



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 718
Denver, CO 80203

P (303) 866-3441
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Jared Polis, Governor

Dan Gibbs, DNR Executive
Director

Lauren Ris, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Andrea Harbin Monahan, Watershed and Flood Protection Section

DATE: September 18-19, 2024

AGENDA ITEM: Consent Agenda Item 6b - Change of Fiscal Agent: Stewart Ditch Diversion Improvement Project

Staff Recommendation:

Staff recommends changing the fiscal agent for the Stewart Ditch Diversion Improvement project from Colorado Trout Unlimited to Trout Unlimited (national).

Background:

Trout Unlimited was approved for three different grants for the Stewart Ditch Improvement Project, as outlined below. These grants were contracted together in September of 2023; however, they were mistakenly contracted with Colorado Trout Unlimited as the grantee rather than Trout Unlimited (national), and both entities would like this corrected.

Grant Program	Requested Amount	Approved	Agenda Item
WSRF	\$ 140,000.00	Mar-22	25f
WPG	\$ 169,736.00	Mar-22	26w
WSRF	\$ 305,000.00	May-23	25d
Total Contract Amount	\$ 614,736.00		

Attachments:

March 2022 Board Meeting Agenda
May 2023 Board Meeting Agenda
March 2022 WSRF Data Sheet
March 2022 WPG Data Sheet
May 2023 WSRF Data Sheet
Contract CTGG1 2024-2074





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**Colorado Water
Conservation Board**

Department of Natural Resources

Jared Polis
Governor

Dan Gibbs
DNR Executive Director

Rebecca Mitchell
CWCB Director

March 15 - 16, 2022 Board Meeting Agenda

A meeting of the CWCB will be held on Tuesday, March 15, 2022 commencing at 8:30 AM and continuing through Wednesday, March 16, 2022. The meeting will be held at the Denver Marriott West 1717 Denver West Boulevard Golden 80401 and virtually on Zoom.

The CWCB posts notice 30 days in advance of each regularly scheduled meeting. Notices for special meetings are posted on the website typically within five business days and not less than 24 hours of such a meeting. Notices of regular and special meetings may also be received by email. To receive notices by email please visit: <https://dwr.state.co.us/Portal/Login/>.

Although dates and times are indicated in this notice and in the following agenda, the CWCB may address and take action on noticed items in any order. Any known changes to the agenda will be announced at the beginning of the meeting. This notice, any late notice(s) of additional items, and briefing memos prepared for the CWCB will be on our website at <https://cwcb.colorado.gov/>.

The CWCB's meetings are made available through live audio streaming on YouTube, although Board workshops are not. To listen to the proceedings, click the "Listen to the meeting LIVE!" link on the CWCB website homepage and select the link for the proper day and time. The link will be posted just prior to the start of the meeting.

The CWCB encourages citizens to express their views and provide feedback to the Board on the agenda items. This can be done by sending an email to viola.bralish@state.co.us by sending a letter to a Board member or to the Chair of the Board, or by attending the meeting. If you want to make a public comment during the meeting you must fill out a [comment sheet](#) prior to the meeting date and email it to the [Board Coordinator](#). The Board will appreciate hearing your views when it reaches that agenda item. If you have any questions, need special accommodations as a result of a disability, or require further information on any CWCB activity, please contact [Viola Bralish](#) at 303-866-3441, ext. 3206. All programs, services, and activities of the CWCB are operated in compliance with the Federal Americans with Disabilities Act (ADA).



<u>Tuesday, March 15, 2022</u>	
8:30-8:32	CWCB Call to Order and Pledge of Allegiance
8:32-8:35	1. Board Appointments and Election of Officers
8:35-8:37	2. Review and Approve Agenda
8:37-8:40	3. Review and Approve January 24 - 25, 2022 Board Meeting Minutes
8:40-8:45	4. Approve and/or Remove Consent Agenda Items
8:45	Board Meeting Dates in 2022 <ul style="list-style-type: none"> a. May 18 & 19 - TBD b. July 20 & 21 - TBD c. September 21 & 22 - TBD d. November 16 & 17 - TBD
8:45-9:45	5. Directors' Reports <ul style="list-style-type: none"> a. DNR Executive Director/IBCC Director b. CWCB Director c. Agriculture Commissioner d. State Engineer e. Division of Parks and Wildlife Director f. Water Resource and Power Development Authority
9:45-9:55	6. Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund <i>Finance Section</i> <ul style="list-style-type: none"> a. Financial Projections and Cash Management Report
9:55-10:10	Morning BREAK
10:10-10:20	7. Change to Existing Loan <i>Finance Section</i> <ul style="list-style-type: none"> a. South Platte Ditch Company - Diversion Structure Rehabilitation
10:20-10:35	8. Severance Tax Trust Fund - Policy 18 Review <i>Finance Section</i>

10:35-10:55	9. Request for Authorization to Proceed to Trials in Stipulated Opposition Cases: <i>Stream and Lake Protection Section</i> <ul style="list-style-type: none"> a. Case No. 18CW3121 (Water Division 1): Application of the City of Aurora, Colorado, acting by and through its Utility Enterprise b. Case No. 18CW3077 (Water Division 2): Application of Colorado Division of Parks and Wildlife (Note: Mueller Park) c. Case No. 19CW3112 (Water Division 5): Application of Highland Investment Co., LLC
10:55-11:10	10. Proposed Renewable Temporary Lease of Stagecoach Reservoir Water for Instream Flow Use on the Upper Yampa River, Water Division 6 (2nd Meeting) <i>Stream and Lake Protection Section</i>
11:10-11:25	11. Cache la Poudre Instream Flow Augmentation Plan, Case No. 21CW3056 (Water Division 1) <i>Stream and Lake Protection Section</i>
11:25-11:35	12. Public Comment on 2022 ISF Appropriations in Water Divisions 4, 5, and 6 <i>Stream and Lake Protection Section</i>
11:35-11:45	13. Public Notice of 2023 ISF Recommendations <i>Stream and Lake Protection Section</i>
11:45-12:45	LUNCH
12:45-1:15	14. Update on Federal Funding <i>Nate Pearson - CO Dept. of Natural Resources</i>
1:15-1:35	15. Legislative Update <i>Lauren Ris - CWCB</i>
1:35-2:00	16. Water Plan Grant, Environment and Recreation Category - Criteria Update <i>Watershed and Flood Protection Section</i>
2:00-2:15	17. South Platte River - DISH Easement Discussion <i>Watershed and Flood Protection Section</i>
2:15-2:30	Afternoon BREAK
2:30-2:50	18. Spring Drought and Flood Climate Report <i>Water Supply Planning Section & Watershed and Flood Protection Section</i>

