

Summit County Public Art Advisory Board
Call for Proposals: Contract Collections Archivist - Public Art

Summit County Public Art Advisory Board ("SCPAAB") is seeking a service provider to provide a comprehensive and ongoing inventory of Summit County's Public Art collection of 20 major works of art, including the Traveling Exhibit Fine Art Collection of approximately eighty (80) pieces of fine art housed in the County Courthouse. The goal of this project is to establish and maintain consistent and professional written and visual records of County-owned arts assets, and to facilitate interaction with the collection by visitors and the community on a digital platform.

PROJECT OVERVIEW:

In April, 2008, the Summit County Board of County Commissioners affirmed their belief that the aesthetic nature and charm of Summit County is further enhanced by the arts and an awareness of the visual arts. Through Ordinance 696, the Commissioners created the SCPAAB. The mission of the SCPAAB is to celebrate and unite Summit County residents through public art. SCPAAB seeks to archive its holdings to showcase the collection in a consistent and visually appealing format and highlight its arts and culture investment. SCPAAB recognizes that the public art collection is held in the public trust, and a comprehensive inventory will ensure that staff and the SCPAAB can oversee conservation, exhibition, marketing, and interpretation of individual pieces and the collection as a whole.

The project will be multifaceted, including analysis of existing inventories, identification and condition reporting of all public art works with relevant descriptions, recommended maintenance plans and budgets, consolidation of data into a comprehensive database, research of existing collection, professional grade photography, development and oversee installation of signage, and coordination with Summit County IT staff to develop a user friendly website platform to access art digitally. The inventory should be accessible to staff users and reflect the caliber of the collection. Experience in collections archiving or management and digitization in a museum, gallery or public art setting is preferred.

Budget: Total project budget shall not exceed Ten Thousand Dollars (\$10,000.00).

Location: Various interior/exterior locations around Summit County, Utah.

Exhibit "A": Artwork Agreement, required for selected service providers only.

PROJECT GOALS:

- To establish a consistent and professional written and visual records of County owned art assets, including condition reporting and recommended ongoing maintenance and cost estimates.
- To engage the community with a complete and visually appealing representation of the collection on a digital platform.
- To establish a system for records management that is accessible to Summit County staff and Arts Council Liaisons.

SELECTION CRITERIA:

- Clarity of proposal and thoroughness of response (completeness of package).
- Alignment with the project's stated goals.
- Alignment with the Summit County Public Art Board's stated [Mission and Vision](#).
- Adherence to the maximum budget of Ten Thousand Dollars (\$10,000.00).
- Experience needed to undertake the coordination and execution of the project within the defined timeline. This includes the ability to work with a team of individuals, including various County staff, Arts Council staff and community-related public relations opportunities that may arise during the project.
- Examples of similar work performed as attachments or hyperlinks.

- Professional References – Preferably, applicants will provide contact information for at least three (3) references to contact for similar work performed.

The finalist(s) will be evaluated in part for their flexibility and creativity in incorporating project aspects, their ability to work with project stakeholders, and their capacity to create a well-integrated solution.

The awarded finalist will enter into a service agreement with the County, a copy of which is attached.

The selected Service Provider will be required to adhere to the following:

- Ensure high resolution, professional grade photography of the collection, either by the service provider or a third party.
- Some artwork is publicly displayed outdoors. Project timeline should consider seasons and ability to work in outdoor weather conditions.

SELECTION PROCESS:

Selection will be made by Summit County staff and Arts Council staff. Staff will inform the SCPAAB members of the final selection. The lowest quote need not necessarily be the successful contractor.

SCPAAB is an advisory board to Summit County. SCPAAB's recommendation of a service provider pursuant to this Call for Proposals is conditioned upon and subject to approval by the County Manager and/or County Council.

Summit County reserves the right to reject any and all proposals for any reason, cancel or modify the terms of this Call for Proposals; 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 Call for Proposals. Summit County will provide respondents written notice of any cancellation and/or modification. Furthermore, the County shall have the right to waive any informality or technicality in proposals received when in the best interest of the County. Summit County's policy is, subject to Federal, State and local procurement laws, to make reasonable attempts to support Summit County businesses by purchasing goods and services through local vendors and service providers. All submittals shall be public records in accordance with government records regulations ("GRAMA") unless otherwise designated by the applicant pursuant to Utah Code § 63G-2-309, as amended.

