Ivins City Staff Report
City Council Meeting 11/21/24

Agenda Item: Discuss and Consider Approval of Water System AMI Funding Agreements

Submitted by: Charles R. Gillette, P.E., Public Works Director and City Engineer

Recommended City Council Action:
Approve grant funding agreement with the State and reimbursement agreement with Black Desert Resort

BACKGROUND:

Ivins City has been working for several years to install AMI meters, focusing initially on securing funding. Our latest project estimate is $1,550,000. This estimate is based on continuing our relationship with Badger/ITRON; however, we are considering soliciting proposals from additional companies to evaluate the best option for Ivins City moving forward.

We recently received a $500,000 grant from the State of Utah to support the AMI system. This grant application was submitted jointly with Black Desert Resort to demonstrate its contribution to economic development, which provided an advantage in the application process. The total grant awarded was $1,500,000, and, as outlined in our grant application, $1,000,000 of the funds will be allocated to Black Desert Resort.

Additionally, we have submitted a grant application to the WCWCD to secure further funding for the AMI system. WCWCD has verbally committed to covering 11% of Ivins City's project costs, up to a maximum of $170,500. We are currently preparing a funding agreement to present to the WCWCD board to formalize this commitment. Furthermore, WCWCD has agreed to return to cities the funds collected from Excess Water Use Surcharges, provided these funds are used for water conservation projects. For Ivins City, this amount totals $83,296, which can also be allocated to the AMI project.

FINDINGS AND ANALYSIS:

Project Cost Estimate:		$1,550,000
State Grant Funding:	32%	$500,000
WCWCD Grant Funding:	11%	$170,500
WCWCD Excess Surcharge Refund:	5%	$83,000
Remaining Funding Needed:	51%	$796,500

SUPPORT MATERIALS:

Cost Estimate
State Grant Agreement
BDR Reimbursement Agreement

FINANCIAL IMPACT:
Portion of Project to funded by Ivins City is $796,500

Respectfully Submitted: _____
Charles Gillette, P.E., Public Works Director & City Engineer

Content Review: _____
Dale Coulam, City Manager

Ivins City Advanced Metering Infrastructure (AMI) Installation Project

Date: 10/25/2024

Item	Description	Quantity	Units	Unit Price	Total
1	BEACON AMA Starter Kit	1	LS	3,500	3,500
2	Engagement Fee Setup	1	LS	5,675	5,675
3	Billing Integration Fee	1	LS	5,880	5,880
4	On-Site Training	1	LS	1,100	1,100
5	Orion Cellular Endpoints	4,350	EA	170	739,500
	Installation of Endpoints, Crew of 2, 10 minutes per	1,450	HR	65	94,250
6	HRE/LCD Registers	2,200	EA	50	110,000
	Installation of Registers, Crew of 2, 10 minutes per	733	HR	65	47,667
7	Nicor Engineered Polymer Lid	4,350	EA	42	182,700
8	Installation Labor 15 m,ins per	4,350	EA	35	152,250
				Subtotal	1,342,522
				15% Contingency	201,378
				Total	1,543,900
				Rounded Total	**$ 1,550,000**

Funding Proposal

DWRe Funding	32%	$	**500,000**
WCWCD Funding - 11%	11%	$	**170,500**
WCWCD Excess Surcharge Refund	5%	$	**83,000**
Ivins City	51%	$	**796,500**

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES

Copies:
DWRe
Consult

DIVISION OF WATER RESOURCES

Contract No.

Date _____

Vendor No. 55394C TIN 87-0292376

Vendor IVINS CITY

Address 85 NORTH MAIN STREET

City IVINS State UTAH Zip 84738

c/o Charles Gillette Phone 435-668-9909

Title Public Works Director Email cgillette@ivinsutah.gov

Commodity Code 99999 Payable X Receivable _____

Description: PROVIDE FUNDS TO UPGRADE THE EXISTING WATER METER SYSTEM IN IVINS CITY FROM AN AUTOMATED METER READING SETUP TO AN ADVANCED METERING INFRASTRUCTURE

