UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

ANIMAS-LA PLATA PROJECT
COLORADO RIVER STORAGE PROJECT

FUNDING AGREEMENT AND REPAYMENT CONTRACT
BETWEEN THE UNITED STATES AND THE
COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

ANIMAS-LA PLATA PROJECT
COLORADO RIVER STORAGE PROJECT

FUNDING AGREEMENT AND REPAYMENT CONTRACT
BETWEEN THE UNITED STATES AND THE
COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

THIS CONTRACT, made this day of December 2001, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this contract, and the COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY, a political subdivision of the State of Colorado, hereinafter called the Authority, located in Denver, Colorado.

WITNESSETH, That:

WHEREAS, the following statements are made in explanation:

(a) The Act of Congress approved April 11, 1956 (70 Stat. 105), authorized the planning and investigation of the Animas-La Plata Project as a participating project of the Colorado River Storage Project; subsequently, the construction, operation, and maintenance of the Animas-La Plata Project was authorized by Title V of the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 896), and the United States has investigated, planned, and proposes to construct said Animas-La Plata Project for the storage, diversion, salvage, and distribution of the waters of the Animas River, which Project has among its authorized purposes the furnishing of water for municipal, industrial, domestic, and other beneficial purposes. The water rights settlement purposes of the Project were authorized by the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585) as amended by the Colorado Ute Settlement Act Amendments of 2000 (2000 Amendments), Public Law (P.L.) 106-554.

(b) The 2000 Amendments authorize the construction of a reservoir, pumping plant, inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the
Animas River for an average annual depletion of 57,100 acre feet of water to be used for a
municipal and industrial water supply;

(c) Reclamation has completed the Animas-La Plata Final Supplemental Environmental
Impact Statement (FSEIS) dated July 2000 and subsequent Record of Decision dated September
25, 2000, for compliance with the National Environmental Policy Act.

(d) As provided by Public Law 100-585, the design and construction functions of the
Bureau of Reclamation with respect to the Animas-La Plata Project shall be subject to the
provisions of the Indian Self-Determination and Education Assistance Act (Public Law 93-638)
to the same extent as if such functions were performed by the Bureau of Indian Affairs.

(e) Adequate water rights for the Project have been obtained in Colorado and New
Mexico, and the United States is satisfied that any conflicts between private water rights and
Project water rights have been resolved.

(f) The Authority is interested in contracting for the water supply allocated to the
Animas-La Plata Water Conservancy District in Public Law 106-554.

(g) The parties hereto desire to enter into this contract in order to secure this municipal
and industrial water supply pursuant to the terms and conditions of Public Law 106-554 for the
use of such water in Colorado as hereinafter provided.

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

GENERAL DEFINITIONS

1. Where used in this contract:

(a) "United States" or "Contracting Officer" or “Secretary” or any of them means the
Secretary of the United States Department of the Interior or his/her duly authorized
representative.

(b) "Authority" means the Colorado Water Resources and Power Development
Authority, a political subdivision of the State of Colorado, located in Denver, Colorado, or its
assignees.

(c) "Project" means the Animas-La Plata Project, a participating Project of the
Colorado River Storage Project, as modified by Public Law 106-554.
(d) "Project Operator" means either the United States or the entity operating the Project Works.

(e) "Project Works" means all works or facilities as described in Public Law 106-554, including a reservoir, a pumping plant, a reservoir inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the Animas River for an average annual depletion of 57,100 acre-feet of water to be used for a municipal and industrial water supply, to be constructed under the Project, together with lands and rights-of-way for such works, as described in Article 2 herein.

(f) "Appurtenant Facilities" includes, but is not limited to, transmission lines, roads, buildings, and other facilities related to the following Project Works to be constructed as a part of the Project.

(g) "Project Water" means all water made available as a result of the Project, or from, through, or by means of Project Works, and consists of water provided by direct diversion and releases from project storage.

(h) "Project Storage Water" means Project Water provided from storage in Ridges Basin Reservoir, the storage component of the Project.

(i) "Cost Sharing Agreement" refers to the "Agreement in Principle Concerning the Colorado Ute Indian Water Rights Settlement and Binding Agreement for Animas-La Plata Project Cost Sharing" dated June 30, 1986, between the United States, the State of Colorado, certain political subdivisions of the States of Colorado and New Mexico, the Ute Mountain Ute Tribe, and the Southern Ute Indian Tribe, as amended contemporaneously herewith, which is attached as Exhibit A.

