by the Legal Department and in substantially the form as shown in the Sample Agreement, available on request, which shall be the basic form used to develop the final agreement. Artists and/or teams are advised to read thoroughly the Sample Agreement as the selected artists and/or teams will be required to comply with its requirements. Please include a statement indicating that you (1) accept the Agreement as is or (2) propose changes and specify.

If artist and/or team takes exception to any term or condition set forth in this proposal and/or the Sample Agreement and any of its Exhibits and Attachments, said exceptions must be clearly identified in the response to this RFP. Exceptions or deviations to any of the terms and conditions must be submitted in a separate document accompanying proposal identified as "Exceptions." Such exceptions shall be considered in the evaluation and the award processes. The City shall be the sole determiner of the acceptability of any exception.

Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFQ/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. 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.

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

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”).

WITNESSETH:

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

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

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 “Work” or the “Art”). The total fee for the Project shall not exceed _____ Dollars.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on _____, unless extended by mutual written agreement of the Parties.

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3. COMPENSATION AND METHOD OF PAYMENT.

- A. Payments for services provided hereunder shall be made as follows: fifty percent (50%) of Contract Price upon execution of this Agreement and the remaining fifty percent (50%) upon delivery of the Art and final acceptance of the Project by the City.
- 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. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.
- D. Prior to final acceptance of the Project by the City the City retains the right to refuse acceptance of the Project. In the event the City refuses acceptance of the Project Service Provider shall retain the fifty percent (50%) of the Contract Price remitted upon the execution of this Agreement and Title to the Project free of any claims or interest of the City, the City shall not owe any additional payments under this Agreement, and both the Service Provider and the City shall be relieved from any further obligations under this Agreement.

4. REPRESENTATIONS AND WARRANTIES:

Service Provider represents and warrants to the City that:

- A. Materials and Workmanship: The materials and equipment furnished under this Agreement will be of good quality and new unless otherwise required or permitted by Exhibit A attached hereto, the Project will be free from defects and faults in material and workmanship and the Project will conform to the requirements of Exhibit A;
- B. Copyright: Neither the Art nor its components or any other element of the Project infringe or violate any copyright or patent right held by any person;
- C. Title: Title to the Project, including the Art and all materials and components thereof, will pass to the City upon receipt of final payment by Service Provider free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to as "liens," and no materials incorporated into the Project have been acquired subject to an agreement under which an interest therein or an encumbrance thereon has been retained by the seller; and

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- D. No Finders Fees: All negotiations relative to this Agreement and the transactions contemplated by and under this Agreement have been carried on without the intervention of any person whose act or acts would give rise to any valid claim against the City for a finder's fee, brokerage commission, or other like payment.
- E. Licensing: Service Provider and if applicable any subcontractors shall possess and maintain in good standing throughout the term of this Agreement all licensing/certification necessary to perform all services provided for in this Agreement, including but not limited to applicable contractors, architectural, and engineering licenses/certification.
- F. Original Creation: Service Provider represents and warrants that: (a) the work described in Exhibit A ("the Work") is the original creation of the Service Provider; (b) the Work is unique and an edition of one; and (c) no identical or greatly similar Work will be created by the Artist;.

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. RISK OF LOSS.

The Service Provider shall be responsible for the care and protection of all work performed by the Service Provider until completion of the installed Work and acceptance by the City and shall repair or restore any damaged work; provided however, that the Service Provider shall not be responsible for any damage that occurs after acceptance by the City unless such damage is caused by an act or omission of the Service Provider.

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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. 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

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

8. INSURANCE.

The City agrees to waive insurance requirement upon Service Provider's agreement to hold the City harmless pursuant to Paragraph 7 (B) above. Service Provider hereby acknowledges that their insurance policy is the primary coverage.

9. TREATMENT OF ASSETS.

- A. Ownership: Service Provider hereby irrevocably assigns, conveys and otherwise transfers to City and its respective successors and assigns title to the project Work and all proprietary rights thereto.

- B. Duplication of Art:

- (i) Service Provider hereby irrevocably assigns, conveys and otherwise transfers to City and its respective successors and assigns title to the project Work and all proprietary rights thereto. Service Provider retains all rights under the Federal Copyright Act and all other rights in and to the Work except ownership and possession, and except as such rights are limited by this Agreement.

- (ii) In view of the intention that the Art in its final dimension shall be unique, Service Provider shall be permitted to make duplicate copies of the Work, however Service Provider shall in good faith endeavor to differentiate the copies from the original in accordance with industry standards, for example, by reducing the size of the copy relative to the dimensions of the original and provided Service Provider acknowledges that the original Work was commissioned by and in the public art collection of Park City, Utah. Duplication of the image for notecards or postcards is permitted. Service Provider may also use depictions of the Art in personal promotional materials such as portfolios or resumes. Service Provider shall not grant permission for others to do so except with the written permission of the City.

- (iii) Service Provider grants to the City and its assigns an irrevocable license to make two- and/or three-dimensional reproductions of the Art for commercial or noncommercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity, fundraising,

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and catalogs or other similar publications, provided that these rights are exercised in a tasteful and professional manner. Wherever practicable, City shall make reasonable efforts to include Service Provider's name in any such advertisement, brochure, media publicity, catalog or other similar publication in which the Art appears and to notify the Service Provider of its efforts.

