

DUPLICATE ORIGINAL

CONTRACT NO. 139D6C0111

UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

RUEDI RESERVOIR  
FRYINGPAN-ARKANSAS PROJECT, COLORADO  
Ruedi Reservoir Round II Water Sales

REPAYMENT CONTRACT BETWEEN THE UNITED STATES  
AND THE UTE WATER CONSERVANCY DISTRICT

THIS CONTRACT, Made this 3<sup>RD</sup> day of SEPTEMBER 2013, pursuant to the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto, particularly Section 9(c)(1) of the Reclamation Project Act of 1939 (53 Stat. 1187), Title III of the Act of July 3, 1958 (72 Stat. 320), and the Act of August 16, 1962 (76 Stat. 389), as amended, collectively referred to as the Federal Reclamation Laws, is between the UNITED STATES OF AMERICA, hereinafter referred to as the "United States," represented by the Contracting Officer executing this Contract, and the UTE WATER CONSERVANCY DISTRICT, hereinafter referred to as the "Contractor." The United States and the Contractor are sometimes referred to individually as the "Party" and collectively as the "Parties".

WITNESSETH THAT

EXPLANATORY RECITALS:

a. WHEREAS, the United States has constructed Ruedi Reservoir and related facilities as a feature of the Fryingpan-Arkansas Project as authorized by the Act of August 16, 1962 (76 Stat. 389), as amended by the Act of October 27, 1974 (88 Stat. 1486), the Act of November 3, 1978 (92 Stat. 2493) and the Act of March 30, 2009 (123 Stat. 1321), in substantial conformance with House Document No. 187, 83<sup>rd</sup> Congress, 1<sup>st</sup> Session, as modified by House Document No. 353, 86<sup>th</sup> Congress, 2<sup>nd</sup> Session, subject to the Operating Principles for the Fryingpan-Arkansas Project as set forth in House Document No. 130, 87<sup>th</sup> Congress, 1<sup>st</sup> Session.

b. WHEREAS, Ruedi Reservoir was authorized to provide storage capacity for replacement water for senior downstream diversion rights in western Colorado at times of Fryingpan-Arkansas Project diversions to the Arkansas River Basin in eastern Colorado, and to furnish regulatory storage capacity and water to users in western Colorado for any purpose recognized by the laws of the United States.

c. WHEREAS, paragraph 6(b) of House Document 130 (87<sup>th</sup> Congress, 1<sup>st</sup> Session, adopted March 15, 1961) provides that "the sale of water for use outside the natural basin of the Colorado River can only be made with the consent of the Colorado River Water Conservation District."

d. WHEREAS, on August 3, 1959, in Civil Action No. 4613 (Garfield County District Court, State of Colorado), the Court awarded the water storage right for Ruedi Reservoir and decreed that "the sale of water for use outside the natural basin of the Colorado River can only be made with the consent of the Colorado River Water Conservation District."

e. WHEREAS, the capital costs for the construction of Ruedi Reservoir are allocated among the authorized purposes, including \$9,312,000 allocated to the regulatory purpose consisting of the initial construction cost plus interest during construction. Pursuant to Section 2 of the Act of August 16, 1962, as amended, this amount is reimbursable with interest in not more than 50 years from September 30, 1969, when Ruedi Reservoir was placed in service. Under the provisions of the Water Supply Act of 1958 (72 Stat. 297), interest charges on the \$9,312,000 did not accrue for the 10-year period ending September 30, 1979. The \$9,312,000 of costs allocated to the regulatory purpose are further allocated to Ruedi Reservoir Round I and Ruedi Reservoir Round II water sales and are \$1,419,402 and \$7,892,598 respectively. As of September 30, 2012, the uncontracted capital costs, including accrued interest, operation, maintenance, and replacement costs for Ruedi Reservoir allocated to Ruedi Reservoir Round II water sales, hereinafter referred to as Round II were \$34,271,993.

f. WHEREAS, the Contractor desires to enter into a contract, pursuant to the Federal Reclamation Laws and the laws of the State of Colorado, for a quantity of water from the regulatory capacity of Ruedi Reservoir and to repay the reimbursable costs associated therewith as more specifically provided herein.

g. WHEREAS, the United States desires to provide the quantity of water requested by the Contractor pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

#### DEFINITIONS

1. Where used herein, unless specifically expressed otherwise or obviously inconsistent with the intent hereof, the term:

a. "United States" shall mean the United States of America, acting through the Secretary of the Interior hereinafter the "Secretary" or a duly authorized representative.

