AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Noxious Weed Management Contract; State of Colorad

Action Requested: Other Review and approval of grant contract/PO

Parties to the Agreement: Colorado Department of Agriculture

Term Begins: 7/1/16 **Term Ends:** 10/31/2016 **Grant Contract #:** POGG1 BDAA 201600000000

Summary:

This funding will allow Gunnison County to increase funding for contracted weed treatments in Star Mountain Ranch, a high priority areas for noxious weed management.

Fiscal Impact: $5000 grant income, to be paid out for contracted weed treatments

Submitted by: Jon Mugglestone **Submitter's Email Address:** jmugglestone@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, will need to add revenue and expense to the 2016 budget amendment request.ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 6/16/2016

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 6/14/2016 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\khaase Discharge Date: 6/16/2016

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 6/21/2016

Revised April 2015

STATE OF COLORADO
Department of Agriculture

ORDER

Number: POGG1 BDAA 20160000000000000929
Date: 05/25/16
Description:
Gunnison County - SPF grant 2016
Effective Date: 05/31/16 Expiration Date: 11/30/16

BUYER

Buyer:
Email:

VENDOR

GUNNISON COUNTY
PO BOX 915
GUNNISON, CO 81230-0915

Contact: Jon Mugglestone
Phone: (970) 641-4393

**** IMPORTANT ****

The order number and line number must appear on all invoices, packing slips, cartons and correspondence

BILL TO

Colorado Department of Agriculture
305 Interlocken Parkway
Broomfield, CO 80021

SHIP TO

Colorado Department of Agriculture
305 Interlocken Parkway
Broomfield, CO 80021

SHIPPING INSTRUCTIONS

Delivery/Install Date:
F.O.B:
VENDOR INSTRUCTIONS:

Line Item	Commodity/Item Code	UOM	QTY	Unit Cost	Total Cost	MSDS Req.
1	G1000		0	0.00	$5,000.00	☐

Description: Gunnison County - SPF grant 2016

Gunnison County - SPF grant 2016

Service From: 05/31/16 Service To: 11/30/16

TERMS AND CONDITIONS

https://www.colorado.gov/osc/purchase-order-terms-conditions

DOCUMENT TOTAL = $5,000.00

Exhibit A – Statement of Work
Star Mountain Ranch Noxious Weed Management Assistance

I.) General Description of Project

The Star Mountain Ranch Subdivision encompasses approximately 1500 acres in the upper Ohio Creek Valley northwest of Gunnison. The subdivision spans an area that borders both the Carbon Creek and Ohio Creek drainages, both of which are heavily used access points to the National Forest. In both the Ohio Creek and Carbon Creek drainages, the National Forest border lies within approximately 1-2 miles of the Star Mountain Ranch Subdivision. With the development of this subdivision and the related soil disturbances associated with road building, utility installation and home construction, a significant increase in noxious weeds has been noted in the subdivision. Some noxious weed species within the Star Mountain Ranch subdivision (leafy spurge, plumeless thistle, oxeye daisy, yellow toadflax) are currently occurring in small, isolated populations, and other species (musk thistle, absinth wormwood), while widespread within the subdivision, are still somewhat well-contained within the upper Ohio Creek and Carbon Creek drainages. Proactive management of all of these species within the subdivision presents an opportunity to get noxious weed problems under control before they spread further within the Ohio and Carbon Creek drainages and onto nearby National Forest lands. The Gunnison County Weed Management Program manages noxious weeds along the County roads that border the Star Mountain Ranch subdivision. While the Star Mountain Ranch HOA has been actively managing noxious weeds for many years on common and private properties within the subdivision, weed problems have outgrown the HOA's $4000 annual budget for noxious weed management. Our request to augment this budget with USFS State and Private Forestry funds will allow the Star Mountain Ranch HOA to raise the level of weed management that is needed in 2016 to effectively contain and eliminate noxious weeds found within the subdivision.