Payment:		Receive:	
Frequency	As Requested	Frequency	
Amount	Variable	Amount	
Total	$1,500,000	Total	
Effective Date		Expiration Date	6/30/2026

Fund	Dept	Unit	Approp Unit	Balance Sheet	Expend/ Revenue	Program	Phase	Activity	Total Amount
1000	560	6204	RPD		7501	RT109			$1,500,000

Approved MK MK SGD SGD TS TS JRW JRW JE JSC CH CAH CONT _____

PATRICK CAMPANA
Monitor

Pat Campana
Signature

Grant Agreement

Grant To
IVINS CITY
From
UTAH DEPARTMENT OF NATURAL RESOURCES,
DIVISION OF WATER RESOURCES

This GRANT AGREEMENT is made and entered into upon the date of the last signature to this document, between the State of Utah, Department of Natural Resources, Division of Water Resources (WRe) and Ivins City (Grant Recipient), for the work described in Item 1 below. Funding for this agreement is provided through the State of Utah 2024 General Legislative Session, House Bill 003, line item 54 for water infrastructure projects.

The terms and conditions of this Grant Agreement are as follows:

1. WRe shall grant to Grant Recipient $1,500,000 (the "Grant") toward water infrastructure that provides economic development and the upgrade of the existing water meter system from Automated Meter Reading to Advanced Metering Infrastructure. WRe shall reimburse Grant Recipient for the actual costs incurred up to this Grant amount.

2. Grant Recipient has provided WRe a detailed budget outlining how the Grant will be used. This budget is attached to this Grant Agreement as Attachment B.

3. Grant Recipient shall document and retain all supporting information associated with the work done under this grant.

4. Grant Recipient shall provide WRe with an annual report in writing by June 30th of each year. The annual report shall describe expenditures covered by the Grant toward the project to that date. The annual report shall also describe annual deliverables and performance metrics that demonstrate sufficient progress toward fulfilling the Grant's purpose, as follows:
    a. **Black Desert Resort Waterline Construction along Weiskopf Way & Black Desert Drive:**
        i. Performance Metric: % Completion of Waterline Construction
        ii. Deliverable: Constructed Waterline
    b. **Purchase of Advanced Metering Infrastructure:**
        i. Performance Metric: N/A
        ii. Deliverable: Purchased Advanced Metering Infrastructure

5. No later than **June 30, 2026**, Grant Recipient shall provide WRe with a final report. The final report shall detail the extent to which Grant Recipient fulfilled the Grant's purpose, including total expenditures, deliverables, and performance metrics described in paragraph 4.

6. Unless otherwise stated in this Agreement, WRe agrees to reimburse Grant Recipient 100% of costs incurred toward completion of the purpose of the Grant up to the Grant amount upon submission and approval of a detailed invoice and proof of payment. The final disbursement will be paid upon receipt of a final report as outlined in Paragraph 5, accompanied by a detailed invoice and proof of payment.

7. All expenditures associated with this project for which Grant Recipient receives reimbursement from any other participating entity are not reimbursable by WRe. Grant Recipient shall report such expenditures reimbursed by other entities in the annual and final reports described in paragraphs 4 and 5.

8. All funds are subject to legislative appropriation. Ongoing appropriations are still subject to legislative changes on a year-to-year basis.

9. Grant Recipient acknowledges and agrees that the State of Utah may audit the records that pertain to the performance of this grant. If State audit findings determine that any funds expended by Grant Recipient violate the terms of this Grant Agreement, Grant Recipient shall provide funds to the State sufficient to meet such repayment request(s). If the Grant Recipient is unwilling or unable to repay the funds, the repayment request amount will become a past due obligation of the Grant Recipient to the State and may be collected as such.

10. Grant Recipient agrees to follow purchasing practices that ensure procurement is conducted in such a way that promotes fair and competitive prices.

11. Grant Recipient agrees to declare any known or potential conflicts of interest with their suppliers or others that may influence their decision making.

12. Grant Recipient agrees to comply with the standard terms and conditions attached to this Grant Agreement as Attachment A.