(j) "Water Rights Settlement Agreement" refers to the "Colorado Ute Indian Water Rights Final Settlement Agreement" dated December 10, 1986 among the United States, the State of Colorado, the Ute Mountain Ute Tribe, the Southern Ute Indian Tribe, and the additional governmental and private entities signatory thereto, as implemented by Public Law 100-585 as amended by Public Law 106-554.

(k) "Consultation" means the United States shall notify and confer with the Authority regarding significant decisions pertaining to this contract. In the event that consensus
cannot be reached and the United States makes a decision, appeals are available to the extent allowed under applicable laws.

(l) "Operation and Maintenance Facilities" means those facilities necessary to support operations and maintenance work, for example operation and maintenance headquarters, office space, shops for repair of equipment, storage places for supplies, and equipment yards.

(m) “Payment Obligation” means the total water capital payment obligation of the Authority in order to receive the municipal and industrial water supply allocated to the Animas-La Plata Water Conservancy District by Public Law 106-554. The Payment Obligation shall be satisfied as set forth in Article 8 hereof. The Payment Obligation comprises:

(1) the Up-front Payment as described in Article 8(a) herein; and

(2) the Additional Repayment Obligation as described in Article 8(b) herein.

(n) “Interest During Construction” means the interest charged for the construction period on the Additional Repayment Obligation, which shall be at the rate determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue, as specified under Section 5(f) of the Colorado River Storage Act of April 11, 1956.

(o) “Amortization Interest” means the interest charged on the outstanding balance of the Additional Repayment Obligation during the relevant repayment period, which shall be at the rate determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue, as specified under Section 5(f) of the Colorado River Storage Act of April 11, 1956.

(p) “Relinquished Water” means that portion of Project Storage Water, along with a proportionate share of the project depletion allowance, available to the Secretary for allocation to other Project purposes if the Authority elects not to enter into a new agreement or does not make the Additional Repayment Obligation component of its Payment Obligation established in the final cost allocation as provided in Section 302(a)(3)(B) of Public Law 106-554.
2. Subject to the terms and conditions of this and other applicable contracts related to this Project, the United States will construct the following Project Works and Appurtenant Facilities, acquire lands, and provide certain moveable property and equipment to the Project Operator needed for Project operation and maintenance as, in the opinion of the United States in consultation with the Project Operations Committee, are necessary for Project purposes, without being limited by enumeration and within the limit of funds available by the Congress and the contracting parties.

(a) The Project Works are presently identified as the following:

(1) Ridges Basin Dam and Reservoir and Appurtenant Facilities, the main storage facility for the Project, will be located on Basin Creek in Ridges Basin approximately 3 miles southwest of Durango, Colorado. The reservoir will have a capacity of approximately 120,000 acre-feet.

(2) Durango Pumping Plant and Appurtenant Facilities will be located adjacent to the Animas River and will pump Project Water from the Animas River for storage in Ridges Basin Reservoir.

(3) Ridges Basin Inlet Conduit and Appurtenant Facilities will extend from the Durango Pumping Plant to Ridges Basin Reservoir.

(4) Operation and Maintenance Facilities will be constructed as determined necessary by the United States, after consultation with the Project Construction Coordinating Committee and the Project Operations Committee, for the required operation and maintenance of Project Works.

(b) The United States, after consultation with the Authority, shall have the right at any time to increase the capacity of the Project Works or any unit or feature thereof for other than current Project purposes without additional capital or operation and maintenance cost to the Authority; Provided, that the Authority's use of Project Water shall not be impaired thereby. The right of use of such increased capacity is reserved to the United States.

(c) Any additions, changes to, or operation of Project Works or changes in use of water from that stated in the Animas-La Plata Final Supplemental Environmental Impact Statement (FSEIS) dated July 2000 and subsequent Record of Decision dated September 25,
2000, will be subject to further compliance with applicable environmental statutes and must be approved by the Secretary of the Interior.

(d) Construction and operation of the Project will be in accordance with the Environmental Commitments in Chapters 4 and 5 of the FSEIS, which are attached as Exhibit B to this contract.