2:50-3:10	19. Water Plan Update <i>Water Supply Planning Section</i>
	RECESS

Wednesday, March 16, 2022

8:30 - 10:00	20. Basin Directors' Reports <ul style="list-style-type: none">a. San Juan/San Miguel-Dolores River Basin Director's Reportb. Gunnison River Basin Director's Reportc. North Platte River Basin Director's Reportd. South Platte River Basin Director's Reporte. Arkansas River Basin Director's Reportf. City and County of Denver Director's Reportg. Rio Grande River Basin Director's Reporth. Yampa-White River Basin Director's Reporti. Colorado River (Mainstem) Basin Director's Report
10:00 - 10:15	Morning BREAK
10:15- 10:20	21. Attorney General's Report, Legal Briefing, and Executive Session
10:20- 11:35	22. Executive Session <ul style="list-style-type: none">a. Case No. 3:19 - CV - 08285-MTL (District of Arizona): Save the Colorado, et al., v. U.S. Dept. of the Interior, et al.b. Colorado River Interstate Mattersc. Two Rivers Water Company Loan
11:35- 11:40	23. Report from Executive Session
11:40- 12:10	24. Colorado River Updates <i>Interstate, Federal, and Water Information Section</i>
12:10- 1:10	LUNCH

1:10-1:50

25. WSRF Grant Applications*Water Supply Planning Section***Water Supply Reserve Fund Application Grants
at the March 2022 CWCB Board Meeting**

Agenda Item	Basin	Applicant	Name of Water Activity	Total Request
a.	Arkansas	Arkansas Groundwater & Reservoir Association	West Pueblo Reservoir Project (WPRP)	\$841,104
b.	Arkansas	Upper Arkansas Conservation District	Sunnyside Irrigation Ditch Rehabilitation	\$127,300
c.	Arkansas	Center for Snow & Avalanche Studies	Colorado Dust on Snow	\$240,000
	Colorado			
	Gunnison			
	Metro			
	Rio Grande			
	South Platte			
	Southwest			
	Yampa/White/Green			
d.	Gunnison	Orchard City Irrigation District	Fruitgrowers Dam Outlet Gates Improvement Project	\$150,000
e.	Gunnison	Town of Olathe	Water Meters & Water Conservation	\$182,399
f.	Gunnison	Trout Unlimited	Stewart Ditch Diversion Improvement Project	\$140,000
g.	Metro	Arapahoe County	Arapahoe County Water Supply Study	\$125,000
	South Platte			
h.	Metro	Trout Unlimited	Lower South Boulder Creek – WSR Ditch Structure Automation Demonstration Project	\$167,000
	South Platte			
i.	Rio Grande	Colorado Rio Grande Restoration Foundation	Conejos River Partnership Project 1B	\$330,000

	j.	Rio Grande	San Luis Valley Water Conservancy District	Shaw Reservoir Rehabilitation Project	\$342,600
	k.	Southwest	Pagosa Area Water & Sanitation District	Treatment Plant Project	\$186,800
	l.	Southwest	Town of Pagosa Springs	Recreational & Ecological Enhancement Project – Yamaguchi South	\$166,180

1:50-2:50

26. Water Plan Grants

Agenda Item	Applicant	Project Title	Funding Recommendation
26 a - d. Agricultural Projects			
a	Trout Unlimited	Gunnison River Drought Resiliency and Restoration Project	\$275,194.00
b	Rio Grande Headwaters Land Trust	San Luis Creek Conservation Partnership	\$450,000.00
c	The Nature Conservancy	Maybell Diversion Construction on the Yampa River	\$750,000.00
d	Boulder County Parks and Open Space	Howell Ditch Diversion Reconstruction and Boulder Creek Restoration Project	\$250,000.00
26 e - k. Conservation and Land Use Planning			
e	Mile High Flood District	Denver One Water Plan Implementation	\$100,000.00
f	Arapahoe County	Admin I Turf Conversion & Conservation Planning for Additional Existing Sites	\$138,203.00
g	Multiplier	Advancing High Impact Water Efficiency Solutions in Colorado Communities	\$139,235.00
h	Year One, Inc. DBA Mile High Youth Corps	Single Family Energy & Water Audits and Installs	\$146,809.00
i	Colorado Water Wise	Guidebook Update	\$150,192.00
j	Denver Dept. of Public Health and Environment	Graywater Education and Outreach Program	\$290,713.00
k	Sonoran Institute	Colorado Growing Water Smart	\$360,466.00
26 l - m. Engagement and Innovation Activities			
l	The Park People	WATERED: Water Advocacy via Trees and Engagement to Relieve Efforts of Drought	\$104,000.00
m	Colorado School of Mines	Direct Potable Reuse (DPR) Demonstration - Phase II	\$150,000.00
26 n - q. Water Storage and Supply			
n	West End Economic Development Corporation	Wright's Mesa Water Supply Planning	\$110,590.00
o	Palmer Land Conservancy	Climate Resilient Agricultural Futures and Transformations (CRAFT)	\$664,987.00
p	Town of Buena Vista	Infiltration Gallery Expansion	\$1,107,750.00

	q	Northern Water	Phase I: CO Aerial Snowpack Measurement	\$1,877,400.00	
	26 r - bb. Environment and Recreation				
	r	National Forest Foundation	Trail Creek Wetland Restoration Project - Phase 2	\$133,400.00	
	s	Trout Unlimited Denver	Upper Gunnison Stream Restoration Package	\$137,170.00	
	t	Colorado Rio Grande Restoration Foundation	Rio Grande Canal Boater Safety and Accessibility Project	\$148,000.00	
	u	Town of Meeker	Meeker River Park	\$150,000.00	
	v	Blue River Watershed Group	Blue River Integrated Water Management Plan	\$150,000.00	
	w	Trout Unlimited Denver	Stewart Ditch Diversion Improvement Project	\$169,736.00	
	x	Southwest Conservation Corps	Animas River Phreatophytes Phase II	\$177,602.50	
	y	Town of Pagosa Springs	Recreational and Ecological Enhancement of the San Juan River - Yamaguchi South	\$195,000.00	
	z	Trout Unlimited	Lower S. Boulder Watershed Res Phase II	\$250,000.00	
	aa	Eagle Vail Metro District	Stone Creek Restoration Phase II	\$413,915.00	
	bb	Roaring Fork Conservancy	Crystal River at Riverfront Park Restoration and Efficiency Project	\$798,574.00	
2:50- 3:10	27. Loan Delinquency Action <i>Finance Section</i>				
	a. Two Rivers Water & Farming Company, and Two Rivers Farms F-2, Inc.				
3 : 1 0	ADJOURN				

CWCB Consent Agenda March 15 -16, 2022

Matters may be placed on the Consent Agenda when the recommended action follows established policy or precedent, there has been a negotiated settlement, or the matter is uncontested and non-controversial. Staff provides memos to CWCB members explaining the matters on the Consent Agenda. Matters on the Consent Agenda are noticed for hearing in the same manner as other agenda items. If a member of the CWCB requests further consideration of an item on the Consent Agenda, the item will be withdrawn from the Consent Agenda and discussed during the meeting or at the next meeting, with action taken after discussion of the item. If a member of the CWCB requests further consideration of an item on the Consent Agenda that pertains to a pending or imminent court action, the matter will be withdrawn from the Consent Agenda and may be discussed during executive session of the same meeting, and any action on that item will be taken in public session. The Consent Agenda may be voted on without reading or discussing individual items. Any CWCB member may request clarification about any matter on the Consent Agenda.

