

## REQUEST FOR COUNCIL ACTION

**SUBJECT:** "Big Bend" Habitat Project

**SUMMARY:** Approve a contract with River Restoration.org for the coordination of grant management, implementation and fundraising services for the "Big Bend" Habitat Area with City staff.

**FISCAL AND/OR  
ASSET IMPACT:**

The initial funding for this project is \$23,452 which is provided from existing grants and future grants will request a 7% administration fee from the funding agency. No direct charges to the City will be required.

**STAFF RECOMMENDATION:**

Staff recommends approval of a contract with River Restoration.org for management, implementation and fundraising services for the "Big Bend" Habitat area.

**MOTION RECOMMENDED:**

"I move to adopt Resolution 16-116 authorizing the Mayor to execute the contract with River Restoration.org for ongoing grants management, implementation and fundraising services for initially \$23,453 and then not to exceed 7% for future grants.

Roll Call vote required

**Prepared by:**



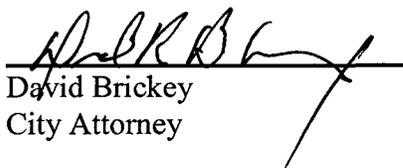
Charles Tarver  
Grants Manager

**Reviewed by:**



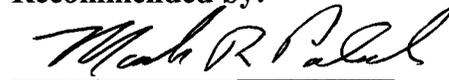
David Oka  
Development Director

**Reviewed as to Legal Sufficiency**



David Brickey  
City Attorney

**Recommended by:**



Mark R. Palesh  
City Manager

## **BACKGROUND DISCUSSION:**

River Restoration.org has been an active partner with the development of the design of the “Big Bend” Habitat area project located along the Jordan River. Under the initial phase of the project, River Restoration.org prepared plans and designs for the development of this 70 acre habitat area.

Because of the complexity and challenges of habitat restoration, the City needs a consultant specializing in this field for coordination with City staff in the development of grant application processing, project implementation and fundraising.

The City issued a Request for Proposals and received one response from River Restoration.org for these services. Based upon past performance and success of River Restoration.org with the City, Staff feels that this company is best suited for the required services.

# THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 16-116

## A RESOLUTION AUTHORIZING THE EXECUTION BY THE MAYOR OF AN AGREEMENT BETWEEN THE CITY OF WEST JORDAN AND RIVER RESTORATION.ORG

WHEREAS, the City Council of the City of West Jordan desires to enter into an agreement between River Restoration.org and the City of West Jordan for ongoing grants management, implementation and fundraising services for the "Big Bend" Habitat project; and

WHEREAS, the Mayor is authorized to execute this agreement pursuant to Utah Code Annotated 10-3-1223,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. The Mayor is authorized and directed to execute the Agreement entitled as follows:

"Habitat Consulting Services (Ph3 Grants Management) for "Big Bend" Habitat Restoration"

Section 2. This Resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 27th day of July 2016.

KIM V. ROLFE  
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC  
City Clerk

Voting by the City Council	"AYE"	"NAY"
Dirk Burton	_____	_____
Jeff Haaga	_____	_____
Zach Jacob	_____	_____
Chris McConnehey	_____	_____
Chad Nichols	_____	_____
Sophie Rice	_____	_____
Mayor Kim V. Rolfe	_____	_____

**RiverRestoration.org**  
**Professional Services Agreement**

This is an agreement made as of this 20th day of June 2016, between:  
**The City of West Jordan** (Client) and **RiverRestoration.org, LLC** (RiverRestoration.org) a Colorado Limited Liability Company.

Client hereby retains RiverRestoration.org to perform services in connection with: **Habitat Consulting Services (Ph 3 Grants Management) for "Big Bend" Habitat Restoration** (Project) as described in Attachment A dated **June 20, 2016**. RiverRestoration.org agrees to perform the services in consideration of the compensation described in Attachment A and in accordance with the terms described in the attached Standard Terms and Conditions.

This Agreement consists of this document together with Attachment A and Attachment B, Standard Terms and Conditions 10/04/2011. This agreement between the Client and RiverRestoration.org supersedes all prior written and oral understandings pertaining to the Project. This agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

In executing this Agreement, the undersigned also acknowledge their authority to bind the parties to all terms and conditions.

