

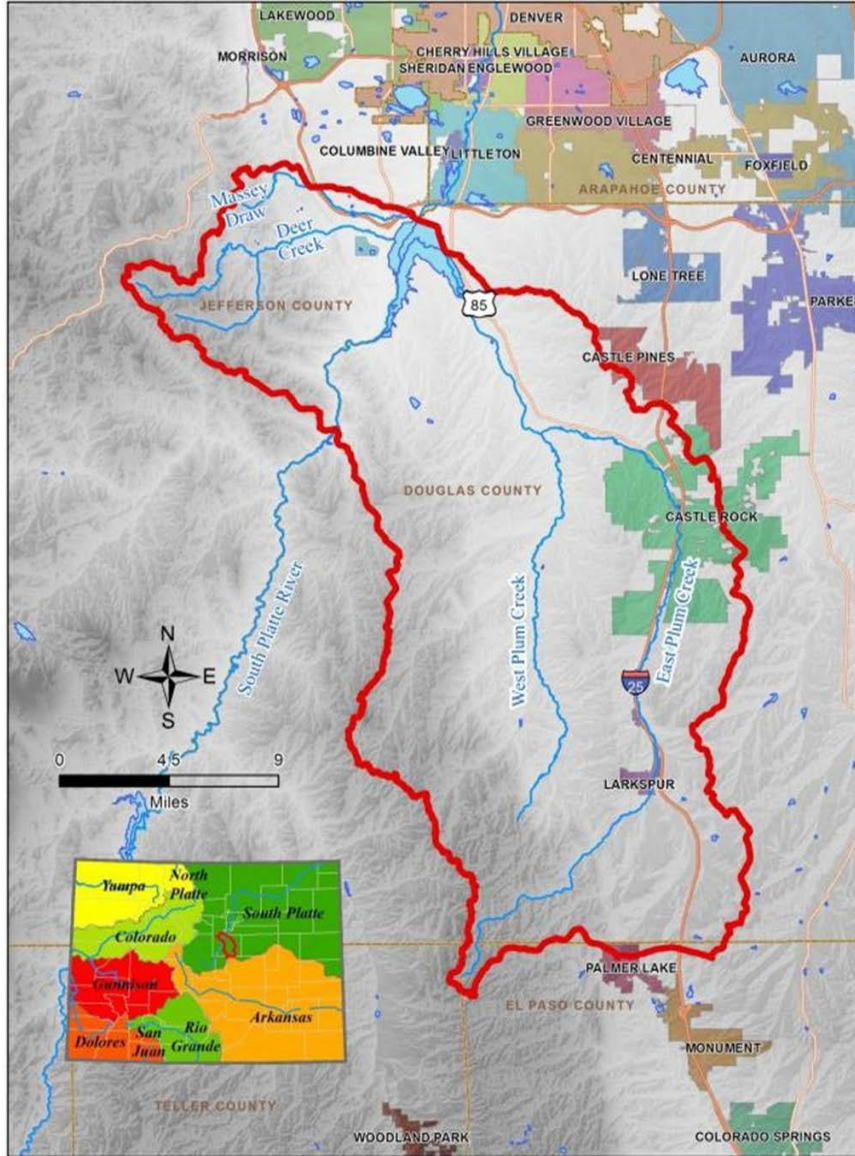
CHATFIELD WATERSHED AUTHORITY  
REQUEST FOR PROPOSAL  
MANAGEMENT & ADMINISTRATIVE SERVICES  
RFP-CWA-2018-1

November 26, 2018

## 1.0 GENERAL INFORMATION

### 1.1 PURPOSE

The purpose of this Request for Proposals (RFP) is to obtain competitive proposals from qualified consultants for a Manager to provide management and administrative services to the Chatfield Watershed Authority (Authority). This RFP provides prospective proposers with sufficient information to enable them



**Figure 1 General Location of Chatfield Watershed, located in the South Platte River Basin, Colorado.**

*Chatfield Reservoir receives drainage from the South Platte River basin (2,701 m<sup>2</sup>) and Plum Creek basin (321 m<sup>2</sup>). The South Platte River is the major water source to Chatfield Reservoir, typically contributing over 75% of the inflow to the Reservoir. The Chatfield Watershed boundaries, however, include the lower portion of the South Platte River basin downstream of Strontia Springs Reservoir (118.5 mi<sup>2</sup>) and the entire Plum Creek basin. The South Platte River drainage upstream of Strontia Springs Reservoir is not included within the Chatfield Watershed boundaries (consistent with Control Regulation 73).*

to prepare and submit proposals for consideration by the Chatfield Watershed Authority to satisfy the needs as outlined in Section 1.3, Scope of Services.

