

VC0000104947

Vendor Number:

Tooele County Contract # 23-06-18

State Contract Number:

Commodity Code: 99999



231991

UTAH DEPARTMENT OF AGRICULTURE AND FOOD GRANT AGREEMENT

Jw 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: **Jerry Caldwell**,
Street Address: **47 South Main Street** City: **Tooele**
State: **UT** Zip Code: **84074**

A (please check one):

Sole Proprietor Governmental Agency Other – Specify _____

Jw 2. **GRANTEE IS AN INDEPENDENT CONTRACTOR:** 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.

Jw 3. **CERTIFICATION OF NON-DEBARMENT:** 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 Grantee cannot so certify, it shall submit a written explanation and shall obtain prior written approval for this Agreement from the UDAF Commissioner, or his/her designee. Failure of Grantee to obtain such prior written approval shall be considered a material breach of this Agreement.

Jw 4. **PURPOSE OF AGREEMENT:** To pass funds to Grantee for the following purpose: Invasive Species Mitigation fund for Tooele County Riparian Weed Restoration Project pursuant to § UCA 4-17-114 and UCA § 4-17-115.

Jw 5. **AGREEMENT PERIOD:** This Agreement is effective 11/01/2022 and expires 08/30/2023, unless terminated early due to a breach or other reason stated in this Agreement or extended or amended, at Grantor's discretion and with Grantor's approval.

Jw 6. **AGREEMENT AMOUNT:** The total amount Grantee will receive pursuant to this Agreement is **\$20,000.00**.

Jw 7. **FUNDING:** The funding provided to Grantee pursuant to this Agreement constitutes a grant of state money and/or federal pass-through money as defined in UCA § 63G-6a-103(35), § 63J-1-101 *et seq.*, and § 51-2a-101 *et seq.* 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 UCA § 51-2a-101 *et seq.*

Jw 8. **EXPENDITURE OF FUNDS.** 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 FY 2022 BIL application for Invasive Species Mitigation Application (Attachment B).

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

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

- A. Upon request by Grantor, Grantee shall prepare and provide 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.

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

- A. Grantee shall submit payment requests no more often than once a month. Grantee will use the payment request process established by Grantor through the Amplifund platform and submission of a request shall be by 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) 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) Grantee shall allow UDAF to examine any and all records under paragraph 11 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, unless otherwise specified in this Agreement.
- B. Grantor may delay or deny payment to Grantee for billings or claims for services that do not meet the billing deadlines outlined below.

- (1) **Final Billings:** Grantee shall submit all billings for costs incurred on or before August 30th of a given fiscal year **no later than September 10th** of the following fiscal year, regardless of Grantee's billing period or the expiration or termination date of this Agreement. Final billings not received by UDAF by July 10th of a given fiscal year may not be reimbursed in full or in part.
 - (2) **Billings Upon Termination of Agreement:** Grantee shall submit all final billings under this Agreement within 14 days of termination of the Agreement, regardless of the Grantee's billing period. Billings not received by UDAF within that 14-day period after the termination date may not be reimbursed in full or in part.
- C. 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.
- D. In accordance with Attachment A, UDAF may withhold 10% of the total grant award of \$20,000.00 until all work undertaken pursuant to this Agreement is complete, the project is approved by UDAF, GIS data of the treatment areas is completed, and a final report detailing the work completed is filed with UDAF.

JW 12. **REDUCTION OF FUNDS:** If Grantor becomes subject to a legislative change, revocation of statutory authority, lack of appropriated funds or unavailability of funds, which would render Grantee's delivery or performance under this Agreement impossible, or unnecessary, Grantor may terminate this Agreement in whole or in part. If the legislature does not appropriate funds for paying Grantor's obligations on this Agreement, or if funding to 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 Grantor to continue payments, or if the federal or state executive branch mandates any cuts or holdbacks in spending, or if UDAF decides to reduce the payments pursuant to this Agreement, Grantor may terminate this Agreement or proportionately reduce the requirements of this Agreement and the amounts to be paid by Grantor to Grantee for meeting such requirements.

JW 13. **INDEMNIFICATION:** 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. Unless the Utah Governmental Immunity Act also applies as to Grantee, 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 Grantor or any of its officers, agents, employees and volunteers.