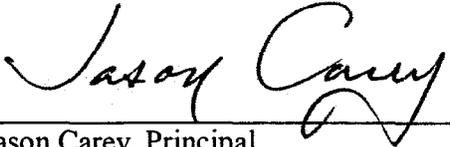
In witness whereof, the parties hereto have made and executed this Agreement as of the day and year first written.

CLIENT ADDRESS:  
Attn: Chuck Tarver  
The City of West Jordan  
8000 South Redwood Road,  
West Jordan, UT 84088  
[charlest@wjordan.com](mailto:charlest@wjordan.com)

RiverRestoration.org  
P.O. Box 248  
Carbondale, CO 81623  
970-947-9568  
[Jason.carey@riverrestoration.org](mailto:Jason.carey@riverrestoration.org)

By: \_\_\_\_\_  
Name, Title

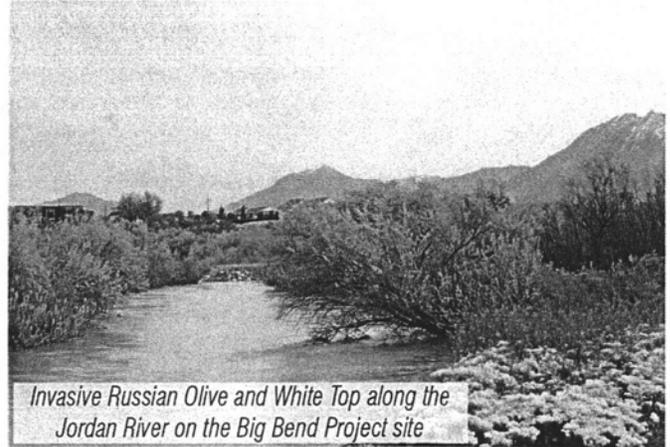
By:

  
\_\_\_\_\_  
Jason Carey, Principal

## WORK PLAN

**Task 1 – Manage and Implement Grants** – The RiverRestoration Team will provide oversight and management for the implementation of the current and anticipated grants awarded to the project. Proper management and implementation of these grants is important to meet the needs/requirements of each funder and keep future funding opportunities available.

Watershed Restoration Initiative (WRI) FY 2016 – The team is currently finishing up this \$25,000 grant. The grant’s main focus is on vegetation management on the site, primarily adjacent to the Jordan River. The team has contracted with the Utah Conservation Corps (UCC) to perform the work and a local landscape contractor to provide the native plantings. RiverRestoration will continue to provide oversight, training and management for the crews and coordinate with the City of West Jordan on all administration requirements.

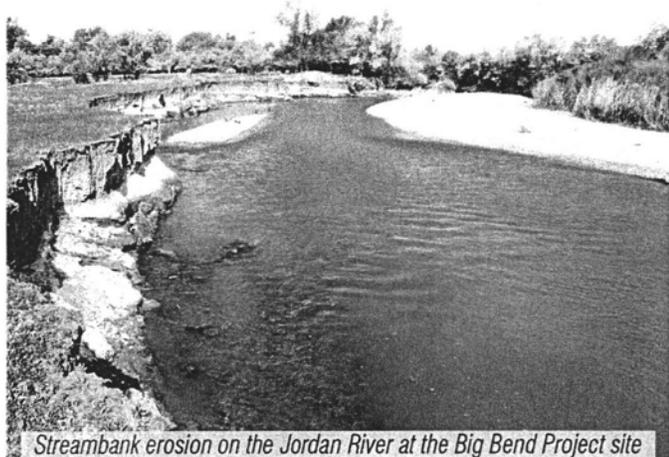


*Invasive Russian Olive and White Top along the Jordan River on the Big Bend Project site*

Jordan River Commission – Large Grant – This \$81,000 grant was awarded in the fall of 2015 and is primarily focused on vegetation management and a small portion will be used for design work of the recreational components. The team will manage UCC crews and volunteer groups, include the local Rotary chapter, in the effort to remove invasive and noxious plant species and replace them with native plantings. RiverRestoration will also work with the URMCC and the North Jordan Irrigation Canal company to bring irrigation water to the newly planted areas for vegetation establishment.

