



### Tooele County Council Agenda Item Summary

**Department Making Request:**

Parks and Recreation

**Meeting Date:**

June 7, 2022

*Ratification*

**Mark Options That Apply:**

**Grant**  
*1 time*

**Contract**  
*1 yr. or less*

**Purchase**

Exp date: \_\_\_\_\_

**Grant**  
*With County Match*

**Contract**  
*More than 1 yr.*  
Exp date: September 2022

**Budget Impact:**

**In Budget**

**Over Budget**

**Requested Amount:** \$ \$13,000

**Item Title:** Jones and Demille Contract

*Please answer the who? what? when? why?*

Requesting a contract with Jones and DeMille to preform right of way access and a cultural inventory for a NICA mountain bike trail in the North Oquirrh mountains. This project is within budget.

**List who needs copies when approved:**



## WORK ORDER AND AGREEMENT

PROJECT INFORMATION	CLIENT	
Project Name:	Name:	Tooele County
<b>Tooele County ■ NICA Trail ROW Application</b>	Address:	Attn: Corey Bullock
		47 N Main St.
		Tooele, UT 84074
Project #: <b>2105-027</b>	Phone:	(435) 843-4003 / (801) 232-1802
Date: 5/20/2022	Fax:	
PM: Jenna Jorgensen	Email:	corey.bullock@tooele.co.org

### Scope of Work

See proposal dated May 11, 2022, attached hereto as Attachment A and incorporated herein by reference, setting forth the detailed scope of work.

### Agreement

Jones & DeMille Engineering, Inc. (JDE) will submit progress invoices to Client and a final bill upon completion of the services. Each invoice is due upon receipt. Client agrees to pay a finance charge of one and one-half percent (1½%) per month, or the maximum rate allowed by law, on accounts thirty (30) days past due. Any attorneys' fees or other costs incurred in collecting any delinquent amounts shall be paid by the Client. JDE reserves the right to file a lien within 90 days of completion of services if the invoice has not been paid.

Unless otherwise agreed, client will furnish right-of-way entry for JDE, Inc.

Reports, plans, and other work prepared by JDE remain the property of JDE. Client agrees that all reports and other work furnished to the Client and his agents not paid for will be returned upon demand, and will not be used for licensing, permits, design and/or construction.


JDE, Inc. agrees, in connection with services performed under this Agreement, that such services are performed with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or similar locality. No warranty, expressed or implied, is made or intended by rendition of consulting services or by furnishing oral or written reports of the findings made. Liability is limited to fees paid. JDE's Standard Terms & Conditions are attached hereto and incorporated herein by reference.

### Fee Schedule


The client agrees to pay in accordance with the following billing structure:

Lump sum payment of \$13,000. Lump sum progress payments may be invoiced monthly by percentage of completion throughout the project. Any adjustment to scope or additional work will be completed at an additional cost. JDE reserves the right to adjust billing rates based on market conditions and pay adjustments.

JONES & DEMILLE ENGINEERING, INC.

  
 \_\_\_\_\_  
 Signature  
 CTO  
 \_\_\_\_\_  
 Title  
 June 23, 2022  
 \_\_\_\_\_  
 Date

TOOELE COUNTY

  
 \_\_\_\_\_  
 Signature  
 County Manager  
 \_\_\_\_\_  
 Title  
 6/8/22  
 \_\_\_\_\_  
 Date

APPROVED AS TO FORM:

1535 South 100 West  
Richfield, UT 84701  
435.896.8266

50 South Main, Suite 4  
Manti, UT 84642  
435.835.4540

38 West 100 North  
Vernal, UT 84078  
435.781.1988

775 West 1200 North  
Suite 200A  
Springville, UT 84663  
801.692.0219

1664 South Dixie Drive  
Building G  
St. George, UT 84770  
435.986.3622

7 South Main Street  
Suite 107/109  
Tooele, UT 84074  
435.268.8089

  
 \_\_\_\_\_  
 Colin R. Winchester  
 Deputy Tooele County Attorney  
 545 East Cheyenne Drive  
Suite C  
Evanson, WY 82930  
307.288.2005



