



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

August 16, 2017

City of Gunnison
Mr. Steve Westbay, Planning Director
P. Box 239
Gunnison, CO 81230

RE: Notice to Proceed – WSRF Grant – CTGG1 2018-570 Gunnison River Riparian & Diversion Project

Dear Steve,

This letter is to inform you that the grant request to assist in the above WSRF grant project has been approved. The attached original documents will be mailed to you.

With the executed agreement, you are now able to proceed with the project and invoice the State of Colorado for costs incurred through June 1, 2020. Please provide the project name, CTGG1 number, and basin when corresponding with or invoicing for your project along with back-up documentation of cost incurred for the WSRF portion of the grant according to the original scope of work. Upon receipt of your invoice(s), the State of Colorado will provide payment no later than 30 days after review and signed approval of the project manager.

Please refer to the current WSRF Criteria & Guidelines on our website for the six month progress report and final deliverable requirements in order to avoid a delay in payment. A **90-day** advance notice is required in the event you are seeking an additional amendment to the term of this agreement. An official letter of request to the CWCB project manager briefly describing the need for the extension, updated insurance certificates (if applicable) and an updated schedule reflecting the specific tasks that require additional time to complete is required.

If you have any questions or concerns regarding the project, please contact Chris Sturm, Project Manager at 303-866-3441 3236 or at Chris.Sturm@state.co.us. Please send the 6 month progress reports and invoices directly to Chris and cc me at Dori.vigil@state.co.us.

You can contact me at 303-866-3441 ext. 3250 for additional invoicing and payment disbursement questions.

Thank you.

Sincerely,

//s//

Doriann Vigil
Program Assistant II
O 303-866-3441 ext. 3250
1313 Sherman Street, Rm. 719, Denver, CO 80203
Dori.vigil@state.co.us / cwcb.state.co.com



**STATE OF COLORADO
COLORADO WATER CONSERVATION BOARD
GRANT AGREEMENT
with
CITY OF GUNNISON**

TABLE OF CONTENTS

1. PARTIES	1
2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY	1
3. RECITALS	1
4. DEFINITIONS	2
5. TERM and EARLY TERMINATION	3
6. STATEMENT OF WORK	3
7. PAYMENTS TO GRANTEE	3
8. REPORTING - NOTIFICATION	4
9. GRANTEE RECORDS	5
10. CONFIDENTIAL INFORMATION-STATE RECORDS	5
11. CONFLICTS OF INTEREST	6
12. REPRESENTATIONS AND WARRANTIES	6
13. INSURANCE	7
14. BREACH	8
15. REMEDIES	8
16. NOTICES and REPRESENTATIVES	10
17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE	10
18. GOVERNMENTAL IMMUNITY	10
19. STATEWIDE GRANT MANAGEMENT SYSTEM	11
20. GENERAL PROVISIONS	11
21. COLORADO SPECIAL PROVISIONS	13
22. SIGNATURE PAGE	16
23. EXHIBIT A - STATEMENT OF WORK	Exhibit A
24. EXHIBIT B - PERFORMANCE MONITORING PROVISIONS	Exhibit B

1. PARTIES

This Grant Agreement (hereinafter called "Grant") is entered into by and between City of Gunnison, P.O. Box 239, Gunnison, CO 81230 (hereinafter called "Grantee"), and the STATE OF COLORADO acting by and through the Department of Natural Resources, Colorado Water Conservation Board (hereinafter called the "State or CWCB").

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority for the agency entering into this Contract arises from Colorado Revised Statutes (CRS) 39-29-109(2)(c), 37-75-104(2)(c) and 37-75-102 et al., and Senate Bill 06-179 adopted by the 2006 General Assembly, and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

The Water Supply Reserve Account provides money for grants and loans to complete water activities, which are broadly defined and include water supply and environmental projects and/or studies. This Grant project is for the **Gunnison River Riparian and Diversion Restoration Project in the Gunnison River Basin**.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

"Budget" means the budget for the Work described in **Exhibit A**.

B. Evaluation

"Evaluation" means the process of examining Grantee's Work and rating it based on criteria established in §6 and **Exhibit A and B**.

C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Statement of Work), **Exhibit B** (Performance Monitoring Provisions).

D. Goods

"Goods" means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

E. Grant

"Grant" means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

F. Grant Funds

"Grant Funds" means available funds payable by the State to Grantee pursuant to this Grant.

G. Party or Parties

"Party" means the State or Grantee and "Parties" means both the State and Grantee.