PROJECT TIMELINE:

RFP released on December 7th, 2020.

Proposals due by Friday, January 29, 2021 at 5:00 p.m. MST.

Service Provider Selected and notified by Friday, February 5, 2021 at 5:00 p.m. MST.

Project Completion by Tuesday, June 1, 2021.

SUBMISSION OF PROPOSALS - SUGGESTED

A. Proposal

1. Cover Page: List the Service Provider(s)'s name and company if applicable, and contact information, including, but not limited to: email, phone number, and mailing address. Additional Information may also include web address, social media links, or other contact information.

2. Proposal: Describe your proposal and concept for the project. Explain the proposed budget, schedule, process, and method. Explain how your background relates to the scope of the project as outlined in this proposal. Explain how your concept relates to the possible goals outlined in this proposal. The proposal should include a project scope to be included as Exhibit "A" in the standard agreement if awarded the project.

3. Examples of previous work: Please include as attachments or hyperlinks, and include the photographer's portfolio.

4. Budget: Project costs will be considered during selection. The total project budget shall not exceed Ten Thousand Dollars (\$10,000.00). Include a proposed fee schedule for the project. Budget refers to all costs anticipated to be incurred by the applicant(s) for the design and creation of the inventory including, but not limited to, performance of the services specified, labor, insurance, photography, storage, materials costs, transportation, delivery, overhead, and permits as required by County departments. Permit fees and maintenance costs shall be included within the project budget. Cost for labor and development of collection signage, but not production/printing, should be included in the proposed budget.

B. Statement of Qualifications

1. Bio. Information and brief resume(s) on the applicant(s).

2. References. Please provide names and contact information.

SUBMIT ELECTRONICALLY

TO:

Leslie Chavez, Summit County Public Art
Advisory Board Administrator
Ichavez@summitcounty.org
Subject line must be: Contract Collections Archivist

Electronic submission cannot exceed eight (8) megabytes to the email address. If files are larger than the maximum size allowed, they may be submitted through a private Dropbox™ account directly to Ichavez@summitcounty.org. It is the sole responsibility of the applicant to ensure the success of the electronic submission is completed prior to the deadline as stated above.

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 service provider(s). The County assumes no liability for any costs incurred by offerers throughout the entire selection process.

**SUMMIT COUNTY
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____, 20__, by and between SUMMIT COUNTY, a political subdivision of the State of Utah, ("County"), and _____, a _____, ("Service Provider"). Individually, the County and the Service Provider are referred to herein as a "Party," and collectively as the "Parties."

WITNESSETH:

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

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

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

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

1. SCOPE OF SERVICES.

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

The County has designated _____ as County's Representative, who shall have authority to act in the County's behalf with respect to this Agreement.

2. TERM.

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

3. COMPENSATION AND METHOD OF PAYMENT.

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- C. For all "extra" work the County requires, the County shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as "Exhibit B," or if none is attached, as subsequently agreed to by both Parties in writing.
- D. The Service Provider shall submit to the County Manager or his designee on forms approved by the County Manager, an invoice for services rendered during the pay period. The County shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.

- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. RECORDS AND INSPECTIONS.

- A. The Service Provider shall maintain books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement, including (but not limited to) that which is necessary to sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement, and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement.
- B. The Service Provider shall retain all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement for six (6) years after expiration of the Agreement.
- C. The Service Provider shall, at such times and in such form as the County may require, make available for examination by the County, its authorized representatives, the State Auditor, or other governmental officials authorized by law to monitor this Agreement all such books, records, documents, statements, reports, data, information, and other material with respect to matters covered, directly or indirectly, by this Agreement. The Service Provider shall permit the County or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The County may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly to this Agreement.
- D. The County is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated, 1953, as amended and Summit County Code Title 5 ("GRAMA"). All materials submitted by Service Provider pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming and exemption from disclosure rests solely with Service Provider. Any materials for which Service Provider claims a privilege from disclosure based on business confidentiality shall be submitted marked as "confidential - business confidentiality" and accompanied by a concise statement from Service Provider of reasons supporting its claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury. The County will make reasonable efforts to notify Service Provider of any requests made for disclosure of documents submitted under a claim of confidentiality. Service Provider specifically waives any claims against the County related to any disclosure of materials pursuant to GRAMA.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The Parties intend that an independent Service Provider/County 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 County for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the County 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 County and shall be subject to the County's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