### 1.2 INTRODUCTION

Chatfield Reservoir (Reservoir) is 15 miles southwest of Denver, Colorado (Figure 1). The Chatfield Watershed (Watershed), spans parts of Jefferson, Douglas, and El Paso Counties and includes municipalities, towns and other populated areas such as Castle Rock, Castle Pines, Larkspur, Littleton, Louviers, Perry Park, Roxborough Park, and Sedalia.

The basin-wide group of counties, municipalities, special districts, private, and other entities, known as the “Chatfield Watershed Authority”, was formulated through intergovernmental agreement (IGA) after the Chatfield Reservoir total phosphorus standard was adopted in 1984. In April 2016, the Authority amended the IGA and bylaws, providing for restructuring of its Board and governance. As such the Board is comprised of elected officials

from Jefferson and Douglas Counties and Town of Castle Rock, a wastewater district representative and at-large representative. The 5-member Board is responsible for fiscal and policy matter and meets quarterly. A variety of standing committees may be developed to support issues requested by the Board. The Technical Advisory Committee (TAC) is a standing committee that generally meets monthly to support the Authority's technical matters. A public outreach committee was established and is addressing a new logo, website updates and communications. Other standing committees may be formed to address specific issues as requested by the Board.

### **1.3 Scope of Services**

Services to be provided include administrative, communication, and management functions to support the operation of an established and evolving watershed organization. The position requires travel to meetings and organization business.

Under the Authority's Intergovernmental Agreement<sup>1</sup> and Bylaws<sup>2</sup>, the Manager:

- Will manage the day to day operations of the Authority;
- Shall report to the Board;
- Shall provide management services for the Authority, including the Board, TAC, other committees formed by the Board;
- Is responsible for coordinating & overseeing activities of any consultants or contractors engaged by the Authority, including the technical consultant, any accountants and legal counsel, who shall also report directly to Board; and
- Shall perform all duties typically performed by secretary of an organization, including but not limited to, preparing meeting agendas and documentation, keeping minutes of all Board/committee meetings, ensuring notices are duly given in accordance with the provisions of Bylaws or as required by law, and other such duties as may be assigned by the Board or as required by the Bylaws or the Board.

### **Management Services**

- Coordination and Administration Typical Duties

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<sup>1</sup> Amended and Reinstated Intergovernmental Agreement Establishing the Chatfield Watershed Authority, dated April 26, 2016

<sup>2</sup> Under the Bylaws (Article V, 5.6), the Manager:

- Shall report to the Board (Article V, 5.6)
- Shall provide management services for Authority, including Board, TAC, other committees formed by Board (Article V, 5.6.1)
- Is responsible for coordinating & overseeing activities of any consultants or contractors engaged by Authority, including any accountants and legal counsel, who shall also report directly to Board (Article V, 5.6.1)
- Shall perform all duties typically performed by secretary of an organization, including but not limited to, keeping minutes of all Board/committee meetings, ensuring notices are duly given in accordance with the provisions of Bylaws or as required by law, and other such duties as may be assigned by the Board or as required by the Bylaws or the Board (Article V, 5.6.1)