H. Program

"Program" means the Water Supply Reserve Account grant program that provides the funding for this Grant.

I. Review

"Review" means examining Grantee's Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and **Exhibit A and B**.

J. Services

"Services" means the required services to be performed by Grantee pursuant to this Grant.

K. Subgrantee

"Subgrantee" means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

L. Work

"Work" means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit A and B**, including the performance of the Services and delivery of the Goods.

M. Work Product

"Work Product" means the tangible or intangible results of Grantee's Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM

A. Initial Term-Work Commencement

The Parties' respective performances under this Grant shall commence on the date the Agreement is signed by the State Controller or delegate (Effective Date). The termination date is according to the **Schedule in Exhibit A** unless sooner terminated or further extended as specified elsewhere herein.

B. Two Month Extension

The State, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement Grant at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

6. STATEMENT OF WORK

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in the Grant Exhibits or The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Subgrantees shall be considered Grantee's or Subgrantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is **\$440,589** as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit A**. The maximum amount payable by the State to Grantee during each State fiscal year of this Grant shall be:

\$440,589 in FY2018, minus any funds expended in FY2017
\$440,589 in FY2019, minus any funds expended in FY2018 and FY2017
\$440,589 in FY2020, minus any funds expended in FY2019, FY2018 and FY2017

B. Payment

i. Interim and Final Payments

Any payment allowed under this Grant or in **Exhibit A** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on

the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

C. Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in the Budget. The State's total consideration shall not exceed the maximum amount shown herein.

D. Matching Funds

Grantee shall provide matching funds as provided in **Exhibit A**. Grantee shall have raised the full amount of matching funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

A. Performance, Progress, Personnel, and Funds

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit A and B**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of Colorado Department of Natural Resources.

C. Performance Outside the State of Colorado and/or the United States

[Not applicable if Grant Funds include any federal funds] Following the Effective Date, Grantee shall provide written notice to the State, in accordance with §16 (**Notices and Representatives**), within 20 days of the earlier to occur of Grantee's decision to perform, or its execution of an agreement with a Subgrantee to perform, Services outside the State of Colorado and/or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado and/or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. All notices received by the State pursuant to this §8.C shall be posted on the Colorado Department of Personnel & Administration's website. Knowing failure by Grantee to provide notice to the State under this §8.C shall constitute a material breach of this Grant.

D. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

E. Subgrants

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the Record Retention Period) until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or inequity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State

records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of

Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

i. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

B. Grantee and Subgrantees

Grantee shall require each Grant with Subgrantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Subgrantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$2,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Subgrantee shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Grantee a certificate or other document satisfactory to Grantee showing compliance with this provision.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Subgrantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in

accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Subgrantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Subgrantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any subgrant, Grantee and each Subgrantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subcontracts. Upon

termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Mr. Chris Sturm, Program Manager
Colorado Water Conservation Board
1313 Sherman Street, Suite 718
Denver, CO 80203
Chris.sturm@state.co.us

B. Grantee:

Mr. Steve Westbay, Planning Director
City of Gunnison
P.O. Box 239
Gunnison, CO 81230
swestbay@cityofgunnison-co.gov

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the exclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials,

and employees is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

19. STATEWIDE GRANT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Grant management system.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Grant Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Grant Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel & Administration (Executive Director), upon request by the CWCB, and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

20. GENERAL PROVISIONS

A. Assignment and Subgrants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or Subgrantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Indemnification-General

Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. Modification

i. By the Parties

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

I. Order of Precedence

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,
- ii. The provisions of the main body of this Grant,
- iii. Exhibit A,
- iv. Exhibit B,

J. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

K. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

L. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

M. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

22. SIGNATURE PAGE

Grant Contract#: CTGG1 2017-1247 2018 #00570
CMS#96000

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.

<p>GRANTEE City of Gunnison</p> <p>By: (Print) <u>Russell Forrist, City Manager</u> Title: _____</p> <p>_____ *Signature</p> <p>Date: <u>12/8/16</u></p>	<p>STATE OF COLORADO John W. Hickenlooper GOVERNOR Department of Natural Resources Robert Randall, Executive Director</p> <p><u>Rebecca Mitchell</u> By: Rebecca Mitchell, Section Chief, Water Supply Planning, CWCB</p> <p>Signatory avers to the State Controller or delegate that Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules</p> <p>Date: <u>12-19-16</u></p>
<p>By: _____ Title: _____</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p>LEGAL REVIEW</p> <p>By: <u>N/A</u> Signature - Assistant Attorney General</p> <p>Date: _____</p>

