

## APPENDIX C: Grant Funding Agreement Template

### GRANT AGREEMENT FOR AGRICULTURAL RESILIENCE INCENTIVE GRANT PROGRAM

This Grant Agreement (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_ [insert month] \_\_\_ 2020 (“Effective Date”) by and between the County of Santa Clara, a political subdivision of the State of California (hereinafter referred to as the “County”), and \_\_\_\_\_ [rancher/farmer name] \_ (hereinafter referred to as “Grantee”). The County and the Grantee are each a “Party” and collectively the “Parties” to this Agreement.

#### RECITALS

WHEREAS, the Grantee signed and submitted an application to the County’s Department of Planning and Development (“Department”) for funding of agricultural management practices at [farm/ranch name and address] \_\_\_\_\_, as more fully described in the completed Project Scope of Work (Exhibit A), which is incorporated and made a part of this Agreement by reference herein (“Project”);

WHEREAS, the Grantee’s application to the Agricultural Resilience Incentive Grant Program (“Program”) proposed specific agricultural management practices designed to sequester carbon and provide other public benefits as part of the Grantee’s Project;

WHEREAS, the Board of Supervisors has found that the Project shall serve a public purpose of general County interest as an investment in agricultural conservation and climate change resilience and this shall further protect public health, safety, and welfare;

WHEREAS, the Board of Supervisors has approved the award of Program funds totaling \$ \_\_\_ [award amount] \_\_\_\_\_ to Grantee provided Grantee complies with all terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and conditions herein, the County and Grantee agree to the foregoing and as follows:

3. All Recitals contained herein above are incorporated into and made a part of this Agreement as terms and conditions.
4. Each Party’s obligations are contingent upon (i) the Project application for funding submitted by the Grantee being received by the Department and approved by the Board of Supervisors; and (ii) the Grantee receiving a disbursement of Program funds.
5. The Grantee warrants and represents that it shall expend all Grant Funds in accordance with the terms of this Agreement and the Agricultural Resilience Incentive Policies and Procedures Guide (the “Guide”) (Exhibit B) attached and incorporated herein by this reference.

## **SECTION 1. GRANTEE RESPONSIBILITIES**

Grantee shall perform or cause to be performed the complete Project Scope of Work delineated in Exhibit A. Within one hundred eighty (180) days of disbursement of funds by County, Grantee shall implement the Project and maintain it for the Term of this Grant Agreement. Grantee shall allow scheduled site visits by County staff or contractors to verify implementation progress and shall cooperate with the County to schedule these periodic visits. Other grantee responsibilities include record keeping and disclosure as detailed in section five below and completing an outcome evaluation form as specified in Exhibit C within one hundred eighty (180) days of project implementation.

## **SECTION 2. DISBURSEMENT OF FUNDS**

- d) Expenses. The Grantee shall bear all expenses related to the consideration, application, and implementation of the Project even if such expenses exceed the amount estimated or requested in the approved Application.
- e) Taxes. The Grantee shall pay the taxes lawfully levied upon it by any governmental entity. In no event shall the County be liable for the payment of any taxes related to this Agreement.

## **SECTION 3. NOTICES**

Any notices provided pursuant to this Agreement shall be sent by regular mail to the respective parties addressed as follows:

COUNTY OF SANTA CLARA

Michael Meehan

Program Manager

County of Santa Clara

70 W. Hedding St., 7th Floor, East Wing

San Jose, CA 95110

Phone: (408) 299-5775

GRANTEE

Contact & title

Department

Address, City & Zip

Phone

## **SECTION 4. INDEMNIFICATION**

To the maximum extent allowed by law, Grantee shall indemnify, defend and hold harmless the County and its officers, agents, and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Grant Agreement by the Grantee and/or its agents, employees or sub- contractors, excepting only loss, injury, or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

## **SECTION 5. RECORD KEEPING**

Grantee shall maintain records, including original receipts and invoices, demonstrating compliance with the Grant Agreement and with conditions associated with matching funds (if any) for a period of five (5) years. The County may request these records, which shall be provided no later than five (5) business days after request. Grantee shall further comply with any reasonable requests for information about project activities and any reporting requested by the County, and any audit or investigation regarding the proper use of funds.

