

**AGREEMENT**

**between**

**THE REDEVELOPMENT AGENCY OF SALT LAKE COUNTY**

**and**

**XXXX**

**for**

***Magna Main Street Façade Improvement Contractor Pool***

**\*\*\***

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Salt Lake County, a body corporate and politic of the State of Utah (the “Agency”) and \_\_\_\_\_, a \_\_\_\_\_ corporation, with its principal place of business at \_\_\_\_\_ (“Contractor”). The Agency and Contractor may be referred to as the “Parties.”

**RECITALS**

WHEREAS, on July 15, 2022, the Agency issued Request for Applications No. XXXX (the “RFA”) to create a pool of qualified general contractors to provide façade restoration, remodeling, construction, and related services to grant recipients as part of the Agency’s Façade Improvement Grant Program.

WHEREAS, on XXXX, the Contractor submitted an application (the “Application”) in response to the Agency’s RFA.

WHEREAS, on XXXX, the Agency’s RFA selection committee announced its decision to include the Contractor in its pool.

**AGREEMENT**

THEREFORE, in exchange for valuable consideration, including the mutual covenants contained in this Agreement, the Parties covenant and agree as follows:

1. **APPROVED GENERAL CONTRACTOR**

1.1 The Agency hereby designates Contractor as an “Approved General Contractor” in the Magna Main Street Façade Improvement Grant Program. As an Approved General Contractor, Contractor is eligible to enter into separate agreements with grant recipients (and other necessary parties, such as property owners) to complete projects that have been approved by the Agency under the Magna Main Street Façade Improvement Grant Program. The Agency agrees to provide each grant recipient with a list of all Approved General Contractors, which will include the Contractor. Grant recipients may seek bids and choose any contractor from the list with which to negotiate and enter into a Construction Contract (defined below) and complete a project.

1.2 Contractor pledges its willingness and availability to participate as a general contractor in the Magna Main Street Façade Improvement Grant Program, as described in the RFA, which is attached hereto as Exhibit 1 and incorporated hereto by this reference, and at rates and service levels set forth in the Application, which is attached hereto as Exhibit 2 and incorporated hereto by this reference.

1.3 Before performing any work for a Magna Main Street Façade Improvement Grant recipient, Contractor shall, in good faith, negotiate and enter into a separate construction contract with the grant recipient (the "Construction Contract"). The Agency will not be a party to the Construction Contract.

1.4 Contractor understands that no financial consideration will be made as part of this Agreement. Contractor further understands that there is no guarantee that it will be selected by a grant recipient to perform a construction project or enter into a Construction Contract.

1.5 The Agency shall have no liability, obligation or responsibility whatsoever to Contractor with respect to any Construction Contract or any project undertaken by a grant recipient. The Agency shall not be liable or responsible for: a) the performance or default of a grant recipient, its designer or architect, any construction consultant, any subcontractor, or any other party; b) the quality, design, construction, structural integrity, or health or safety features of any property or project; c) any failure by a grant recipient to construct, complete, protect, or insure any project; or d) the performance of any obligation of a grant recipient whatsoever. Nothing, including without limitation any advance or acceptance of any document or instrument or consent or waiver, shall be construed as a representation or warranty, express or implied, to any party by the Agency.

2. EFFECTIVE DATE/TERM

This Agreement shall become effective upon execution by both Parties and shall continue until December 31, 2030.

3. AGENTS

No agent, employee or servant of Contractor or the Agency is or shall be deemed to be an employee, agent or servant of the other party. None of the benefits provided by each party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. The Contractor and the Agency shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement.

4. AGENCY REPRESENTATIVE

The Agency hereby appoints XXXX as its Representative to assist in the administrative management of this Agreement and to coordinate performance of the services to be provided by Contractor under this Agreement.

5. CONTRACTOR REPRESENTATIVE

Contractor shall designate an employee and make known to the Agency the name and title of this employee within its organization who is authorized to act as Contractor's representative in its performance of this Agreement. Contractor Representative shall have the

responsibility of working with the Agency to coordinate the performance of its obligations under this Agreement.