13. This agreement has an expiration date of **June 30, 2026**.

SIGNATURES TO FOLLOW

Chris Hart/Mayor	Date
Charles Gillette/Public Works Director	Date
Division of Water Resources/Director	11/11/2024 Date
Division of Water Resources/Financial Manager	11/07/2024 Date
State of Utah/Division of Finance	Date

ATTACHMENT A: STATE OF UTAH AGENCY STANDARD TERMS AND CONDITIONS FOR GOODS AND/OR SERVICES

These terms and conditions may only be used when both parties are government entities or political subdivisions as defined in the Utah Government Immunity Act.

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
   a) "**Confidential Information**" means information that is deemed as confidential under applicable state and federal laws, and personal data as defined in Utah Code 63A-19-101. The State Entity reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
   b) "**Contract**" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" shall include any purchase orders that result from this Contract.
   c) "**Contract Signature Page(s)**" means the State of Utah cover page(s) that the State Entity and Contractor signed.
   d) "**Contractor**" means the individual or entity delivering the Procurement Item identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
   e) .
   f) "**Goods**" means all types of tangible personal property, including but not limited to materials, supplies, Custom Deliverable, and equipment that Contractor is required to deliver to the State Entity under this Contract.
   g) "**Procurement Item**" means Goods, a supply, Services, Custom Deliverable, construction, or technology that Contractor is required to deliver to the State Entity under this Contract.
   h) "**Response**" means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the State Entity's Solicitation.
   i) "**Services**" means the furnishing of labor, time, or effort by Contractor pursuant to this Contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code
   j) "**Solicitation**" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
   k) "**State Entity**" means the department, division, office, bureau, agency, or other organization identified on the Contract Signature Page(s).
   l) "**State of Utah**" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
   m) "**Subcontractors**" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction, including a trade contractor or specialty contractor.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the State Entity to Contractor under this Contract. These records shall be retained by Contractor 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. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, State Entity staff, or their designees, access to all such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.
5. **PERMITS:** If necessary Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of this Contract.
6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** INTENTIONALLY DELETED
7. **CONFLICT OF INTEREST:** INTENTIONALLY DELETED
8. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State Entity or the State of Utah.
9. **CONTRACTOR RESPONSIBILITY:** Contractor is solely responsible for fulfilling the contract, with responsibility for all Procurement Items delivered and/or performed as stated in this Contract. Contractor shall be the sole point of contact regarding all contractual matters. Contractor must incorporate Contractor's responsibilities under this Contract into every subcontract with its Subcontractors that will provide the Procurement Item(s) to the State Entity under this Contract. Moreover, Contractor is responsible for its Subcontractors compliance under this Contract.
10. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the State Entity and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract to the extent caused by any intentional wrongful act or negligence of Contractor, its agents, employees, officers, partners, or

Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the fault of the State Entity. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.

11. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.

12. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract and is within the scope/purpose of the original solicitation for which this Contract was derived. The amendment will be attached and made part of this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.

13. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

14. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the State Entity, upon thirty (30) days written termination notice being given to the Contractor. The State Entity and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

    On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Procurement Items ordered prior to date of termination. In no event shall the State Entity be liable to the Contractor for compensation for any Good neither requested nor accepted by the State Entity. In no event shall the State Entity's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State Entity for any damages or claims arising under this Contract.

15. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the State Entity, if the State Entity reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State Entity's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

    If a written notice is delivered under this section, the State Entity will reimburse Contractor for the Procurement Item(s) properly ordered and/or services properly performed until the effective date of said notice. The State Entity will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

16. **SALES TAX EXEMPTION:** The Procurement Item(s) under this Contract will be paid for from the State Entity's funds and used in the exercise of the State Entity's essential functions as a State of Utah entity. Upon request, the State Entity will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the State Entity's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.