1. Statements of Opposition

Stream & Lake Protection Section

Staff recommends the Board ratify CWCB's filing of the following Statements of Opposition:

- a. Case No. 21CW3236 (Water Division 1): Application of City of Boulder, Colorado
- b. Case No. 21CW3081 (Water Division 2): Application of Heath Mills
- c. Case No. 21CW3086 (Water Division 2): Application of Town of Poncha Springs
- d. Case No. 21CW3026 (Water Division 3): Application of Sustainable Water Augmentation Group, Inc.
- e. Case No. 21CW3075 (Water Division 4): Application of Aegis Ranch Ventures, LLC, a Delaware limited liability company
- f. Case No. 21CW3076 (Water Division 4): Application of Elk Ridge Mining and Reclamation, LLC
- g. Case No. 21CW3166 (Water Division 5): Application of Peter M. McGrath and Janet E. Fox
- h. Case No. 21CW3171 (Water Division 5): Application of Eric A. Rudd
- i. Case No. 21CW3175 (Water Division 5): Application of Snowmass Club LLC, Snowmass Club Investors LLC, ABA Investors, LLC, and Woodmont Properties at Bridgewater, LLC
- j. Case No. 21CW3176 (Water Division 5): Application of Bar A Ranch
- k. Case No. 21CW3180 (Water Division 5): Application of Town of Minturn
- l. Case No. 21CW3182 (Water Division 5): Application of The Crystal River Ranch Co., LLC
- m. Case No. 21CW3052 (Water Division 6): Application of Remnant Investors, LLLP, a limited liability limited partnership
- n. Case No. 21CW3058 (Water Division 6): Application of David Y. Cogswell

2. ~~HB1051 Reporting Guidelines~~—This item has been removed from the agenda by staff

Water Supply Planning Section

3. PEPO Grants Program

Water Supply Planning Section

4. Water Plan Grants

Agenda Item	Water Plan Grant Category	Applicant	Project Title	Funding Recommendation
a.	Agricultural Projects	Dave Miller Mutual Ditch Company	Dave Miller Ditch Piping Project	\$84,325
b.	Agricultural Projects	Drylands Agroecology Research	Dryland Research Expansion Phase II	Not Recommended
c.	Agricultural Projects	Brighton Ditch Company	South Platte River Bank Stabilization Project	Not Recommended
d.	Agricultural Projects	Brink, Inc.	Modeling the Effects of Conservation Practices on Salinity Discharges from Irrigated Fields*	\$66,850.00
e.	Agricultural Projects	Fort Collins Conservation District	Cache La Poudre Basin Nutrient Trading Pilot Project	\$38,645.00
f.	Conservation & Land Use Planning	Town of Olathe	Water Meter Upgrade and Water Conservation Outreach	Not Recommended
g.	Conservation & Land Use Planning	Western Resource Advocates	Pursuing a Statewide Model Water Efficient Landscape Ordinance	Not Recommended
h.	Conservation & Land Use Planning	Dominion Water & Sanitation District	Sterling Ranch Rainwater Harvesting Project Feasibility Study and Operational Plan	\$57,500.00
i.	Conservation & Land Use Planning	High Country Conservation Center	Advancing Irrigation Efficiency Across Summit County	\$99,413.00

j.	Engagement & Innovation Activities	Coalition for the Poudre River Watershed	Phase 2- Engaging Stakeholders & Communities in the Poudre Through Citizen Science, Collaboration, & Outreach	Not Recommended
k.	Engagement & Innovation Activities	Boulder Watershed Collective	Forested Watershed Community Education	Not Recommended
l.	Engagement & Innovation Activities	Water Education Colorado	Advancing a Coordinated and Collaborative Approach to Water Education and Outreach via the Water Educator Network through 2025	\$55,000.00
m.	Engagement & Innovation Activities	Lincoln Hills Cares	Replicable Youth-Driven Innovation Engine to Help Make the South Platte River Swimmable and Fishable	\$84,480.00
n.	Engagement & Innovation Activities	One World One Water Center/ MSU Denver	Your Water, Your Life Contest	\$87,000.00
o.	Engagement & Innovation Activities	Colorado State University	Expanding Residential Rain Garden Installations in Front Range Communities	\$90,300.00
p.	Engagement & Innovation Activities	Ditch and Reservoir Company Alliance	Ditch and Reservoir Outreach, Education, and Advocacy Programming	\$98,375.00

q.	Water Storage & Supply	Cross Creek Metropolitan District	Hale Reservoir Restoration, Cross Creek Park	Not Recommended
r.	Water Storage & Supply	Grand Mesa Water Users Association	Grand Mesa Water Users' Efficiency Project	Not Recommended
s.	Watershed Restoration & Recreation	Headwaters Alliance	Lower Willow Creek Stream and Floodplain Restoration	Not Recommended
t.	Watershed Restoration & Recreation	Trout Unlimited Denver	Portland Uncompahgre Restoration Project	Not Recommended



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Department of Natural Resources

Jared Polis
Governor

Dan Gibbs
DNR Executive Director

Rebecca Mitchell
CWCB Director

May 17 - 18, 2023 Board Meeting Agenda

A meeting of the CWCB will be held on Wednesday, May 17, 2023 commencing at 9:00 AM and continuing through Thursday, May 18, 2023. The meeting will be held at Northern Water Facility 220 Water Ave. Berthoud and virtually on Zoom. The Board will be attending a tour of Northern Water's Chimney Hollow and Glade Reservoir's at 1p.m. on Tuesday, May 16, 2023.

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Wednesday, May 17, 2023

9:00-9:02	CWCB Call to Order and Pledge of Allegiance
9:02-9:05	1. Election of Officers
9:05-9:07	2. Review and Approve Agenda
9:07-9:10	3. Review and Approve March 15 & 16, 2023 Board Meeting Minutes
9:10-9:15	4. Approve and/or Remove Consent Agenda Items
	CWCB Board Meeting Dates in 2023 a. July 19 & 20 - Gunnison Basin b. September 20 & 21 - Arkansas Basin c. November 15 & 16 - Denver Metro Area
9:15-10:15	5. Directors' Reports a. DNR Executive Director/IBCC Director b. CWCB Director c. Agriculture Commissioner d. State Engineer e. Division of Parks and Wildlife Director f. Water Resource and Power Development Authority
10:15-10:30	Morning Break
10:30-11:00	6. Operational Planning Discussion <i>Lauren Ris</i>
11:00-11:15	7. Chatfield Reallocation Project Environmental Pool Agreement <i>Lauren Ris</i>
11:15-11:45	8. Fish and Wildlife Resources Fund-Criteria Update <i>Watershed and Flood Protection Section</i>
11:45-11:50	9. Attorney General's Report, Legal Briefing, and Executive Session
11:50-12:50	LUNCH
12:50-1:50	10. Executive Session a. System Conservation Pilot Program This item has been removed

