

Attachment E
RFP EXAMPLE CONTRACT

A Contract between Salt Lake County and _____ for _____

This Contract is between Salt Lake County, a body corporate and politic of the State of Utah (“County”), on behalf of its _____, and _____, a _____ [business entity type and state of origin], with its principal place of business at _____ (“Contractor”). County and Contractor may be referred to as “the Parties.”

THEREFORE, the Parties agree as follows:

- A. County issued a Request for Proposals for _____ (“RFP”).
- B. Contractor submitted a proposal in response to County’s RFP (“Proposal”).
- C. The Mayor or designee approved the recommendation of the RFP selection committee to enter into an agreement with Contractor.

1. SCOPE OF SERVICES [To be based on the RFP and Contractor’s Proposal]

- 1.1. Contractor agrees to furnish to County _____ as requested in County’s RFP, attached and incorporated into this Contract as Attachment A.
- 1.2. The Contract and the attachments, exhibits, and addenda are complementary, and what is called for by any one of them shall be as binding as if called for by all. Although certain provisions of Attachment A are not expressly set forth in this Contract, those provisions shall have the same force and effect as though fully set forth unless said provisions conflict, either directly or indirectly, with other provisions stated in this Contract or in any other Attachment. In the event of inconsistency between any provision of the Attachments with the provisions in any other Attachment or in this Contract, the provisions that control shall be determined in accordance with the order of precedence set forth in this Contract.

2. CONSIDERATION/PAYMENT [To be based on the RFP and Contractor’s Proposal]

- 2.1. County shall pay Contractor an amount not to exceed \$ _____ for the performance of obligations provided by Contractor under this Contract.
- 2.2. If payments are to be made in installments, no installment payment shall become due until thirty (30) days following receipt by County of Contractor’s accurate invoice for said installment payment which invoice shall set forth in detail the services provided.
- 2.3. Contractor’s invoice will detail the billing rates, whether hourly, daily, or other, the work performed, by whom and on what dates.
- 2.4. If a lump sum payment is required, no payment shall be made by County until all obligations are performed by Contractor under this Contract.

- 2.5. In the event of a lump sum payment, County will pay the lump sum within thirty (30) days after performance of obligations are completed by Contractor and receipt and approval of an accurate and complete invoice from Contractor for said services.
- 2.6. County has the right to request additional information or require Contractor to correct an inaccurate invoice before paying.
- 2.7. The price(s) proposed by Contractor must be guaranteed as fixed for a period of two years after the Effective Date. After two years, a request for a price increase must include sufficient documentation supporting the request. Price increases may not exceed ___% of the current contract pricing. Any price escalation may be approved or denied, in whole or in part, by County in County's sole discretion. County and Contractor may negotiate any proposed price increase, but the negotiated rate may not exceed ___% of the current contract pricing. Contractor may not terminate this Contract based on a denial of a price increase, in whole or in part. If the price increase is accepted, the increase must be added to this Contract by written amendment signed by both Parties before the increase is effective. No price increase will be applied to any services or goods provided under the Contract prior to the effective date of the amendment. Any price increase added by amendment must be guaranteed for a period of two years following the effective date of the amendment.

3. **EFFECTIVE DATE/TERM** [**To be based on the RFP and Contractor's Proposal**]

- 3.1. This Contract is effective upon the signature of the last Party to sign (as indicated by the date accompanying the authorized representative's signature) (the "Effective Date").
- 3.2. This Contract will terminate [_____ months following the Effective Date] [on _____] ("Term"), unless terminated sooner as provided in this Contract or unless extended under Section 3.3.
- 3.3. This Contract may be renewed for _____ additional _____ periods under the same terms and conditions and will not extend beyond _____. Extensions must be in writing and executed by both parties prior to the end of each Term.

