



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Agriculture and Food

LUANN ADAMS
Commissioner

SCOTT ERICSON
Deputy Commissioner

ROBERT L. HOUGAARD
Director, Plant Industry & Conservation

TOOELE COUNTY CORPORATON
CONTRACT # 18-05-08

Dear Successful ISM Grant Recipient,

This is your signed copy of your ISM grant with the Utah Department of Agriculture and Food. Your grant has been approved and you may start work as outlined in the agreement (Attachment B Work Plan).

As you complete the line items of the work plan you can submit payment requests to:

Utah Department of Agriculture and Food
Attn: Amy Wengren
PO Box 146500
Salt Lake City, UT 84114-6500

Please use the attached payment request form to request payments. Notice that the form requires 2 signatures, the person doing or inspecting the work signs the upper signature block and the financial representative requesting the payment signs the lower signature block. If you have any questions please call Amy Wengren at 801 538-4953. An electronic version of the payment request form is available and can be requested by emailing Amy Wengren at: awengren@utah.gov

Thank you for your efforts to control invasive weeds,

Aaron Eagar

ISM Program Manager

VE0000141904
Commodity code #99999

181789

UTAH DEPARTMENT OF AGRICULTURE AND FOOD
GRANT AGREEMENT

WB 1. **CONTRACTING PARTIES:** This Grant Agreement (Agreement), is between the Utah Department of Agriculture and Food ("UDAF"), Grantor, and the following Grantee:

Grantee Name: **Tooele County,** Contact Person: **Marilyn Gillette,**

Street Address: **47 South Main Street** City: **Tooele** State: **UT** Zip code: **84074**

A (please check one):

Sole Proprietor

Governmental Agency

Other-Specify Type

WB 2. **GRANTEE IS AN INDEPENDENT CONTRACTOR:** The Grantee is an Independent Contractor, and has no authority, express or implied, to bind the State of Utah, UDAF, or any of their officers, agents, or employees.

WB 3. **CERTIFICATION OF NON-DEBARMENT:** The Grantee certifies that neither it nor its principals, officers, agents, employees, contractors or sub-contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any governmental entity. If the Grantee cannot so certify, it shall submit a written explanation and shall obtain *prior* written approval for this Agreement from the UDAF Commissioner, or her designee. Failure of the Grantee to obtain such prior written approval shall be considered a material breach of this Agreement.

WB 4. **PURPOSE OF AGREEMENT:** To pass funds to the Grantee for the following purpose: Invasive Species Mitigation fund for the Tooele County Weed Board EDRR and Invasive Treatments project pursuant to UCA 4-17-114 and UCA 4-17-115.

WB 5. **AGREEMENT PERIOD:** This Agreement is effective 2/20/2018 and expires 12/21/2018, unless terminated early due to a breach or other reason stated in this Agreement or extended or amended, at the Grantor's discretion and with the Grantor's approval.

WB 6. **AGREEMENT AMOUNT:** The total amount the Grantee will receive pursuant to this Agreement is \$42,096.00.

WB 7. **FUNDING:** The funding provided to the Grantee pursuant to this Agreement constitutes a grant of State money and/or federal pass through money as defined in Utah Code 63G-6a-103(38), 63J-1-220, and 51-2a-201.5. If Grantee is receiving any funding through any other source or is providing any amount of matching funds for this project, such funding must be disclosed and reported as set forth in paragraph 10 of this Agreement. As such, Grantee agrees to be bound by all applicable terms under those Utah Code sections, including, but not limited to, the auditing and reporting requirements set forth in 51-2a-101 *et seq.*

WB 8. **EXPENDITURE OF FUNDS.** The Grantee shall expend the funds provided pursuant to this Agreement only for the purpose(s) stated in this Agreement and as outlined in Grantee's 2018 application for Invasive Species Mitigation Application (Attachment B).

WB 9. **COMPLIANCE WITH STATE AND FEDERAL LAW.** The Grantee shall comply with all State and federal laws that apply to the subject matter and purpose of the Grant.