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

7. INDEMNIFICATION.

- A. The Service Provider shall indemnify the County and its agents, employees, and officers, from any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the County 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 County, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider. 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 County for a loss or injury that Service Provider would be obligated to indemnify the County 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. The Service Provider 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 County by third parties and 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 County, its agents, employees, and officers, this 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 defend the County, its agents, employees and/or officers from any claims arising from the sole negligence of the County, its agents, employees, and/or officers. The provisions of this section shall survive the expiration or termination of this Agreement.
- C. Service Provider does hereby remise, release, forever discharge and covenant not to sue SUMMIT COUNTY, 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
- D. No liability shall attach to the County by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

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

- 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 Service Provider warrants that the retroactive date applicable to coverage precedes the effective date of this agreement; and that continuous coverage will be maintained for an extended reporting period and tail coverage will be purchased for a period of at least three (3) years beginning from the time that work under this agreement is complete.

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. Data Breach and Privacy / Cyber Liability Insurance including coverage for failure to protect confidential information and failure of the security of the Service Provider's computer systems or the County's systems due to the actions of the Service Provider which results in unauthorized access to the County's data. The limit applicable to this policy shall be no less than \$5,000,000 per occurrence, and must apply to incidents related to the Cyber Theft of the County's property, including but not limited to money and securities.
- F. Technology Errors and Omissions Insurance with a limit of not less \$5,000,000 for damages arising from computer related services including but not limited to the following:

- Consulting;
- Data Processing;
- Programming;
- System Integration;
- Hardware or Software Development;
- Installation;
- Distribution or Maintenance;
- Systems Analysis Or Design;
- Training; and
- Staffing or Other Support Services.

The policy shall include coverage for third party fidelity including cyber theft and protect the County as "Additional Insured". It is acceptable that the Data Breach and Privacy / Cyber Liability Insurance and Technology Errors and Omissions insurance be provided on the same policy. The total cost of the insurance, as listed above, must be incorporated into the Cost Proposal. The additional insured protection afforded the County must be on a primary and non-contributory basis. All policies must include a waiver of subrogation in favor of The County.

- G. The County shall also 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 County 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, Service Provider shall deliver notice to The County within thirty (30) days of cancellation. The County reserves the right to request certified copies of any required policies.

- H. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

Title to all property furnished by the County shall remain in the name of the County and the County shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on County's performance hereunder). Ownership of the work shall apply regardless of the form of the work product, including, but not limited to, writings, drawings, reports, any form of video or audio, etc. Upon final payment by County to Service Provider, Service Provider shall deliver to County all work product applicable to the services provided under this Agreement including, but not limited to, work product in draft form.

10. COMPLIANCE WITH LAWS AND WARRANTIES.

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

11. NONDISCRIMINATION.

- A. The County 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 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 County, 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 County, 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 County reserves the right to reject without cause any such assignment. Any assignment made without the prior express consent of the County, 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 County.
- D. Each subcontractor that physically performs services within Utah shall submit an affidavit to the Service Provider stating that the subcontractor has used E-Verify, or equivalent program, to verify the employment status of each new employee, unless exempted by Utah Code Ann. § 63G-12-302.

13. CHANGES.

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

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

- A. No member, officer, or employee of the County shall have any pecuniary 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 County 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 County.
- D. Service Provider represents that it has not: (i) provided an illegal gift to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (ii) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (iii) breached any of the ethical standards set forth in State statute; or (iv) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Summit County ordinances.
- E. None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

15. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

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

16. TERMINATION.

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

17. INTERPRETATION; NOTICES.

- A. The terms of this Agreement constitute the written expression of the mutual agreement of the Parties and shall be construed neutrally and not for or against either Party.
- B. 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. 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.