4. **INDEPENDENT CONTRACTOR AND TAXES**

Contractor is an independent contractor. Contractor shall discharge all of the obligations of an independent contractor under federal, state, and local law, including but not limited to, those obligations relating to employee supervision, benefits, and wages; taxes; unemployment compensation and insurance; social security; workers' compensation; disability pensions and tax withholdings, including the filing of all returns and reports and the payment of all taxes, assessments, and contributions and other sums required of an independent contractor. This Contract does not create a partnership, joint venture, or employer/employee relationship.

5. **NO THIRD-PARTY BENEFICIARIES**

The Parties agree that Contractor's obligations under this Contract are solely to County. This Contract shall not confer any rights to third parties.

6. **AGENCY**

No agent, employee, or servant of Contractor or County 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. Contractor and County shall be entirely responsible for their acts and for the acts of their agents, employees, and servants during the performance of this Contract.

7. COUNTY REPRESENTATIVE

County will appoint an employee as County's representative to assist in its administration of this Contract and to coordinate performance of the services to be provided by Contractor under this Contract. County's representative does not have authority to amend or alter this Contract.

8. CONTRACTOR REPRESENTATIVE

Contractor shall designate an employee within its organization who is authorized to act as Contractor's representative in its performance of this Contract. Contractor shall make known to County the name, title, and contact information of this employee. Contractor's representative shall have the responsibility of working with County to coordinate the performance of its obligations under this Contract.

9. STANDARD OF PERFORMANCE

Contractor agrees to perform its services under this Contract with the highest standard of professionalism observed by professionals in its industry.

10. INDEMNIFICATION

To the fullest extent allowable by law, Contractor agrees to indemnify County, its officers, agents, and employees against any and all actual or threatened claims, losses, damages, injuries, and liabilities of, to, or by third parties, including subcontractors, or the employees of Contractor or subcontractors, including claims for 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, Contractor's breach of this Contract or any acts or omissions of or by Contractor, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Contract. Contractor agrees that its duty to indemnify County under this Contract includes all litigation and court costs, expert witness fees, and any sums expended by or assessed against County for the defense of any claim or to satisfy any settlement, arbitration award, or judgment awarded against or paid by or on behalf of County.

11. 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 §§ 63G-7-101 to -904. The Parties agree that County shall only be liable within the parameters of the Act. Nothing contained in this Contract shall be construed to modify the limits of liability set forth in that Act or the bases for liability as established in the Act. Nothing in this Contract or any act or forbearance in the course of performance shall be construed as a waiver of the Act.

12. INSURANCE

12.1. At its sole cost and expense, Contractor shall secure and maintain during the Term of this Contract the insurance coverages set forth in Section 12.3.

12.2. General Requirements

- 12.2.1. Any insurance coverage required herein that is written on a “claims made” form rather than on an “occurrence” form shall (i) provide full prior acts coverage or have a retroactive date effective before the date of this Contract, and (ii) be maintained for a period of at least three (3) years following the end of the Term of this Contract or contain a comparable “extended discovery” clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to County.
- 12.2.2. 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- VII 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)*.
- 12.2.3. In the event any work is subcontracted, Contractor shall require its subcontractor, at no cost to County, to secure and maintain all minimum insurance coverages required of Contractor hereunder.
- 12.2.4. Contractor shall ensure County is endorsed as an additional insured on all policies. The endorsement shall include liability arising out of ongoing and completed operations by or on behalf of Contractor in the performance of the Contract. Additional insured status shall continue for the periods specified in Section 12.2.1 above.
- 12.2.4.1. The additional insured endorsement for completed operations shall not be restricted to work performed during the current policy period.
- 12.2.4.2. The insurance provided to County as an additional insured shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by County.
- 12.2.5. Required policies shall not contain a Contractors Warranty or other similar language which eliminates or restricts insurance because of a subcontractor’s failure to carry specific insurance or to supply evidence of such insurance.
- 12.2.6. Required policies shall be endorsed to include a written waiver of the insurer’s right to subrogate against all persons or entities that are, or are required to be, additional insureds.
- 12.2.7. Required policies shall cover inter-insured suits between Contractor and the additional insureds and shall include a “separation of insureds” or “severability” clause which treats each insured separately.
- 12.2.8. In the event Contractor fails to maintain and keep in force any insurance policies as required herein, County shall have the right at its sole discretion to obtain such coverage and reduce payments to Contractor for the costs of said insurance.
- 12.2.9. Contractor shall furnish certificates of insurance, acceptable to County, verifying the foregoing matters concurrent with the execution hereof and thereafter as required.
- 12.2.9.1. County reserves the right to review all the required insurance policies and/or endorsements but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Contract or failure to

identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to always maintain the required insurance during the performance of this Contract.