- b. "Contracting Officer" shall mean the Secretary of the Interior or a duly authorized representative.
- c. "Project" shall mean the Fryingpan-Arkansas Project, Colorado.
- d. "Year" shall mean the period beginning January 1 and ending on the following December 31.
- e. "Ruedi Reservoir" shall mean the dam, reservoir, and related facilities as presently constructed on the Fryingpan River above the Town of Basalt, Colorado, as a feature of the Fryingpan-Arkansas Project.
- f. "Replacement capacity" shall mean that portion of the total capacity of Ruedi Reservoir required to permit Project diversions at times when such diversions could not otherwise have been made because of simultaneous demands of senior diversions in western Colorado that existed on April 30, 1959, and as further defined in Section 6(a) of the Operating Principles, Fryingpan-Arkansas Project.
- g. "Regulatory capacity" shall mean that portion of the total capacity of Ruedi Reservoir not needed for replacement purposes as further defined in Section 6(b) of the Operating Principles, Fryingpan-Arkansas Project.
- h. "Municipal and industrial uses" shall mean use of water by municipalities, industrial users, commercial recreation entities, piscatorial users including delivery of water to supplement streamflow, and other water user entities not engaged in commercial agricultural production.
- i. "Commercial agricultural uses" shall mean water used primarily for the commercial production of crops and livestock, which are the principle sources of income for the user of such water.
- j. "Capital costs" shall mean the capitalized investment for Ruedi Reservoir including construction costs, interest during construction, accrued interest, and accrued unpaid annual operation, maintenance, and replacement costs, and interest thereon, and other appropriate costs allocable to the Regulatory capacity.
- k. "Operation, maintenance, and replacement (OM&R) costs" shall mean those costs incurred to operate and maintain Ruedi Reservoir, including any administrative, overhead, or general expenses incurred by the United States, either directly or indirectly, in the operation and maintenance of Ruedi Reservoir and in the administration of this Contract and those costs incurred to remedy conditions brought about by the ordinary use of Ruedi Reservoir or to restore or replace components of the existing reservoir. For the purposes of this Contract, replacement costs shall be those costs allocable to the Regulatory capacity, but shall not include costs to increase the capacity of Ruedi Reservoir or to expand the purposes for which it was originally authorized and constructed.

1. "Marketable yield" shall mean the 46,500 acre-feet of water estimated to be available from the Regulatory capacity of Ruedi Reservoir, including the 7,850 acre-feet previously sold under Round I, and the remaining 38,650 acre-feet designated for the Round II water sales.

### TERM OF THE CONTRACT

2. This Contract shall become effective on the date of execution and shall remain in effect unless terminated in accordance with the provisions of Article 9 hereof.

### CONTRACTED WATER SUPPLY

3. a. The Contractor hereby contracts for 12,000 acre-feet of water annually from the Marketable yield of Ruedi Reservoir for Municipal and industrial use subject to the terms and conditions of this Contract.

b. The United States shall not enter into any contract that will result in the total amount of water marketed from the reservoir exceeding the Marketable yield, Provided, That the United States reserves the right to make short-term (5 years or less) sales or leases of water from the Regulatory capacity of Ruedi Reservoir for purposes recognized under the laws of the United States and the State of Colorado, as long as such sales or leases do not impinge upon the Contractor's entitlement to take delivery of water contracted for herein or adversely affect the determination of the Marketable yield.

c. The Contractor shall have no right to carryover storage of undelivered water from Year to Year under this Contract.

