

PAYMENT BOND

Surety Bond No. _____

Principal (Contractor)

Surety

The Principal and Surety, a surety company authorized to do business in the state of Utah, do hereby obligate and bind themselves, jointly and severally, to San Juan County, which shall be called the "Owner" in this Payment Bond, in the amount of \$_____, for the faithful performance of the terms and conditions of the *San Juan County Project Contract* and any amendments of change orders to it for the Project and agree to pay each claimant supplying labor, services, equipment, or material for the performance of the terms and conditions of the *San Juan County Project Contract* between San Juan County and Redoubt Restoration, Inc. for the Project which is designated as the San Juan County Project: San Juan County Pack Creek Emergency Watershed Protection Projects and related services at the San Juan County Pack Creek Area (the "Contract") and any amendments or change orders to it, subject to the following terms and conditions, pursuant to the provisions of Section 63G-6a-1103, *Utah Code Annotated*, and other applicable law:

- 1. Contract.** Principal and Owner made and entered into the Contract dated May 21, 2024, for the contract amount of \$_____, together with any amendments, modifications, work directives and authorizations, or change orders thereto, is incorporated into this Payment Bond by reference.
- 2. Effective Date of Payment Bond.** This Payment Bond is effective as of the date that the Contract was executed by all of the Parties.
- 3. Condition of Payment Bond.** If the Principal and Surety shall promptly make payment of all sums due to all claimants for all labor, services, equipment, and materials supplied or reasonably used or to be used in the performance of the Contract, within one year after the last day when the claimant performed the labor or service or provided the equipment or materials on which the claim is based, and if the Surety defends, indemnifies, and holds harmless the Owner from all claims, liens, or legal actions by any person who performed labor or services or supplied equipment or material or reasonably used or to be used in the performance of the Contract, including indemnification to the Owner for all costs of defense incurred by the Owner such as reasonable attorneys' fees, then this obligation shall be deemed void; otherwise, it shall remain in full force and effect.
- 4. Purpose.** This Payment Bond is executed in accordance with and for the purpose of complying with Section 63G-6a-1103, *Utah Code Annotated*, and shall inure to the benefit of any and all persons who perform or supply labor, services, equipment, or material used or to be used in the performance of the Contract, or any modifications, amendments, change orders, or work directives and authorizations thereto.

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- 5. **Copy of Payment Bond.** Upon the request of any person or entity appearing to be a potential beneficiary of this Payment Bond, the Principal shall promptly furnish a copy of this Payment Bond to be made and given to the requesting person or entity.

- 6. **Notice by Owner.** The Owner shall give prompt notice to the Surety and Principal of any claims, liens, or legal actions of any persons who perform or supply labor, services, equipment, or material used or to be used in the performance of the Contract, or any modifications, amendments, change orders, or work directives and authorizations thereto. Any notice required to be given by the Owner to the Principal and Surety under this Payment Bond or by law shall be deemed properly and sufficiently given if such notice is given to the Principal or Surety. Notice shall be mailed or delivered to the Principal or Surety at the following addresses and shall be deemed to have been given as of the date of mailing or delivery:

Principal: _____

Surety: _____

- 7. **Notice to Owner.** Any notice to be given to the Owner with respect to this Payment Bond shall be mailed or delivered to the Owner at the following addresses:

San Juan County
Attn: Purchasing Manager
117 South Main
PO Box #9
Monticello, Utah 84535

- 8. **Changes in Contract.** No modifications, including amendments, change orders, or work directives and authorizations to the Contractor any extensions of time granted under the provisions of the Contract shall release either the Principal or Surety from their respective obligations under this Payment Bond.

- 9. **Hold Harmless, Indemnification and Legal Defense.** The Principal and Surety shall hold the Owner harmless from all claims, liens, or actions filed or brought by any claimant who has supplied labor, service, equipment, or materials used or to be used in the performance of the Contractor any amendments or change orders thereto, including the costs of defense for any such claims, liens, or actions incurred by the Owner or claimed by a claimant; provided that the Owner has given notice within a reasonable time of the filing against or service upon the Owner of any such claim, lien, or action. Moreover, the Principal and Surety shall indemnify the Owner for any costs incurred in the enforcement of this Payment Bond, including court costs, reasonable attorneys' fees, and defense costs.

