



## Project Management Agreement

### Participating Parties:

Red Apple Financial  
433 N 1500 W  
Marriott-Slaterville, UT 84404  
(801)394-4140

Ogden Preparatory Academy  
1435 Lincoln Avenue  
Ogden, UT 84404  
(801)627-3066

### 1. WHEREAS,

- a. **Red Apple Financial**, (herein referred to as “Consultant”) provides business and financial services to public charter schools, including project management and oversight of school building construction and charter school expansions, and
- b. **Ogden Preparatory Academy** (“client”) is expanding their existing charter school campus in Ogden, Utah to better accommodate its students, and to add a Pre-Kindergarten program. The Client will be constructing a school building to house the forecasted number of students they will serve, and
- c. Both Consultant and Client, as an amendment to their current Business Services Agreement, desire to work together with the intent of opening a satisfactory and feasible expanded school operation contemplated to open August of 2023.

### 2. THEREFORE, the parties hereby enter into this agreement on this 10th day of March 2022, to cooperatively develop a school facility for the expansion based upon the terms and conditions set forth herein.

- a. Project Description. Client authorizes Consultant to manage, oversee and work with Client in the construction and development of a new school building to accommodate Client’s desired school expansion needs. Client authorizes Consultant to perform the tasks associated with the oversight in 3 separate phases listed below. Consultant agrees to secure Client permission before moving into the next phase.
  - i. PHASE 1 – Consultant will assist Client in conducting the RFP or RFQ. Consultant will ensure those parties who have specific charter school experience are invited to participate. Consultant will arrange for interviews and make recommendations for final selection. Consultant will review contracts from RFP and RFQ respondents. Client is not obligated to follow any recommendations made by Consultant and will be solely responsible to make the final selection of all participants in the project. Once the RFP’s have been completed, a feasibility study will take place. If the Client decides, after the feasibility phase, to pursue financing for the new facility, then Phase I will be

complete.

- ii. PHASE 2 – Consultant will work with Client, Financial Advisor, Architect, and Contractor to perform all pre-construction tasks, including but not limited to facility design, Bid Set completion, permitting, utilities, pre-construction studies completion, and inspections arrangement and coordination. Client will have the final say on all decisions.
  - iii. PHASE 3 – Consultant will work with Client, Financial Advisor, Architect, and Contractor to perform all tasks related to the construction of the facility including but not limited to construction meetings, inspection submissions, submittals, RFI's, change orders, punch lists, and the occupancy permit. Client will have the final say on all decisions.
3. Fee: Client agrees to pay Consultant upon the completion of each phase for the work outlined in section “a” above, in accordance with the following schedule. In the event Client decides not to pursue the project into the next phase with Consultant, no fee will be due, provided, however, that Consultant is compensated for any work completed. Consultant shall have the right to withdraw from the project if fees are not paid by Client as agreed upon.
  - i. PHASE 1 – The fees for the completion of tasks in this phase shall be \$10,000.
  - ii. PHASE 2 – The fees for the completion of tasks in this phase shall be \$12,500
  - iii. PHASE 3 – The fees for the completion of tasks in this phase shall be \$12,500.
    - ½ of the fee will be due upon groundbreaking and the final ½ due upon receipt of occupancy permit.
4. Relationship of the Parties. Consultant and Client agree that Consultant is an independent contractor and that the relationship between the parties shall not be construed as that of employer and employee, joint venture, partnership, or any other relationship other than that of independent contractor and client under any circumstances. In performing the work, which is the subject of this Agreement, Consultant shall pay its own expenses, taxes and costs including any and all costs associated with its employees, its equipment and any other expenses it incurs in connection with the performance of Consultant work hereunder. Consultant is not the Financial Advisor, Architect, or Contractor. Client is solely responsible for its decisions and is required to perform any due diligence necessary to support those decisions. Consultant shall not be liable for Client decisions.
5. Amendments and Changes. This is the entire Agreement and understanding between the parties. This Agreement may be amended only in writing and when signed by both parties.
6. Term of Agreement. This Agreement will be in effect until October 1, 2023, or until the project has been completed, whichever is later.

7. Best Efforts. Consultant shall use best efforts to manage the construction project. Consultant does not and cannot guarantee occupancy and both parties acknowledge there may be circumstances beyond the control of the parties that could prohibit successful completion of the project. Under such circumstances that the project cannot be completed, Consultant shall have no liability for failure to manage the project to its completion.
8. Miscellaneous Term. All terms of this Agreement shall be binding on any heirs, successors and assigns of the parties hereto. This Agreement shall be governed by the laws of the State of Utah.
9. Closing Costs. The Consultant shall not be responsible for or bear any liability for any closing costs including, but not limited to: origination costs, commitment fees, mortgage and conveyance certificates, title insurance, appraisals, costs incurred to cure, correct or clear the title of any real estate owned or pledged by the borrower, and any and all attorney fees associated with this transaction.
10. Severability. Should any provision of this Agreement be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity, legality or enforceability of any other provision herein; provided that such invalidity does not materially prejudice either party in their respective rights and obligations contained in the valid terms, covenants or conditions.
11. Consultant not a Broker. It is herein understood by the Client that the Consultant is working in a consulting and advisory capacity only and not as a mortgage broker, loan broker, or a lease broker.
12. Corporate Authority. Persons signing below are duly authorized to execute and bind the corporation/organization to this agreement.
13. Termination. This Agreement may be terminated, with or without cause, by either party upon sixty (60) days written notice to the other party; provided that, if either party breaches any of the terms of this Agreement, the non-breaching party may, in addition to any other remedy, terminate the Agreement immediately. Upon termination or expiration of this Agreement, all amounts due shall be paid within thirty (30) days. Upon termination, any amount unpaid in this Agreement shall be prorated based on phase completion. Upon termination for any reason, Consultant shall return data or information to the Client. Any further disputes over termination shall be resolved under the laws of the State of Utah. Completion or termination of this Agreement shall have no bearing on any agreement between the two parties for business and financial services.
14. Records Administration. Consultant shall maintain or supervise the maintenance of all records

necessary to properly account for Consultant's performance and the payments made by Client to Consultant under this Agreement. These records shall be retained by Consultant for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Consultant agrees to allow, at no additional cost, the State of Utah, federal auditors, and State Entity staff, access to all such records.

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Signed \_\_\_\_\_ Date \_\_\_\_\_  
Debbie Deem, Director  
Ogden Preparatory Academy

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Signed \_\_\_\_\_ Date \_\_\_\_\_  
Jeff Biesinger, Director of Charter Development  
Red Apple Financial