- Organize, publicly notice, facilitate, and follow-up for every other month (or six) Chatfield Board meetings in accordance with governance documents
- Organize, publicly notice, facilitate, and follow-up for monthly TAC meetings in accordance with governance documents
- Agenda planning and coordination with TAC members monthly, and Board members every other month, prior to meetings to identify action items and other agenda items
- Preparation of all agendas, packets, and compilation of other materials from the technical consultant, financial consultant, legal consultant, public outreach consultant, website consultant, and various committees of the Authority for Board and TAC meetings
- Production and distribution of meeting minutes, agendas, records, and announcements; includes submitting materials to website consultant for timely posting in accordance with governance documents
- Maintenance of all organization records, including, but not limited to: updated Board and TAC membership lists, including alternates, and contact information; invoices and related records; meeting packets, minutes, and other documents; work products; and e-files
- Coordination and facilitation of other special committees that may be designated by the Board
- Coordination and facilitation of Board elections as described in the Bylaws
- Updating and submitting information to the Website Consultant for posting to the Chatfield website [www.chatfieldwatershedauthority.org](http://www.chatfieldwatershedauthority.org) in accordance with governance documents
- Track dates and keep updated schedule for the Annual Report to the Water Quality Control Commission, Regulation 38 (South Platte Water Quality Standards) Issues Scoping Hearings, Issues Formulation Hearings, and Rulemaking Hearings; and Regulation 73 (Chatfield Reservoir Control Regulation) Informational Review Hearings; and other hearings as requested by TAC (such as Regulation 85 (Statewide Nutrients Control Regulation))
- Coordinate with technical consultant(s) on presentation of water quality monitoring activities in the Chatfield Reservoir and its watershed to the TAC, Board and Colorado Department of Public Health & Environment/Water Quality Control Division.
- Coordinate the review of site applications submitted to Authority Manager with the appropriate technical consultant(s)
- Respond to special meetings and project requests authorized by the Board or TAC and not otherwise included in this Scope of Services, as budget allows.

- Financial Management
  - Receive and review all Authority invoices; coordinate with Authority's financial consultant in the processing of all Authority invoices, including getting TAC and/or Board approval (as required by Authority Policy) at regular meetings
  - Coordinate with Authority's financial consultant regarding administration of accounting and tax information including dues collection, and insurance and tax assignments made by the Board
  - If assigned by the Board, contract management including working with Board and CPA to establish annual assessment, invoicing and reporting for affiliated water-quality related organizations and grants
  - Participate in organization budgeting, tracking, and forecasting
- Contract Management
  - Act as liaison with consultants, contractors, and vendors hired by Chatfield (e.g., legal services, financial services, technical consultants)
  - Provide project support as requested by the Board
- Annual Report Services
  - Provide support to Technical Consultant(s) in the development, production, and distribution of the Chatfield Watershed Authority Annual Report, due to the Water Quality Control Division/Commission by May 15th of every year
  - Coordinate with Colorado Water Quality Control Division/Commission to schedule Annual Report presentation
- Chatfield Representation
  - Represent Chatfield at relevant meetings, and other watershed events, as requested by the Board or TAC
  - Produce materials and talking points for Board officers, with assistance from the TAC, public outreach committee and/or technical consultant(s)
  - Present information to interested parties, as requested
  - Act as primary point of contact to membership and public
  - Other duties as assigned

## 2.0 ESTIMATED LEVEL OF EFFORT REQUIRED

It is estimated that the typical level of effort (estimated hours) required per month will vary between twenty (20) and thirty (30) hours. Some months may exceed this level; for example, in months when the Annual Report is being prepared and reviewed and in months where one or more special Board meetings may be necessary. The level of effort in other months may be significantly lower than typical months. The anticipated meeting schedule is shown in the table below:

Month	TAC Meeting	Board Meeting
January	✓	
February	✓	✓
March	✓	
April	✓	✓
May	✓	
June	✓	✓
July	✓	
August	✓	✓
September	✓	
October	✓	✓
November	✓	
December	✓	✓

The total annual estimated level of effort is 350 hours. TAC meetings are typically held in Castle Rock and are scheduled for 2 hours on the first Tuesday of the month from 2:00-4:00 pm. Board meetings are typically held in Castle Rock, Douglas County or Jefferson County and are scheduled for 2 hours on the third Monday of the month (quarterly) from 3:00-5:00 pm.