CONDITIONS PRECEDENT TO CONSTRUCTION

3. The United States shall be under no obligation to commence, or having commenced, to continue construction of Project Works necessary for the delivery of Project Water under this contract until:

   (a) Any non-Tribal entity that desires to pay its capital obligations for its municipal and industrial water prior to construction pursuant to Public Law 106-554 has had an opportunity to enter into such an agreement with the United States prior to the initiation of construction.

   (b) The United States, before initiation of construction of any Project Works, has notified the Authority in writing of any other agreements or conditions precedent that must be met prior to the construction of those Project Works; Provided, however, that no such conditions precedent shall be imposed unless such conditions precedent are mandated or required by Federal laws, State law, or policy promulgated pursuant thereto.

PROJECT COORDINATION COMMITTEES

4. Coordination of Project construction, operations, and Project Works maintenance activities will be accomplished through the establishment of two committees: one to focus on those activities associated with the construction of the Project Works, the other to oversee the operations and maintenance activities.

   (a) The Project Construction Coordination Committee will be made up of representatives of those entities that have been identified by the 2000 Amendments to receive Project Water, the Bureau of Reclamation and a representative of the Authority. This committee will provide coordination and consultation on the construction activities among all the project beneficiaries, seeking common understanding and consensus on decisions associated with such items as final plans for Project Works, project construction completion schedule, and Project
construction costs. Upon Project completion, this committee will be dissolved.

(b) The Project Operations Committee will initially consist of representatives from those entities that have been identified by the 2000 Amendments to receive Project Water, the Bureau of Reclamation, and a representative of the Authority. Initially, this committee will determine the appropriate entity to contract with Reclamation for the operation and maintenance of the Project Works and the development of a common understanding among the project beneficiaries of the appropriate level of annual operation, maintenance, and replacement (OM&R) activities to be performed on the Project Works to assure the Project’s long term operational integrity and public safety. Ultimately, this committee will oversee the ongoing operations, maintenance, and replacement activities of the Project Works, providing consultation and coordination among the committee members on such items as annual OM&R funding, maintenance schedules, and public safety issues.

MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Water delivered to the Authority pursuant to this contract shall be measured at the outlet works of Ridges Basin Dam and/or in the Animas River at the Durango Pumping Plant with measuring facilities installed by the United States as a part of the Project. Water delivered to the Authority pursuant to this contract directly out of the reservoir shall be measured by facilities provided by the Authority or its subcontractors. Water delivered to the Authority's subcontractors pursuant to this contract shall be measured by the users at their points of diversion. Sufficient water will be available for diversion at any approved points of diversion on the Animas River, at the dam outlet, or in the reservoir in such proportions as the Authority determines from time to time, subject to capacity limitations of the relevant facilities, to ensure that the Authority annually receives a municipal and industrial water allocation with an average annual depletion not to exceed 2,600 acre-feet.

(b) The United States will not be responsible for the control, carriage, handling, use, disposal, or distribution of water furnished the Authority from the reservoir, the outlet works of Ridges Basin Dam, or bypassed at the Durango Pumping Plant to the place of final use. The Authority will hold the United States harmless on account of damage or claim of damage of any nature whatsoever arising out of or connected with the control, carriage, handling, treatment, use, disposal, or distribution of water by the Authority below the Project points of measurement.
(c) All facilities required for taking water furnished under this contract from the points of delivery and putting it to use by the Authority and its subcontractors will be acquired, constructed or installed, and operated and maintained by the Authority at their sole expense.

**ALLOCATION AND USE OF PROJECT WATER**

6. (a) The Authority’s allocation of water provided by the Project consists of a municipal and industrial water allocation with an average annual depletion not to exceed 2,600 acre-feet, except as otherwise provided under Subarticle 8(b)(2)(iii) herein. This allocation may be met by a combination of direct diversion of the natural flows from the Animas River and water released from Project storage and diverted from the Animas River.

(b) Except as provided in Subarticle 8(b)(2)(iii) herein, the Authority shall have the right to utilize storage space in Ridges Basin Reservoir in the amount of 2,919 acre-feet to supplement direct flow diversion amounts necessary to fulfill the Authority’s annual Project Water allocation. Any unused water remaining in this Project storage space shall be retained in Ridges Basin Reservoir and shall be available for the Authority’s use in succeeding years. The Authority shall have the opportunity to purchase excess Project Water stored in Ridges Basin Reservoir from other users.