19. 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. No failure of the County or Service Provider to exercise any power given to it under this Agreement, or to insist upon strict compliance by the other Party with any obligation, responsibility, or condition under it, and no custom or practice of the parties at variance with its terms shall constitute a waiver of that Party's right to demand exact compliance with those terms upon any subsequent default. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving Party.

20. PUBLIC FUNDS AND PUBLIC MONIES.

- A. Definitions: "Public funds" and "public monies" mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of "public funds" while in Service Provider's possession.
- B. Service Provider's Obligation: Service Provider, as recipient of "public funds" and "public monies" pursuant to this and other contracts related hereto, expressly understands that it, its officers, and employees are obligated to receive, keep safe, transfer, disburse and use these "public funds" and "public monies" as authorized by law and this Agreement for the provision of services to Summit County. Service Provider understands that it, its officers, and employees may be criminally liable under Utah Code Ann. § 76-8-402, for misuse of public funds or monies. Service Provider expressly understands that County may monitor the expenditure of public funds by Service Provider. Service Provider expressly understands that County may withhold funds or require repayment of funds from Service Provider for contract noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

21. NOTICE TO RETIREES OF UTAH RETIREMENT SYSTEMS ("URS").

County is a URS "participating employer." Entering into this Agreement with County may affect a URS retiree's retirement benefits including, but not limited to, cancellation of the retiree's "retirement allowance" due to "reemployment" with a "participating employer" pursuant to Utah Code Ann. § 49-11-504 to -505. In addition, Service Provider is required to immediately notify County if a retiree of URS is the Service Provider; or an owner, operator, or principal of the Service Provider.

22. CONFIDENTIALITY.

The Parties agree that (a) all knowledge and information that either Party may receive from the other, including its employees or other consultants, or by virtue of the performance of services under and pursuant to this Agreement, relating to products, processes, apparatus, costs, technical data, business affairs of the Parties, and (b) all information provided by either Party in reports of work done, together with any other information acquired by or as a direct result of this Agreement and during the duration of such, shall for all time and for all purposes be regarded by the Parties as strictly confidential and held by each in confidence, and solely for the Parties' benefit and use, and shall not be used by either Party, or directly or indirectly disclosed by either Party to any person whatsoever outside the scope of this Agreement except with the other Party's prior permission. This provision does not apply to documents that are releasable by either Party under the Government Records Access and Management Act ("GRAMA"), UCA §63G-2-101 et seq.

23. GOVERNMENTAL IMMUNITY.

County is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), Utah Code Ann. §§ 63G-7-101 to -904. The Parties agree that County shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

24. NON-FUNDING CLAUSE.

County intends to request the appropriation of funds to be paid for the services provided by Service Provider under this Agreement. If funds are not available beyond December 31 of any effective fiscal year of this Agreement, the County's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the County as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Service Provider, its successors, or its assigns, as to this Agreement, or any portion thereof, which may terminate and become null and void.

If funds are not appropriated for a succeeding fiscal year to fund performance by Service Provider under this Agreement, County shall promptly notify Service Provider of said non-funding and the termination of this Agreement, and in no event, later than 30 (thirty) days prior to the expiration of the fiscal year for which funds were appropriated.

25. 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.

26. COUNTERPARTS.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile shall be deemed an original signed copy of this Agreement.

Signatures on the following page

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

SUMMIT COUNTY
60 North Main
P.O. Box 128
Coalville, UT 84017

Thomas C. Fisher
County Manager

Approved as to form:

County Attorney's Office

SERVICE PROVIDER NAME
Address:
Address:
County, State, Zip:

Tax ID#:

County Business License#
BL_____

Signature

Printed name

Title

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of _____, 20__, personally appeared before me _____, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she is the _____ (title or office) of _____, a _____ corporation (or limited liability company), by Authority of its Bylaws/Resolution of the _____

Board of Directors or Member Resolution, and acknowledged that he/she signed it voluntarily for its stated purpose as _____ (title) for _____, a _____ corporation (or limited liability company).

Notary Public

EXHIBIT "A"

SCOPE OF SERVICES

EXHIBIT "B"

PAYMENT SCHEDULE FOR "EXTRA" WORK