12.2.9.2. All required certificates and policies shall provide that coverage thereunder shall not be canceled or modified without providing thirty (30) days' prior written notice to County.

12.2.9.3. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. Contractor is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving the County.

12.3. Specific Requirements. 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 before commencing work on the project:

12.3.1. Workers' compensation insurance with statutory limits as required by the State of Utah unless a waiver of coverage is allowed and acquired pursuant to Utah law and Employers Liability insurance with minimum limits of \$1,000,000 per accident; \$1,000,000 Disease per employee; and \$1,000,000 Disease per policy. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against County. 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.

12.3.2. Commercial general liability insurance on an occurrence form with County in the minimum amount of \$ _____ per occurrence with a \$ _____ general policy aggregate. If Contractor maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Contractor. The policy shall protect County and Contractor from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from Contractor's acts or omissions under this Contract, whether performed by Contractor itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, and completed operations. Completed operations insurance shall be maintained for three (3) years after the end of the warranty period.

12.3.3. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate.

12.3.4. If Contractor provides services under this Contract, Contractor shall carry error and omission insurance, with County as an additional insured, in the minimum amount of \$ _____ per occurrence with a \$ _____ general policy aggregate.

12.3.5. Other coverages as required by the solicitation.

13. CONFLICTS OF INTEREST

13.1. Contractor, by signing this Contract, represents that no County employee has or shall be given any pecuniary interest, direct or indirect, related to this Contract and that none of Contractor's owners, directors, officers, or employees serve on any Salt Lake County boards or committees or are County employees or relatives of a County employee. "County employee" includes any elected or appointed official of the County. A "relative" means parent, spouse, child, sibling, uncle, aunt, nephew, niece, first cousin, parent-in-law, child-in-law, sibling-in-law, or household member.

13.2. If any such potential conflict of interest exists, Contractor shall immediately disclose to County the name of any individuals with a potential conflict of interest so County may review the potential conflict. This duty to disclose any potential conflicts shall continue throughout the Term of this Contract and Contractor shall advise County immediately if any potential conflict of interest is discovered or arises. Contractor shall immediately remove the employee with the conflict from providing further services under the Contract.

13.3. Any violation of this section may be deemed a material breach of the Contract.

14. ETHICAL STANDARDS

Contractor represents that it has not: (a) 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; (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 Utah Code § 17-16a-4 or Salt Lake County Code of Ordinances § 2.07; or (d) 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 Salt Lake County ordinance.

15. CAMPAIGN CONTRIBUTIONS

Contractor acknowledges that Salt Lake County Code of Ordinances § 2.72A limits campaign contributions by contractors to County candidates. Contractor represents that it will not violate those limitations on campaign contributions.

16. PUBLIC FUNDS AND PUBLIC MONIES

16.1. 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. These 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 Contractor's possession.

16.2. Contractor's Obligation: Contractor, as recipient of public funds and public monies pursuant to this and other contracts related hereto, understands that it, its officers, members, managers, agents, representatives, and employees are obligated to receive, keep safe, transfer, disburse, and use these public funds and public monies as authorized by law and

this Contract for the provision of services to Salt Lake County. Contractor understands that it, its officers, members, managers, agents, representatives, and employees may be criminally liable under Utah Code § 76-8-402, for misuse of public funds or monies. Contractor understands that County may monitor the expenditure of public funds by Contractor. Contractor understands that County may withhold funds or require repayments of funds from contractor for contract noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

17. EARLY TERMINATION

17.1. Termination for Breach. County may terminate this Contract for breach by Contractor, effective upon written notice to Contractor stating County's intention to terminate this Contract.