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

<p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: <u>Maggie VanCleaf</u> Maggie VanCleaf, DNR Purchasing Director</p> <p>Date: <u>8/9/2017</u></p>

**EXHIBIT A
STATEMENT OF WORK
GUNNISON RIVER RIPARIAN AND DIVERSION RESTORATION PROJECT**

NOVEMBER 2016

WATER ACTIVITY NAME – Gunnison River Riparian and Diversion Restoration Project

GRANT RECIPIENT – The City of Gunnison

FUNDING SOURCE – Statewide Account and Gunnison River Basin Account

INTRODUCTION AND BACKGROUND

Background of Project Scope

In September 2014, the Gunnison River restoration project was funded under the Statewide Account and Gunnison River Basin Account. Project objectives under the approved scope of work included detailed survey work and data acquisition to ensure that preferred habitat improvements and stream channel modifications occur without adversely impacting the long-term channel functions, riparian habitat, or structures located downstream.

The Scope of Work has identified a six-step implementation approach: 1) stream reach survey data collection; 2) creation of a preliminary design for stream and riparian restoration project which would be reviewed by stakeholders; 3) develop the final project design and cost, and implement bid selection; 4) acquire and stockpile materials; 5) implement improvements; and 6) monitor and evaluate. This Supplemental Scope incorporates the same six-step approach, it highlights accomplishments made to date, and it sets forth proposed improvement amendments.

As noted in the following summary, a significant amount of work is now completed for Tasks 1, 2, and 3. While this submittal discusses the proposed improvements covered under this Scope (Piloni and Wilson Ditch diversions), engineered design work includes improvements for the entire channel reach contemplated in the original (2014) project scope. Due to cost constraints identified by detailed engineering design work, the City and Colorado Parks and Wildlife (CPW) project team propose a reduced project under this Scope to maintain consistency with the funds originally appropriated by the Colorado Water Conservation Board (CWCB) for the project. This Grant Agreement between the CWCB and the City is budgeted for \$440,589.00.

Project Status

Between 2014 and the present time one program focus was directed at developing a digital topography data-set for mapping channel morphology, establishing a HEC-RAS flood model and developing engineered design drawings. Collection of Geographic Positioning System (GPS) data involved a significant amount of field work to amass the elevation data points. In fact, it took two seasons to collect field data because the project encompasses a large aerial extent and wading the channel could only occur during low flow periods. Approximately 2,000 hours of CPW staff time was expended to collect data, conduct analyses and develop the engineered plans included in this Supplemental Scope.

Completing the digital topography data set enabled detailed design work to commence. Using hydraulic modeling, alternative designs were considered for the Piloni and Wilson Ditch diversion structures. Based on these modeling results and the river's morphologic characteristics, preferred alternative designs were selected for all proposed diversion improvements.

After survey work was completed the preliminary engineer designs were established. Engineer designs include much more extensive work on the Piloni and Wilson Ditch diversion structures than was originally envisioned in the 2014 conceptual design. For example, the Piloni's conceptual cross-vane design was assessed by the floodplain model and the analysis results indicated elevated flood hazards. Therefore, the engineer design was altered by increasing the diversion structure length in order to mitigate the potential flood rise. In regard to the Wilson diversion, the original cost estimates did not include removing a substantial amount of fill material ($\pm 5,000$ cubic yards) that has accumulated by historic maintenance of the diversion. Cost estimates have been modified to account for this substantial unanticipated task. Additionally, the preliminary design of the new Wilson diversion structure is significantly larger and includes extra bank protection work that is considered necessary.

Development of the preferred alternative design has allowed the project team to more accurately assess the construction costs. Design costs for these two diversion structures is significantly higher than originally contemplated. These cost restrictions have necessitated the reassessment of the project feasibility. In summary, the cost for constructing the Piloni and Wilson Ditch diversions, along with initial riparian habitat improvements in the upper project segments will deplete the project budget.

The federal permitting process with the Army Corps of Engineers, was another initial program focus. However, the permitting process was complicated by the publication of the *Final Ruling for the Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Gunnison Sage-Grouse, Final Rule*, (Federal Register Volume 79, Number 274, November 20, 2014). The project team was tasked with developing a *Biological Assessment*, under Section 7 of the Endangered Species Act in order to move forward with project permitting. The proposed river restoration actions were assessed to determine the impacts to designated Critical Habitat for the Gunnison Sage-grouse. Consultation details have for the most part been resolved and it is anticipated that the final ACOE permit will be issued by March 2017.

