

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

DALLAS CREEK PROJECT  
COLORADO RIVER STORAGE PROJECT

SHORT-TERM WATER SERVICE CONTRACT BETWEEN  
THE UNITED STATES  
AND  
OURAY COUNTY  
AND  
TRI-COUNTY WATER CONSERVANCY DISTRICT

THIS CONTRACT is made this 01 day of April, 2023, under the authority of the Reclamation Act (Act of June 17, 1902, ch 1093, 32 Stat. 388), and acts amendatory thereof and supplementary thereto, and particularly the Colorado River Storage Project Act of April 11, 1956 (CRSP Act) (43 U.S.C. §§ 620, et seq.), and the Reclamation Project Act of August 4, 1939, Sections 9(c) (43 U.S.C. § 485(h)(c)(1)(B)) and 9(e) (43 U.S.C. §485(h)(e)); between THE UNITED STATES OF AMERICA, (United States), represented by the officer executing this Contract, or the duly appointed successor or authorized representative (Contracting Officer), OURAY COUNTY (Contractor), and TRI-COUNTY WATER CONSERVANCY DISTRICT (District or Operator) (collectively, Parties).

Recitals:

- (a) The United States has constructed the Dallas Creek Project (Project), a CRSP Participating Project, located in portions of three Colorado Counties (Delta, Montrose and Ouray).
- (b) The United States has entered into Contract No. 7-07-40-L0273 dated January 14, 1977, (Repayment Contract), which provides for, among other things, performance of operation, maintenance, and replacement (OM&R) of Project facilities by the District.
- (c) The Contractor requests a water service contract for a one-time, annual, release of up to 3,000 acre-feet of irrigation water and up to 6 acre-feet of Municipal and Industrial (M&I) water from Ridgway Reservoir.
- (d) Pursuant to Article 8 of the Repayment Contract, the United States may dispose of project water not obligated under block notice, at terms and charges fixed by the Contracting Officer.
- (e) Article 8 of the Repayment Contract further provides, “the District has the first opportunity to purchase said water at the price and terms offered.”

(f) On January 18, 2023, the District's Board of Directors passed a motion to decline the purchase of any Reclamation water in 2023.

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, the Parties to this Contract agree to the following:

1. TERM OF CONTRACT

This Contract will be effective for one year from the date it is executed by the Regional Director. The term of this Contract may be extended by amendment, in one-year increments, signed by the Parties, prior to the end of its identified term. Any amendment of term will be subject to review and revision, as needed, of all applicable provisions of this Contract. In no event shall any combination of amendments extend the term of this Contract more than 5 years from the initial effective date of this Contract.

2. TERMINATION

If the Contractor fails to perform its obligations under this Contract, the United States will notify the Contractor in writing of its intent to terminate this Contract. The notice of termination will specify each of the Contractor's failures, and will provide that the Contractor may, within ninety (90) days from the date of notice, present a detailed plan to correct the failures. The United States will reasonably accept the plan and waive the termination notice.

3. DELIVERY OF WATER

(a) In execution of this Contract, the Contracting Officer will request the District release water from reservoir storage, not to exceed 3,006 acre-feet, at the outlet works of the Ridgway Dam. Water will be released only for the 2023 water year, which ends on October 31, 2023 (2023 Water Year).

(b) The Contractor will have no holdover storage rights in Ridgway Reservoir. Any water paid for under this Contract but not called for by the end of the 2023 Water Year will be integrated with the water supply of the Ridgway Reservoir.

4. RATE AND METHOD OF PAYMENT

(a) The Contractor agrees to make a one-time payment in the amount of \$12,420.00 for the irrigation water and \$1,502.04 for M&I water to the United States upon execution of this Contract. The Contractor's payments made under this article will be credited to the Basin Fund, as required by Section 5 of the CRSP.

(b) The Contractor shall be responsible for any OM&R charges assigned by the Operator for this water supply. OM&R charges are included in the rate described in Article 4(a).

5. MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION

The water to be released for the Contractor will be measured by facilities of the United States and delivered into the Uncompahgre River at the outlet works of Ridgway Dam. The Contractor will suffer all distribution and administration losses from the point of such delivery to the place of use.

6. ENVIRONMENTAL COMPLIANCE

Compliance with the provisions of the National Environmental Policy Act (NEPA), as amended, and the Endangered Species Act (ESA), as amended, is a prerequisite to executing this Contract. Environmental Compliance was addressed through Categorical Exclusion Checklist No. CE-2022-30.

7. INDEMNIFICATION

To the extent allowed by law, the Contractor agrees to indemnify the United States and the District for, and to hold the United States and the District all of their representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other duties of the Contractor or the United States or the District required under this Contract, regardless of who performs those duties.

STANDARD ARTICLES

8. CHARGES FOR DELINQUENT PAYMENTS

- (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes sixty (60) days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent ninety (90) days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.
- (b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

- (c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

9. GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

The payment of charges becoming due pursuant to this contract is a condition precedent to receiving benefits under this contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor is in arrears in the advance payment of water rates due the United States. The Contractor shall not deliver water under the terms and conditions of this contract for lands or parties that are in arrears in the advance payment of water rates and operation and maintenance charges as levied or established by the Contractor.

10. CONFIRMATION OF CONTRACT

Promptly after the execution of this Contract, the Contractor shall provide evidence to the Contracting Officer that, pursuant to the laws of the State of Colorado, the Contractor is a legally constituted entity and the Contract is lawful, valid, and binding on the Contractor. This Contract shall not be binding on the United States until such evidence has been provided to the Contracting Officer's satisfaction. In addition to other forms of evidence to meet the requirements of this Article, the Contractor may provide or the Contracting Officer may require a certified copy of a final decree of a court of competent jurisdiction in the State of Colorado, confirming the proceedings on the part of the Contractor for the authorization of the execution of this contract.

11. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

12. OFFICIALS NOT TO BENEFIT

No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

13. CHANGES IN CONTRACTOR'S ORGANIZATION

While this Contract is in effect, no change may be made in the Contractor's organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this Contract including, but not limited to, dissolution, consolidation, or

merger, except upon the Contracting Officer's written consent.

14. ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

15. BOOKS, RECORDS, AND REPORTS

The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

16. RULES, REGULATIONS, AND DETERMINATIONS

- (a) The parties agree that the delivery of water or the use of Federal facilities pursuant to this Contract is subject to Federal reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.
- (b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with its provisions, the laws of the United States and the State of Colorado, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor.

17. PROTECTION OF WATER AND AIR QUALITY

- (a) The United States will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest feasible level as determined by the Contracting Officer. The United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.
- (b) The Contractor will comply with all applicable water and air pollution laws and regulations of the United States and the State of Colorado; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for

the delivery of water by the Contractor; and will be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within its Project Water Service Area.

- (c) This article will not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

#### 18. WATER CONSERVATION

Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

#### 19. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish

information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include this clause (a), including all provisions of paragraphs (1) through (8), in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## 20. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

(a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.),] [Title III of the Americans with

Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.),] and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

- (b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.
- (c) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article and that the United States reserves the right to seek judicial enforcement thereof.
- (d) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

## 21. MEDIUM FOR TRANSMITTING PAYMENTS

- (a) All payments from the Contractor to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.
- (b) Upon execution of the Contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

## 22. CONTRACT DRAFTING CONSIDERATIONS

This Contract has been negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 23 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.

## 23. CONSTRAINTS ON THE AVAILABILITY OF WATER

- (a) In its operation of the Project, the Contracting Officer will use all reasonable means to

guard against a condition of shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a condition of shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

- (b) If there is a condition of shortage because of inaccurate runoff forecasting or other similar operational errors affecting the Project; drought and other physical or natural causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer to meet current and future legal obligations, then no liability shall accrue against the United States and/or Operator or any of their officers, agents, or employees for any damage, direct or indirect, arising therefrom.

#### 24. NOTICES

Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the:

Mr. Ed Warner  
Area Manager  
Western Colorado Area Office  
Bureau of Reclamation  
445 W. Gunnison Ave., Ste. 221  
Grand Junction, CO 81501

and on behalf of the United States, when mailed, postage prepaid, or delivered to:

General Manager  
Tri-County Water Conservancy District  
647 North 7<sup>th</sup> Street  
Montrose, CO 81401  
970-249-3369  
mike@tricitywater.org

and on behalf of the United States, when mailed, postage prepaid, or delivered to:

Ms. Connie Hunt  
County Administrator  
Ouray County  
P.O. Box C  
Ouray, CO 81427  
970-325-7263  
chunt@ouraycountyco.gov

The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

The Parties agree, by their signatures below, to be bound to this Contract beginning on the date written above.

UNITED STATES OF AMERICA

**WAYNE  
PULLAN**

Digitally signed by  
WAYNE PULLAN  
Date: 2023.04.01  
15:18:30 -06'00'

Regional Director  
Bureau of Reclamation  
Interior Region 7 – Upper Colorado Basin

Approved as to Legal Sufficiency:

**SUSANNAH  
THOMAS**

Digitally signed by  
SUSANNAH THOMAS  
Date: 2023.03.14 08:59:06  
-06'00'

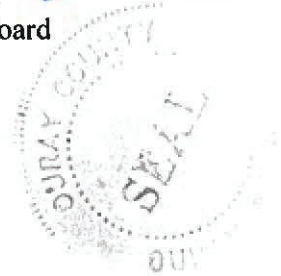
Office of the Regional Solicitor

CONTRACTOR

ATTEST:

Jake Niece  
Jake Niece  
Chair, Board of County Commissioners  
Ouray County

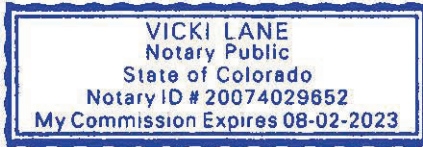
Harlan Thompson  
By: Harlan Thompson  
Deputy Clerk of the Board



ACKNOWLEDGMENT

State of: Colorado  
County of: Ouray

The foregoing instrument was acknowledged before me this 02-21-2023 (date)  
by JAKE NIECE.



(SEAL)

Notary Public in and for the  
State of: Colorado  
Residing at: P.O. Box 426, Ouray  
Colorado 81427

Vicki Lane  
(Notary's official signature)

08-02-2023  
(Commission Expiration)

OPERATOR



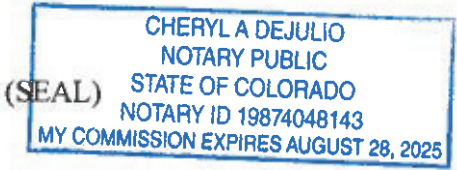
\_\_\_\_\_  
Mike Berry  
General Manager  
Tri-County Water Conservancy District

ACKNOWLEDGMENT

State of: Colorado

County of: Montrose

The foregoing instrument was acknowledged before me this February 2, 2023 (date)  
by Mike Berry.



Notary Public in and for the  
State of: Colorado  
Residing at: Montrose, CO

Cheryl A. DeJulio  
(Notary's official signature)

8/28/2025  
(Commission Expiration)