(c) If required to ensure that the average annual depletion allocation of 2,600 acre-feet is met, the water may be used and reused to the extent permitted by the Project decrees. In addition, the water may be used at any location in the Project service area, and may be used by exchange or augmentation to achieve the municipal and industrial uses permitted.

(d) The United States, after compliance with applicable environmental compliance statutes, shall cooperate with the Authority, its subcontractors or assignees to provide appropriate interests in land needed for delivery of Project Water through non-project facilities.

(e) Any use of Project Water other than that contemplated in the July 2000 Final Supplemental Environmental Impact Statement and subsequent Record of Decision dated September 25, 2000 for the Animas-La Plata Project shall be subject to compliance with applicable environmental statutes.
WATER RIGHT PROVISIONS

7. (a) Upon request of the United States, the Authority will assign the water rights, if any, that it holds associated with the Project water rights to the United States for the benefit of users of Project Water. The Authority, or its assignee, will also protect its interest in the Project water rights and in case a dispute arises as to the character, extent, priority or validity of the rights of the United States or the Authority to use or permit use of Project Water, the Authority shall promptly bring and diligently prosecute and/or defend judicial proceedings for the determination of such dispute and shall take all other measures necessary toward the defense and protection of the Project water supply. If the Authority does not defend Project water rights for the protection of the Project water supply to the satisfaction of the United States, the United States, upon 30 days prior written notice to the Authority, itself will enter into the proceedings to defend such rights.

(b) The construction of the Project Works, the allocation of the water supply from those facilities to the Colorado Ute Tribes, and the provision of funds to the Colorado Ute Tribes in accordance with section 16 of Public Law 106-554, and the issuance of an amended final consent decree by the State of Colorado as contemplated in subsection 18(c) of Public Law 106-554 shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers in the State of Colorado.

METHOD OF PAYMENT FOR PROJECT CONSTRUCTION COSTS

8. The Authority’s Payment Obligation consists of the Up-front Payment Obligation, which may, pursuant to Section 302(a)(3)(A) of Public Law 106-554, be satisfied by payment in full of the Authority’s water capital obligation prior to the initiation of construction, and of any Additional Repayment Obligation, which may, pursuant to Section 302(a)(3)(B) be warranted upon final cost allocation upon completion of construction for reasonable and unforeseen costs associated with Project construction, as determined by the Secretary in consultation with the relevant repayment entities.

(a) Up-front Payment Obligation. The Authority shall enter into the Amended and Restated Escrow Agreement and the Amended and Restated Escrow Agreement and Instructions attached hereto as Exhibits C and D contemporaneously herewith, and establish the Escrow Account contemplated by those agreements. The initial sum escrowed, $7,256,750, is derived
from the May 2001 Interim Cost Allocation based on October 2001 price levels. The initial sum escrowed and the interest and investment income on that sum during the time of escrow, up to 3% per year, shall be expended as set forth in the Amended and Restated Escrow Agreement and Instructions attached hereto as Exhibit D to pay: (1) the Authority’s share of costs incurred on the Project prior to October 1, 1999 (Sunk Costs) totaling $1,161,088; (2) the Authority’s 3.07% share of Joint Project Costs; (3) the Authority’s share, up to $582,400, of items provided solely for the benefit of the Authority and its subcontractors (Specific Costs); and (4) inflationary increases in the cost of construction during the period of construction, currently estimated at 3% per year, which inflationary increases are anticipated to be met by the interest and investment income on the Escrow Account. Establishment of the Escrow Agreement as set forth above shall constitute payment in full prior to initiation of construction of the Authority’s water capital obligation as mandated by Section 302(a)(3)(A) of Public Law 106-554.

(b) Additional Repayment Obligation.

   (1) Determination of Additional Repayment Obligation. Upon completion of Project construction, the Secretary, in consultation with the Authority and other relevant repayment entities, shall prepare a final cost allocation pursuant to Section 302(a)(3)(B) of Public Law 106-554 and determine whether reasonable and unforeseen costs associated with Project construction warrant additional repayment by the Authority. If additional repayment is so warranted, then the Authority’s share of such additional repayment shall be determined based upon its share of Project Storage Water and overall reimbursable costs, with such share not to exceed 3.07% of the Joint Project Costs in excess of $217,287,950 that are reasonable and unforeseen and 100% of the Specific Costs that exceed $582,400 that are reasonable and unforeseen, and such share shall constitute the Authority’s Additional Repayment Obligation.