Based on discussions with the CWCB staff regarding the cost constraints affecting the project, the project team is providing this supplemental Scope of Work, for the *Gunnison River Riparian and Diversion Restoration Project*. While design and permitting work will be completed for the entire project, which was submitted for grant approval in 2014, the construction scope will include constructing the Piloni and Wilson Ditch diversions, along with initial riparian habitat improvements in the upper project segments.

OBJECTIVES

There are five project objectives:

- Complete survey data set for the river reach.
- Select Preferred Alternative design that enhances habitat quality, trout density, and benefits for recreation functions
- Improve irrigation diversion structures for the Piloni, Palisades #1 and #2, and the Wilson ditch.
- Install natural structural features which improve morphological functions, and enhance aquatic and terrestrial habitats.
- Conduct post construction monitoring to measure habitat improvements

OVERVIEW OF TASKS

Tasks associated with this project follow a project critical path with an integrated timeline established for the survey and design programming, bidding process, implementation of final project design, and monitoring of results.

TASK 1 – COMPLETE GEOMORPHIC ASSESSMENT WORK

Description of Task

CPW staff conducted survey work including additional detail at the diversion structure locations and along critical banks where detailed geometry measurements were needed. Additional collection also helped to establish proposed in-channel habitat treatments and channel modifications. Assessment work included a hydrologic analysis (HEC-RAS); water needs assessment; and an assessment for potentially moving Wilson Ditch diversion. Assessment work allowed for the completion of engineered design plans being presented in the Supplemental Scope submittal.

Method/Procedure

CPW collected 10,000+ individual elevation measurements for cross sections and longitudinal surveys with the use of satellite-based measurement equipment. This information was used, together with an analysis of flows, to determine the potential for additional scour. Hydrologic assessments analyzed flood stage changes between existing conditions and the proposed design treatments. A water needs assessments was also completed for the Piloni Ditch. An analysis of bed material particle size data will be completed to assess the size of material from which to construct fishery enhancements and grade control structures.

Deliverables

Complete segment survey with geomorphic assessment, flood elevation model for critical reaches, and completed bed material assessment. (see Enclosure 2)

TASK 2 - DEVELOP A PRELIMINARY DESIGN FOR REVIEW BY STAKEHOLDERS

Description of Task

The CPW employees with specialized expertise in aquatic habitat functions and river channel design established the engineered designs presented herein. Engineered plans address the issues and problems discovered by the geomorphic assessment. These engineered designs were also shared with the City Engineer and Public Works Director prior to creation of final design. Final engineered design work will be completed by March 2017, and the final stakeholder review process will occur immediately thereafter.

Method/Procedure

CPW biologists, researchers, and engineers with the appropriate training used the geomorphic assessment to identify general treatment solutions for the six individual treatment segments identified in the 2014 conceptual design. Proposed restoration designs include site specific treatment solutions (habitat structures, plantings, channel modifications, etc.) appropriate for unique areas within the defined river reach.

Deliverable

CPW completed engineer plans (90% design set) which were reviewed by the City Engineer (see Enclosure 3).

TASK 3 – COMPLETE FINAL DESIGN AND USE BID PROCESS TO SELECT CONTRACTOR(S)

Description of Task

Property owners adjacent to the major project improvement site have been individually informed of the proposed improvements. Additionally, the City Engineer provided comments during the development of the engineered plans. The project team also decided to hold a community information meeting in early 2017 to educate citizens about the project details. Engineered construction level plan sets are expected to be completed no later than March 2017.

Method/Procedure

The CPW will present the construction level drawings with specific project details and quality demands to interested contractors. Contractor(s) will be prequalified or will be selected based on qualifications and submitted bid. The City of Gunnison will administer and manage the project budget with revenues and

expenditure processed through the City Finance Department. CPW staff and City Engineer will manage all construction inspection activity.

Deliverable

CPW will complete the construction level plan sets, material specifications, and structural design details of the amended channel configuration. Final construction-level plans will be ready before construction bid announcements are published and contractor(s) are selected.

TASK 4 – ACQUIRE AND STOCKPILE MATERIALS

Description of Task

The City and CPW are responsible for completion of this task. Procurement and storage construction materials for the Piloni Ditch and Wilson Ditch will occur as need between 2017 and 2019. Stockpile and staging areas have been identified on City owned property.

The reconstruction of the Palisades #1 and #2 ditches and the boater ramp at the Tomichi Whitewater Park have been designed but excluded from this Supplemental Scope because of budget constraints. A future grant with the CWCBC for these improvements is contemplated by the project management team.