Jordan River Commission – Community Connections Grant – This \$58,000 grant was awarded in the fall of 2015 and primarily focused on the design of an access road and parking area in the south east corner of the site. The team has contacted a transportation engineer to design the UDOT specific elements associated with the right hand turn lane off of 9000 S. The access road and parking area will be designed in-house by BIO-WEST staff. The end deliverable will be a permit from UDOT and a set of engineering plans.

Rocky Mountain Power Grant – This \$15,000 grant over three years was awarded in the winter of 2015 and primarily focuses on vegetation management along the access road corridor (RMP property) and the design of a security gate for the access road. The team will contract with and manage UCC crews and local volunteers to perform the onsite work, coordinating with RMP environmental reps through this process. The team will contract with a specialty firm to design the security gate. Rocky Mountain Power is a key stakeholder for the project and will be key to the success of the project. The team will strive to build a strong relationship between RMP and the City of West Jordan.



*Streambank erosion on the Jordan River at the Big Bend Project site*

Watershed Restoration Initiative (WRI) FY 2017 – This grant, which was submitted in January 2015, is for completing the design of Phase 3 of the project, which includes the urban fishery and its supporting infrastructure, connections to the North Jordan Irrigation Canal and a network of primary and secondary trail system. The team developed the 30 percent design for the project and is intimately familiar with the challenges and constraints associated with the project. The primary deliverable for this grant work will be “shovel ready” construction documents and required permits for this portion of the project.



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**Task 2 – Fundraising Services** – The River Restoration Team will continue to aggressively pursue funding for the project for the City of West Jordan. The team has strong relationships with many of the funders and will actively engage resource agencies about funding opportunities and requirements.

Department of Agriculture and Foods Invasive Species Mitigation (ISM) Grant – This is a grant the team has been tracking for several months. \$1.8M was awarded for 2015-2016 and the team is anticipating similar funds for this year. The team will track the grant and complete and submit the application in a timely manner.

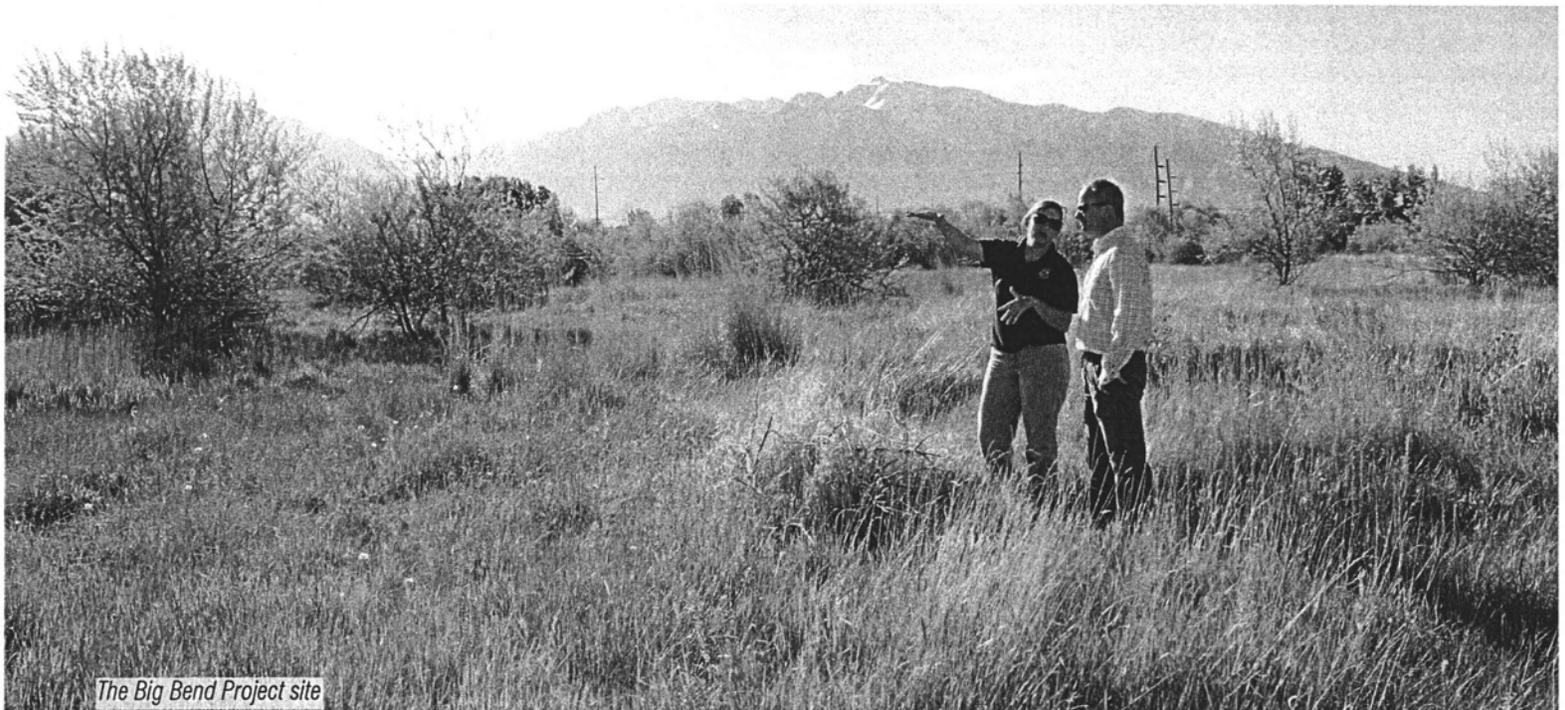
Waypoint Grant (Governor's Office of Economic Development) – This is a grant seemingly tailor made for the project. It is due this summer. Team members have been coordinating with members of the funding committee, educating them about and building support for the Big Bend Restoration Project. RiverRestoration will continue to build interest in the project at the Governor's Office of Economic Development and complete the grant application in time to receive review from the City of West Jordan Staff.