II.) Definitions

CDA – Colorado Department of Agriculture
SPF – State and Private Forestry
HOA – Home Owner's Association

III.) Project Deliverables

1. Hire a private contractor to treat approximately 250 acres of noxious weeds within the Star Mountain Ranch subdivision. Priorities are as follows:
    a. Treatment of all occurrences of leafy spurge, oxeye daisy, plumeless thistle and yellow toadflax.
    b. Treatment of all occurrences of musk thistle and absinth wormwood.
    c. Treatment of Canada thistle.
2. Provide assistance to the Star Mountain Ranch subdivision landowners to ensure compliance with Reclamation Permit standards and noxious weed management on properties, from the

planning stages of projects through completion of re-vegetation, and development and implementation of long-term, site-specific noxious weed control plans.

IV.) Personnel

- Jon Mugglestone, Coordinator, Gunnison County Weed Management Program
- Bradley Wigginton, Gunnison County Weed Management Program Co-coordinator
- Dan Perez, Rangeland Management Specialist, Forest Service Representative

Contact information for project lead:

Jon Mugglestone
(970) 641-4393
FAX: (970) 641-0653
jmugglestone@gunnisoncounty.org
PO Box 915
Gunnison, CO 81230

V.) Acceptance Criteria

Work Product

- The final report will include a narrative of how the deliverables were met, or an explanation of why deliverables were not met, or only partially met. Acres treated and status of targeted populations should also be included, along with parts of the project that were a great success, challenge, or learning opportunity. Use of both quantitative and qualitative measures is encouraged in order to describe the success of the project.
- A map will also be included with the final report depicting areas treated with grant funds. Numbers of plants or infested acreage values should be included, and for List A species, polygons should be drawn around site boundaries. If the applicant has already entered these sites into the State Online Mapping System, annual reports should be entered according to 2016 findings. If those sites have not yet been entered, the grantee should work with Patty York to get these sites entered and infestation data recorded.

Budget

- CDA State and Private Forestry Funds are awarded to Gunnison County Weed Management Program in the amount of **$5,000.** This is the maximum amount awarded; the final reimbursement amount depends on a documented total match of at least **$5,000** by the projects' end. CDA shall approve all expenses claimed for reimbursement.
- CDA SPF Funds will be used for expenses that are in general concordance with the budget submitted to CDA and stored in project folder. Significant departures from this budget without prior CDA approval may result in some reimbursed expenses being reduced or not reimbursed. Any changes in expenditures affecting greater than 10% of the grant amount must be approved in writing, in advance, by CDA.

- Matching funds must be from non-federal sources (i.e. state, local or private) and cannot be reported as match on any other grant. In addition, no other grant received from CDA may be used as match for this grant. There is no required cash match for this grant.
- Matching funds and in-kind expenses shall be accurately documented as to source, date, purpose and value and will adhere closely to the in-kind itemization table in the same budget form as referenced above.
- A detailed accounting of expenses will be provided by Gunnison County Weed Management Program in the final report.

Reporting and Payment

- A completed final report will be submitted no later than November 30, 2016.
- A final invoice will be submitted to the CDA no later than December 30, 2016.
- The form for the final project report will be provided by CDA.
- Weed mapping information from this project will be submitted to CDA for inclusion in the statewide mapping system.

Purchase Order Terms and Conditions

1. Offer/Acceptance. If this purchase order ("PO") refers to vendor's bid or proposal, this PO is an ACCEPTANCE of vendor's OFFER TO SELL in accordance with the terms and conditions of the "solicitation" identified in vendor's bid or proposal. The solicitation includes an RFP, IFB, or any other form of order by buyer. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to vendor's acceptance, demonstrated by vendor's performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order is issued by buyer accepting a counter-offer. This PO shall supersede and control over any vendor form(s) or part(s) thereof included in or attached to any bid, proposal, offer, acknowledgment, or otherwise, in the event of inconsistencies or contradictions, regardless of any statement to the contrary in such form(s) or parts thereof.