Method/Procedure

CPW will work collaboratively with other parties to identify sources of materials necessary for the implementation of the river and riparian work. These are likely to include boulders, tree roots, logs, willow cuttings/shoots, tree and willow plantings, etc. These materials will be assembled at the restoration site for use in implementation or scheduling for delivery during construction.

Deliverable

The City, CPW and the selected general contractor will be responsible for delivery of the construction materials, seedlings and other materials.

TASK 5 – COMPLETE HABITAT IMPROVEMENT DESIGN COMPONENTS

Description of Task

Construction of project components including fish habitat, bank stabilization structures, and irrigation diversion improvements of the Piloni Ditch and Wilson Ditch, and riparian enhancements, will be accomplished.

An improved fishing access trail through the city owned VanTuyt Ranch has been funded by a GOCO grant (75%: 25% funding split) and will be completed in the Late Summer and Early Spring of 2017. The total value of this trail, which was included as part of the original CWCBC grant application is approximately \$237,000.

Method/Procedure

This task includes physical improvements to address the areas of degradation, diversions within the river channel, river function, flood storage and aquifer recharge, improved conditions for wild brown and rainbow trout including in-channel deep pools and mid-channel adult holding cover, improvements to riparian habitat, and improved access for fishing and boat passage. The river reach survey identifies three river reaches involving different types of improvements. This work may be completed in phases to allow for sub-components to be completed separately (Piloni and Wilson diversions and riparian planting components). Additionally, the Fish and Wildlife Service has indicated that improvement activity along the central reach of the project area will be prohibited until after July 15th as a mitigation provision for brood rear timing for the Gunnison Sage-grouse. Based on this construction timing limitation it is anticipated that all habitat improvement project components are expected to be completed by November 2020.

Deliverables

The following is a summary of the improvements anticipated in the different reaches.

Segment 1 – North Bridge to the Railroad Bridge (4,413 ft.). Improvements include rebuilding Piloni Ditch diversion, installing boulder clusters, and improving near-shore habitat. Alterations will address some of the existing impairments of channelization: bermed banks; disconnection from the floodplain; lack of deep scour pools and sinuosity; narrow belt width; decreased fry and adult habitat; lack of large wood and boulders; diminished riparian vegetation; lack of shade; lack of near-bank habitat; and the influence of bridges. Improvements of the Piloni Ditch diversion will include the construction of a new rock diversion and grade control structure, and construction of a sluice gate and headwall. In 2015, the City funded and completed access improvements (\$16,000) to the Piloni Ditch head gate..

Segment 3 – Historic Wilson Creek Diversion (1,610 ft.). Work will address the identified impairments including disconnection from the floodplain, high velocity and gradient; point bar development; lateral scour pools; Wilson Creek intake location within depositional area; gravel pile at Wilson Creek; the 90-degree channel configuration; lack of fry habitat; lack of vegetation or bank-full benches on bends; and presence of unnatural concrete material.

Improvements on the Wilson Ditch diversion are considered critical because the river morphology has been significantly impaired. Improvement costs at this diversion point are much greater than originally contemplated and have necessitated the modification from the original project scope of work. The improvements will include the construction of three cross vanes to accomplish channel grade control, and construction of a new riparian bench which requires the removal of approximately 5,000 cubic-feet of existing material.

TASK 6 – POST-TREATMENT EVALUATION

Description of Task

The City and CPW are responsible for completion of this task. Conduct biological assessment of the treated river segment.

Method/Procedure

CPW will conduct mark-recapture electrofishing surveys using raft electrofishing equipment and crew for five years following the completion of restoration to quantify the biological effect of the work done. This will occur on a standardized site during low flows in the late summer or fall during at least two occasions within the monitoring period.

Deliverable

The City of Gunnison will be responsible for delivery of the biological survey and assessment of treatment effectiveness.

CITY AND CPW RESPONSIBILITIES

The City and the CPW will work cooperatively on all elements of the construction project. The CPW and City have shared permitting responsibilities with the Army Corp of Engineers and County floodplain permits. As previously stated, the City will be responsible for the financial administration of the project. The CPW and the City will share the construction management responsibilities.

The City and CPW will work together to evaluate and choose contractor(s) for the project construction work. It is anticipated that one primary contractor will be selected, but it is possible that separate contractors will work on project sub-components (Piloni Ditch diversion and riparian planting). The contractor will have experience in similar river restoration work and be fully bonded and insured pursuant to City of Gunnison contract

protocol. The selected contractor shall be responsible for completing the project, pursuant to the construction level designs and within the set budget under the contract.