- C. Repair or Restoration: Where, in the opinion of the City or Service Provider, repairs and/or restoration of the Art are required for which Service Provider is not responsible pursuant to the terms of this Agreement, the City shall, when reasonably practicable, give Service Provider the opportunity to accomplish such repairs and/or restoration if a reasonable fee can be agreed upon between the City and Service Provider. Nothing herein shall obligate the City to make such repairs and/or restoration nor to contract with Service Provider to accomplish such repairs and/or restoration.
- D. Independent Sale: If in the future the City wishes to sell the Art separate and apart from any real property to which the Art may be integrated or affixed, Service Provider shall, when reasonably practicable, be given a right of first refusal to purchase the Art from the City. This Paragraph is not intended to give Service Provider any rights if the Art is sold by the City as part of or the consequence of the sale of the City's interests in real property. The rights of Service Provider under this Paragraph shall expire after fifteen (15) years from the date of execution of this Agreement; and said rights shall be specific to Service Provider personally and shall not be transferred, assigned, pledged or levied upon, nor shall they pass by way of inheritance or other operation of law to any third person.
- E. Notice: Service Provider agrees to keep the City notified in writing of changes in Service Provider's address, and failure to do so shall be deemed a waiver of Service Provider's right of first refusal in Paragraph 9D above.
- F. Warranty: If, within one year after the date of the completion of installation of the Project and acceptance by the City, the Project or any component or material thereof is found to be defective or to not be in accordance with the Design Plans and Construction Documents attached at Exhibit A, Service Provider shall correct it promptly after receipt of a written notice from the City to do so unless the City has previously given Service Provider a written acceptance of such condition. This obligation shall survive acceptance of the Project under this Agreement and termination of this Agreement. Nothing contained in this Paragraph shall be construed to establish a period of limitation with respect to any other obligation which Service Provider might

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have under this Agreement, including Paragraph 4 herein. The establishment of the time period of one year after completion of installation and acceptance by the City relates only to the specific obligation of Service Provider to correct the Project, and has no relationship to the time within which Service Provider's obligations to comply with the Design Plans and Construction Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish Service Provider's liability with respect to an obligation other than to specifically correct the Project.

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.
- C. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.
- D. If this Agreement is entered into for the physical performance of services within Utah the Service Provider shall register and participate in E-Verify, or 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-11-103.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during

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employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The 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. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- 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.
- 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-11-103.

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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. RIGHT TO INSPECT WORK IN PROGRESS:

A. Service Provider shall provide the City access to the Project in preparation and progress wherever located. Whenever the City considers it necessary or advisable for the implementation of the intent of this Agreement, the City will have authority to inspect the Project and to require special inspection or testing of the Project or its components to ascertain whether it is in accordance with the Scope of Services attached as Exhibit A, or following the design phase, the Design Plans and Construction Documents. If such inspection or special inspection or testing reveals a failure of the Project or the components thereof to comply with the requirements of the Design Plans and Construction Documents, Service Provider shall bear all costs of the correction of the defective work, including compensation for the City's additional services made necessary by such failures; otherwise, the City shall bear the costs of such inspection and testing. Service Provider shall not be relieved from the obligation to fabricate and produce the Project and to install the Project in accordance with the Design Plans and Construction Documents by reason of the City's failure to reject the Project or any component thereof or by any inspections, tests or approvals performed by the City.

B. In the event the City does not find the Project, as it progresses, in compliance with the Design Plans and Construction Documents, this Agreement, and/or the International Building Code, 2003 edition, the City has the option at any time and for any reason to terminate this contract. Payment will be made to Service Provider for the Project completed to date of termination. The state of the completion of the Project and the amount which may be due hereunder shall be determined solely the City. If such termination is due to a substantial variance from the Design Plans and Construction Documents set forth in Exhibit A, this Agreement, and/or the International Building Code, 2003 edition, the City shall have the option of paying nothing hereunder and of requiring repayment by Service Provider of any sums previously paid by the City. Upon such termination, Service Provider shall retain all rights to the concept, design, and the Art itself, including the right to complete, exhibit and sell the Art. However, upon such termination, the City shall have the right to require the Work itself be removed from the property of the City.

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- C. Service Provider agrees to accommodate reasonable requests by City for access to the Project in preparation and progress for the purpose of promoting the arts so long as such access does not interfere with the progress and timing of Service Provider's work.

15. PROHIBITED INTEREST.

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

16. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

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

17. TERMINATION.

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

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be paid for services performed in accordance with the manner of performance set forth in this Agreement.

18. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

19. ATTORNEYS FEES AND COSTS.

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

20. JURISDICTION AND VENUE.

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

21. SEVERABILITY.

- 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.

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22. ENTIRE AGREEMENT.

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

**Park City Municipal Corporation Service Provider/Professional Services
for Commissioned Art**

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 _____ Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a _____ corporation.

Notary Public

**Park City Municipal Corporation Service Provider/Professional Services
for Commissioned Art**

EXHIBIT “A”

SCOPE OF SERVICES

1. Art piece(s) reflecting this year’s Historic Preservation Award recipient—the garage at 101 Prospect Avenue.
 - Art pieces shall be approximately twenty-four (24”) by eighteen inches (18”) and no more than twenty-four inches (24”) square.
 - Should the piece be framed art, the piece must measure approximately twenty-four (24”) by eighteen inches (18”) and be no more than twenty four inches (24”) square, not including the frame. A frame should be added to the piece and be no more than three inches (3”) in width.
2. An eight inch (8”) by ten inch (10”) photograph of the art piece or photo replication of the painting shall be provided. This photograph will be framed by the Planning Department and awarded to the property owners or managers of the Historic Preservation Award recipient by City Council in August.