6. INDEMNIFICATION

The Contractor agrees to hold harmless and indemnify the Agency and Salt Lake County, their officers, agents, and employees from and against any and all actual or threatened claims, losses, damages, injuries, and liabilities of, to, or by third parties, including a grant recipient, its subcontractors, or the employees of either, including claims for breach of contract, personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of: a) the Contractor's breach of this Agreement; b) any acts or omissions of or by the Contractor, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; c) the Contractor's breach of a Construction Contract; or d) any acts or omissions of or by the Contractor, its agents, representatives, officers, employees, or subcontractors in connection with the performance of a Construction Contract. The Contractor agrees that its duty to indemnify the Agency and Salt Lake County under this Agreement includes any sums expended by or assessed against the Agency or Salt Lake County to satisfy any settlement, arbitration award, or verdict paid or incurred on behalf of the Agency or Salt Lake County.

7. GOVERNMENTAL IMMUNITY

The Agency is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), UTAH CODE §§ 63G-7-101 to -904 (2022). The parties agree that the Agency 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.

8. INSURANCE

Contractor shall, at its sole cost and expense, secure and maintain during the term of this Agreement, including all renewal or additional terms, the following minimum insurance coverage:

GENERAL INSURANCE REQUIREMENTS FOR ALL POLICIES.

A. All policies of insurance shall be issued by insurance companies licensed to do business in the State of Utah and either:

- (i) Currently rated A- or better by A.M. Best Company; or
- (ii) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570)*, as amended.

B. The Contractor shall furnish certificates of insurance, acceptable to the Agency, verifying compliance with the insurance requirements herein prior to the execution of this Agreement. Contractor shall also provide updated certificates of insurance on or before the anniversary date of any of the evidenced policies throughout the life of this agreement.

C. In the event any work is subcontracted, the Contractor shall require its subcontractor, at no cost to the Agency, to secure and maintain all minimum insurance coverages required of the Contractor hereunder.

REQUIRED INSURANCE POLICIES.

Contractor agrees to secure and maintain the following required policies of insurance in accordance with the general insurance requirements set forth in the preceding subsection:

A. Workers' compensation and employer's liability insurance as required by the State of Utah unless a waiver of coverage is allowed and acquired pursuant to Utah law. This requirement includes contractors who are doing business as an individual and/or as a sole proprietor as well as corporations, limited liability companies, joint ventures and partnerships. In the event any work is subcontracted, Contractor shall require its subcontractor(s) similarly to provide workers' compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

B. Commercial general liability insurance in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate.

C. Commercial automobile liability insurance that provides coverage in the minimum amount of \$1,000,000 per occurrence.

9. NO OFFICER OR EMPLOYEE INTEREST

It is understood and agreed that no officer or employee of the Agency has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer or employee of Contractor or any member of their families shall serve on the Agency board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises Contractor's operations, or authorizes funding or payments to Contractor.

10. ETHICAL STANDARDS

Contractor represents that it has not: (a) provided an illegal gift to any Agency officer or employee, or former Agency officer or employee, or to any relative or business entity of an Agency officer or employee, or relative or business entity of a former Agency officer or employee; (b) 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; (c) breached any of the ethical standards set forth in State statute or Salt Lake County Code of Ordinances § 2.07 (as in effect at any given time); or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any Agency officer or employee or former Agency officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

11. AFFIDAVITS

Upon the execution of this Agreement and if requested by the Agency, Contractor shall submit a sworn affidavit from each officer, employee, or agent of Contractor who has been in contact or communicated with any officer, agent or employee of the Agency during the past calendar year concerning the provision of these goods and services. The affidavit shall contain the following statement:

I do solemnly swear that neither I, nor to the best of my knowledge, any member of my firm or company, have either directly or indirectly restrained free and

competitive bidding by entering into any Agreement, participated in any collusion, or otherwise taken any action unauthorized by the governing body of the Agency, or in violation of applicable law.”

12. TERMINATION

The Agreement may be terminated by either Party for any reason upon not less than 30 days’ prior written notice to the other Party delivered in accordance with Section 20 stating its intention to terminate this Agreement. Each Party agrees that any such termination will not be deemed a termination for default nor will it entitle the non-terminating Party to any rights or remedies provided by law or this Agreement for breach of contract or any other claim or cause of action.

13. COMPLIANCE WITH LAWS

Each party agrees to comply with all federal, state, and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Contractor certifies it is in compliance with Utah Code § 63G-27-201, and will remain in compliance for the duration of this Agreement. Any violation by Contractor of applicable law shall constitute a default of this Agreement and Contractor shall be liable for and hold the Agency harmless and indemnify the Agency pursuant to the terms of Section 6 above. Contractor is responsible, at its expense, to acquire, maintain, and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

14. NON-DISCRIMINATION

Contractor and any agent of Contractor agree that they shall comply with all federal, state and county laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

15. NOTICE TO RETIREES OF UTAH RETIREMENT SYSTEMS (“URS”)

The Agency is a URS “participating employer.” Entering into an agreement with the Agency 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 Ch. 49-11. In addition, Contractor is required to immediately notify the Agency if a retiree of URS is the contractor; or an owner, operator, or principal of the contractor. Contractor shall refer the URS retiree to the URS Retirement Department at 801-366-7770 or 800-695-4877 for all questions about post-retirement employment regulations.