Upcoming Jordan River Commission Grants – Several JRC grants are upcoming in the second half of 2016. The team will proactively coordinate with JRC staff through the spring and summer, building support for the project. RiverRestoration will complete the required grant application with sufficient time for review by City of West Jordan and submit each to the JRC prior to the due date.

Grant TBD – This final entry of Task 2 is a placeholder for upcoming funding opportunities. The team is working with the project's fundraising committee to identify additional grants and other funding sources. RiverRestoration will actively pursue these opportunities.

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The anticipated fees for this work are included in this proposal. There are no charges directly to the City of West Jordan for managing and implementing the grant awards as the administrative fees for this oversight is written into the funding request.

*Please note that this work plan is a short summary of the tasks anticipated for the project. A detailed scope of work and contract will be negotiated with the City of West Jordan after project award.*



*The Big Bend Project site*



## ESTIMATED FEES

City of West Jordan  
Habitat Consulting Services - Big Bend Restoration Project

Design Fee Breakdown<sup>3</sup>  
April 25, 2016

Task	Description	Principal Engineer	Project Manager/ Engineer	Hydraulic Scientist/PhD	Wetland Scientist / Hydrologist	Engineer Field / EIT	Landscape Designer	Hydrographic Survey Crew	Total Hours	Total Budget by Task
1.0	Manage and Implement Grants									\$ -
	Watershed Restoration Initiative (WRD) FY 2016 Funding <sup>1</sup>									\$ -
	Jordan River Commission - Large Grant <sup>1</sup>									\$ -
	Jordan River Commission - Community Connections Grants <sup>1</sup>									\$ -
	Rocky Mountain Power Grant <sup>1</sup>									\$ -
	Watershed Restoration Initiative (WRD) FY 2017 Funding <sup>1</sup>									\$ -
2.0	Fundraising Services	8	52		128				188	\$22,452
	Department of Agriculture and Foods Invasive Species Management Grant <sup>2</sup>	2	12		24				38	\$4,603
	Governor's Office of Economic Development Coordination (Waypoint Grant) <sup>2</sup>	2	4		40				46	\$5,243
	Upcoming Jordan River Commission Grants <sup>2</sup>	2	24		40				66	\$8,003
	Grant TBD <sup>2</sup>	2	12		24				38	\$4,603
	<i>Total Hours</i>	8	52		128				188	
	<i>Billing Rate</i>	\$165.50	\$138.00	\$124.00	\$109.00	\$101.50	\$101.50	\$194.50		
	<i>Total Labor Cost</i>	\$1,324	\$7,176		\$13,952					\$22,452
	<i>Direct Expenses</i>									
	<i>Hotels and Mileage (@ \$0.55/mile)</i>									\$1,000
	<b>Consultant Total</b>									\$23,452