17.2. Force Majeure. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Contract for any failure or delay in fulfilling or performing any Term of this Contract when and to the extent such Party's (the "Impacted Party") failure or delay is caused by or results from the following unforeseen force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics (excepting COVID) or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Contract; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within fifteen (15) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period in excess of thirty (30) consecutive days following written notice given by it under this section, either Party may thereafter terminate this Contract upon fifteen (15) days' written notice to the other party. Termination of the Contract under this Force Majeure provision will be treated as a Termination for Convenience, consistent with Section 17.4, below.

17.3. Non-Funding. Pursuant to Utah state law, County appropriations lapse at the end of each fiscal year. County appropriations may also be altered at any time during the fiscal year. Consequently, if funds are not appropriated for a succeeding fiscal year to fund performance by County under this Contract, or if appropriations are withdrawn or otherwise altered, Contract shall be terminated, effective upon written notice. Said termination shall not be construed as a breach of this Contract or any event of default under this Contract and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Contractor, its successors, or its assigns, as to this Contract, or any portion thereof.

17.4. Termination for Convenience. This Contract may be terminated by County for any reason or for no reason, upon not less than thirty (30) days' prior written notice to Contractor delivered in accordance with Section 17.5 stating County's intention to terminate this

Contract. Upon such termination, Contractor shall be paid for all services in compliance with this Contract up to the date of termination. Contractor agrees that County's termination for convenience will not be deemed a termination for breach nor will it entitle Contractor to any rights or remedies provided by law or this Contract for breach of contract by County or any other claim or cause of action.

17.5. Termination Notices. All notices required under this Section 17 shall be made in writing and shall be sent via email to the Parties at the following addresses:

COUNTY: slco-purchasing@saltlakecounty.gov

CONTRACTOR: [Email Address]

Notice shall be effective upon the next business day.

18. 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 Contract. Contractor certifies it is in compliance with Utah Code § 63G-27-201 and will remain in compliance for the duration of this Contract. Contractor is responsible, at its expense, to acquire, maintain, and renew during the Term all necessary permits and licenses required for its lawful performance of its duties and obligations under this Contract. Contractor is subject to and shall fully comply with the Government Data Privacy Act, Utah Code § 63A-19-101 et seq., at Contractor's sole cost.

19. NON-DISCRIMINATION

Contractor and any agent of Contractor agree that they shall comply with all federal, state, and local laws, rules, and regulations governing discrimination and shall not discriminate in the engagement or employment of any person under this Contract.

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

County is a URS "participating employer." Entering into an 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 §§ 49-11-101 through 1401. If Contractor, or an owner, operator, or principal of the Contractor, is a retiree of URS, Contractor is required to immediately notify County. 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.

21. EMPLOYEE STATUS VERIFICATION SYSTEM

If this Contract was the result of a Request for Proposals or sole source by County, Contractor represents it has registered and is participating in the Status Verification System and is in compliance with Utah Code § 63G-12-302. Contractor's failure to so comply may result in the immediate termination of this Contract.

22. CONFIDENTIALITY

Contractor shall hold all information provided to it by County, whether provided in written or other form, in strict confidence, shall make no use thereof other than for the performance of the Contract, and shall not release any of said information to any third party, any member of

Contractor's firm who is not involved in the performance of services under the Contract, or to any representative of the news media without prior written consent of County. Materials, information, data, reports, plans, analyses, budgets, and similar documentation provided to or prepared by Contractor in performance of this Contract shall also be held confidential by Contractor. County shall have the sole obligation or privilege of releasing such information.

23. OWNERSHIP OF WORK PRODUCT

All work performed by Contractor under this Contract is the sole property of County. 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 request, Contractor shall deliver to County all Contract work product including, but not limited to, work product in draft form.