WB 10. **GRANTEE REPORTING AND INSPECTION REQUIREMENTS:** The Grantee shall comply with the following reporting and inspection requirements:

A. The Grantee shall prepare and provide the Grantor with the reports below:

- (1) An annual written description and an itemized report detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent;
- (2) A final written itemized report when all the state money is spent;
- (3) Written certification that Grantee, as defined both in this Agreement and as defined in the Additional Terms and Conditions, agrees to, and is in compliance with, all stated terms and conditions set forth in Attachment A ("Additional Terms and Conditions");
- (4) An annual written description and an itemized report detailing the expenditure of any other funding anticipated, received or actually expended, including any such funding that has not been spent; and
- (5) A final written itemized report regarding any funds received or expended pursuant to subsection (4).

B. Upon request, Grantee will provide access to UDAF for inspection of the project during the planning, surveying, construction, testing and completion of the project.

WB 11. **BILLING REQUIREMENTS:** Payments to the Grantee shall be made as follows:

A. The Grantee shall submit payment requests no more often than once a month. The Grantee will use the payment request form provided by the Grantor to request payments. Payment requests will be submitted to Aaron Eagar by mail (Utah Department of Agriculture and Food, Attn: Aaron Eagar, PO Box 146500, Salt Lake City, UT 84114-6500) or email (aeagar@utah.gov) and be signed by the Grantee and the contractor, sub-contractor, sub-grantee or assignee (if any) who either authorized, performed or oversaw the actual work completed, and has the legal authority to bind that specific entity.

(1) The Grantee will maintain all invoices, receipts and any other documentation associated with the project until all work undertaken pursuant to this Agreement is complete, and a final report detailing the work completed is filed with UDAF.

(2) The Grantee shall allow UDAF to examine any and all records under paragraph 11(A)(1) within a reasonable time upon request by Grantor. For purposes of this Agreement, a reasonable time shall not exceed thirty (30) days after the date of the original request.

B. The Grantor may delay or deny payment to the Grantee for billings or claims for services that do not meet the billing deadlines outlined below.

- (1) **Ongoing Billings:** The Grantee shall submit all billings for costs incurred on or before June 30th of a given fiscal year pursuant to paragraph (2) below.
- (2) **State Fiscal Year-End Billings:** The State Fiscal Year is from July 1st through June 30th. The Grantee shall submit all billings for costs incurred on or before June 30th of a given fiscal year no later than July 10th of the following fiscal year, regardless of the Grantee's billing period or the expiration or termination date of this Agreement.
- (3) **Final Agreement Billings:** The Grantee shall submit all final billings under this Agreement within 14 days of expiration or termination of the Agreement, regardless of the Grantee's billing period.

- C. The Grantee and Grantor may negotiate a payment and billing budget to track payments and project progress. This budget shall not be effective or waive any provision in paragraph 11 unless it is in writing, signed and dated by both Grantee and Grantor, and unless the provision to be waived is specifically identified in that writing. In the absence of those requirements, all provisions in paragraph 11 remain in full force and effect and are legally binding and fully enforceable.
- D. In accordance with Attachment A, UDAF will withhold 10% of the total grant award of \$42,096.00 until all work undertaken pursuant to this Agreement is complete, the project is approved by UDAF, GIS data of the treatment areas, and a final report detailing the work completed are filed with UDAF.

WB 12. **REDUCTION OF FUNDS:** If the Grantor becomes subject to a legislative change, revocation of statutory authority, lack of appropriated funds or unavailability of funds, which would render the Grantee's delivery or performance under this Agreement impossible, or unnecessary, the Grantor may terminate this Agreement in whole or in part. If the legislature does not appropriate funds for paying the Grantor's obligations on this Agreement, or if funding to the Grantor is reduced due to an order by the Governor, or is required by State law, or if federal funding (when applicable) is not provided, or requires any return or "giveback" of funds required for the Grantor to continue payments or if the Executive Branch mandates any cuts or holdbacks in spending, or if UDAF decides to reduce the payments pursuant to this Agreement, the Grantor may terminate this Agreement or proportionately reduce the requirements of this Agreement and the amounts to be paid by the Grantor to the Grantee for meeting such requirements.