17. **WARRANTY OF PROCUREMENT ITEM(S):** Contractor warrants, represents and conveys full ownership and clear title, free of all liens and encumbrances, to the Procurement Item(s) delivered to the State Entity under this Contract. Contractor warrants for a period of one (1) year that: (i) the Procurement Item(s) perform according to all specific claims that Contractor made in its Response; (ii) the Procurement Item(s) are suitable for the ordinary purposes for which such Procurement Item(s) are used; (iii) the Procurement Item(s) are suitable for any special purposes identified in the Contractor's Response; (iv) the Procurement Item(s) are designed and manufactured in a commercially reasonable manner; (v) the Procurement Item(s) are manufactured and in all other respects create no harm to persons or property; and (vi) the Procurement Item(s) are free of defects. Unless otherwise specified, all Procurement Item(s) provided shall be new and unused of the latest model or design.

    Remedies available to the State Entity under this section include, but are not limited to, the following: Contractor will repair or replace Procurement Item(s) at no charge to the State Entity within ten (10) days of any written notification informing Contractor of the Procurement Item(s) not performing as required under this Contract. If the repaired and/or replaced Procurement Item(s) prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State Entity may otherwise have under this Contract.

18. **CONTRACTOR'S INSURANCE RESPONSIBILITY:** INTENTIONALLY DELETED
19. **RESERVED.**

20. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah

express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Response will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.

21. **DELIVERY:** All deliveries under this Contract will be F.O.B. Destination Freight Prepaid and Allowed, unless specifically negotiated otherwise and explicitly written in this contract, with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State Entity, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.

22. **ACCEPTANCE AND REJECTION:** The State Entity shall have thirty (30) days after delivery of the Procurement Item(s) to perform an inspection of the Procurement Item(s) to determine whether the Procurement Item(s) conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Procurement Item(s) by the State Entity.

    If Contractor delivers nonconforming Procurement Item(s), the State Entity may, at its option and at Contractor's expense: (i) return the Procurement Item(s) for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Procurement Item(s); or (iii) obtain replacement Procurement Item(s) from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Procurement Item(s) without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the State Entity to redeliver the corrected Procurement Item(s). Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.

23. **INVOICING:** Contractor will submit invoices within thirty (30) days of the delivery date of the Procurement Item(s) to the State Entity. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the State Entity will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Response or on its invoice. The State Entity has the right to adjust or return any invoice reflecting incorrect pricing.

24. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the State Entity, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the State Entity within ten (10) business days of receipt of final payment, shall release the State Entity and the State of Utah from all claims and all liability to the Contractor. The State Entity's payment for the Procurement Item(s) and/or services shall not be deemed an acceptance of the Procurement Item(s) and is without prejudice to any and all claims that the State Entity or the State of Utah may have against Contractor. The State of Utah and the State Entity will not allow the Contractor to charge end users electronic payment fees of any kind.

25. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the State Entity and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the State Entity or the State of Utah for infringement of a third-party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.

26. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor each recognizes that each has no right, title, or interest, proprietary or otherwise, in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Procurement Item(s), documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the State Entity.

27. **OWNERSHIP IN CUSTOM DELIVERABLES:** INTENTIONALLY DELETED

28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the State Entity.

29. **REMEDIES:** Any of the following events will constitute cause for the State Entity to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The State Entity may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the State Entity may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the State Entity or the State of Utah; or (v) demand a full refund of any payment that the State Entity has made to Contractor under this Contract for Procurement Item(s) that do not conform to this Contract.

30. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The State Entity may terminate this Contract after determining such delay will prevent successful performance of this Contract.

31. **CONFIDENTIALITY:** If Contractor has access to or processes Confidential Information, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) comply with any requirements contained in the contract regarding permitted uses and disclosures of personal data, measures designed to safeguard personal data, and the destruction of personal data. Contractor will promptly notify the State Entity of any potential or actual misuse or misappropriation of Confidential Information, including

any data breaches, in accordance with UCA 63A-19 Government Data Privacy Act. In Accordance with UCA 63A-19, Contractor must comply with all the same requirements regarding personal data as the State. .