## 3.0 SCHEDULE OF ACTIVITIES

- Responses are due **No Later Than 4:00 p.m. on December 10th** to both the TAC Chair and Vice-Chair:

Patrick O’Connell [poconnel@co.jefferson.co.us](mailto:poconnel@co.jefferson.co.us)

Mary Kay Provaznik [maryk@dominionwsd.com](mailto:maryk@dominionwsd.com)

- The TAC will convene a committee, as appropriate, to review the proposals, and schedule phone interviews, as necessary.
- If a qualified and acceptable candidate is identified, the TAC will make a recommendation to the Board at a Special Board meeting scheduled on Monday, December 17, 2018 at 8:00 am.
- The intent is to have a contract in place with the new Manager, to enable services to begin on January 1, 2019.

The above schedule is tentative. Revisions, if necessary, will be posted in a timely manner on the Chatfield Watershed Authority website, [www.Chatfieldwatershedauthority.org](http://www.Chatfieldwatershedauthority.org).

#### **4.0 REQUEST FOR PROPOSAL INFORMATION**

#### **4.1 MINIMUM QUALIFICATIONS**

All interested consultants are required to provide information showing they meet all of the following minimum qualifications to be considered for this project:

1. Demonstrate a maximum of three (3) projects within the last five (5) years for projects of similar scope and complexity and three (3) references (contact, phone number, and email).
2. Management and financial skill sets that showcase capabilities needed for a watershed association.
3. Experience working with Colorado watershed associations, governmental organizations, and/or stakeholder groups.

#### **4.2 PROPOSAL REQUIREMENTS**

The following items must be included in the proposal (10-page limit, exclusive of resumes):

1. Project Approach
  - Respondent's recommended management support approach to implement the scope of services
  - The proposed scope of services and suggested project approach for initial contract period, January 1, 2019 through December 31, 2019
2. Company Profile
3. Estimated Level of Effort
  - Total cost estimate of the 2019 services (January 1, 2019 – December 31, 2019), showing estimated hours and rates by staff, task and other direct costs (ODC mark-up limited to 10%). Subsequent service contracts will be an annual contract, typically approved by the Authority Board as part of the annual budget approval process in November. *[A final scope of work will be negotiated with the selected contractor, and will be attached as an Exhibit to the contract.]*
  - Fee schedule for the term of the contract
4. Disclosure of Potential Conflicts of Interest and How These May Be Managed
5. Acknowledgement and Acceptance of Authority Contract

#### **4.3 SUBMITTAL REQUIREMENTS**

- All proposals must be received electronically in PDF format by **No Later Than 4:00 p.m. on December 10th** to both the TAC Chair and Vice- Chair:

Patrick O'Connell [poconnel@co.jefferson.co.us](mailto:poconnel@co.jefferson.co.us)

Mary Kay Provaznik [maryk@dominionwsd.com](mailto:maryk@dominionwsd.com)

- Proposals are limited to ten (10) pages, and 20 MB file size. Proposals received after the above dates and times for either will not be considered.

Proposals will not be returned and the Authority reserves the right to reject any and all proposals.

#### **4.4 INQUIRIES**

If there are questions, prospective proposers may make electronic inquiries to TAC Chair Patrick O'Connell at [poconnel@co.jefferson.co.us](mailto:poconnel@co.jefferson.co.us)

#### **4.5 EVALUATION PROCESS AND AWARD**

Proposals will be reviewed by a committee, in accordance with the Schedule of Activities (Section 3.0 above), with final selection made by the Board.

#### **5.0 CONTRACT INFORMATION**

##### **5.1 AUTHORITY CONTRACT**

The Authority will enter into a single contract with the selected contractor. Any partnerships between firms or individuals are welcome; however, the contract must be managed using a Prime Contractor / Subcontractor approach. The selected contractor will be required to assume responsibility for all goods and services offered in its proposal, and the Authority will consider the selected contractor to be the sole point of contact with regard to all contractual matters and responsibilities. The selected contractor will be required to enter into a formal contract with the Authority (Please review Authority Sample Contract – Attachment 1).