**Assumptions:**

<sup>1</sup>Administrative costs of 7% were written into these grants, covering the cost of managing them. Charges directly to the City of West Jordan will not be required.

<sup>2</sup>Fees shown are for researching, writing and submitting each grant. Managing and implementing each grant will be factored into the funding request.

<sup>3</sup>The team anticipates negotiating a detailed scope of work and contract with the City of West Jordan upon award of the project.

## Attachment B

### RiverRestoration.org Standard Terms & Conditions

**Services:** RiverRestoration.org will perform services for the Project as set forth in Attachment A and in accordance with these Terms & Conditions. RiverRestoration.org has developed the Project scope of service, schedule, and compensation based on available information and various assumptions. The Client acknowledges that adjustments to the schedule and compensation may be necessary based on the actual circumstances encountered by RiverRestoration.org in performing their services.

**Authorized Representatives:** The officer assigned to the Project by RiverRestoration.org is the only authorized representative to make decisions or commitments on behalf of RiverRestoration.org. Client representations are not binding unless in writing, approved by the West Jordan City Council and signed by the West Jordan Mayor.

**Contract Length:** The Client acknowledges that this contract will extend through the full completion and construction of the Big Bend Restoration Project. Future additions to work performed by RiverRestoration.org required to complete the Big Bend Restoration Project will be done through the change order process with the City of West Jordan and not through the proposal process and a new contract.

**Project Requirements:** The Client shall confirm the objectives, requirements, constraints, and criteria for the Project at its inception. If the Client has established design standards, they shall be furnished to RiverRestoration.org at Project inception. RiverRestoration.org will review the Client design standards and may recommend alternate standards considering the standard of care provision.

**Site Access:** The Client shall obtain all necessary approvals for RiverRestoration.org to access the Project site(s).

**Period of Service:** RiverRestoration.org shall perform the services for the Project in a timely manner consistent with sound professional practice. RiverRestoration.org will strive to perform its services according to the Project schedule set forth in Attachment A. The services of each task shall be considered complete when deliverables for the task have been presented to the Client.

**Compensation:** In consideration of the services performed by RiverRestoration.org, the Client shall pay RiverRestoration.org in the manner set forth in Attachment A. The parties acknowledge that terms of compensation are based on an orderly and continuous progress of the Project.

**Payment Definitions:** The following definitions shall apply to methods of payment:

*Lump Sum* is defined as a fixed price amount for the scope of services described.

*Standard Rates* is defined as individual time multiplied by standard billing rates for that individual

*Subcontracted Services* are defined as Project related services provided by other parties to RiverRestoration.org.

*Reimbursable Expenses* are defined as actual expenses incurred in connection with the Project.

**Payment Terms:** RiverRestoration.org shall submit monthly invoices for services performed and Client shall pay the verified invoice amount within 30 days of the invoice date. Invoices will be considered correct if not questioned in writing within 30 days of the invoice date. RiverRestoration.org shall be entitled to interest of 1.5% for late payments. Client payment to RiverRestoration.org is not contingent on arrangement of project financing. Invoice payment delayed beyond 60 days shall give RiverRestoration.org the right to stop work until payments are current. Non-payment beyond 90 days shall be just cause for termination by RiverRestoration.org.

**Additional Services:** The Client and RiverRestoration.org acknowledge that services are limited to those identified in Attachment A and that additional services may be necessary. RiverRestoration.org's scope of services shall not be increased or reduced without written agreement signed by both parties. Client shall pay RiverRestoration.org for additional services that are authorized in writing, in amounts agreed to in advance. Unless the parties agree in writing, no liability and no right to claim payment for such additional services shall exist.