JW 14. **COPYRIGHT:** INTENTIONALLY DELETED

JW 15. **ASSIGNMENT:** Grantee shall not assign, sell, sub-grant, or sub-contract its rights or responsibilities under this Agreement unless approved in writing by Grantor. If Grantee elects to so do, Grantee does so with the express understanding that no provision under this Agreement is waived by Grantor, unless specifically acknowledged in writing, and Grantee is still bound and required to fulfill all obligations, terms and conditions set forth under this Agreement, whether performed by Grantee, its officers, agents, employees, contractors or sub-contractors.

JW 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.

JW 17. **REMEDIES:** If Grantor determines that 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), 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.** Grantor may disallow any costs otherwise allowed under this Agreement to Grantee and adjust its payments to Grantee by deducting such disallowed costs.
- b. **Withhold Payment.** It may withhold funds from 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 Grantee misused public funds, Grantor may also withhold funds otherwise allocated to Grantee to cover the costs of any audits, attorneys' fees and other expenses. Grantor shall give Grantee prior written notice that the payment(s) will be withheld. The notice shall specify the reasons for such withholding. Grantor shall inform Grantee whether any amounts withheld may be released, and if so, the actions that 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 Grantor to Grantee were incorrectly paid or were based on incorrect information from the Grantee, Grantor may adjust or withhold Grantee's payments for the remainder of the contract period or until Grantor fully recoups the funds.
- c. **Require Repayment.** Upon written request by Grantor, any overpayments, disallowed costs, excess payments or questioned costs are immediately due and payable by Grantee. In the alternative, 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, Grantee shall not be relieved of meeting the requirements of this Agreement.
- d. **Require Corrective Action.** Grantee shall comply with the terms of any corrective action plan required by Grantor.
- e. **Pursue Any Legal Remedy.** Grantor and Grantee may avail themselves of all remedies allowed by state or federal law.
- f. **Terminate the Agreement.** Grantor may terminate this Agreement in accordance with the termination provisions outlined below.

JW 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.

JW 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.

JW 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.

JW 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.

JW 22. **GRANTEE HAS NOT ALTERED THIS AGREEMENT:** By signing this Agreement, 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 Grantor originally sent it to Grantee.

JW 23. **RIGHT TO RETAIN COUNSEL:** Grantee acknowledges that Grantor advised Grantee to obtain independent legal counsel to review this Agreement prior to signature, and that this Agreement was not signed under duress.

JW 24. **AUTHORITY OF PERSON SIGNING FOR THE GRANTEE:** Grantee represents that the person who has signed this Agreement on behalf of Grantee has full legal authority to bind Grantee and to execute this Agreement.

IN WITNESS WHEREOF, the parties executed this Agreement:

GRANTEE
Tooele County

By: James A. Welch

Type/Print Name: James A. Welch

Title/Position: Tooele County Manager

Date: 04/05/2023

GRANTOR
UTAH DEPARTMENT OF AGRICULTURE

By: Kelly Pehrson
Kelly Pehrson (Apr 11, 2023 12:52 MDT)

Type/Print Name: Kelly Pehrson

Title/Position: Deputy Commissioner

Date: 04/114/23

Required Approvals:

Robert Hougaard
Robert Hougaard (Apr 11, 2023 15:02 MDT)

Program Manager Date

Melani Hender 04/11/2023

UDAF Administrative Services Date

N/A

Director Division of Purchasing Date

**RECEIVED AND PROCESSED
BY DIVISION OF FINANCE**

Director of Finance Date

UDAF Contact: Aaron Eagar Phone: 801.602.1961 Email: aeagar@utah.gov

APPROVED AS TO FORM:

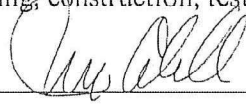
Blum W. M. Hunter 04/05/2023



ATTACHMENT A

Additional Terms and Conditions

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.
2. Grantee will provide the Utah Department of Agriculture (UDAF) a report meeting the requirements set forth in UCA § 9-8-404(1)(a)(i) and (ii) 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.
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 UCA § 9-8-404(1)(a) have been met.
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 state historic preservation officer (SHPO). UDAF will continue to halt work until an assessment of the discovery is completed by the agency and communicated to the SHPO.
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 UCA § 76-9-704, UCA § 9-8-302, UCA § 9-8-309, and UCA § 9-9-401 *et seq.*
6. UDAF may, in its sole discretion, 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.
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:  Type/Print Name: Jerry Caldwell

Title/Position: Weed Supervisor Date: 04/05/2023

Project Name: Tooele County Riparian Weed Restoration Project

Unique Identifier: BIL 2022-004