BUDGET

The revised budget is Attached to the Scope of Work.

GUNNISON RIVER RIPARIAN AND DIVERSION RESTORATION PROJECT -Contract No CTGG12018*00570

Schedule Table

Task	Description	Target Start Date	Target Completion Date	Type of Measure	Quantity	Unit Price	City of Gunnison	WSRA Funds	CWCB Funds WSRF Statewide	CWCB Funds WSRF Basin	TU	City & CPW In-Kind	Total
1	Complete Survey & Geomorphic Assessment	10/1/2014	11/2/2015	\$/Hour	584	\$60.00						\$35,040.00	\$35,040.00
1	Complete Project Permitting	10/1/2014	3/15/2017	\$/Hour	471	\$54.00						\$25,434.00	\$25,488.00
1	Permit Consulting Work Wetland & Cult. Inventory	5/1/2015	12/30/2016				\$4,000.00						\$4,000.00
2	Develop Final Design	11/2/2015	2/15/2017	\$/Hour	1,200	\$60.00						\$63,952.00	\$63,952.00
3	Complete Phase 1 Bid, Contract & Oversight	9/1/2016	11/30/2019	\$/Hour	400	\$54.00						\$21,600.00	\$21,600.00
4	Perform Mobilization (Transport, Overhead, etc)	9/1/2017	1/30/2019										\$75,878.00
5	Piloni Ditch Access Improvements	8/1/2014	10/1/2014	Lump Sum	1.00		\$16,020.00						\$16,020.00
5	Piloni Ditch Remove Pushup Dam	9/1/2017	6/1/2020	Lineal Ft	250.00	\$10.00		\$2,500.00					\$2,500.00
5	Piloni Ditch Rock Cross Vane	9/1/2017	6/1/2020	Lineal Ft	120.00	\$150.00		\$18,000.00					\$18,000.00
5	Piloni Ditch Rock Diversion Vane	9/1/2017	6/1/2020	Lineal Ft	250.00	\$150.00	\$11,559.00	\$25,941.00					\$37,500.00
5	Piloni Ditch Slide Gate	9/1/2017	6/1/2020	Each	1.00	\$5,000.00		\$5,000.00					\$5,000.00
5	Piloni Concrete Diversion Structure	9/1/2017	6/1/2020	Each	1.00	\$10,000.00		\$10,000.00					\$10,000.00
5	Segment 1 Willow Transplant	9/1/2017	6/1/2020	Each	20.00	\$100.00		\$2,000.00					\$2,000.00
5	Segment 1 Boulder Cluster	9/1/2017	6/1/2020	Each	20.00	\$150.00		\$1,500.00			\$1,500.00		\$3,000.00
5	Wilson Diversion Remove Rubble	9/1/2017	6/1/2020	Square Feet	2500.00	\$5.00		\$12,500.00					\$12,500.00
5	Wilson Diversion Point Bar Development	9/1/2017	6/1/2020	Square Feet	3500.00	\$2.00		\$7,000.00					\$7,000.00
5	Wilson Diversion Rock Cross Vane	9/1/2017	6/1/2020	Lineal Ft	580.00	\$150.00		\$87,000.00					\$87,000.00
5	Wilson Diversion Cobble Bank Toe Protection	9/1/2017	6/1/2020	Lineal Ft	635.00	\$30.00		\$19,050.00					\$19,050.00
5	Wilson Diversion Sod Mat Transplant	9/1/2017	6/1/2020	Square Feet	560.00	\$4.00		\$2,240.00					\$2,240.00
5	Wilson Diversion Cobble Channel Narrowing	9/1/2017	6/1/2020	Square Feet	1800.00	\$12.00		\$21,600.00					\$21,600.00
5	Wilson Diversion Slide Gate	9/1/2017	6/1/2020	Each	2.00	\$5,000.00		\$10,000.00					\$10,000.00
5	Wilson Diversion Concrete Diversion Structure	9/1/2017	6/1/2020	Each	1.00	\$10,000.00		\$10,000.00					\$10,000.00
5	Wilson Diversion Earthwork (±5,100 cubic yards)	9/1/2017	6/1/2020	Lump Sum	1.00	\$50,000.00		\$50,000.00					\$50,000.00
5	Segment 2 & 3 Willow Transplant	9/1/2017	6/1/2020	Each	30.00	\$100.00		\$3,000.00					\$3,000.00
5	Segment 2 & 3 Boulder Cluster	9/1/2017	6/1/2020	Each	100.00	\$150.00		\$13,380.00			\$1,620.00		\$15,000.00
5	Segment 2 & 3 Rock J-Hook w/ Sill	9/1/2017	6/1/2020	Each	1.00	\$8,500.00		\$8,500.00					\$8,500.00
5	Segment 2 & 3 Boulder Point Bar	9/1/2017	6/1/2020	Each	3.00	\$8,500.00		\$25,500.00					\$25,500.00
5	Segment 2 & 3 Wood Toe	9/1/2017	6/1/2020	Lineal Ft	150.00	\$200.00		\$30,000.00					\$30,000.00
6													
7													
	TOTALS							\$440,589.00					\$621,368.00