**Independent Consultant:** RiverRestoration.org shall serve as an independent consultant for services provided under this agreement. RiverRestoration.org shall retain control over the means and methods used in performing their services and may retain subconsultants to perform certain services as determined by RiverRestoration.org.

## Attachment B

**Standard of Care:** Services provided by RiverRestoration.org will be performed with the care and skill ordinarily exercised by members of the same profession practicing under similar circumstances. RiverRestoration.org will not be liable for the cost of any omission that adds value to the Project.

**Compliance with Laws:** RiverRestoration.org shall perform its services consistent with sound professional practice and endeavor to incorporate laws, regulations, codes, and standards applicable at the time the work is performed. In the event that standards of practice change during the Project, and additional services are needed to conform to the standard of practice, the parties shall negotiate additional services and compensation therefore, in good faith.

**Permits and Approvals:** If included in the scope of service, RiverRestoration.org will assist the Client in preparing applications and supporting documents, as for the Client to secure permits and approvals from agencies having jurisdiction over the Project. The Client agrees to pay all application and review fees.

**Ownership of Documents:** Documents prepared by RiverRestoration.org for the Project are instruments of service and shall remain the property of RiverRestoration.org. Record documents of service shall be based on the stamped and signed copy. RiverRestoration.org may furnish working or draft documents electronically that are for limited purposes of the specific Project and may be protected otherwise under the Uniform Trade Secrets Act. RiverRestoration.org assigns to Client the copyrights to all Record documents created pursuant to this contract, including the right to: 1) reproduce the work; 2) distribute copies to the public; 3) perform the works publicly; and 4) to display the work publicly for the limited purposes which it is intended. RiverRestoration.org shall not be held liable for the mis-use of documents for any purpose other than those limited purposes authorized herein.

**Insurance:** RiverRestoration.org will maintain the following insurance coverage limits during the period of service. The Client will be named as additional insured on the Commercial General and Auto liability policies. The Client shall obtain the council of others in setting insurance limits for construction contracts.

- Workers Compensation: \$1,000,000
- Commercial General Liability: \$2,000,000 per occurrence (bodily injury including death and property damage) \$4,000,000 aggregate.
- Automobile Liability: \$1,000,000 combined single limit
- Professional Liability: \$1,000,000 each claim and in the aggregate.

**Indemnification:** RiverRestoration.org shall indemnify the Client, its elected officials, officers, and employees damages caused by a proven negligent act, error, or omission of RiverRestoration.org in the performance of services under the Project. If such damage results in part by the negligence of another party, RiverRestoration.org shall be liable only to the extent of their proportional negligence. The Project may include modifications to public waters. The Client acknowledges the inherent risks associated with public waters and that those inherent risks are retained by the Project.

**Consequential Damages:** Neither the Client nor RiverRestoration.org shall be liable to the other for incidental, indirect or consequential damages regardless of the nature or fault. This mutual waiver of damages includes, but is not limited to, claims for loss of use, income, profit, financing, business, reputation, or claims for delay damages or damages due to either party's termination under this agreement.

**Environmental Matters:** The Client warrants they have disclosed all known potential hazardous materials that may be encountered on the Project. In the event unknown hazardous materials are encountered, RiverRestoration.org shall be entitled to reasonable additional compensation for appropriate actions to protect the health and safety of its personnel.

**Cost Opinions:** RiverRestoration.org shall prepare cost opinions for the Project based on historical information that represents the judgment of a qualified professional. The Client and RiverRestoration.org acknowledge that actual costs may vary from the cost opinions prepared and that RiverRestoration.org offers no guarantee related to the Project cost.

**Independent Counsel:** The Client agrees to obtain independent legal, real-estate and financial counsel for the Project considering RiverRestoration.org does not furnish these services.

**Contractor Selection:** RiverRestoration.org may make recommendations concerning award of construction contracts and products. The Client acknowledges that the final selection of construction contractors and products is Client's sole responsibility.