16. LABOR REGULATIONS AND REQUIREMENTS

Contractor agrees to comply with all federal, state, and local labor laws. Contractor shall indemnify and hold the Agency harmless against any and all claims for liability arising out of any violation of this paragraph or the laws referenced by Contractor, its agents or employees.

17. EMPLOYEE STATUS VERIFICATION SYSTEM

If this Agreement was the result of a Request for Applications by the Agency, Contractor shall register and participate in the Status Verification System before entering into a contract with the Agency as required by Utah Code § 63G-12-302. The Status Verification System is an electronic system operated by the federal government, through which an authorized official of a

state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision. Contractor is individually responsible for verifying the employment status of only new employees who work under Contractor’s supervision or direction and not those who work for another contractor or subcontractor, except each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that Contractor or subcontractor has verified, through the Status Verification System, the employment status of each new employee of the respective contractor or subcontractor. The contractor shall comply in all respects with the provisions of Utah Code § 63G-12-302. Contractor’s failure to so comply may result in the immediate termination of its contract with the Agency.

18. GOVERNMENT RECORDS ACCESS MANAGEMENT ACT

18.1 Contractor acknowledges that the Agency is a governmental entity subject to the Utah Government Records Access and Management Act (“GRAMA”), UTAH CODE §§ 63G-2-101 to -901 (2022). As a result, the Agency is required to disclose certain information and materials to the public, upon request. Contractor agrees to timely refer all requests for documents, materials and data in its possession relating to this Agreement and its performance to the Agency Representative for response by the Agency.

18.2 Generally, any document submitted to the Agency is considered a “public record” under GRAMA. Any person who provides to the Agency a record that the person believes should be protected under Utah Code §§ 63G-2-305(1) or (2) shall provide both: (1) a written claim of business confidentiality and (2) a concise statement of reasons supporting the 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.

19. ASSIGNMENT

Contractor shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of the Agency. The Agency reserves the right to assert any claim or defense it may have against Contractor and against any assignee or successor-in-interest of Contractor.

20. NOTICES

All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal delivery, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage prepaid by certified or registered mail, return receipt requested, to the parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

AGENCY:	Contracts Administrator Salt Lake County 2001 South State, Suite, N-4500 Salt Lake City, Utah 84190-3100 Email: SLCo-Purchasing@slco.org
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CONTRACTOR: *[Name and Address]*

21. ENTIRE AGREEMENT

The Agency and the Contractor acknowledge and agree that this Agreement constitutes the entire integrated understanding between the Agency and the Contractor, and that there are no other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the parties to this Agreement except as set forth in this Agreement. This Agreement may not be amended, enlarged, modified or altered, except in writing, signed by both Parties.

22. GOVERNING LAW

It is understood and agreed by the parties hereto that this Agreement shall be governed by the laws of the State of Utah and the ordinances of Salt Lake County, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

23. 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.

24. INTERPRETATION

24.1 The Agreement documents are complementary and what is called for by any one of them shall be as binding as if called for by all. In the event of any inconsistency between any of the provisions of the Agreement documents, the inconsistency shall be resolved by giving precedence in the following order:

- A. This Agreement;
- B. The Agency's Request for Applications (Exhibit 1); and
- C. Contractor's Application in response to the Agency's Request for Applications (Exhibit 2).

24.2 Agency and Contractor agree that where possible, each provision of this Agreement shall be interpreted in such a manner as to be consistent and valid under applicable law; but if any provision of this Agreement shall be invalid, prohibited or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties execute this Agreement the day and year recited above.

THE REDEVELOPMENT AGENCY OF  
SALT LAKE COUNTY:

\_\_\_\_\_  
Executive Director

Date: \_\_\_\_\_

Reviewed as to Form:

By: \_\_\_\_\_  
Deputy District Attorney

Date: \_\_\_\_\_

XXXXX:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The individual signing above hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of the Contractor by authority of law and that this Agreement is binding upon the Contractor. A person who makes a false representation of authority may be subject to criminal prosecution under Utah Code § 76-8-504.