	<ul style="list-style-type: none"> b. Colorado River - Draft Supplemental EIS c. Litigation Fund FY 24
1:50-1:55	11. Report from Executive Session
1:55-2:00	12. Approval of Litigation Fund FY 2024 <i>Interstate, Federal, and Water Information Section</i>
2:00-2:20	13. Colorado Weather Modification Program <i>Interstate, Federal, and Water Information Section</i>
2:20-2:30	14. Colorado Snow Survey <i>Interstate, Federal, and Water Information Section</i>
2:30-3:00	15. Colorado River Hydrology and Other Updates <i>Interstate, Federal, and Water Information Section</i>
3:00-3:15	16. Colorado River Draft Supplemental Environmental Impact <i>Interstate, Federal, and Water Information Section</i>
3:15-3:30	Afternoon Break
3:30-3:45	17. Financial Matters - Construction Fund and Severance Tax Perpetual Base Fund <i>Finance Section</i> <ul style="list-style-type: none"> a. Financial Projections and Cash Management Report b. 2024 Projects Bill Funding Projections
3:45-3:55	18. Water Project Loans <i>Finance Section</i> <ul style="list-style-type: none"> a. Crawford Clipper Ditch Company - Crawford Clipper Ditch Improvements
3:55-4:25	19. Prequalification of Water Project Loan <i>Finance Section</i> <ul style="list-style-type: none"> a. Northern Integrated Supply Project
4:25-4:30	20. Severance Tax Perpetual Base Fund Transfer to Water Supply Reserve Fund <i>Finance Section</i>
4:30	RECESS

Thursday, May 18, 2023

8:30 - 10:00	21. Basin Directors' Reports a. South Platte River Basin Director's Report b. Arkansas River Basin Director's Report c. City and County of Denver Director's Report d. Rio Grande River Basin Director's Report e. Yampa-White River Basin Director's Report f. Colorado River (Mainstem) Basin Director's Report g. San Juan/San Miguel-Dolores River Basin Director's Report h. Gunnison River Basin Director's Report i. North Platte River Basin Director's Report										
10:00- 10:15	Morning BREAK										
10:15- 10:45	22. 2023 Instream Flow (ISF) and Natural Lake Level (NLL) Appropriations <i>Stream and Lake Protection Section</i> a. Request for Final Action on Uncontested ISF and NLL Water Rights in Water Divisions 1, 4, 5, and 6 b. Public Comment and Conditional Approval of Terms and Conditions for ISF Water Rights in Water Division 4 on Cottonwood Creek, Monitor Creek, and Potter Creek (Montrose & Delta Counties)										
10:45- 10:50	23. Request for Authorization to Proceed to Trial in Stipulated Opposition Case: <i>Stream and Lake Protection Section</i> a. Case No. 21CW3026 (Water Division 3): Application of Sustainable Water Augmentation Group, Inc.										
10:50- 11:05	24. Proposed Acquisitions for Instream Flow Use <i>Stream and Lake Protection Section</i> Proposed Water Use Agreements with the Ute Water Conservancy District and Garfield County to lease Ruedi Reservoir Water for Instream Flow Use in the 15-Mile Reach (Water Divisions 5) (2nd Meeting)										
11:05- 11:35	25. Water Supply Reserve Fund Applications May 2023 <i>Water Supply Planning Section</i> <table><tr><th></th><th>Basin</th><th>Applicant</th><th>Name of Water Activity</th></tr><tr><td>a.</td><td>Arkansas</td><td>Upper Arkansas Water Conservancy District</td><td>Data Collection Network Upgrade and Expansion</td></tr></table>				Basin	Applicant	Name of Water Activity	a.	Arkansas	Upper Arkansas Water Conservancy District	Data Collection Network Upgrade and Expansion
	Basin	Applicant	Name of Water Activity								
a.	Arkansas	Upper Arkansas Water Conservancy District	Data Collection Network Upgrade and Expansion								

	b.	Colorado	Colorado River District	Airborne Snow Observatory Snow Mapping in the Colorado River System – Water Years 2023 & 2024
	c.	Colorado	Grand Valley Irrigation Company	ML 260 Piping Project
	d.	Gunnison	Trout Unlimited – Denver	Stewart Mesa Canal Diversion Modification
	e.	Southwest	Dolores Water Conservancy District	Increased Application Efficiency for Center Pivot Irrigation
	f.	Yampa/White/Green	City of Craig	Yampa River Corridor Project
	g.	Yampa/White/Green	The Nature Conservancy	Maybell Diversion & Headgate Construction
11:35-12:20	LUNCH			
12:20-12:30	26. FY 2023-24 Water Plan Grant Funding by Category <i>Administration & Operations Section</i>			
12:30-12:45	27. Diane Hoppe Memorial Scholarship <i>Administration & Operations Section</i>			
12:45-1:05	28. WEco Annual Allocation Scope			
1:05-1:15	Public Comment			
1:15	ADJOURN			

CWCB Consent Agenda May 17 - 18, 2023

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1. Statements of Opposition

Stream & Lake Protection Section

Staff recommends the Board ratify CWCB's filing of the following Statements of Opposition:

- a. Case No. 23CW3000 (Water Division 3): Application of Forbes Park Land Owners Association

2. Water Supply Reserve Fund Grants

	Basin	Applicant	Name of Water Activity
a.	Arkansas	Rocky Ford Highline Canal	Diversion Structure Feasibility Study
b.	Colorado	Middle Colorado Watershed Council	Roan Creek Fish Barrier & Diversion Infrastructure Upgrade
c.	North Platte	Owl Mountain Partnership	Structures for Water Control – Gibbs Ditch

3. Floodplain Designation, “Flood Insurance Study, San Juan County, Colorado, and Incorporated Areas”, by FEMA, dated May 9, 2023

Watershed and Flood Protection Section

**Water Supply Reserve Fund
Water Activity Summary Sheet
March 15-16, 2022
Agenda Item 25(f)**

Applicant & Grantee: Trout Unlimited

Water Activity Name: Stewart Ditch Diversion Improvement Project

Water Activity Purpose: Agricultural, Nonconsumptive (Environmental & Recreational) - Implementation

County: Delta

Drainage Basin: Gunnison River

Water Source: North Fork River Gunnison River

Amount Requested: \$40,000 Gunnison Basin Account
\$100,000 Statewide Account
\$140,000 Total Request

Matching Funds: **Basin Account Match = \$40,000**

- 40% of statewide request (meets 10% min)

Applicant & 3rd Party Match = \$465,400 (cash)

- 465% of the statewide request (meets 40% min)

Total Match (Basin request & Applicant Match) = \$515,400

- 515% of the statewide request (meets 50% min)

Staff Recommendation:
Staff recommends approval of up to \$40,000 from the Gunnison Basin Account and up to \$100,000 from the Statewide Account to help fund the project: Stewart Ditch Diversion Improvement Project

Water Activity Summary: This project will achieve multiple goals and objectives by repairing and improving in-river push-up dam and diversion infrastructure used by the Stewart Ditch on the North Fork of the Gunnison. The tasks related to this effort have been supported by CWCB funds that have provided site survey, hydraulic modeling of concepts and engineered plans.

The proposed project will build upon on-going engineering and modeling efforts by constructing a new rock dam in the river and replace antiquated and deficient irrigation diversion infrastructure.

This project will provide immediate improvements to the river channel that will benefit fish, including native fish, as well as recreational water users. Improving and replacing the diversion infrastructure will support more than 240 water user who rely on the Stewart Ditch for irrigation of nearly 2,600 acres near the Town of Paonia. These improvements will improve operations for the water users by reducing labor related to operating the diversion and down-ditch screens. New diversion infrastructure will also improve water use efficiency and protect the ditch from overtopping.