This table is a guide. Variations may be submitted. For example, if a task includes purchase of materials, a column that identifies cost per unit should be included.

*Please include new columns for different sources of cash and/or in-kind funding sources. Identify the funding source.

GUNNISON RIVER RIPARIAN AND DIVERSION RESTORATION PROJECT -Contract No CTGG12018*00570

Budget & Timeline Table

Task	Description	Target Start Date	Target Completion Date	Type of Measure	Quantity	Unit Price	City of Gunnison	WSRA Funds	CWCB Funds WSRF Statewide	CWCB Funds WSRF Basin	TU	City & CPW In-Kind	Total
1	Complete Survey & Geomorphic Assessment	10/1/2014	11/2/2015	\$/Hour	584	\$60.00						\$35,040.00	\$35,040.00
1	Complete Project Permitting	10/1/2014	3/15/2017	\$/Hour	471	\$54.00						\$25,434.00	\$25,434.00
1	Permit Consulting Work Wetland & Cult. Inventory	5/1/2015	12/30/2016				\$4,000.00						\$4,000.00
2	Develop Final Design	11/2/2015	2/15/2017	\$/Hour	1,200	\$60.00						\$63,952.00	\$63,952.00
3	Complete Phase 1 Bid, Contract & Oversight	9/1/2016	11/30/2019	\$/Hour	400	\$54.00						\$21,600.00	\$21,600.00
4	Perform Mobilization (Transport, Overhead, etc)	9/1/2017	1/30/2019										\$75,878.00
5	Piloni Ditch Access Improvements	8/1/2014	10/1/2014	Lump Sum	1.00		\$16,020.00						\$16,020.00
5	Piloni Ditch Remove Pushup Dam	9/1/2017	6/1/2020	Lineal Ft	250.00	\$10.00		\$2,500.00					\$2,500.00
5	Piloni Ditch Rock Cross Vane	9/1/2017	6/1/2020	Lineal Ft	120.00	\$150.00		\$18,000.00					\$18,000.00
5	Piloni Ditch Rock Diversion Vane	9/1/2017	6/1/2020	Lineal Ft	250.00	\$150.00	\$11,559.00	\$25,941.00					\$37,500.00
5	Piloni Ditch Slide Gate	9/1/2017	6/1/2020	Each	1.00	\$5,000.00		\$5,000.00					\$5,000.00
5	Piloni Concrete Diversion Structure	9/1/2017	6/1/2020	Each	1.00	\$10,000.00		\$10,000.00					\$10,000.00
5	Segment 1 Willow Transplant	9/1/2017	6/1/2020	Each	20.00	\$100.00		\$2,000.00					\$2,000.00
5	Segment 1 Boulder Cluster	9/1/2017	6/1/2020	Each	20.00	\$150.00		\$1,500.00			\$1,500.00		\$3,000.00
5	Wilson Diversion Remove Rubble	9/1/2017	6/1/2020	Square Feet	2500.00	\$5.00		\$12,500.00					\$12,500.00
5	Wilson Diversion Point Bar Development	9/1/2017	6/1/2020	Square Feet	3500.00	\$2.00		\$7,000.00					\$7,000.00
5	Wilson Diversion Rock Cross Vane	9/1/2017	6/1/2020	Lineal Ft	580.00	\$150.00		\$87,000.00					\$87,000.00
5	Wilson Diversion Cobble Bank Toe Protection	9/1/2017	6/1/2020	Lineal Ft	635.00	\$30.00		\$19,050.00					\$19,050.00
5	Wilson Diversion Sod Mat Transplant	9/1/2017	6/1/2020	Square Feet	560.00	\$4.00		\$2,240.00					\$2,240.00
5	Wilson Diversion Cobble Channel Narrowing	9/1/2017	6/1/2020	Square Feet	1800.00	\$12.00		\$21,600.00					\$21,600.00
5	Wilson Diversion Slide Gate	9/1/2017	6/1/2020	Each	2.00	\$5,000.00		\$10,000.00					\$10,000.00
5	Wilson Diversion Concrete Diversion Structure	9/1/2017	6/1/2020	Each	1.00	\$10,000.00		\$10,000.00					\$10,000.00
5	Wilson Diversion Earthwork (±5,100 cubic yards)	9/1/2017	6/1/2020	Lump Sum	1.00	\$50,000.00		\$50,000.00					\$50,000.00
5	Segment 2 & 3 Willow Transplant	9/1/2017	6/1/2020	Each	30.00	\$100.00		\$3,000.00					\$3,000.00
5	Segment 2 & 3 Boulder Cluster	9/1/2017	6/1/2020	Each	100.00	\$150.00		\$13,380.00			\$1,620.00		\$15,000.00
5	Segment 2 & 3 Rock J-Hook w/ Sill	9/1/2017	6/1/2020	Each	1.00	\$8,500.00		\$8,500.00					\$8,500.00
5	Segment 2 & 3 Boulder Point Bar	9/1/2017	6/1/2020	Each	3.00	\$8,500.00		\$25,500.00					\$25,500.00
5	Segment 2 & 3 Wood Toe	9/1/2017	6/1/2020	Lineal Ft	150.00	\$200.00		\$30,000.00					\$30,000.00
6													
7													
	TOTALS							\$440,589.00					\$621,368.00