   (2) Satisfaction of Additional Repayment Obligation.

      (i) Lump Sum Payment. The Authority may, at its option, pay any Additional Repayment Obligation, together with applicable Interest During Construction charges, in a lump sum within 60 days of the determination of the Additional Repayment Obligation. Such payment may be made from funds accrued in and not otherwise expended from the Escrow Account or from other funds of the Authority.
(ii) Payment Over Time. If the Authority elects not to make a lump sum payment of any Additional Repayment Obligation, then the United States will attribute and assign the Additional Repayment Obligation to a pro-rata share of the Authority’s total Project Water, and will include in the block notice for such pro-rata share of the water supply the information regarding the Additional Repayment Obligation set forth in Article 9 below. Upon receipt of such block notice, the Authority may:

1. Pursuant to Section 9(c)(1) of the Reclamation Projects Act of 1939, elect to enter into a new agreement for payment of the Additional Repayment Obligation assigned to the block notice, which new agreement may provide for (a) payment of the Additional Repayment Obligation assigned to the relevant block notice (together with Interest During Construction charges and Amortization Interest charges) over a 25 year repayment period in annual installments due on or before January 10 of each year; provided, however, that if the Authority or its subcontractor for the relevant water supply commits to the measures in its water conservation plan described in Article 28 below, then repayment may be completed over a 40 year period;

2. Pursuant to the provisions of the Water Supply Act of 1958 (72 Stat. 297), as amended, elect to defer payment of the Additional Repayment Obligation and use of the pro-rata water supply assigned to the Additional Repayment Obligation in which case (a) no principal or interest payments need be made with respect to storage of water for future water supply as provided by the Water Supply Act of 1958 until such supply is first used, but such deferment of repayment shall not exceed ten (10) years; (b) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten (10) years; and (c) once repayment is initiated, the Additional Repayment Obligation, together with Interest During Construction and Amortization Interest shall be paid in annual installments over the remainder of the repayment period, provided, however, that the repayment period, including deferral, shall not exceed 50 years.

(iii) Relinquishment. Alternatively, the Authority may elect, at its option, not to pay the Additional Repayment Obligation, and thereby relinquish any use or contract right to the Project Water assigned to the Additional Repayment Obligation. The resulting Relinquished Water shall be available to the Secretary for allocation to other purposes as provided
by Section 302(a)(3)(B) of Public Law 106-554.

(c) Other Provisions.

(1) Consultation. Upon request, the United States will consult annually with the Authority concerning the allocation of construction costs and of any Interest During Construction Cost to be payable under this Contract. The Use-of-Facilities method of cost allocation is based on the storage space required in Ridges Basin Reservoir necessary to meet water delivery requirements of the beneficiaries. This Use-of-Facilities method will be used to allocate costs for the Project, and will not be changed during the administration of this Contract.

(2) Continuing Effect. In accordance with Section 9(c)(1) of the Reclamation Projects Act of 1939, following payment of the Payment Obligation herein, the other contract terms shall remain in full force and effect until mutually agreed by the Authority and the United States.

METHOD FOR ESTABLISHING BLOCKS FOR PROJECT DELIVERY AND REPAYMENT

9. (a) When the Project Works defined in Article 2(a) are completed, tested, and the Project Storage Water becomes available for use by the Authority, the United States shall, after consultation, give the Authority written notice, referred to herein as the "block notice," at least 12 months prior to the date when water will be first delivered to the affected block. The block notice shall contain:

(1) A description of the entities included in the block.

(2) The quantity of Project Water available to the Authority for the block.

(b) If an Additional Repayment Obligation has been assigned pro rata to a quantity of the Authority’s Project Storage Water, pursuant to Article 8(b)(2)(ii) herein, then the block notice establishing the availability of that water supply will also set forth:

(1) The Additional Repayment Obligation allocated to that block; and

(2) The payment schedule for the Additional Repayment Obligation allocated to that block, as established by the new agreement for payment of the additional repayment obligation entered into pursuant to Article 8(b)(2)(ii) including a breakdown of the amount and due date of each payment.