### CONTRACTOR'S REPAYMENT OBLIGATION AND OTHER COSTS

4. a. For the water supply contracted for herein, the Contractor shall repay a proportionate share of the Capital costs allocable to Round II. As of September 30, 2012, the unpaid uncontracted Capital costs allocable to Round II were \$34,271,993. The Contractor's Capital cost repayment obligation of \$15,478,800.00 represents the Contractor's proportionate (12,000/[38,650 less previously marketed Round II water]) share of the unpaid Capital costs allocable to Round II. In 2012, the Parties executed a financial agreement which established the cost of the water at \$1,289.90 per acre-foot. In 2012, the Contractor paid \$71.90 per acre-foot toward repayment of the obligation, leaving a remaining outstanding balance of \$1,218.00 per acre-foot. The financial agreement also established that the per acre-foot costs would be indexed annually at 1.79% until this Contract was executed. Therefore, the \$1,218.00 per acre-foot is then indexed to 2013 dollars by an annual increase of 1.79%

$[(\$1,218.00 \times 1.79\%) + \$1,218.00]$ , which establishes the Contractor's outstanding obligation of \$1,239.80 per acre-foot for a total remaining outstanding obligation of \$14,877,600.00.

b. The Contractor's outstanding Capital cost repayment obligation of \$14,877,600.00 shall be due and payable upon execution of this Contract.

c. If, subsequent to the execution of this Contract, additional Capital costs are incurred for the Regulatory capacity of Ruedi Reservoir, the Contractor shall pay a proportionate share of such additional costs allocable to Round II, as determined by the Contracting Officer, which share shall be in direct proportion to the contracted water supply specified in Article 3.a. above. Payment of such additional costs shall be upon such terms and conditions as determined by the Parties hereto, based on Reclamation policies and laws in effect at the time. Prior to incurring such costs, the Contracting Officer shall notify the Contractor in writing of any necessary additional Capital costs, including the basis for such costs and the Contractor's estimated proportionate share thereof.

d. The Contractor's Capital cost obligation is a fixed obligation of the Contractor and is payable as provided for herein whether or not the quantity of water contracted for in Article 3.a. above is available for delivery to the Contractor.

e. In addition to the Capital cost repayment obligation, the Contractor shall also pay a proportionate share of the actual annual reimbursable OM&R costs allocable to the Marketable yield. The Contractor's share of the actual annual reimbursable OM&R costs shall be in direct proportion to the contracted water supply specified in Article 3.a. above to the 46,500 acre-foot Marketable yield.

f. The annual OM&R charges shall be based on the Federal fiscal year (October 1 through the following September 30) accounting. Payment for the current fiscal year, as adjusted for actual OM&R charges for the previous fiscal year, shall become due and payable on or before January 1 of each Year.

g. The annual OM&R charge will be due and payable upon execution of this Contract and thereafter shall be due and payable on or before January 1 of each subsequent Year of the term of this Contract. The first fiscal year's charges, if less than a full fiscal year, shall be prorated on a monthly basis beginning with the first calendar month following execution of this Contract. The annual OM&R charge will be based on estimates prepared by the Contracting Officer. In the event the estimated OM&R costs fall short of the actual OM&R costs, or whenever it is determined by the Contracting Officer that a deficit will occur after January 1 of the fiscal year, supplemental notices may be issued by the Contracting Officer requesting additional funds to cover such shortfall or deficiency. Funds not expended during the fiscal year will be carried over and applied as a credit against the Contractor's charges for the following fiscal year.

h. No water will be delivered at any time the Contractor is in default of any payment required pursuant to this Contract. The Contractor shall make all payments required pursuant to this Contract whether or not the quantity of water specified in Article 3.a. above is available for delivery and whether or not the Contractor is capable of using the water delivered or scheduled for delivery.

i. Payments shall be made to a certain bank by a medium specified by the Contracting Officer, by check to a certain lock box, or by wire transfer to the United States Treasury, or to such other locations and by such other methods as the Contracting Officer may specify and as are readily available to the Contractor for its use.