WB 13. **INDEMNIFICATION:** The Grantee acknowledges that Grantor is a governmental entity as defined by the Utah Governmental Immunity Act, UCA 63G-7-101, *et. seq.* Grantor does not waive any defenses otherwise available under the Governmental Immunity Act. The Grantee shall indemnify, hold harmless, and release the State of Utah, and all of its officers, agents, employees and volunteers from and against any and all loss, damages, injury, liability, suits, and proceedings relating to this Agreement which are caused in whole or in part by the acts, omissions, or negligence of the Grantor or any of its officers, agents, employees and volunteers.

WB 14. **COPYRIGHT:** The Grantee shall release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Grantee's use of any copyrighted or un-copyrighted program, composition, secret process, patented or un-patented program, invention, article or appliance furnished or used in the performance of this Agreement.

WB 15. **ASSIGNMENT:** The Grantee shall not assign, sell, sub-grant, or sub-contract its rights or responsibilities under this Agreement unless approved in writing by the Grantor. If the Grantee elects to so do, the Grantee does so with the express understanding that no provision under this Agreement is waived by the Grantor,

unless specifically acknowledged in writing, and that the Grantee is still bound and required to fulfill all obligations, terms and conditions set forth under this Agreement, whether performed by the Grantee, its officers, agents, employees, contractors or sub-contractors.

WB 16. **AMENDMENTS:** The parties may modify this Agreement only by written amendment signed by both parties. Any amendments shall be attached to the original signed copy of this Agreement.

WB 17. **REMEDIES:** If the Grantor determines that the Grantee, its officers, agents, employees, contractors or sub-contractors, have failed to comply with, or breached, any of the terms or conditions set forth in this Agreement (including the terms and conditions set forth in any attachments to this Agreement), the Grantor may pursue any of the following remedies against Grantee, and/or its officers, agents, employees, contractors or sub-contractors, at its discretion; including but not limited to:

- a. **Disallow Costs.** The Grantor may disallow any costs otherwise allowed under this Agreement to the Grantee and adjust its payments to the Grantee by deducting such disallowed costs.
- b. **Withhold Payment.** It may withhold funds from the Grantee for non-compliance with any of the terms of this Agreement, misuse of public funds, or failure to comply with State and federal law.
 - (1) If an audit finding or judicial determination is made that the Grantee misused public funds, the Grantor may also withhold funds otherwise allocated to the Grantee to cover the costs of any audits, attorneys' fees and other expenses. The Grantor shall give the Grantee prior written notice that the payment(s) will be withheld. The notice shall specify the reasons for such withholding. The Grantor shall inform the Grantee whether any amounts withheld may be released, and if so, the actions that the Grantee must take to bring about the release of any amounts withheld.
 - (2) If an independent CPA audit or Grantor review determines that the payments made by the Grantor to the Grantee were incorrectly paid or were based on incorrect information from the Grantee, the Grantor may adjust or withhold the Grantee's payments for the remainder of the contract period or until the Grantor fully recoups the funds.
- c. **Require Repayment.** Upon written request by the Grantor, any overpayments, disallowed costs, excess payments or questioned costs are immediately due and payable by the Grantee. In the alternative, the Grantor shall have the right to withhold any or all subsequent payments pursuant to this Agreement until it fully recoups these funds. In such cases, the Grantee shall not be relieved of meeting the requirements of this Agreement.
- d. **Require Corrective Action.** The Grantee shall comply with the terms of any corrective action plan required by the Grantor.
- e. **Pursue Any Legal Remedy.** The Grantor and the Grantee may avail themselves of all remedies allowed by state or federal law.
- f. **Terminate the Agreement.** The Grantor may terminate this Agreement in accordance with the termination provisions outlined below.