Discussion: The project aligns with the goals of the Water Plan and the Gunnison Basin Implementation Plan by addressing aging agricultural infrastructure, identifying multipurpose projects that would preserve storage within the Basin as well as preserving habitat for migratory birds and a recreational bird watching area.

Issues/Additional Needs: No issues or additional needs have been identified.

Eligibility Requirements: The application meets requirements of all eligibility components.

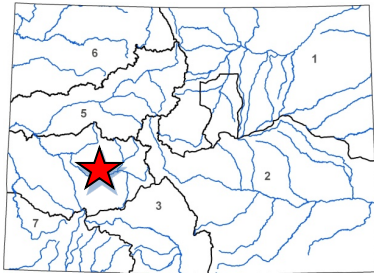
Evaluation Criteria: Staff has determined this activity satisfies the Evaluation Criteria.

Funding Sources/Match	Cash	In-Kind	Total	Status
Colorado Department of Agriculture	\$50,000	\$0	\$50,000	Secured
Colorado River Water District	\$200,000	\$0	\$200,000	Secured
CWCB Water Plan Grant	\$170,000	\$0	\$170,000	Pending
Stewart Ditch & Reservoir Company	\$3,000	\$22,000	\$25,000	Secured
Trout Unlimited	\$6,000	\$40,000	\$46,000	Secured
US Fish & Wildlife Service	\$68,000	\$0	\$68,000	Pending
Western Slope Conservation Center	\$8,000	\$0	\$8,000	Secured
Sub-Total Matching Funds	\$505,000	\$62,000	\$567,000	
WSRF Gunnison Basin Account	\$40,000	\$0	\$40,000	Secured
WSRF Statewide Account	\$100,000	\$0	\$100,000	
Sub-Total WSRF Funds	\$140,000	\$0	\$140,000	
Total Project Costs	\$707,000	\$62,000	\$769,000	

CWCB Project Manager: Andrea Harbin-Monahan



Water Plan Grant Application

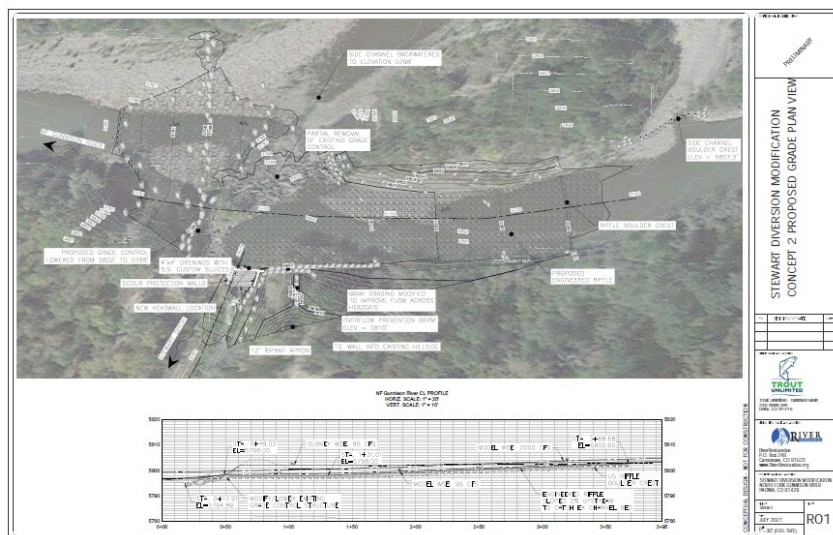


L O C A T I O N	
County/Countries:	Delta
Drainage Basin:	Gunnison

D E T A I L S	
Total Project Cost:	\$732,935
Water Plan Grant Request:	\$170,000
Recommended amount:	\$169,736
Other CWCB Funding:	\$150,000
Other Funding Amount:	\$461,000
Applicant Match:	\$628,935
Project Type(s): Design, construction and implementation	
Project Category(Categories): Environmental and Recreation	
Measurable Result: 22,704 linear feet of restored stream, 2 acres of restored habitat	

This proposed water activity is the result of a collaborative effort between Stewart Ditch and Reservoir Company (SDRC) and Trout Unlimited (TU) aimed at restoring riparian function and improving water management on the North Fork of the Gunnison. This proposed project will address water needs for agricultural, and recreational users.

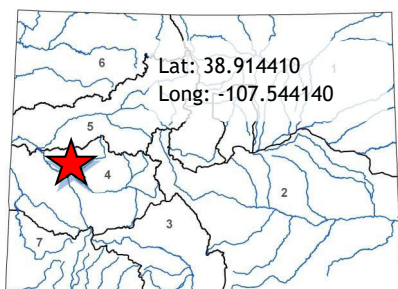
The Stewart Ditch diversion is a 1200-foot-long cobble push-up dam and an antiquated headgate. The diversion dam is unstable and requires in-river construction which damages the river and impacts fish habitat and migration. The current orientation of the dam causes erosion on the riverbank opposite the diversion. The height of the dam is a hazard for boaters and recreational users of the North Fork. During low flows, the dam is a barrier for fish trying to navigate to better habitat upstream of the diversion. The canal intake also removes fish and debris from the river which causes maintenance issues for the water users and impacts the populations of fish, including the native bluehead sucker and wild non-native trout. This project will address these issues by replacing the push-up dam with a permanent low-head rock diversion dam and equipping the diversion with new diversion infrastructure, water measurement structures, automation, and a fish/debris screen.



Project objectives include:

1. Completing engineered plans for diversion modification including necessary survey, hydraulic modeling, and stakeholder input.
2. Secure necessary permits and environmental clearances including CDOT access permit, ACOE 404 waiver or permit, Delta County floodplain permit, and NEPA compliance.
3. Construction of diversion dam and intake structures that meet water users needs while also allowing for fish passage and reduced entrainment.
4. Complete monitoring and tuning to ensure project goals are achieved.

Water Supply Reserve Grant Application



LOCATION	
County:	Delta
Drainage Basin:	Gunnison

DETAILS	
Total Project Cost:	\$391,975
Total WSRF Grant Request:	\$305,000
Gunnison Basin Account Request:	\$39,198
Statewide Account Request:	\$265,802
Recommended Amount:	\$305,000
Other CWCB Funding:	\$0
Other Funding Amount:	\$86,975
Applicant Match:	\$0
Project Type(s): Construction/Implementation	
Water Use Type: Agricultural	
Statewide Category: Aging Infrastructure	
Measurable Result: 15,000 linear feet of restored or protected length of stream; 4 acres of restored or preserved habitat; and 665 feet of canal improved.	

The applicant states the proposed project meets the identified criteria for Statewide Account grant request for aging infrastructure that aims to secure and repair irrigation diversion structures. If approved, WSRF funds will be used to aid in water conveyance and delivery to agricultural users and replace the current impaired headgate and in-channel diversion. While the overall project cost is over \$1 million, the WSRF total project cost to help fund construction & project management is \$391,975. The CWCB Board also awarded a Water Plan grant and a WSRF grant in 2021 for this project.