# JONES & DEMILLE ENGINEERING, INC.

1535 South 100 West ♦ Richfield, UT 84701 ♦ 435-896-8266 ♦ 435-896-8268

RICHFIELD ♦ PRICE ♦ VERNAL ♦ MANTI ♦ ROOSEVELT ♦ UTAH VALLEY ♦ ST. GEORGE ♦ MONTICELLO ♦ EVANSTON

## STANDARD TERMS AND CONDITIONS

### I. SCOPE

Jones & DeMille Engineering, Inc. ("JDE") agrees to perform the services described above which incorporates these terms and conditions. JDE's services shall be provided consistent with and limited to the standard of care applicable to such services, which is that JDE shall provide its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Unless modified in writing by the parties hereto, the duties of JDE shall not be construed to exceed those services specifically set forth in the scope of services. These terms and conditions, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the "Agreement").

### II. COMPENSATION

Client agrees to pay for the services in accordance with the compensation provisions in the Work Order and Agreement. Payment to JDE will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31<sup>st</sup> day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Direct expenses and subcontractor services shall be billed in accordance with the proposal or compensation exhibit attached to this Agreement. Otherwise, JDE's standard billing rates shall apply.

### III. RESPONSIBILITY

JDE is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the work. JDE shall perform the services in accordance with generally-accepted engineering practices and standards in effect when the services are rendered. JDE does not expressly or impliedly warrant or guarantee its services.

In performing construction management services, JDE shall act as agent of Client. JDE's review or supervision of work prepared or performed by other individuals or firms employed by Client shall not relieve those individuals or firms of complete responsibility for the adequacy of their work.

The presence of JDE's personnel at a construction site, whether as on-site representative, resident engineer or construction manager, shall be for the sole purpose of determining that the Work is generally proceeding in conformance with the intent of the project specifications and contract documents and does not constitute any form of guarantee or assurance with respect to contractor's performance. JDE shall have no responsibility for the contractor's means, methods, techniques, sequences, for safety precautions and programs incident to the contractor's work, or for any failure of contractor to comply with laws and regulations applicable to performing its work.

### IV. ATTORNEYS' FEES

In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

### V. SUBCONTRACTS

JDE shall be entitled, to the extent determined to be appropriate by JDE, to subcontract any portion of the Work to be performed under this Agreement.

### VI. ASSIGNMENT

This Agreement is binding on the heirs, successors, and assigns of the parties hereto. The Agreement is not to be assigned by either Client or JDE without the prior written consent of the other.

### VII. INTEGRATION

These terms and conditions represent the entire understanding of Client and JDE as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered, except in writing signed by both parties, provided further that any terms and conditions in any task order or purchase order issued in connection or under the Agreement which are inconsistent with the Agreement are deemed null and void.

### VIII. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the state of Utah. Jurisdiction of litigation arising from the Agreement shall be in the state of Utah.

### IX. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with such laws, but the remainder of the Agreement shall be in full force and effect.

### X. NO BENEFIT FOR THIRD PARTIES

The services to be performed by JDE hereunder are intended solely for the benefit of Client, and no right or benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on JDE's performance of its services hereunder.

### XI. WORK PRODUCT

JDE and Client recognize that JDE's work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse on another project by Client shall be at Client's sole risk, and Client shall hold harmless and indemnify JDE against all losses, damages, costs and expenses, including attorneys' fees, arising out of or related to any such unauthorized change, alteration or reuse.

### XII. LIMIT OF LIABILITY

To the fullest extent permitted by law, the total liability, in the aggregate, of JDE and JDE's officers, directors, partners, employees, agents and consultants, or any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, losses, damages and expenses, whatsoever arising out of, resulting from, or in any way related to this Agreement from any cause or causes, including, but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or warranty, express or implied, of JDE or JDE's officers, directors, partners, employees, agents and consultants, or any of them, shall not exceed the total amount of compensation for services.