- WB 18. **RIGHT TO TERMINATE UPON THIRTY DAYS NOTICE.** Grantor may terminate this Agreement, with or without cause, in advance of the Agreement's expiration date, by giving the other party 30 days written notice.
- WB 19. **NO THIRD-PARTY BENEFICIARY RIGHTS.** No provision in this Agreement is intended or shall create any rights with respect to the subject matter of this Agreement in any third party.
- WB 20. **JURISDICTION:** The provisions of this Agreement shall be construed and governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of Utah for any dispute arising out of this Agreement or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County, Utah.
- WB 21. **ENTIRE AGREEMENT:** This Agreement, including any attachments and/or documents referenced herein, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous oral or written agreements.
- WB 22. **GRANTEE HAS NOT ALTERED THIS AGREEMENT:** By signing this Agreement, the Grantee represents that neither it nor its employees or representatives have in any way altered the language or provisions in the Agreement, and that this Agreement contains exactly the same provisions that appeared in this document and its exhibits when the Grantor originally sent it to the Grantee.
- WB 23. **AUTHORITY OF PERSON SIGNING FOR THE GRANTEE:** The Grantee represents that the person who has signed this Agreement on behalf of the Grantee has full legal authority to bind the Grantee and to execute this Agreement.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

101789

IN WITNESS WHEREOF, the parties executed this Agreement:

GRANTEE

Tooele County

By: Wade B. Bitner

Type/Print Name: WADE BITNER

Title/Position: COMMISSION CHAIR

Date: 12 MARCH 2018

GRANTOR

(UTAH DEPARTMENT OF AGRICULTURE)

By: Scott Ericson

Type/Print Name: Scott Ericson

Title/Position: Deputy Commissioner

Date: 3/27/18

Required Approvals:

[Signature] 3-27-18
Program Manager Date

[Signature] 3/27/2018
UDAF Administrative Services Date

Director Division of Purchasing Date
CONTRACT RECEIVED AND PROCESSED BY
DIVISION OF FINANCE 3/29/2018
Director of Finance Date

UDAF Contact: Aaron Eagar Phone: 801.538.7186 Email: aeagar@utah.gov

Attachment A

Additional Terms and Conditions

- WB 1. Grantee, on behalf of itself, its officers, agents, employees, contractors, sub-contractors or assigns (hereinafter "Grantee"), will be liable for compliance with all local, state, and federal laws, rules and ordinances pertaining to the work being done in this agreement.
- WB 2. Grantee, will provide the Utah Department of Agriculture ("UDAF") a report meeting the requirements set forth in Utah Code 9-8-404-(1)(a)(i) to, "take into account the effect of the expenditure or undertaking on any historic property...". This report will be completed and signed by an archeologist holding a valid Principal Investigator Permit issued by Public Lands Policy and Coordinating Office.
- WB 3. Grantee will refrain from all ground disturbing activities until UDAF provides a written letter to the grantee authorizing work to proceed. This is to ensure that requirements of Utah Code 9-8-404-(1)(a) have been met.
- WB 4. If during ground disturbing activity, Grantee encounters any subsurface archaeological deposits including, but not limited to, prehistoric artifacts or features (pithouses, charcoal staining from hearths, etc.), historic building foundations or walls, outhouse/privies, or dense trash deposits, work must be halted within 50' of the discovery and notification made to UDAF. If known historic properties are unintentionally affected, and not previously consulted on, in a manner that alters the characteristics of the properties that make it/them eligible to the National Register, UDAF will halt work and contact the SHPO. UDAF will continue to halt work until an assessment of the discovery is completed by the agency and communicated to the SHPO.
- WB 5. Human Remains Discovery: If human remains, potential human remains, associated or unassociated funerary objects, or objects of cultural patrimony are discovered, work within 100' will stop immediately. Verbal notification of the discovery will be made immediately to local law enforcement authorities, the appropriate land management agency official, and the Antiquities Section of the Utah Division of State History. Human remains discovered on, State, or privately-owned land will be treated consistent with all requirements of applicable Utah State laws regarding the treatment of human remains including Utah Code Annotated (UCA) 76-9-704, UCA 9-8-302, UCA 9-8-309, and UCA 9-9-401 *et seq.*
- WB 6. UDAF will withhold 10% of the total grant award until all work undertaken pursuant to the grant agreement is complete and the final GIS data and final report detailing the work completed are filed with UDAF.
- WB 7. Upon request, Grantee will provide access to UDAF for inspection of the project during the planning, surveying, construction, testing, and completion of the project.

By: Wade B. Bitner Type/Print Name: WADE BITNER

Title/Position: Commission Date: 12 MAR 2018 # 2018046
Tooele County Weed Board EDRR and Invasive Treatments