##### **5.2 PROJECT DURATION**

Work shall begin under the contract as soon as possible after contract execution. Contractor agrees to proceed with due diligence, completing all specified work by December 31, 2019 with the potential for extension. The Board will review management and technical services on an annual basis, as part of its annual budget planning and approval process.

##### **5.3 COMPENSATION**

Payment for the eligible project services, as approved by the Authority Board of Directors, will be based on monthly invoice of services completed, in accordance with scope of work and budget.

##### **5.4 INDEPENDENT CONTRACTOR**

In the performance of the services, Consultant shall be, for all purposes, an independent contractor and not an employee or agent of Authority. Consultant and its employees and subconsultants shall in no way represent themselves to third parties as agents or employees of Authority.



## **5.6 INSURANCE REQUIREMENTS**

The Authority's insurance requirements are included in the attached Authority Sample Contract. The Proposer should carefully review these requirements. The proposal should either: indicate that the Proposer complies with these requirements (See section 4.2(5) above; or identify what insurance, including coverage amounts, the Proposer currently has).

## **5.7 ATTACHMENTS**

The following attachments are included as part of the Request for Proposal:

1. Authority Sample Contract

## SERVICE AGREEMENT FOR

### CHATFIELD WATERSHED AUTHORITY MANAGEMENT & TECHNICAL SERVICES

THIS SERVICE AGREEMENT FOR Chatfield Watershed Authority Management and Technical Services (“**Agreement**”) is entered into and effective as of the xxx day of xxx, by and between **Chatfield Watershed Authority** (“**CWA**”), and xxx (“**xxx**”) (the “**Consultant**”) (each a “**Party**” and, collectively, the “**Parties**”).

#### RECITALS

A. The CWA was organized by intergovernmental agreement in order to provide for required coordinated approaches to nutrient controls, projects and monitoring in Chatfield Reservoir and its Watershed.

B. Pursuant to Section 29-1-201 *et seq.*, C.R.S., CWA is permitted to enter into contracts and agreements affecting the affairs of CWA.

C. The Consultant has experience in providing the services, as set forth in **Exhibit A** hereto, attached and incorporated herein (the “**Services**”), and is willing to provide such Services to CWA for reasonable consideration.

D. The Parties desire to enter into this Agreement to establish the terms by which the Consultant will provide the Services to CWA.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### I. CONSULTANT DUTIES AND AUTHORITY

1.1 Duties of Consultant. The Consultant shall:

(a) Perform the Services, safely and in accordance with the highest standard of care, skill, and diligence provided by a professional consultant in performance of work similar to the Services.

(b) Be properly qualified to perform the Services. The Consultant does hereby warrant that the quality of the Services shall be as specified in this Agreement, shall conform in all respects to the requirements of this Agreement and shall be free of defects and deficiencies.

(c) Take all precautions necessary for safely and prudently conducting the Services required by this Agreement, including maintaining insurance as required under Section 4.2 hereof.

(d) Advise CWA of the status of the Services required by this Agreement on a regular basis and work in coordination with CWA's consultants to assure that CWA has the most complete information available for the exercise of CWA's powers and discretionary authority.

(e) Refrain from entering into any contract, oral or written, in the name of CWA, and from incurring any debt, liability or obligation for or on behalf of CWA. All obligations incurred by the Consultant shall be obligations of the Consultant and the Consultant shall hold CWA harmless therefrom.

## 1.2 Limitations on Authority.

(a) The Consultant shall have no right or authority, expressed or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate CWA in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the board of directors of CWA as reflected in the minutes of CWA board meetings. The Consultant shall at all times conform to the stated policies established and approved by CWA.

(b) Independent Contractor Status. The Consultant is an independent contractor, as provided in Section 8-40-202(2)(b)(I)-(IV), C.R.S., as amended, and nothing herein contained shall constitute or designate the Consultant or any of its employees, agents, subcontractors or suppliers as employees of CWA. The Services to be performed by the Consultant shall be at its sole cost, risk and expense, and no part of the cost thereof shall be charged to CWA, except the payments to be made by CWA to the Consultant for the Services performed as provided herein. CWA shall not be responsible for the Consultant's means, methods, techniques, sequences or procedures of work or for safety precautions incident thereto. **The Consultant is not entitled to workers' compensation benefits and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

1.3 Compliance with Applicable Law. The Consultant shall provide the Services set forth herein in full compliance with all applicable laws, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction over the activities of CWA.