(c) Each block notice and amendment thereto shall become a part of this contract.
PAYMENT OF OPERATION, MAINTENANCE, AND REPLACEMENT COSTS

10. (a) The operation, maintenance, and replacement (OM&R) costs allocated to the Authority’s Project Water will comprise: (1) the Authority’s pro-rata share of OM&R costs actually incurred by the Project Operator in connection with Project facilities and/or operations that benefit all users of Project Water (General OM&R Costs), based on the amount of Project Storage Water actually purchased and paid for by the Authority in accordance with article 8 above; (2) the Authority’s pro-rata share of OM&R costs actually incurred by the Project Operator in connection with Project facilities and/or operations that benefit the Authority (and/or its subcontractors), but do not benefit all other users of Project Water (Specific OM&R Costs), based on the Authority’s pro-rata use of such facilities; and (3) the actual cost required to refill Project storage to replace water released by request of the Authority.

(b) Payment of the Authority’s, or its assignee’s, allocated OM&R costs shall be made annually in advance, within 60 days of receipt of the annual charge notice issued by the Project Operator based on the Project Operations Committee’s annual estimate of Project OM&R costs. If the Authority’s allocated OM&R costs exceed the sum paid in advance, then a supplemental charge notice will be issued and the Authority will pay the sum required within 60 days of receipt. If the Authority’s allocated OM&R costs are less than the sum advanced, then the Authority shall receive a credit for the overpayment upon its next charge notice.

USE AND DISPOSAL OF PROJECT WATER DURING CONSTRUCTION

11. During construction, Project Water that is not made available to the Authority under a block notice as provided in Article 9 herein, may be disposed of by the United States at terms and charges fixed by the United States. The charges shall be sufficient to at least cover the operation, maintenance, and replacement costs appropriate for such water delivery. Payment for use of such water shall be in advance and the proceeds shall be applied to operation and maintenance expense and other appropriate accounts as determined by the United States, and shall accrue to the benefit of the United States. The Authority shall, however, have the first opportunity to purchase said Project Water at the price and terms offered.
WATER SHORTAGES

12. There may occur at times during any year a shortage in the quantity of water available for furnishing to the Authority through and by means of the Project, but in no event shall any liability accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising from a shortage, on account of errors in operation, drought, or any other causes. In any year in which there may occur a shortage from any cause, the United States reserves the right to apportion the available water supply, exclusive of carryover storage, among the Authority, Tribes, and others entitled to receive water from the Project in accordance with conclusive determinations of the Contracting Officer, and in accordance with applicable law, including the Animas-La Plata Compact.

COVENANT AGAINST CONTINGENT FEES

13. The Authority warrants that it has not employed or retained any person or selling agency to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this contract without liability, or at its discretion, to add to the repayment obligation or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

THIRD PARTY CONTRACTS

14. (a) Any contract entered into between the Authority and any third-party for the use of Project Water under this Contract shall be subject to written approval of the United States in order to determine the effects on the operation of the Project Works. Any such subcontracts shall be subject to the provisions of this Contract and must include, but not be limited to, terms of measurement, operations, environmental compliance, and the impact of defaults on Project Works. Approval shall not be unreasonably withheld. The United States shall have 60 days after environmental compliance, if required, or after receipt of the proposed third-party contract to inform the Authority of its approval or denial of the contract. If the United States approves an assignment of all of the Authority’s rights and obligations under this contract, then the Authority
shall be relieved of any further liability under this contract.

(b) The Authority shall not receive any valuable consideration for such subcontract in excess of the total cumulative cost of the water to the Authority (such cost of water includes interest on Authority funds used to procure such water, administrative costs, and OM&R costs). The Authority shall not extract any brokerage, profits, commission or fee, from any person on the water to be delivered under such subcontract. In connection with any such subcontract, the Chair of the Authority, or designee, shall certify to the United States that the conveyance with respect to water delivery was without consideration except as provided above, and that no brokerage, profits, commission, fee, or other charge of any kind was charged to the subcontractor or any person acting on behalf of the subcontractor. Any exceptions to this article will be covered under a separate agreement.

TITLE TO PROJECT WORKS

15. Title to the Project Works shall be held by the United States, unless specifically provided otherwise by Congress, notwithstanding transfer of the care, operation, and maintenance of any said works to the Project Operator.

SEVERABILITY

16. (a) If any provisions of Articles 17 through 30 are in conflict with Article 1 through 16, then the provisions of Article 1 through 16 shall take precedence.