### DELIVERY OF WATER

5. a. Before June 1 of each Year, the Contractor shall submit to the Contracting Officer a written schedule of its anticipated monthly demand for the delivery of water for the following 12 months. The Contractor shall revise said schedule as necessary to reflect its expected demand schedule based on current hydrologic conditions. Notwithstanding the above, the Contractor shall be entitled to take delivery of water under this Contract at any time upon 24 hours notice to the Contracting Officer or a designated representative. All notices requesting delivery of water or a change in the delivery schedule shall be in writing. Orders which cannot be transmitted in writing due to urgency or emergency situations may be telephoned to the Contracting Officer's designated representative, Provided, That such orders shall be confirmed in writing by the Contractor.

b. The Contracting Officer will notify the Contractor and the Division No. 5 Engineer, Colorado Division of Water Resources, of the date, time, and amount of all water released from Ruedi Reservoir and delivered pursuant to this Contract.

c. The delivery of water pursuant to this Contract will be made into the Fryingpan River at the outlet works of Ruedi Reservoir. All delivery of water shall be limited by the outlet capacity of Ruedi Reservoir. All water delivered to the Contractor from Ruedi Reservoir will be measured at the outlet works of Ruedi Reservoir by the Contracting Officer with equipment owned, operated, and maintained by the United States. The United States will not be responsible for control, carriage, use, handling, or distribution of water delivered to the Contractor beyond the delivery point, and the Contractor shall hold the United States harmless from and against all claims, demands, and causes of action on account of property damage, personal injury, or death resulting from the control, carriage, use, handling, or distribution of water delivered to the Contractor.

d. The Contractor will not be responsible for the storage of water in or OM&R of Ruedi Reservoir and the United States shall protect, indemnify, and hold the Contractor harmless from and against all claims, demands, and causes of action of any nature whatsoever resulting from or in any manner connected with the storage of water in

or the OM&R of Ruedi Reservoir within the limits of the Federal Tort Claims Act (28 U.S.C. 2671-2680).

e. The United States reserves the right to release the water contracted for herein from an alternate reservoir or reservoirs, Provided, That such releases from an alternate reservoir or reservoirs shall neither diminish the water supply contracted for herein nor affect the Contractor's ability to use the water for the purposes, at the location and at the time(s) as contemplated herein.

#### CONTRACTOR'S USE OF WATER

6. a. Water delivered to the Contractor under this Contract will be used for Municipal and industrial uses directly, or by augmentation and exchange to replace out of priority water depletions to senior water rights in the Colorado River Basin. Place of use will occur within the Contractor's service area and potential service area which generally lie within the Colorado River and Gunnison River Basins, Mesa County, in the State of Colorado (See map, attached as Exhibit C, which is hereby made a part of this Contract by this reference.) Water may also be used to augment flows for Green Mountain Reservoir operations. Green Mountain Reservoir is located in Summit County, Colorado.

b. Lease, sale, donation, or other such disposal of any of the water contracted for herein shall require prior written approval of the Contracting Officer, Provided, That a municipal contractor may distribute the water contracted for herein to its customers and charge its customers such rates as permitted under Colorado law.

#### WATER SHORTAGE AND APPORTIONMENT

7. a. The Contracting Officer shall operate the Project in accordance with the Operating Principles for the Fryingpan-Arkansas Project as set forth in House Document No. 130, 87th Congress, 1st Session.