1.4 No Right or Interest in CWA Assets. The Consultant shall have no right or interest in any of CWA's assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein.

1.5 Certification of Compliance with Illegal Alien Statute. By its execution hereof, the Consultant confirms and ratifies all of the certifications, statements, representations and warranties set forth in **Exhibit C** attached hereto and made a part hereof by this reference.

1.6 Work Product. “**Work Product**” shall consist of all written materials maintained by the Consultant in connection with performance of this Agreement, including, but not limited to, all test results, logs, surveys, maps, plans, drawings, specifications, reports, PDF formatted electronic files and other documents, in whatever form. The Consultant shall maintain reproducible copies of any test results and logs which it obtains and shall make them available for CWA’s use, and shall provide such copies to CWA upon request at reasonable commercial printing rates. Consultant agrees all right, title and interest in the Work Product is and shall remain the property of CWA. If requested by CWA, Consultant shall execute and deliver such documents as shall be necessary in CWA’s sole discretion, to assign, transfer and convey all rights in the Work Product to CWA or its assignee. If Consultant fails to execute any documents required under this Section 1.6, then Consultant hereby irrevocably appoints CWA its attorney-in-fact for the purpose of executing any required transfers of ownership or interests and any other documents necessary to effectuate this Section 1.6. Further, all Work Product, whether in paper or electronic form, reproductions thereof, or any information or instruments derived therefrom, shall be provided to CWA immediately upon termination of this Agreement.

## II. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in **Exhibit B** attached hereto [with a total contract amount not to exceed \$\_\_\_\_] [on a time and materials basis]. No additional compensation shall be effective, or paid, unless otherwise approved in advance by CWA through a written authorized amendment.

2.2 Monthly Invoices and Payments. The Consultant shall submit to CWA a monthly invoice, progress report and percent complete, in a form acceptable to CWA. Invoices shall be submitted and paid no more frequently than once a month.

2.3 Expenses. The Consultant is responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as set forth in **Exhibit B**, unless otherwise approved in advance by CWA in writing.

2.4 Subject to Annual Budget and Appropriation; CWA Debt. CWA does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of CWA hereunder requiring budgeting and appropriation of funds is subject to annual budgeting and appropriation. Nothing herein constitutes or creates an indebtedness or debt of CWA within the meaning of any Colorado constitutional provision or statutory limitation.

## III. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall begin on the date set forth above, and shall expire on [date] [satisfactory completion of the Services]. Extensions of this Agreement must be pursuant to a Change Order executed by both Parties.

3.2 Termination. CWA may terminate this Agreement for convenience or for cause, in whole or in part, by written notice of termination given to the Consultant at least one week (7) days prior to the effective date of such termination. The Consultant may terminate this Agreement for convenience or for cause, in whole or in part, by written notice of termination

given to CWA at least one month (30) days prior to the effective date of such termination. Any termination notice provided pursuant to this Section 3.2 shall specify the extent of termination and the effective date of the same.

CWA shall pay the Consultant for all Services satisfactorily performed through the termination date.

#### **IV. INDEMNIFICATION AND INSURANCE**

4.1 Indemnification. The Consultant hereby agrees to indemnify, defend and hold CWA and its affiliated entities or other persons or entities designated by CWA, and their respective directors, trustees, officers, members, managers, agents and employees (collectively, the “**Indemnitees**”), harmless from any and all liability for damage, including, but not limited to, the reimbursement of attorneys’ fees and costs, arising out of death or bodily injury to persons or damage to property, in such amount that is represented by the degree or percentage of negligence or fault attributable to the Consultant and/or its agents, representatives, subcontractors, or suppliers.