2. Safety Information. All chemicals, equipment and materials proposed and/or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

3. Changes. Vendor shall furnish products and/or services strictly in accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by purchasing agent and accepted by vendor. Each shipment received or service performed shall comply with the terms of this PO, notwithstanding invoice terms or acts of vendor to the contrary, unless this PO has been modified, superseded or otherwise altered in accordance with this section.

4. Delivery. Unless otherwise specified in the solicitation or this PO, delivery shall be FOB destination. Buyer is relying on the promised delivery date, installation, and/or service performance set forth in vendor's bid or proposal as material and basic to buyer's acceptance. If vendor fails to deliver or perform as and when promised, buyer, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

5. Intellectual Property. Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials (collectively "materials") delivered by vendor in performance of its obligations under this PO shall be the exclusive property of buyer. Ownership rights shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the materials. Vendor shall comply with all applicable Cyber Security Policies of the State of Colorado (the "State"), or buyer, as applicable, and all confidentiality and non-disclosure agreements, security controls, and reporting requirements.

6. Quality. Buyer shall be the sole judge in determining "equals" with regard to quality, price and performance. All products delivered shall be newly manufactured and the current model, unless otherwise specified.

7. Warranties. All provisions and remedies of the Colorado Uniform Commercial Code, CRS, Title 4 ("CUCC"), relating to implied and/or express warranties are incorporated herein, in addition to any warranties contained in this PO or the specifications.

8. Inspection and Acceptance. Final acceptance is contingent upon completion of all applicable inspection procedures. If products or services fail to meet any inspection requirements, buyer may exercise all of its rights, including those provided in the CUCC. Buyer shall have the right to inspect services provided under this PO at all reasonable times and places. "Services" as used in this section includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to PO requirements, buyer may require vendor to perform the services again in conformity with PO requirements, without additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, buyer may (a) require vendor to take necessary action to ensure that future performance conforms to PO requirements and (b) equitably reduce the payment due vendor to reflect the reduced value of the services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.

9. Cash Discount. The cash discount period will start from the later of the date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized buyer representative.

10. Taxes. Buyer and the State are exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all State and local government sales and use taxes [CRS, Title 39, Article 26, Parts I and II]. Such exemptions apply when materials are purchased for the benefit of State, except that in certain political subdivisions (e.g., City of Denver) vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to buyer. Buyer shall not reimburse such sales or use taxes.

11. Payment. Buyer shall pay vendor for all amounts due within 45 days after receipt of products or services and a correct notice of amount due. Interest on the unpaid balance shall begin to accrue on the 46th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to buyer's obligation to pay all or a portion of the amount due. Vendor shall invoice buyer separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate.

12. Vendor Offset. [Not Applicable to Inter-governmental POs] Under CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

13. Assignment and Successors. Vendor shall not assign rights or delegate duties under this PO, or subcontract any part of the performance required under this PO, without the express, written consent of buyer. This PO shall inure to the benefit of and be binding upon vendor and buyer and their respective successors and assigns. Assignment of accounts receivable may be made only upon written notice furnished to buyer.

14. Indemnification. If any article sold or delivered under this PO is covered by a patent, copyright, trademark, or application therefore, vendor shall indemnify and hold harmless buyer from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions or judgments arising out of manufacture, sale or use of such article in violation or infringement of rights under such patent, copyright, trademark or application. If this PO is for services, vendor shall indemnify, save, and hold harmless buyer, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, incurred as a result of any act or omission by vendor, or its employees, agents, subcontractors or assignees, arising out of or in connection with performance of services under this PO.

15. Independent Contractor. Vendor shall perform its duties hereunder as an independent contractor and not as an employee. Neither vendor nor any agent or employee of vendor shall be deemed to be an agent or employee of buyer. Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through buyer and buyer shall not pay for or otherwise provide such coverage for vendor or any of its agents or employees. Unemployment insurance benefits will be available to vendor and its employees and agents only if coverage is made available by vendor or a third party. Vendor shall pay when due all applicable employment, income, and local head taxes incurred pursuant to this PO. Vendor shall not have authorization, express or implied, to bind buyer to any agreement, liability or understanding, except as expressly set forth herein. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by buyer, and (c) be solely responsible for its acts and those of its employees and agents.