## **SECTION 6. ACKNOWLEDGEMENT**

Grantee shall acknowledge disbursement by County by email to the County's Project Manager no later than five (5) business days after receipt.

## **SECTION 7. TERM OF AGREEMENT**

This Grant Agreement is effective as of the date of its full execution and shall terminate five (5) years from its date of execution. The County may terminate this Grant Agreement immediately and without prior notice for convenience at any time, for any reason, without penalty or liability.

## **SECTION 8. MISCELLANEOUS.**

- a) **Entire Agreement.** This Grant Agreement, including its attachments as referenced herein, contains the entire agreement by and between the Parties respecting the matters herein set forth and supersedes all prior agreements between the Parties hereto respecting such matters, if any, there being no other oral or written promises, conditions, representations, understandings, warranties or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either Party.
- b) **Headings.** Section headings shall not be used in construing this Grant Agreement.
- c) **No Waiver.** Except as herein expressly provided, no waiver by a Party of any breach of this Agreement by the other Party shall be deemed to be a waiver of any other breach by such other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Grant Agreement or of any representation or warranty hereunder by such other Party whether or not the first party knows of such breach at the time it accepts such payment or performance.
- d) **Governing Law.** This Grant Agreement, and all the rights and duties of the Parties arising from or relating in any way to the subject matter of this Grant Agreement contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Grant Agreement, including mediation or other alternative dispute resolution proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN SANTA CLARA COUNTY, CALIFORNIA.
- e) **Written Modifications.** No agreement, amendment, modification, understanding or waiver of or with respect to this Grant Agreement or any term, provision, covenant or condition hereof, nor any approval or consent given under or with respect to this Agreement, shall be effective for any purpose unless agreed to in writing and signed by both Parties to this Agreement.
- f) **Successors and Assigns.** The provisions of this Grant Agreement shall be binding upon and inure to the benefit of both parties and their successors and assigns.

- g) **Construction.** This Grant Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it.
- h) **Illegality or Unenforceability.** If any provision of this Grant Agreement, or the application of it to any person or circumstances, shall to any extent be invalid, void or unenforceable, the remainder of this Agreement, or the application of this provision to any person or circumstances other than those as to which it is invalid, void or unenforceable, shall not be affected, and each provision of this Grant Agreement shall be valid and enforceable to the fullest extent permitted by law except where such illegal, invalid, void or unenforceable provision is material to the Grant Agreement in which case this Grant Agreement shall be void.
- i) **Conflict of Interest.** Grantee represents, warrants and agrees that it shall comply, and require its employees, agents, representatives, contractors, consultants, sub-consultants and subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Grant Agreement and is grounds for immediate termination by County of this Grant Agreement.
- j) **Prevailing Wage.** To the extent the Project is a public work within the meaning of Labor Code section 1720, the following shall apply:
- i) Grantee shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with §1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.
  - ii) The Grantee shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Grantee will post at the job site. All prevailing wage rates shall be obtained by the Grantee from:  
  
Department of Industrial Relations  
Division of Labor Statistics and Research  
455 Golden Gate Avenue, 8th Floor  
San Francisco, California 94102  
Phone: (415) 703-4774  
Fax: (415) 703-4771

For further information on prevailing wage: [http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html)

- iii) Grantee shall comply with the payroll record keeping and availability requirement of §1776 of the Labor Code.
- iv) Grantee shall make travel and subsistence payments to workers needed for performance of work in accordance with the Labor Code.