4.2 Insurance Requirements. The Consultant shall procure, at its sole cost and expense, the insurance coverages set forth below, which insurance shall be placed with insurance companies rated at least “A:XIII” by A.M. Best Company. The Consultant shall give notice to CWA at least thirty (30) days prior to the cancellation or nonrenewal of such policies. The Consultant shall give notice to CWA within five (5) business days, or as soon as practicable, of any modification of any such policies. Consultant’s cost of maintaining the insurances required hereunder shall not be considered a reimbursable expense of the Consultant. The Consultant shall, upon request, promptly furnish CWA with copies of policies obtained pursuant to this Section 4.2. Prior to commencing the Services, the Consultant shall furnish CWA with certificates evidencing such insurance and provided further, however, with respect to the Workers’ Compensation Insurance required below, the Consultant must furnish to CWA, prior to the commencement of any Services, duly executed and validated forms as prescribed by the state authority having jurisdiction evidencing that such insurance is in full force and effect. CWA shall not pay any invoices until Consultant provides the certificates evidencing such insurance and Workers’ Compensation coverage.

(a) Liability Insurance Coverage.

(i) Workers’ Compensation Insurance. A Workers’ Compensation Insurance Policy in form and substance reasonably acceptable to CWA and in an amount not less than the statutory benefits, including Employer’s Liability Insurance with limits of liability of not less than (i) \$500,000 for bodily injury by accident, each accident; (ii) \$500,000 for bodily injury by disease, each employee; and (iii) \$500,000 aggregate liability for disease. The Workers’ Compensation Insurance Policy, or an endorsement to such policy, must include a waiver of subrogation in favor of CWA.

(ii) Commercial General Liability Insurance. A Commercial General Liability Insurance Policy written on an occurrence basis, in form and substance

reasonably acceptable to CWA, which policy shall include, without limitation, CWA as an additional insured, a waiver of subrogation endorsement in favor of CWA, cross liability and severability of interest endorsements, endorsements providing that the coverage afforded by the insurance policy or policies is primary and non-contributing with any other insurance maintained by or available to CWA, and appropriate language providing the following coverages: Premises and Operations Liability; Personal Injury Liability; Broad Form Property Damage Liability; Contractual Liability supporting the Consultant's indemnification agreements in favor of CWA; Completed Operations and Products Liability; and Independent Contractor's Protective Liability. The Commercial General Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each occurrence of bodily injury and/or property damage and an annual aggregate of liability of not less than \$2,000,000 for bodily injury and/or property damage, and an annual aggregate of liability of not less than \$2,000,000 for Completed Operations and Products Liability.

(iii) Automobile Liability Insurance. An Automobile Liability Insurance Policy written on a per accident basis, in form and substance reasonably acceptable to CWA. The Automobile Liability Insurance Policy must provide coverage for all owned, hired, rented and non-owned automobiles, and must include uninsured motorist coverages. The Automobile Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each accident for bodily injury and/or property damage.

(iv) Excess Liability Insurance. An Excess Liability Insurance Policy written in excess of the coverages provided by the insurance policies described in the preceding Subsections 4.2(a)(i) - (iii), in form and substance reasonably acceptable to CWA, which policy will include CWA as additional insured. The Excess Liability Insurance Policy must be written with a combined single limit of not less than \$1,000,000 for each occurrence of bodily injury/or property damage and annual aggregate.

(v) Professional Liability Insurance Coverage. The Consultant shall obtain and, continuously thereafter for eight (8) years from the date of substantial completion of the design, maintain in full force and effect a claims made policy covering errors, omissions and negligent acts in the performance of its Services hereunder, in an amount of \$1,000,000 per claim and annual aggregate. The Consultant shall be solely responsible for the payment of all deductibles. Consultant's deductibles or Consultant's self-insured retentions shall be approved by CWA.

(b) Failure to Obtain and Obligation to Maintain Insurance. If the Consultant fails to furnish and maintain insurance as required by this Section 4.2, CWA may purchase such insurance on behalf of the Consultant and deduct the cost of such insurance premium(s) from the compensation otherwise owed to the Consultant, and the Consultant shall furnish to CWA any information needed to obtain such insurance. Except as otherwise expressly provided herein, all insurance policies required by the

terms of this section shall be kept in full force and effect until the date of final payment to the Consultant for the Services specified in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the foregoing insurance requirements are in no way intended to, and will not in any manner, limit or qualify the liabilities and/or indemnities assumed by the Consultant under or pursuant to this Agreement.