The Stewart Mesa Canal Diversion is currently a 1,200-foot-long push-up dam and an undersized and antiquated headgate. The existing dam structure elevates water to allow for diversion at low flows. At high flow the river breaks through rock and cobble dam and overtops the diversion structure. The dam also pushes water to the north bank away from the diversion during high flows causing erosion and widening of the river. The diversion structure can prove difficult to navigate for boaters and can be dangerous at high-flow event. During low flow the dam is a barrier to fish that are trying to navigate upstream. The canal intake removes fish from the river due to the dam and diversion configuration. The applicant and project partners have surveyed the river and diversion works, developed designs and two-dimensional hydraulic models for creating water surface elevations necessary to divert water while allowing fish passage and addressing erosion. The proposed construction project aims to improve fish and boat passage in the North Fork Gunnison River at the Stewart Diversion site, while replacing aging and inadequate infrastructure, enhancing diversion stability, and minimizing long term impacts to the riverine and riparian environment in the project reach.

The project aligns with themes and meets goals in the Gunnison Basin Implementation Plan as well as values stated in the Water Plan.

Issues/Additional Needs: If approved, all three grants will not exceed the limit of CWCB funding more than 75% of a project. No other issues or additional needs have been identified.

Funding Recommendation: Staff recommends approval of up to \$39,198 from the Gunnison Basin Account and up to \$265,802 of Statewide Account. Project approval is contingent upon the applicants' abilities to resolve issues and additional needs identified by staff.

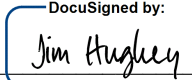
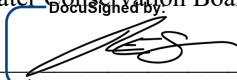
STATE OF COLORADO GRANT AGREEMENT

COVER PAGE

State Agency Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Agreement Number CMS Number: 185320 Encumbrance Number: CTGG1 2024*2074		
Grantee Colorado Trout Unlimited 1536 Wynkoop Street, #320 Denver, CO 80202	Agreement Performance Beginning Date The later of the Effective Date or September 1, 2023		
	Initial Agreement Expiration Date September 1, 2028		
Agreement Maximum Amount \$614,736.00	Fund Expenditure End Date September 1, 2028		
	Agreement Authority Authority for the agency entering into this Contract arises from Colorado Revised Statutes (CRS) 37-60-106 and 37-60-121, and Senate Bill 09-125 adopted by the 2009 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. HB-22-1316 Per § 24-101-105 this grant agreement is exempt from the Procurement Code		
Agreement Purpose Grant funds will be used to aid in water conveyance and delivery to agricultural users and replace the current impaired headgate and in-channel diversion.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A, Statement of Work. 2. Exhibit B, Budget 3. Exhibit C, Sample Option Letter 4. Exhibit D, PII Certification <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Colorado Special Provisions in §18 of the main body of this Agreement. 2. The provisions of the other sections of the main body of this Agreement. 3. Exhibit A, Statement of Work. 4. Exhibit B, Budget 5. Exhibit C, Sample Option Letter 			
Principal Representatives <table border="0"> <tr> <td> For the State: Andrea Harbin-Monohan, Project Manager Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203 Chris.Sturm@state.co.us </td> <td> For Grantee: Luke Laurita, Program Manager Colorado Trout Unlimited 1536 Wynkoop Street, #320 Denver, CO 80202 970-210-4997 luke.laurita@tu.org </td> </tr> </table>		For the State: Andrea Harbin-Monohan, Project Manager Colorado Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203 Chris.Sturm@state.co.us	For Grantee: Luke Laurita, Program Manager Colorado Trout Unlimited 1536 Wynkoop Street, #320 Denver, CO 80202 970-210-4997 luke.laurita@tu.org
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SIGNATURE PAGE**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

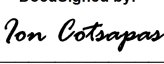
Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p style="text-align: center;">GRANTEE Colorado Trout Unlimited</p> <div style="text-align: center; margin-top: 20px;"> <p><small>DocuSigned by:</small></p>  <p><small>S: 084B0FFEB0C004DB...</small></p> <p>Signature</p> </div> <p style="text-align: center; margin-top: 20px;">Jim Hughey</p> <p style="text-align: center;">Printed Name</p> <p style="text-align: center; margin-top: 20px;">CFO</p> <p style="text-align: center;">Signatory's Title</p> <p>Date: <u>August 28, 2023 12:33 PM MDT</u></p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <div style="text-align: center; margin-top: 20px;"> <p><small>DocuSigned by:</small></p>  <p><small>S: 403FDB4714E84D2...</small></p> <p>Signature</p> </div> <p style="text-align: center; margin-top: 20px;">Russell Sands</p> <p style="text-align: center;">Printed Name</p> <p style="text-align: center; margin-top: 20px;">CWCB Section Chief - Water Supply P</p> <p style="text-align: center;">Signatory's Title</p> <p>Date: <u>August 25, 2023 5:07 AM PDT</u></p>
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In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

DocuSigned by:



S: 70E30F1B09EE4E8...

Signature

Ion Cotsapas

Printed Name

DNR Procurement Director

Signatory's Title

Effective Date: September 25, 2023 | 10:24 AM MDT

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1. PARTIES

This Agreement is entered into by and between Grantee named on the Cover Page for this Agreement (the “Grantee”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Grantee and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred before the Effective Date, except as described in **§5.D**, or after the Fund Expenditure End Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit Insert Exhibit Number.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State's Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee as provided in §14, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for breach by Grantee, which shall be governed by 12.A.i.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Grantee shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

F. **Grantee's Termination Under Federal Requirements**

Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. **DEFINITIONS**

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. 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 30 days after the institution of such proceeding, shall also constitute a breach. If Grantee is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- C. **"Budget"** means the budget for the Work described in Exhibit C.
- D. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- E. **"CJI"** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S.
- G. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature for this Agreement.
- H. **"End of Term Extension"** means the time period defined in §2.D.
- I. **"Exhibits"** means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- J. **"Extension Term"** means the time period defined in §2.C.
- K. **"Goods"** means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- L. **"Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- M. **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or

destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et seq.* C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

N. **“Initial Term”** means the time period defined in §2.B.

O. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.

P. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.

Q. **“PCI”** means payment card information including any data related to credit card holders' names, credit card numbers, or other credit card information as may be protected by state or federal law.

R. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S. **“PII”** shall also mean **“personal identifying information”** as set forth at § 24-74-102, *et. seq.*, C.R.S.

S. **“Services”** means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods

T. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Grantee which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Grantee without restrictions at the time of its disclosure to Grantee; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Grantee to the State; (iv) is disclosed to Grantee, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

U. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

V. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

W. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

X. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. **“Subcontractor”** also includes sub-grantees of grant funds.

Y. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.

Z. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

AA. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.

BB. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. **STATEMENT OF WORK**

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. **PAYMENTS TO GRANTEE**

A. **Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Agreement Maximum for each State Fiscal Year shown on the Cover Page of this Agreement.

B. **Payment Procedures**

i. **Invoices and Payment**

- a. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

ii. **Interest**

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. **Payment Disputes**

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. **Available Funds-Contingency-Termination**

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

C. **Matching Funds**

Grantee shall provide Matching Funds as provided in §5.A and 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. Grantee's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" in Exhibit B has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any

claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

D. Reimbursement of Grantee Costs

Only with prior written approval, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in Exhibit A and §5.A for all allowable costs described in this Grant and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall reimburse Grantee for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and Exhibit A. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed. Grantee's costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
- ii. Equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out

Grantee shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §16 or pursuant to any other Exhibit, for any Agreement having a term longer than three months, Grantee shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress reports shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within ten days after being served, notify the State of such action

and deliver copies of such pleading or document to the State's Principal Representative identified on the Cover Page for this Agreement.

C. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

D. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the this award. The State may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. GRANTEE 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 for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

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 transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Grantee's performance of its obligations under this Agreement using procedures as determined by that governmental entity. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall

monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

D. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in writing by the State. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Agreement as an Exhibit, if applicable; **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI; **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJL. Grantee shall immediately forward any request or demand for State Records to the State's Principal Representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State

Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Grantee can establish that none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as Exhibit D on an annual basis Contractor's duty and obligation to certify as set forth in Exhibit D shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Agreement. Such a conflict of interest would arise when a Grantee or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Grantee acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be 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 under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, 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 actual or apparent conflict constitutes a breach of this Agreement.

D. Contractor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Contractor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Contract.

10. INSURANCE

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

C. 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.

D. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation, or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Grantee and Subcontractors.

H. Primacy of Coverage

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

I. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Grantee and Grantee shall forward such notice to the State in accordance with §14 within seven days of Grantee's receipt of such notice.

J. Subrogation Waiver

All commercial insurance policies secured or maintained by Grantee or its Subcontractors in relation to this Agreement 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.

K. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, *et seq.*, C.R.S. (the "GIA"), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Agreement, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

L. Certificates

For each commercial insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement within seven Business Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven Business Days following the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Grantee is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance 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 not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to 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 but

in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees 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 as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold 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 Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work 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.

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Grantee's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Grantee's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation

to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State **(i)** secure that right to use such Work for the State and Grantee; **(ii)** replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, **(iii)** remove any infringing Work and refund the amount paid for such Work to the State.

B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Grantee for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within ten Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S. (the "Resolution Statutes"), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's principal representative at the address set forth below or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal

representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Grantee hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Grantee cannot make any of the assignments required by this section, Grantee hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Grantee grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Grantee that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Grantee is under contract with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Grantee shall not use, willingly allow, cause or

permit Work Product or State Materials to be used for any purpose other than the performance of Grantee's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Grantee under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Grantee agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State's Agreement management system ("Contract Management System" or "CMS"). Grantee's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

17. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Grantee shall not enter into any subgrant or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each such subgrant or subcontract upon request by the State. All subgrants and subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in §17.A, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

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

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

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

H. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in § 17.A, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Grantee's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of

their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Indemnification

i. General Indemnification

Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Grantee in violation of §8 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 Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

U. Compliance with State and Federal Law, Regulations, and Executive Orders

Grantee shall comply with all State and Federal law, regulations, executive orders, State and policies, procedures, directives, and reporting requirements at all times during the term of this Grant.

V. Accessibility

i. Grantee shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor’s Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Grantee shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

ii. Grantee shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Grantee’s failure to comply with §§24-85-101, *et seq.*, C.R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

- iii. The State may require Grantee's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Grantee's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

18. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all agreements except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's 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 by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.



Last Update: March 17, 2020

<https://cwcb.colorado.gov/>

Colorado Water Conservation Board	
Water Supply Reserve Fund	
<u>Exhibit A - Statement of Work</u>	
Date:	8/8/2021
Water Activity Name:	Stewart Mesa Canal Diversion Modification and Restoration Project
Grant Recipient:	Trout Unlimited
Funding Source:	CWCB Water Supply Reserve Fund
<p>Water Activity Overview: (Please provide brief description of the proposed water activity (no more than 200 words). Include a description of the overall water activity and specifically what the WSRF funding will be used for. (PLEASE DEFINE ALL ACRONYMS).)</p> <p>Trout Unlimited (TU) is partnering with the Stewart Ditch and Reservoir Company (SDRC) and others to replace the antiquated infrastructure of the Stewart Ditch diversion works. The proposed construction project aims to improve fish and boat passage in the North Fork of Gunnison River at the Stewart Diversion site, while improving water delivery to the Stewart Ditch, enhancing diversion stability, and minimizing long term impacts to the riverine and riparian environment in the project reach.</p> <p>The Stewart Mesa Ditch diversion is currently a 1200-foot-long push-up dam and an antiquated headgate. At high flow the river breaks through rock and cobble dam and overtops the diversion structure and causing erosion and occasional loss of the dam, requiring in-river construction which exacerbates impacts to the river. The dam pushes water to the north bank away from the diversion during high flows, causing erosion and could potentially damage State highway 133. The orientation of the river can prove difficult to navigate for boaters and can be dangerous at high-flow event. During low flow the dam is a barrier to fish that are trying to navigate upstream including the species of special concern. The canal intake also removes fish from the river due to the dam and diversion configuration.</p> <p>The final designs of the project have been finished and approved. TU seeks additional funding to cover overall construction costs.</p>	
<p>Objectives: (List the objectives of the project. (PLEASE DEFINE ACRONYMS).)</p>	



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Overall Project Goals and Objectives

1. Remove and replace aging diversion infrastructure
2. Improve channel stabilization and erosion control
3. Improve and reconnect riverine and riparian habitat
4. Improve water management and efficiency of diversion operations
5. Reduce fish loss and entrainment

Project tasks

1. Construction
2. Monitoring and Adjustment
3. Project Management and Grant Administration

Tasks
<u>Task 1 – Construction</u>
<p>Description of Task:</p> <ul style="list-style-type: none"> • Demolition and Removal of existing headgate and flume. • Installation of concrete headgate structure with metal hardware. • Installation of a boulder grade control structure across the North Fork of the Gunnison River. • Installation of an engineered riffle upstream and downstream of the boulder grade control structure. • Installation of side channel grade control. • Installation of a ramp flume. • Re-grading 665 ft of Stewart Ditch downstream of headgate. • Armoring Rock Upstream and Downstream of the concrete headgate structure.
<p>Method/Procedure:</p> <p>With heavy equipment contractors and assistance from partners, TU will remove and replace the push-up dam diversion with cross-channel boulder grade control structures, install engineered riffles, side channel grading. This work will include best management practices, care of water procedures, and reclamation to disturbed areas to minimize construction impacts.</p> <p>Existing headgate and flume will be replaced by constructing a concrete headwall, installation of a metal headgate and excavating and regrading new ditch prism.</p> <p>The project scope also includes the following tasks associated with major in-channel installations:</p> <ul style="list-style-type: none"> • Identify and maintain Erosion Control Measures and Best Management Practices (BMPs) • and provide a detailed Erosion and Sediment Control Plan (ESC) Plan to be submitted • prior to construction and reviewed and accepted by the Owners Representative. • Identify and maintain Care of Water (CW) plan and BMPs involved with protecting river • from construction related activities. • Provide a detailed Spill Prevention Control and Countermeasure Plan (SPCC) Plan to be



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Tasks
<ul style="list-style-type: none"> submitted prior to construction and reviewed and accepted by the Owners Representative. Identify and maintain measures necessary to Protect in Place (PIP) Trees, Wetlands, and other Natural Resources, and provide a detailed Natural Resource Protection Plan (NRP) Plan to be submitted prior to construction and reviewed and accepted by the Owners Representative. PIP all driveways, utilities, parking lots, power lines, flood walls, and other structures not identified for removal. Haul off and dispose of unclassified excavation removed from the channel and banks and dewater as necessary. Restore construction staging areas and access areas to equal or better than preconstruction condition.
Grantee Deliverable: (Describe the deliverable the grantee expects from this task)
Infrastructure installed to meet project objectives.
CWCB Deliverable: (Describe the deliverable the grantee will provide CWCB documenting the completion of this task)
Summary of work completed and relevant documents.