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the State Entity and the State of Utah, including anyone for whom the State Entity or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the State Entity or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

32. **PUBLICITY:** Contractor shall submit to the State Entity for written approval all advertising and publicity matters relating to this Contract. It is within the State Entity's sole discretion whether to provide approval, which approval must be in writing.
33. **WORK ON STATE OF UTAH OR ELIGIBLE USER PREMISES**: Contractor shall ensure that personnel working on State of Utah premises shall: (i) abide by all of the rules, regulations, and policies of the premises; (ii) remain in authorized areas; (iii) follow all instructions; and (iv) be subject to a background check, prior to entering the premises. The State of Utah or Eligible User may remove any individual for a violation hereunder.
34. **CONTRACT INFORMATION:** INTENTIONALLY DELETED
35. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
36. **SUSPENSION OF WORK:** Should circumstances arise which would cause the State Entity to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the State Entity.
37. **CHANGES IN SCOPE**: Any changes in the scope of the Procurement Item(s) to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of the Procurement Item(s).
38. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any, Procurement Item(s), supplies, , construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such Procurement Item(s), supplies, , construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
39. **ATTORNEY'S FEES:** INTENTIONALLY DELETED
40. **TRAVEL COSTS:** If travel expenses are permitted by the Solicitation, then all travel costs associated with the delivery of Procurement Item(s) under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to Contractor for correction.
41. **DISPUTE RESOLUTION:** INTENTIONALLY DELETED
42 **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the State Entity or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
43. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default of this Contract or defect in the Procurement Item(s) that has not been cured, or of any of the following clauses, including: Governing Law and Venue, Laws and Regulations, Records Administration, Remedies, Dispute Resolution, Indemnity, Newly Manufactured, Indemnification Relating to Intellectual Property, Warranty of Procurement Item(s), Insurance.
44. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
45. **ERRORS AND OMISSIONS:** Contractor shall not take advantage of any errors and/or omissions in this Contract. The Contractor must promptly notify the State of any errors and/or omissions that are discovered.
46. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
47. **ANTI-BOYCOTT ACTIONS**: In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any "economic boycott" nor a "boycott of the State of Israel" as those terms are defined in Section 63G-27-102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in writing.
48. **TIME IS OF THE ESSENCE:** The Procurement Item(s) shall be completed by any applicable deadline stated in this Contract. For all Procurement Item(s), time is of the essence. Contractor shall be liable for all reasonable damages to the State Entity, the State of Utah, and anyone for whom the State of Utah may be liable as a result of Contractor's failure to timely perform the Procurement Item(s) required under this Contract.
49. **PERFORMANCE EVALUATION:** The State Entity may conduct a performance evaluation of Contractor's Procurement

Item(s), including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.

50. **STANDARD OF CARE:** The Procurement Item(s) of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having regular experience providing similar Procurement Item(s) which similarities include the type, magnitude, and complexity of the Procurement Item(s) that are the subject of this Contract. Contractor shall be liable to the State Entity and the State of Utah for claims, liabilities, additional burdens, penalties, damages, or third-party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
51. **REVIEWS:** The State Entity reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Procurement Item(s) of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
52. **Restricted Foreign Entities and Forced Labor:** In accordance with Utah law, Contractors contracting with the State certify that they are not providing a "forced labor product" as defined in Utah Code 63G-6a-121. If the Contractor is providing technology or technology services, networks, or systems, the Contractor certifies that the aforementioned does not come from a "restricted foreign entity," as also defined in UCA 63G-6a-121.

(Revision Date: 9/16/2024)

Attachment B

Ivins City:
AMI System Upgrade and Public Water Infrastructure Enhancement Project

Project Budget and Schedule

Items	Description	Projected Cost	Actual Cost	Projected Date of Completion	Date of Completion
Advanced Metering Infrastructure Implementation Cost Break Down					
Purchase Equipment	Purchase cellular endpoints, LCD registers, nicor polymer lids	$500,000.00		7/1/2025	
Public Water Infrastructure Enhancement Cost Break Down					
Weiskopf Way & Black Desert Drive Waterline Construction	Waterline that was constructed as part of Black Desert Resort Project	$1,000,000.00		9/30/2024	9/30/2024
	Project Total	**$1,500,000.00**	**$0.00**		
	Grant Amount	$1,500,000.00			
	Unallocated Grant Funds	$0.00	$1,500,000.00		