## Attachment B

**Shop Drawing Review:** If included in the scope of service, RiverRestoration.org shall review shop-drawing submittals from the contractor solely for their conformance with the design intent of and performance criteria specified for the Project. RiverRestoration.org shall not be liable for the performance of or consequential damages of any equipment furnished by the contractor under the Project.

**Construction Review:** If included in the scope of service, RiverRestoration.org shall make limited and intermittent observations of the progress and content of the work to determine if the work is proceeding in general accordance with the Contract Documents. This construction review is intended to observe, document, and report information concerning the construction process. Observation of work at the Project site shall not make RiverRestoration.org responsible for the work performed by another party, the means, methods, techniques, sequences, or procedures selected by another party, nor the safety precautions or programs of another party.

**Rejection of Work:** RiverRestoration.org may recommend that the Client reject work by construction contractors that does not conform to the requirements of the Project.

**Safety:** RiverRestoration.org shall be responsible solely for the safety precautions or programs of its employees and no other party.

**Information from Other Parties:** The Client and RiverRestoration.org acknowledge that RiverRestoration.org will rely on information furnished by Client in performing its services under the Project. Client shall furnish RiverRestoration.org with all necessary reports or information prepared by Client's other consultants, and RiverRestoration.org shall be entitled to rely upon the accuracy and completeness of such reports and information. RiverRestoration.org shall not be liable for any damages that may be incurred by the Client in the use of third party information.

**Construction Record Drawings:** If included in the scope of service, RiverRestoration.org will deliver drawings to the Client incorporating information furnished by construction contractors. In that construction record drawings are based on information provided by others, RiverRestoration.org cannot and does not warrant their accuracy.

**Force Majeure:** Neither party will hold the other responsible for damages or delay caused by Acts of God, acts of war, strikes, accidents, or other events beyond the other's control.

**Dispute Resolution:** The Client and RiverRestoration.org agree that any claim or dispute arising out of their respective obligations under this Agreement shall be subject to voluntary mediation as a pre-condition to the initiation of legal proceedings. Mediation shall be diligently pursued within 45 days of either party's written notice using a mutually acceptable mediator, provided that each party pays, or agrees to pay, 50% of applicable fees and costs. RiverRestoration.org shall continue to perform services for the Project and the Client shall pay for such services during the dispute resolution process unless the Client issues a written notice to suspend work.

**Suspension of Work:** The Client may suspend services performed by RiverRestoration.org with cause upon fourteen (14) days written notice. RiverRestoration.org shall submit an invoice for services performed up to the effective date of the work suspension and the Client shall pay RiverRestoration.org all outstanding invoices according to the payment terms of this agreement. If the work suspension exceeds thirty (30) days from the effective work suspension date, RiverRestoration.org shall be entitled to renegotiate the Project schedule and the compensation terms for the Project.

**Termination:** The Client or RiverRestoration.org may terminate services on the Project upon ten (10) days written notice. RiverRestoration.org shall submit an invoice for services performed up to the effective date of termination and the Client shall pay RiverRestoration.org according to the payment terms of this agreement. The Client may withhold an amount for services that may be in dispute provided that the Client furnishes a written notice of the basis for their dispute and that the amount withheld represents a reasonable value.

**Governing Law:** The terms of agreement shall be governed by the laws of the state of Utah.

**Assignment:** Neither party shall assign its rights, interests or obligations under the Project without the express written consent of the other party.

**Waiver of Rights:** The failure of either party to enforce any provision of these terms and conditions shall not constitute a waiver of such provision nor diminish the right of either party to the remedies of such provision.

## Attachment B

**Warranty:** RiverRestoration.org warrants that they will deliver products under the Project within the standard of care. RiverRestoration.org provides no other expressed or implied warranty.

**Severability:** Any provision of these terms later held to violate any law shall be deemed void and all remaining provisions shall continue in force. In such event, the Client and RiverRestoration.org will work in good faith to replace an invalid provision with one that is valid with as close to the original meaning as possible.

**Survival:** All provisions of these terms that allocate responsibility or liability between the Client and RiverRestoration.org shall survive the completion or termination of services for the Project.

*Standard Terms & Conditions Rev 10/04/2011*