This table is a guide. Variations may be submitted. For example, if a task includes purchase of materials, a column that identifies cost per unit should be included.

*Please include new columns for different sources of cash and/or in-kind funding sources. Identify the funding source.

Exhibit B
CITY OF GUNNISON
Water Supply Reserve Account Grant
Performance Monitoring Provisions

Statutory Requirements

For each personal services contract with a value over \$100,000, the individual selected by the state agency or institution of higher education (IHE), pursuant to CRS§ 24-103.5-101(3), shall monitor the contractor's work under the contract and shall certify as to whether the contractor is complying with the terms of the contract pursuant to CRS§ 24-103.5-101(5).

- (a) Performance measures and standards developed specifically for the contract by the governmental body administering the contract. The performance measures and standards shall be negotiated by the governmental body and the vendor prior to execution of the contract and shall be incorporated into the contract. The measures and standards shall be used by the governmental body to evaluate the performance of the governmental body and the vendor under the contract.
- (b) An accountability section that requires the vendor to report regularly on achievement of the performance measures and standards specified in the contract and that allows the governmental body to withhold payment until successful completion of all or part of the contract and the achievement of established performance standards. The accountability section shall include a requirement that payment by the governmental body to the vendor shall be made without delay upon successful completion of all or any part of the contract in accordance with the payment schedule specified in the contract or as otherwise agreed upon by the parties.
- (c) Monitoring requirements that specify how the governmental body and the vendor will evaluate each others' performance, including progress reports, site visits, inspections, and reviews of performance data. The governmental body shall use one or more monitoring processes to ensure that the results, objectives, and obligations of the contract are met.
- (d) Methods and mechanisms to resolve any situation in which the governmental body's monitoring assessment determines noncompliance, including termination of the contract.

Performance Monitoring Standards

Performance monitoring for this contract shall include the following:

- (a) Performance measures and standards: Grantee shall maintain receipts for all projects expenses and documentation of the minimum in-kind contributions per the budget in Exhibit A, Tasks 1-3. Per WSRA Criteria and Guidelines, retainage of 10% of the grant funds shall be withheld until receipt of the final report and all other deliverables
General Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract until the construction begins. The progress report shall describe the completion or partial completion of the statement of work leading up to the advertisement for bid and including a description of any major issues that have occurred and any corrective action taken to address these issues.
Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents the project. This report may contain photographs, summaries of meetings and reports/studies. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions per the budget in Exhibit A. Per WSRA Criteria and Guidelines, retainage of the grant funds shall be withheld until receipt of the final report and all other deliverables.
- (b) Accountability: Per WSRA Criteria and Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must certify that all grant conditions have been complied with on each invoice. In addition, per WSRA Criteria and Guidelines progress reports must be submitted at least once every 6 months. A final project report must be submitted and approved before final project payment and release of retainage.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A and Paragraphs 9 & 19 of the contract. Progress shall be detailed in the required invoice documentation and progress reports as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Per paragraphs 9, 14, 15, and 19 of the contract: payment will be withheld until grantee is current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the purchase order or contract.