(b) If any provisions of the contract shall, for any reason be determined to be illegal or unenforceable, the parties, nevertheless, intend that the remainder of the contract shall remain in full force and effect. Furthermore, any adjustments or variations to this contract necessitated by future negotiations with other Project beneficiaries can be accomplished by amending this contract.

CHARGES FOR DELINQUENT PAYMENTS

17. (a) The Authority 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 Authority shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes 60 days delinquent, the Authority 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 Authority shall pay an additional penalty charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further, the Authority shall pay any fees incurred for debt collection services associated with a delinquent payment.
(b) 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.

c) 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.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

18. (a) The obligation of the Authority to pay the United States as provided in this contract 
is a general obligation of the Authority notwithstanding the manner in which the obligation may be 
distributed among the Authority’s subcontractors and notwithstanding the default of individual 
subcontractors in their obligations to the Authority.

(b) The payment of charges becoming due hereunder is a condition precedent to 
receiving benefits under this contract. The United States shall not make water available to the 
Authority through project facilities during any period in which the Authority may be in arrears in 
the advance payment of any operation and maintenance 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 
Authority shall not furnish water made available pursuant to this contract for parties which are in 
arrears in the advance payment of operation and maintenance charges or in arrears more than 12 
months in the payment of construction charges as levied or established by the Authority.

NOTICES

19. Any notice, demand, or request authorized or required by this contract shall be deemed 
to have been given, on behalf of the Authority, when mailed, postage prepaid, or delivered to the 
Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, Room 
6107, Salt Lake City, Utah 84138-1102, and on behalf of the United States, when mailed, postage 
prepaid, or delivered to the Colorado Water Resources and Power Development Authority, 1580 
Logan Street - Suite 620, Denver, Colorado 80203. 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.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

20. 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 Authority from any obligations 
under this contract. No liability shall accrue to the United States in case funds are not appropriated 
or allotted.

OFFICIALS NOT TO BENEFIT

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

CHANGES IN AUTHORITY’S ORGANIZATION

22. While this contract is in effect, no change may be made in the Authority's organization, 
by dissolution, consolidation, merger or otherwise, except upon the Contracting Officer's written 
consent, unless all obligations of the Authority under this contract have been satisfied, or provision 
has been made for the satisfaction of all such obligations.
ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED

23. (a) 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 shall be valid until approved in writing by the United States.

BOOKS, RECORDS AND REPORTS

24. The Authority, and/or its subcontractors, shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including: the Authority's and/or its subcontractors’ financial transactions, water supply data, water-use data; and other matters that the Contracting Officer may reasonably require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may reasonably 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.

RULES, REGULATIONS, AND DETERMINATIONS

25. (a) 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.

(b) 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 Authority.

QUALITY OF WATER

26. The operation and maintenance 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.

WATER AND AIR POLLUTION CONTROL

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

WATER CONSERVATION

28. Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this contract, the Authority, and/or its subcontractors, shall develop an effective water conservation program acceptable to the Contracting Officer. The water conservation program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. At subsequent 5-year intervals, the Authority, and/or its subcontractors, shall submit a report on the results of the program to the Contracting Officer for review. Based upon the conclusions of the review, the Contracting Officer and the Authority, and/or its subcontractors, shall consult and agree to continue or to revise the existing water conservation program.
EQUAL OPPORTUNITY

29. During the performance of this contract, the Authority agrees as follows:

(a) The Authority will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Authority 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 Authority 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.

(b) The Authority will, in all solicitations or advertisements for employees placed by or on behalf of the Authority, state that all qualified applicants will receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(c) The Authority 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 Authority'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.

(d) The Authority 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.

(e) The Authority 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.

(f) In the event of the Authority'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 Authority 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.

(g) The Authority will include the provisions of paragraphs (a) through (g) 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 Authority 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 Authority becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Authority may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

30. (a) The Authority 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 U. S. Department of the Interior and/or Bureau of Reclamation.
(b) 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 Authority 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 Authority 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 Authority 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 Authority 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.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed as of the day and year first above written.

Approved

THE UNITED STATES OF AMERICA

Solicitor's Office

Regional Director
Upper Colorado Region
Bureau of Reclamation

ATTEST:
COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY

List of Attachments: Exhibit A - Cost Sharing Agreement, as amended
Exhibit B - Environmental Commitments
Exhibit C - Amended and Restated Escrow Agreement
Exhibit D - Amended and Restated Escrow Agreement and Instructions.