b. Water delivered pursuant to this Contract is provided from the Regulatory capacity of Ruedi Reservoir. Should shortages occur to the Regulatory capacity, as determined by the Contracting Officer, based on schedules furnished pursuant to Article 5.a. above, such shortages will be apportioned among the Ruedi Reservoir contractors in the following manner: first, deliveries to all temporary and short-term contractors will be proportionately reduced up to 100 percent of their respective contracted amounts; second, deliveries to all Round II contractors will be proportionately reduced up to 100 percent of their respective contracted amounts; third, deliveries to all Round I municipal contractors will be proportionately reduced up to 30 percent of their respective contracted amounts; and finally, deliveries to all Round I contractors will be reduced up to 100 percent of their respective contracted amounts based on contract execution dates with the earliest date having highest priority; Provided, That the deliveries to all contracts with the same

execution dates shall be proportionately reduced up to 100 percent of their respective remaining contracted amounts.

c. In administering shortage conditions, the Contracting Officer may require the Contractor to submit revised schedules pursuant to Article 5.a. above. The Contracting Officer reserves the right to limit the amount of water available for delivery under this Contract to the amount specified in such revised schedules. Should any revised schedule require less than the total amount of water under contract by an individual contractor to meet the Contractor's expected demands, the Contracting Officer reserves the right to use all or any portion of the water not so scheduled by the Contractor for redistribution to other contractors to mitigate the effects of the shortage. In no event shall any liability accrue against the United States or any of its officers, agents, or employees for any damage, either direct or indirect, arising out of such shortage.

d. No adjustment will be made in the payments required pursuant to this Contract as a result of the Contracting Officer's inability to deliver water requested for delivery by the Contractor due to shortage conditions.

#### TERMINATION OF WATER DELIVERIES

8. Delivery of the water contracted for herein shall cease at the option of the United States upon failure of the Contractor to make payments as required by this Contract or upon failure of the Contractor to abide by any lawful notice, order, or final administrative or judicial determination that the Contractor has violated a rule or regulation of the United States or the State of Colorado directly relating to and affecting the furnishing of water hereunder; Provided, That water deliveries hereunder shall not cease unless such failure or violation continues 60 days after the United States gives the Contractor written notice to remedy the failure or violation.

#### TERMINATION OF THE CONTRACT

9. a. This Contract may be terminated and the delivery of water contracted for herein shall cease at the option of the United States upon failure of the Contractor to make payments as required by this Contract or upon failure of the Contractor to abide by any lawful notice, order, or final administrative or judicial determination that the Contractor has violated a rule or regulation of the United States or the State of Colorado directly relating to and affecting the furnishing of water hereunder; Except, That this Contract may not be terminated unless such failure or violation continues 60 days after the United States gives the Contractor written notice of such failure or violation.

b. The Contractor may terminate this Contract at the end of any Year by providing written notice of such termination to the United States pursuant to Article 11 below not less than 90 days prior to the effective date of termination, Provided, That such termination must be necessitated by the Contractor's inability to meet the payments

required hereunder due to the applicability of the Colorado Taxpayer's Bill of Rights Act (TABOR). Upon any such termination, the United States may make the water supply contracted for herein available to other contractors, or reallocate the contracted water supply to other purposes, and the Contractor has no prior claim or right to enter into a contract for such water supply or any portion thereof in the future.

### ENVIRONMENTAL COMPLIANCE

10. a. Compliance with the provisions of the National Environmental Policy Act (NEPA), as amended, and the Endangered Species Act (ESA), as amended, are a prerequisite to execution of this Contract. The general environmental impacts associated with the Ruedi Reservoir Round II water marketing program under the preferred alternative with conservation measures are described in the Final Supplemental Environmental Statement (FSES) dated August 1, 1989. Site specific compliance in the form of Environmental Assessment No. EC-1300-13-003 was completed for this Contract. NEPA compliance for this Contract has resulted in a requirement to implement certain measures to avoid, minimize, or mitigate the environmental impacts associated with the Contractor's use of the water pursuant to this Contract. These requirements are described in Exhibit B, attached hereto and by this reference made a part of this Contract, and the Contractor agrees to abide by and comply with the terms and conditions stated herein. In the event of changed circumstances additional compliance may also be required on a site-specific basis and shall be the responsibility of the United States using data and information and a site-specific mitigation plan, if required, provided to the Contracting Officer for approval. The data, information, and mitigation cover those environmental impacts associated with the Contractor's diversions and on-site use of Ruedi Reservoir water. All costs associated with the preparation, approval, and implementation of NEPA and ESA compliance and mitigation plans, including costs incurred by the United States, shall be the responsibility of the Contractor.