Tasks
<u>Task 2 – Monitoring and Adjustments</u>
Description of Task:
Using data gathered from task one efforts, TU will work with the selected engineer to evaluate diversion control and measurements that could increase efficiency, control salinity, and improve water management.
Method/Procedure:
TU and Engineers will monitor and supervise to ensure construction is aligning with designs. Engineers will use USBR hydraulic modeling tools to evaluate changes in flow.
Grantee Deliverable: (Describe the deliverable the grantee expects from this task)



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Tasks
Review and adjustments to design/construction to achieve overall project objectives.
CWCB Deliverable: (Describe the deliverable the grantee will provide CWCB documenting the completion of this task)
The process of analysis will be summarized and provided to the CWCB including recommendations.

Tasks
<u>Task 3 – Project Management and Grant Administration</u>
Description of Task:
In this task, TU will administer grant funds and provide accounting, oversight, and reporting for the project. TU will coordinate with partners to manage logistics and volunteer work, and obtain all necessary permits, surveys, and reports. TU will review plans, schedules, and documentation from the selected contractor.
Method/Procedure:
TU will process invoices, record match efforts and contributions, and write reports and permit applications. TU staff will work on each stage of this project to direct all involved parties toward successful completion while recording all major milestones. All plans and documentation from the selected contractor will be reviewed by TU and partners including: <ul style="list-style-type: none"> • Erosion and Sediment Control (ESC) • Spill Prevention, Control and Countermeasures (SPCC) Plan • Traffic Control (TC) Plan • Care of Water (CW) Plan • 2 Week Look Ahead Construction Schedule Each Monday by 10:00 AM • Construction Materials and Product forms for approval • Qualified Sub-Contractors List At start of construction. • Existing Conditions Documentation Prior to the start of construction activities. • Overall Project Schedule • Bio-degradable Fluid Equipment list
Grantee Deliverable: (Describe the deliverable the grantee expects from this task)
Compliance with requirements of the CWCB grant and recording of the process to inform future projects. Plan from selected contractor that incorporate detailed BMPs, means, methods, and materials necessary for achieving project performance, safety, and protection targets.
CWCB Deliverable: (Describe the deliverable the grantee will provide CWCB documenting the completion of this task)
This task will provide the CWCB with reports on progress of the project including accounting of grant



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Tasks

expenditures. Reports will also provide photos of the project, summaries of engineering report, and valuable lessons learned during the project.

Budget and Schedule

Exhibit B - Budget and Schedule: This Statement of Work shall be accompanied by a combined Budget and Schedule that reflects the Tasks identified in the Statement of Work and shall be submitted to CWCB in excel format. A separate excel formatted Budget is required for engineering costs to include rate and unit costs.

Reporting Requirements

Progress Reports: The grantee shall provide the CWCB a progress report every 6 months, beginning from the date of issuance of a purchase order, or the execution of a contract. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues. The CWCB may withhold reimbursement until satisfactory progress reports have been submitted.

Final Report: At completion of the project, the grantee shall provide the CWCB a Final Report on the grantee's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

Payments

Payment will be made based on actual expenditures, must include invoices for all work completed and must be on grantee's letterhead. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire Project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

The CWCB will pay the last 10% of the entire water activity budget when the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the water activity and purchase order or contract will be closed without any further payment. Any entity that fails to complete a satisfactory Final Report and submit to CWCB within 90 days of the expiration of a purchase order or contract may be denied consideration for future funding of any type from CWCB.

Performance Requirements

Performance measures for this contract shall include the following:

(a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget in Exhibit B. Per Grant Guidelines, the CWCB will pay out the last 10% of the budget when the final deliverable is completed to the satisfaction of CWCB staff. Once the final deliverable has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.



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Performance Requirements

(b) Accountability: Per the Grant Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per the Grant Guidelines, Progress Reports must be submitted at least once every 6 months. A Final Report must be submitted and approved before final project payment.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each Progress Report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the Grant Agreement.



COLORADO
**Colorado Water
 Conservation Board**
 Department of Natural Resources

Colorado Water Conservation Board

Water Supply Reserve Fund

EXHIBIT B - BUDGET AND SCHEDULE - Direct & Indirect (Administrative) Costs

Date: 01/16/23

Water Activity Name: Stewart Ditch Diversion Improvement Project

Grantee Name: Trout Unlimited

<u>Task No.</u> ⁽¹⁾	<u>Description</u>	<u>Start Date</u> ⁽²⁾	<u>End Date</u>	<u>Non-CWCB Matching Funds</u> (cash & in-kind) ⁽³⁾	<u>Water Plan Grant</u> (2021)	<u>WSRF</u>	<u>Total</u>
1	Construction	September 1, 2023	September 1, 2028	\$324,062	\$132,861	\$381,957	\$838,880
2	Monitoring and Adjustments	September 1, 2023	September 1, 2028	\$33,000	\$15,000	\$5,000	\$53,000
3	Project Administration & Grand Management	September 1, 2023	September 1, 2028	\$19,817	\$21,875	\$58,043	\$99,735
Total				\$376,879	\$169,736	\$445,000	\$991,615

EXHIBIT C, SAMPLE OPTION LETTER

State Agency Insert Department's or IHE's Full Legal Name	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Grantee Colorado Trout Unlimited 1536 Wynkoop Street, #320 Denver, CO 80202	Original Agreement Number Insert CMS number or Other Agreement Number of the Original Contract
Current Agreement Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Option Agreement Number Insert CMS number or Other Agreement Number of this Option Agreement Performance Beginning Date Month Day, Year Current Agreement Expiration Date Month Day, Year

1. OPTIONS:

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Agreement
- C. Option to change the quantity of Services under the Agreement
- D. Option to modify Agreement rates
- E. Option to initiate next phase of the Agreement

2. REQUIRED PROVISIONS:

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Agreement, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to modify the Agreement rates specified in Exhibit/Section Number/Letter. The Agreement rates attached to this Option Letter replace the rates in the Original Agreement as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. OPTION EFFECTIVE DATE:

- A. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE</p> <p>By: _____ Name & Title of Person Signing for Agency or IHE</p> <p>Date: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Name of Agency or IHE Delegate-Please delete if agreement will be routed to OSC for approval</p> <p>Option Effective Date: _____</p>
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EXHIBIT D-PII CERTIFICATION

STATE OF COLORADO

THIRD PARTY INDIVIDUAL CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

Signature: _____

Printed Name: _____

Date: _____

EXHIBIT D-PII CERTIFICATION

STATE OF COLORADO

THIRD PARTY ENTITY / ORGANIZATION CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of entity / organization) (the "Organization"), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

Signature: _____

Printed Name: _____

Title: _____

DATE: _____