- 10. Surety's Waiver of Notice.** Surety waives notice of any modifications including addenda, change orders, work directives and authorizations, and time changes, to the Contract.
- 11. Surety's Obligation Limits.** Surety's obligation under this Payment Bond shall not exceed the amount of the Payment Bond.
- 12. Time of Essence.** Time is of the essence in respect to all parts or provisions of this Payment Bond, which specify a time performance or otherwise, and the Parties each agree to comply with all such times.
- 13. Choice of Law; Jurisdiction; Venue.** This Payment Bond and all matters, disputes, and/or claims arising out of, in connection with, or relating to this Payment Bond or its subject matter, formation or validity (including non-contractual matters, disputes, and/or claims) shall be governed by, construed, and interpreted in accordance with the laws of the State of Utah, without reference to conflict of law principals. The Parties irrevocably agree that the courts located in San Juan County, State of Utah (or Salt Lake City, State of Utah, for claims that may only be litigated or resolved in the federal courts) shall have exclusive jurisdiction and be the exclusive venue with respect to any suit, action, proceeding, matter, dispute, and/or claim arising out of, in connection with, or relating to this Payment Bond, or its formation or validity. The Parties irrevocably submit to the exclusive jurisdiction and exclusive venue of the courts located in the State of Utah as set forth directly above. Any party who unsuccessfully challenges the enforceability of this clause shall reimburse the prevailing party for its attorneys' fees, and the party prevailing in any such dispute shall be awarded its attorneys' fees.
- 14. Authority.** The undersigned representatives of the Principal and Surety verify that they are authorized by the Principal and Surety, respectively, to execute this Payment Bond and thereby bind and obligate the Principal and Surety to its terms. If that authority is granted by a power of attorney, a duly executed and acknowledged copy of that power of attorney shall be attached to and incorporated by reference into this Payment Bond.
- 15. Severability.** If any part or provision of this Payment Bond is found to be prohibited or unenforceable in any jurisdiction, such part or provision of this Payment Bond shall, as to such jurisdiction only, be inoperative, null and void to the extent of such prohibition or unenforceability without invalidating the remaining parts or provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render inoperative, null or void such part or provision in any other jurisdiction. Those parts or provisions of this Payment Bond, which are not prohibited or unenforceable, shall remain in full force and effect.
- 16. Binding Effect.** The terms, conditions, and obligations set forth in this Payment Bond shall be binding upon the Principal and Surety and their respective heirs, assigns, administrators, and successors in interest.
- 17. Waivers or Modification.** No waiver or failure to enforce one or more parts or provisions of this Payment Bond shall be construed as a continuing waiver of any part or provision of this Payment Bond, which shall preclude the Parties from receiving the full bargained for benefit under the terms and provisions of this Payment Bond. A waiver or modification of any of the

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provisions of this Payment Bond or of any breach thereof shall not constitute a waiver or modification of any other provision or breach, whether or not similar, and any such waiver or modification shall not constitute a continuing waiver. The rights of and available to each of the Parties under this Payment Bond cannot be waived or released verbally, and may be waived or released only by an instrument in writing, signed by the party whose rights will be diminished or adversely affected by the waiver.

18. Entire Contract, Amendment. This Payment Bond is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, assigns, officers, directors, employees, agents, representatives, subrogees and to all persons or entities claiming by, through or under them. This Payment Bond, including all attachments, if any, constitutes and/or represents the entire agreement and understanding between the Parties with respect to the subject matter herein. There are no other written or oral agreements, understandings, or promises between the Parties that are not set forth herein. Neither this Payment Bond, nor any provisions hereof may be supplemented, amended, modified, changed, discharged, or terminated verbally. Rather, this Payment Bond and all provisions hereof may only be supplemented, amended, modified, changed, discharged, or terminated by an instrument in writing, signed by the Parties.

19. Rights and Remedies Cumulative. The rights and remedies of the Parties under this Payment Bond shall be construed cumulatively, and none of the rights and/or remedies under this Payment Bond shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law, unless specifically set forth herein.

20. Counterparts. This Payment Bond may be executed in counterparts, each of which shall be deemed an original, and all such counterparts, taken together, shall constitute one and the same Payment Bond.

[Signature Page Follow]

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IN WITNESS WHEREOF, the Parties have executed this Payment Bond on the dates set forth below.

Principal

By: _____

Title: _____

Date: _____

Acknowledgment of Principal

STATE OF UTAH)
COUNTY OF _____)

The foregoing Payment Bond was acknowledged before me, the undersigned notary public, this ___ day of _____, 20____, by _____, as of _____, the Principal designated in the foregoing Payment Bond.

Notary Public

Residing at: _____, Utah

Commission Expires: _____

Surety

By: _____

Title: _____

Date: _____

Acknowledgment of Surety

STATE OF UTAH)
COUNTY OF _____)

The foregoing Payment Bond was acknowledged before me, the undersigned notary public, this ___ day of _____, 20____, by _____, as of _____, the Surety designated in the foregoing Payment Bond.

Notary Public

Residing at: _____, Utah

Commission Expires: _____