### XIII. SUSPENSION OF WORK

Work under this Agreement may be suspended as follows:

1. **By Client.** By written notice to JDE, Client may suspend all or a portion of the Work under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Work impracticable. JDE shall be compensated for its reasonable expenses resulting from such suspension, including mobilization and de-mobilization. If suspension is greater than 30 days, then JDE shall have the right to terminate this Agreement in accordance with Article XIV, Termination of Work.

2. **By JDE.** By written notice to Client, JDE may suspend the Work if JDE reasonably determines that working conditions at the site (outside JDE's control) are unsafe, or in violation of applicable laws, or for other circumstances not caused by JDE that are interfering with the normal progress of the Work. JDE's suspension of Work hereunder shall be without prejudice to any other remedy of JDE at law or equity.

Engineer initials

*DR*

Client initials

\_\_\_\_\_

**XIV. TERMINATION OF WORK**

This Agreement shall be terminated as follows:

1. **Client** (a) for its convenience on 30 days' notice to JDE, or (b) for materially breaches of this Agreement through no fault of Client and JDE neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to JDE.

2. **By JDE** (a) for cause, if Client materially breaches this Agreement through no fault of JDE and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after JDE has given written notice of the alleged breach to Client, or (b) upon 5 days' notice if Work under this Agreement has been suspended by either client or JDE in the aggregate for more than 30 days.

3. **Payment upon Termination.** In the event of termination, JDE shall perform such additional work as is reasonably necessary for the orderly closing of the Work. JDE shall be compensated for all work performed prior to the effective date of termination, plus work required for the orderly closing of the Work. Except for termination of JDE by Client for cause, JDE shall also receive a termination fee equal to 15 percent of the total compensation yet to be earned under existing authorizations at the time of termination.

**XV. CONSTRUCTION OBSERVATION**

If expressly included in the services, JDE's services during construction shall be limited to observation and testing of construction materials. JDE shall not be responsible for constant or exhaustive inspection of the work, the means and methods of construction or the safety procedures employed by Client's contractor. Performance of construction observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the contractor's work may occur. Client shall hold its contractor solely responsible for the quality and completion of the project, including construction in accordance with the construction documents. Any duty hereunder is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees, shall notify JDE at last 24 hours in advance of any field tests and observations required by the construction documents. Client will indemnify and hold

JDE harmless for its failure to retain JDE's services according to written reports, plans and specifications.

**XVI. NOTICES**

All notices required under this Agreement shall be by personal delivery, facsimile or mail to the JDE Project Manager and to the person authorized on behalf of the Client and shall be effective upon delivery to the addresses stated in this Agreement.

**XVII. HOLD HARMLESS**

JDE's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce design professional's scope of services, Client hereby agrees to release, hold harmless, defend and indemnify JDE from any and all claims, damages, losses or costs associated with or arising out of such reduction in services.

**XVIII. BETTERMENT**

If, due to the JDE's negligence, a required item or component of the Project is omitted from the JDE's construction documents, the JDE shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will JDE be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

**XIX. ESTIMATES OF PROBABLE CONSTRUCTION COST**

In providing estimates of probable construction cost, the Owner understands that the JDE has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the JDE's estimates of probable construction costs are made on the basis of the consultant's professional judgment and experience. JDE makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the JDE's estimate of probable construction cost.

Engineer initials

DR

Client initials \_\_\_\_\_



May 11, 2022

Corey Bullock  
corey.bullock@tooeleco.org  
Tooele County  
47 South Main Street  
Tooele, UT 84074

RE: Tooele County NICA Trail Right-of-Way RFP

Dear Corey:

We appreciate the opportunity to provide a proposal for the above-referenced project. It is our understanding Tooele County intends to acquire a right-of-way for a proposed bike trail and associated features in compliance with the National Environmental Policy Act (NEPA) and related policy and regulation. Appropriate application documentation must be provided to the BLM for authorization of a right-of-way for the proposed trail.