(c) Effect of Approval or Acceptance of Insurance. District acceptance and/or approval of any or all of the insurances required hereunder does not and shall not be construed to relieve Consultant from any obligations, responsibilities or liabilities under this Agreement.

## V. MISCELLANEOUS

5.1 Assignment. The Consultant shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and of no effect.

5.2 Ownership of Work Product. The CWA acknowledges that the Consultant's work products are an instrument of professional service. Nevertheless, the products prepared under this Agreement shall be non-proprietary and become the property of the CWA upon completion of the work.

5.3 Modification; Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon CWA or the Consultant unless the same is in writing and duly executed by the Parties.

5.4 Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

5.5 Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

5.6 Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the State District Court in and for the County of Douglas, Colorado.

5.7 Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

5.8 Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than CWA and the Consultant any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions

in this Agreement by and on behalf of CWA and the Consultant shall be for the sole and exclusive benefit of CWA and the Consultant.

5.9 Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed facsimile transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To CWA:   xxxxx

With a Copy To:

XXXXX

To Consultant:

XXXXXX

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service, upon electronic confirmation of facsimile transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

5.10 Default/Remedies. If either Party fails to perform any of its responsibilities, obligations or agreements to be performed in accordance with the provisions of this Agreement, and if such failure of performance continues for a period of thirty (30) days following written notice of default from the other Party (or such additional period of time as may reasonably be required to cure such default; provided that the curative action is commenced within such thirty (30) day period and is diligently and continuously pursued to completion), then the non-defaulting Party, at its option, may elect (i) to treat this Agreement as remaining in full force and effect; or (ii) terminate this Agreement as of any specified date. The non-defaulting Party shall additionally be entitled to exercise all remedies available at law or in equity. In the event of any litigation or other proceeding to enforce the terms, covenants or conditions hereof, the non-defaulting Party in any such litigation or other proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

5.11 Instruments of Further Assurance. Each Party covenants it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

5.12 Compliance with Law. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules, and regulations of the jurisdiction in which the Agreement is performed. The Consultant declares it



has complied and will comply with all federal, state and local laws regarding business permits, certificates and licenses required to perform the Services.

5.13 Non-Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to CWA under the Colorado Governmental Immunity Act.

5.14 Inurement. This Agreement shall inure to and be binding on the heirs, executors, administrator, successors, and permitted assigns of the Parties hereto.

5.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

5.16 Conflicts. If any term or provision(s) in any Exhibit attached as part of this Agreement conflicts with any term or provision(s) in the body of this Agreement, the term or provision(s) contained in the body of this Agreement shall control.

**[SIGNATURE PAGE FOLLOWS]**

**[SIGNATURE PAGE TO SERVICE AGREEMENT]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Consultant:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Chatfield Watershed Authority:

By: \_\_\_\_\_  
By: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**EXHIBIT B  
COMPENSATION**

**EXHIBIT C**  
**CERTIFICATION OF CONSULTANT**

1. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Consultant hereby certifies to CWA that the Consultant does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that it will participate in the E-Verify Program or Department Program (as defined in Sections 8-17.5-101(3.3) and (3.7), C.R.S.) in order to confirm the employment eligibility of all employees of the Consultant who are newly hired to perform work under the Agreement.
2. In accordance with Section 8-17.5-102(2)(a), C.R.S., the Consultant shall not:
  - (a) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or
  - (b) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
3. The Consultant represents and warrants it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program.
4. The Consultant is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Agreement is in effect.
5. If the Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:
  - (a) Notify the subcontractor and CWA within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - (b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. The Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (“**Department**”) made in the course of an investigation that the Department is undertaking, pursuant to the law.
7. If the Consultant violates any provision of Section 8-17.5-102(1), C.R.S., CWA may terminate the Agreement immediately and the Consultant shall be liable to CWA for actual and consequential damages of CWA resulting from such termination, and CWA shall report such violation by the Consultant to the Colorado Secretary of State, as required by law.