16. Communication. All communication concerning administration of this PO, prepared by vendor for buyer's use, shall be furnished solely to purchasing agent.

17. Compliance. Vendor shall strictly comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

18. Insurance. Vendor shall obtain, and maintain, at all times during the term of this PO, insurance as specified in the solicitation, and provide proof of such coverage as requested by purchasing agent.

19. Termination Prior to Shipment. If vendor has not accepted this PO in writing, buyer may cancel this PO by written or oral notice to vendor prior to shipment of goods or commencement of services.

20. Termination for Cause. (a) If vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified herein, buyer may notify vendor in writing of non-performance and, if not corrected by vendor within the time specified in the notice, terminate vendor's right to proceed with the PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated and be liable for excess costs incurred by buyer in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the price set forth in this PO. (b) Buyer may withhold amounts due to vendor as buyer deems necessary to reimburse buyer for excess costs incurred in curing, completing or procuring similar goods and services.(c) If after rejection, revocation, or other termination of vendor's right to proceed under the CUCC or this clause, buyer determines for any reason that vendor was not in default or the delay was excusable, the rights and obligations of buyer and vendor shall be the same as if the notice of termination had been issued pursuant to termination under §21.

21. Termination in Public Interest. Buyer is entering into this PO for the purpose of carrying out the public policy of the State, as determined by its Governor, General Assembly, and Courts. If this PO ceases to further the public policy of the State, buyer, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of buyer's obligations hereunder. This section shall not apply to a termination for vendor's breach, which shall be governed by §20. Buyer shall give written notice of termination to vendor specifying the part of the PO terminated and when termination becomes effective. Upon receipt of notice of termination, vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, buyer shall pay (a) reasonable settlement expenses, (b) the PO price or rate for supplies and services delivered and accepted, (c) reasonable costs of performance on unaccepted supplies and services, and (d) a reasonable profit for the unaccepted work. For existing goods, buyer shall pay (e) reasonable settlement expenses, (f) the PO price for goods delivered and accepted, (g) reasonable costs incurred in preparation for delivery of the undelivered goods, and (h) a reasonable profit for the preparatory work. Buyer's termination liability under this section shall not exceed the total PO price plus a reasonable cost for settlement expenses. Vendor shall submit a termination proposal and reasonable supporting documentation, and cost and pricing data as required by CRS §24-106-101, upon request of buyer.

22. PO Approval. This PO shall not be valid unless it is executed by purchasing agent. Buyer shall not be responsible or liable for products or services delivered or performed prior to proper execution hereof.

23. Fund Availability. Financial obligations of buyer payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. Buyer represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.

24. Choice of Law. State laws, rules and regulations shall be applied in the interpretation, execution, and enforcement of this PO. The CUCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference which conflicts with such laws, rules, and regulations is null and void. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Unless otherwise specified in the solicitation or this PO, venue for any judicial or administrative action arising out of or in connection with this PO shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against buyer.

25. Public Contracts for Services. [Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects, intergovernmental POs, or information technology services or products and services] Vendor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this PO and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Vendor shall not knowingly employ or contract with an illegal alien to perform work under this PO or enter into a contract or PO with a subcontractor that fails to certify to vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this PO. Vendor shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this PO, (b) notify subcontractor and buyer within three days if vendor has actual knowledge that subcontractor is employing or contracting with an illegal alien for work under this PO, (c) terminate the subcontract if subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If vendor participates in the Department program, vendor shall deliver to the buyer a written, notarized affirmation that vendor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If vendor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., buyer may terminate this PO for breach and, if so terminated, vendor shall be liable for damages.

26. Public Contracts with Natural Persons. Vendor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced a form of identification required by CRS §24-76.5-103 prior to the date vendor delivers goods or begins performing services under terms of the PO.