- v) Prior to commencement of work, Grantee shall contact the Division of Apprenticeship Standards and comply with §1777.5, §1777.6, and §1777.7 of the Labor Code and applicable regulations.
- k) **Funding Contingency.** This Grant Agreement is contingent upon the appropriation of sufficient funding by County for the obligations and responsibilities of County covered by this Grant Agreement. If funding is reduced or deleted by the County for the obligations or responsibilities of County covered by this Grant Agreement, then County may terminate this Agreement at its election without liability or obligation.
- l) **California Public Records Act.** County is a public agency subject to the disclosure requirements of the California Public Records Act (“CPRA”). If Grantee’s proprietary information is contained in documents submitted to County, and Grantee claims that such information falls within one or more CPRA exemptions, then Grantee must clearly mark such information “CONFIDENTIAL AND PROPRIETARY,” and identify the specific lines containing the information. In the event of a request for such information, County shall use reasonable efforts to provide notice to Grantee prior to such disclosure. If Grantee contends that any documents are exempt from the CPRA and wishes to prevent County disclosure, Grantee is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before County responds to the CPRA request. If Grantee fails to obtain such remedy, Grantee shall have forever waived its right to dispute the disclosure and County shall disclose, at its election, the requested information even if marked “CONFIDENTIAL AND PROPRIETARY”, in which case neither Grantee nor any third parties shall have any right or claim against County for such disclosure. If County elects to not disclose the information or is precluded from disclosing the information because of a court order or other remedy obtained by Grantee or any Grantee representative, then Grantee represents, warrants and agrees that it shall defend, indemnify and hold harmless the County for and against all claims, causes of action, liabilities, relief, injunctions, penalties, attorneys’ fees, court costs, costs of litigation including discovery, settlement, and other remedies obtained or sought by any third party claiming such information should have or are required to be disclosed.
- m) **Relationship of Parties.** The Parties acknowledge and agree that nothing set forth in this Grant Agreement shall be deemed or construed to render the Parties as joint venturers, partners, agents, a joint enterprise, employer-employee, lender-borrower or contractor. Grantee shall have no authority to employ any person as employee or agent on behalf of County for any purpose. Neither Grantee nor any person using or involved in or participating in any actions or inactions relating to this Grant Agreement shall be deemed an employee or agent of County, nor shall any such person or entity represent himself, herself or itself to others as an employee or agent of County.
- n) **No Third Party Rights.** The Parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this Grant Agreement or of any duty, covenant, obligation, or undertaking established herein. This Grant Agreement shall not be construed as nor deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action herein for any cause whatsoever.

- o) **Counterparts.** This Grant Agreement may be executed in several counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both Parties.
- p) **Survival.** Those provisions which by their nature should survive termination, cancellation or expiration of this Agreement, shall so survive, including but not limited to Sections 2(e), 4, 5, 8(d), 8(g), 8(h), 8(k), 8(l), and 8(m).
- q) **Compliance with all laws.** Grantee shall comply with all applicable laws and regulations in the spending of Grant funds. The Grantee shall (a) not use any Grant funds for religious worship, instruction, or proselytization or to pay for equipment or supplies to be used for religious worship, instruction, or proselytization; (b) not use any Grant funds to construct, rehabilitate, or restore any property that is used for religious worship, instruction, or proselytization; (c) not use any Grant funds to engage in partisan political activities or participate in, or endorse, events or activities that advocate for or against political parties, political platforms, political candidates, proposed legislation, or elected officials including any “campaign activities” as defined by state law; and, (d) comply with all applicable laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Grantee shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Grantee discriminate in the provision of services provided under this grant because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.
- r) **Signatories.** The undersigned signatories each represent and warrant that they are authorized to execute this Grant Agreement for the party on whose behalf they are signing.

**IN WITNESS WHEREOF**, the parties have executed this Agricultural Resilience Incentive Grant Agreement as of the Effective Date as provided above.

**COUNTY OF SANTA CLARA**

**[INSERT GRANTEE NAME]**

\_\_\_\_\_

\_\_\_\_\_

XXXXXXXX, President

[insert name and title]

Board of Supervisors

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

XXXXXXXX,

Clerk of the Board of Supervisors

Dated: \_\_\_\_\_

**Approved as to form and legality:**

\_\_\_\_\_

XXXXXXXX,

Deputy County Counsel

**EXHIBIT A: PROJECT SCOPE OF WORK**

The Grantee shall indicate here the final project scope and costs, specifying a selection of approved agricultural management practices to implement from the list included as Appendix B of the ARI Grant Program Policies and Procedures Guide.

The following is the final project scope of work, adapted where necessary from the Grantee’s application to reflect any changes requested by the County and upon which funding may be contingent.

Management Practice	Acreage	Years (1-3)	Total Cost Estimate	Bid

An implementation schedule and funding disbursement schedule are required for each of the above approved management practices. A site plan delineating the specific location and area is also required for each of the above approved management practices.

If the Project Scope of Work includes perennial plantings, the grantee shall be responsible for reasonably ensuring the continued health and growth of those plantings for the duration of the Term of Agreement. In some cases where the approved management practices occur over multiple years, funds will be disbursed on an annual basis.