b. The Contractor shall give notice to the United States concerning any changes in location of diversions, return flows, places or type of use, or diversion rates. The Contractor shall be responsible for any additional NEPA and ESA compliance or mitigation measures which may be required by the United States as the result of such changes and all associated costs, including costs incurred by the United States, shall be the responsibility of the Contractor.

c. The Contractor shall make advance payment for costs to be incurred by the United States, which are the Contractor's responsibility under this Article 10.

### NOTICES

11. 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 Regional Director, Great Plains Region, Bureau of Reclamation, P.O.

Box 36900, Billings, Montana 59107-6900, and on behalf of the United States, when mailed postage prepaid or delivered to the Contractor, Ute Water Conservancy District, Attention: Manager, Larry Clever, 2190 H 1/4 Road, Grand Junction, CO 81505. 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.

#### ASSIGNMENT OF CONTRACT

12. a. No assignment or transfer of this Contract or any rights or interests herein shall be valid until approved in writing by the Contracting Officer.

b. The United States reserves the right to enter into agreements with third party agents for the administration of this Contract, Provided, That such agreements shall not adversely affect the rights of the Contractor to receive the water contracted for under this Contract.

#### STANDARD CONTRACT ARTICLES

13. The standard contract articles applicable to this Contract are listed below. The full text of these standard articles is attached as Exhibit A and is hereby made a part of this Contract by this reference.


- A. Charges for Delinquent Payments
- B. General Obligation--Benefits Conditioned Upon Payment
- C. Contingent on Appropriation or Allotment of Funds
- D. Officials Not to Benefit
- E. Books, Records, and Reports
- F. Rules, Regulations, and Determinations
- G. Quality of Water
- H. Water and Air Pollution Control
- I. Water Conservation
- J. Equal Opportunity
- K. Compliance with Civil Rights Laws and Regulations

L. Uncontrollable Forces

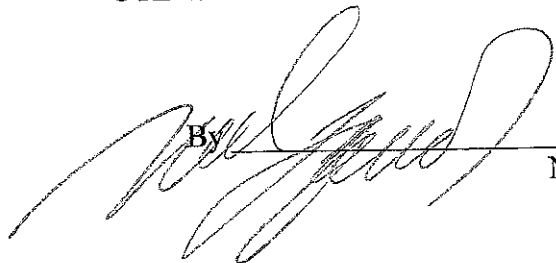
M. Medium for Transferring Payments

IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of the day and Year first above written.

THE UNITED STATES OF AMERICA

By   
Michael J. Ryan  
Regional Director  
Great Plains Regional Office  
Bureau of Reclamation

UTE WATER CONSERVANCY DISTRICT

  
Neil Jaquet  
President

ACKNOWLEDGMENT

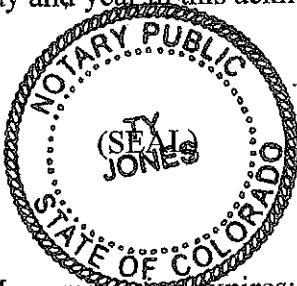
STATE OF COLORADO

COUNTY OF MEGA)

On 8/14/13, before me, Ty Jones

\_\_\_\_\_ appeared Neil Jaquet, the person whose name is  
subscribed to the within instrument and known to me to have executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the  
day and year in this acknowledgment first above written.



\_\_\_\_\_  
Notary Public

A handwritten signature of Ty Jones, written in black ink.