24. RECORDS

Contractor shall maintain all records relating to this contract for a period of seven (7) years from the completion of the performance of the Contract and shall provide County said records upon request, at no additional cost, within ten (10) business days.

25. GOVERNMENT RECORDS ACCESS MANAGEMENT ACT

Contractor acknowledges that County is a governmental entity subject to the Utah Government Records Access and Management Act ("GRAMA"), Utah Code §§ 63G-2-101 to -901. Any document submitted to County is considered a "public record" unless otherwise protected under state statute.

26. ASSIGNMENT

Contractor shall not assign or transfer its obligations nor its rights to compensation under this Contract without the prior written approval of County, which may be withheld at County's sole discretion. County reserves the right to assert any claim or defense it may have against Contractor and against any assignee or successor-in-interest of Contractor.

27. SUBCONTRACTING

Contractor agrees that it shall not subcontract its duties or obligations under this Contract without the prior written approval of County, which may be withheld at County's sole discretion.

28. TIME

The Parties agree that time is of the essence in the performance of this Contract. The time set forth for performance in this Contract shall be strictly followed and any default in performance according to the times required shall be a breach of this Contract and shall be just cause for immediate termination by County of this Contract and pursuit of any remedy allowed by this Contract and by law.

29. ENTIRE CONTRACT

County and Contractor agree that this Contract constitutes the entire integrated understanding between County and 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 Contract. This Contract may not be enlarged, modified, or altered, except in writing, signed by the

Parties. Only the Salt Lake County Mayor or designee by executive order (available on the County's website) can execute this Contract or any amendment on behalf of County.

30. WAIVER

The failure of County to insist, in any one or more instances, upon a strict performance of any term or provision of this Contract shall not be construed as a waiver or relinquishment thereof, but the same shall continue and remain in full force and effect, unless expressly waived in a written and signed amendment.

31. GOVERNING LAW AND VENUE

This Contract shall be governed by the laws of the State of Utah and the ordinances of Salt Lake County, both as to interpretation and performance, without regard to Utah's choice of law provisions. All actions, including but not limited to court proceedings, administrative proceedings, and mediation proceedings, shall be commenced, maintained, adjudicated, and resolved within the jurisdiction of the State of Utah, within Salt Lake City, in the Third Judicial District Court for Salt Lake County.

32. COUNTERPARTS

This Contract may be executed in several counterparts.

33. INTERPRETATION

The Contract 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 Contract documents, the inconsistency shall be resolved by giving precedence in the following order:

- A. This Contract;
- B. Salt Lake County's Request for Proposals (Attachment A); and
- C. Contractor's Proposal in response to County's Request for Proposals (Attachment B).

34. SEVERABILITY AND SURVIVAL

If any provision of this Contract 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 Contract. Any provision of this Contract that imposes an obligation on a party after termination or expiration of this Contract will survive the termination or expiration of this Contract and will be enforceable by the other party.

35. GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA

If any GIS data is created or maintained under this Contract, Contractor agrees to comply with Countywide Policy 1013 – Standards for Geographic Information System.

36. PAYMENT CARD DATA

If, under this Contract, Contractor processes payment card transactions on behalf of County, Contractor agrees to comply with the Payment Card Industry's Data Security Standard and Countywide Policy 1400-7 - Payment Card Industry Data Security Standard.

37. ATTORNEY REPRESENTATION

Contractor represents, acknowledges, and expressly agrees that Contractor has either (i) consulted with an attorney regarding the terms of this Contract and whether to enter into it and (ii) made an informed conscious decision to proceed without an attorney. Contractor affirmatively represents to County that Contractor understands all terms of the Contract and that Contractor signs the Contract as Contractor's own free act.

IN WITNESS WHEREOF, the Parties execute this Contract.

Salt Lake County

Contractor

Signature: _____
Mayor or designee

Signature: _____

Date: _____

Title: _____

Date: _____

Signature: _____
Division Review

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

Signature: _____
Department Review (if the total contract price exceeds \$100,000.00)

Signature: _____
Reviewed as to form and legality for Salt Lake County