Jones & DeMille Engineering (JDE) has the necessary resources and expertise to complete this important project. As one of the top full-service design firms in the Intermountain Region, JDE is a premier firm employing a high standard of excellence on each and every project. We are passionate about helping our clients improve the quality of life and in helping to provide their citizens the most advanced and efficient public facilities. We offer this standard of excellence and passion to Tooele County.

The proposed scope of work and associated schedule and fees are as follows:

## SCOPE OF WORK

### Permitting Services

The proposed scope of work for permitting services is as follows:

1. Preparation of an application (SF-299 and Plan of Development) to acquire a right-of-way for the proposed trail, a permanent trailhead, and segments of possible access roads.
2. Completion of a Class III cultural inventory of the area of potential effect (APE) and preparation of a survey report.
  - a. Trail – The estimated survey width from the proposed trail centerline is 30 meters (15 meters each side of centerline) along the length of the 5.25-mile course.
  - b. Trailhead – Approximately one acre.
3. Coordination with BLM as necessary.

### Assumptions and Limitations:

1. The BLM will prepare a Determination of NEPA Adequacy (DNA) tied to the 2021 EA; no other NEPA documents will be necessary to authorize the project.
2. The scope includes one (1) site visit by JDE environmental staff to document site conditions in support of preparation of the application; this site visit may be coordinated with the BLM and the county for an onsite meeting.

1535 South 100 West  
Richfield, UT 84701  
435.896.8266

50 South Main, Suite 4  
Manit, UT 84642  
435.835.4540

38 West 100 North  
Vernal, UT 84078  
435.781.1988

1675 South Highway 10  
Price, UT 84501  
435.637.8266

520 West Highway 40  
Roosevelt, UT 84066  
435.722.8267

775 West 1200 North  
Suite 200A  
Springville, UT 84663  
801.692.0219

1664 South Dixie Drive  
Building G  
St. George, UT 84770  
435.986.3622

7 South Main Street  
Suite 107/109  
Tooele, UT 84074  
435.268.8089

696 North Main Street  
PO Box 577  
Monticello, UT 84535  
435.587.9100

545 East Cheyenne Drive  
Suite C  
Evanston, WY 82930  
307.288.2005

3. No more than one previously documented archaeological site will be present in the area and will not require an update to its record.
4. No more than three (3) previously undocumented sites will be located in the assessment area during the field inventory.
5. Fieldwork can be completed in a single field session; multiple revisits of the survey area will not be required after the initial survey is complete.
6. Fieldwork will not be impeded by forces outside the control of JDE; access to the survey area will be unfettered.
7. No subsurface testing will be required.
8. BLM standards for cultural resource surveys, data gathering, reporting, etc., will apply to project.
9. A single report will be prepared for the cultural resource assessment.
10. Final deliverables will be provided in formats required by the Utah State Historic Preservation Office for e106 consultation and as set forth in BLM guidelines.

### **SCHEDULE**

JDE will work to complete the above scope of work in a reasonable, timely manner according to the project and funding needs. An earnest effort will be made to complete the services within owner's time constraints. We anticipate completing the application within 1 month of execution of the contract, and the cultural survey and report within two (2) months. Authorization of the right-of-way will be dependent on BLM's schedule.

### **FEES**

The foregoing scope of work for permitting services can be completed for a lump sum fee of **\$13,000**. Progress payments will be invoiced monthly throughout the project. Any adjustments to the scope of work can be completed for a negotiated lump sum fee or according to JDE's standard hourly rates.

### **CLOSURE**

We appreciate and look forward to the opportunity to work on this important project. Our team has the proven capabilities to complete this work in a timely and efficient manner. We look forward to helping you shape the quality of life of those you serve. Please review this proposal and let us know if there are any questions or concerns.

Sincerely,

JONES & DeMILLE ENGINEERING, INC.

  
Jenna Jorgensen  
Environmental Coordinator