My commission expires:

6/17/14

## EXHIBIT A

CONTRACT NO. 139D6C0111

### STANDARD ARTICLES

#### A. CHARGES FOR DELINQUENT PAYMENTS

1. The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.
2. The interest charge rate shall be the greater of 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 prescribed by section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.
3. When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

#### B. GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1. The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of the individual water users in their obligations to the Contractor.
2. The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this Contract. No water will be made available to the Contractor from Project facilities during any period in which the Contractor may be in arrears in the advance payment of any OM&R charges due the United States or in arrears for more than 12 months in the payment of any construction charges due the United States. The Contractor shall not furnish water made available pursuant to this Contract for lands or parties which are in arrears in the advance payment of OM&R or toll charges or in arrears more than 12 months in the payment of construction charges as levied or established by the Contractor.

C. 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.

D. OFFICIALS NOT TO BENEFIT

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

E. 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, water-use data; and other matters that the Contracting Officer may require. Reports thereon 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 each other Party's books and records relating to matters covered by the Contract.

F. RULES, REGULATIONS, AND DETERMINATIONS

1. The Parties agree that the delivery of water or the use of Federal facilities pursuant to this Contract is subject to Reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Reclamation law.

2. The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor.

### G. QUALITY OF WATER

The OM&R of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable, as determined by the Contracting Officer. The United States does not warrant the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water.

### H. WATER AND AIR POLLUTION CONTROL

The Contractor, in carrying out this Contract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State, and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

### I. WATER CONSERVATION

1. The Contractor shall develop and implement an effective water conservation program based on the Contractor's water conservation plan that has been reviewed by the Contracting Officer and determined to meet the conservation and efficiency criteria established under Federal law. The water conservation program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives.

2. The Contractor shall submit to the Contracting Officer by December 31, of each calendar year a report on the status of the Contractor's implementation of its water conservation program.

3. At 5-year intervals, subsequent to the Contracting Officer's determination that the Contractor's water conservation program meets the conservation and efficiency criteria established under Federal law, the Contractor shall submit to the Contracting Officer for review and evaluation updated water conservation programs. The Contracting Officer shall review and evaluate the updated water conservation program and determine if they meet the conservation and efficiency criteria established under Federal law.

### J. EQUAL 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, 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, 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 advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

3. 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 Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the 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 said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs 1. through 7. 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 said amended Executive Order, 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.

K. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1. The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (Public Law 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the United States Department of the Interior and/or the Bureau of Reclamation.

2. These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. 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.

3. 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 United States, 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.

L. UNCONTROLLABLE FORCES

Neither Party shall be considered to be in default in respect to any obligation hereunder, if prevented from fulfilling such obligation by reason of uncontrollable forces, the term "uncontrollable forces" being deemed, for the purpose of this Contract, to mean any cause beyond the control of the Party affected, including, but not limited to, drought, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. Either Party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

M. MEDIUM FOR TRANSFERRING PAYMENTS

All payments from the Contractor to the United States under this Contract shall be made by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks and/or wire transfers.

## EXHIBIT B

CONTRACT NO. 139D6C0111

### ENVIRONMENTAL COMPLIANCE

The site specific National Environmental Policy Act (NEPA) compliance for this Contract was evaluated and documented by Environmental Assessment and Finding of No Significant Impacts (FONSI) numbered EC-1300-13-003 dated July 25, 2013. The Contractor agrees to comply with the following Environmental Commitment(s) that were set forth in the FONSI:

The Contractor agrees to abide by the following stipulation as well as include it in any contracts with third parties:

“Section 404 of the Clean Water Act (33 U.S.C. 1344) regulates the discharge of dredged or fill material into waters of the United States. Contractors shall consult with the Army Corps of Engineers if construction of facilities necessary to use the contracted water requires Section 404 compliance, which may include obtaining a permit. Further consultation and approval by the United States Fish and Wildlife Service may be required to ensure compliance with the Endangered Species Act (16 U.S.C. §1531, et seq.) if Contractors propose physical alterations to designated critical habitat of the Colorado River endangered fish species. As of June 2013, designated critical habitat exists from the Colorado State Highway 13 Road Bridge Crossing of the Colorado River in Rifle downstream to the Colorado state line.”

EXHIBIT C

