

**Inter-governmental Cost-Sharing Agreement to Fund an Interlocal Funding Agreement
for Colorado River Conservation Project**

Contract No. 505112

This Inter-governmental Cost-Sharing Agreement (“Agreement”) is entered into by and between the City and County of Denver, acting by and through its Board of Water Commissioners (“Denver Water”), the City of Aurora, Colorado, acting by and through its Utility Enterprise (“Aurora Water”), the City of Colorado Springs, acting on behalf of its enterprise, Colorado Springs Utilities (“Springs Utilities”), and the Board of Water Works of Pueblo, Colorado (“Pueblo Water”). Denver Water, Aurora Water, Springs Utilities, and Pueblo Water are referred to herein together as the “Parties” and individually as a “Party” when using the capitalized terms.

Recitals

- A. The Colorado River Basin is experiencing the driest 22-year period in the historical record, which has caused significant decreases in annual water supply in the Colorado River system and depletions of Colorado River water storage.
- B. The changes in climate and hydrology have culminated in the Colorado River’s first “shortage” declaration, which the Secretary of the Department of the Interior announced on August 16, 2021, based on Lake Mead’s projected water elevation.
- C. The changes in climate and hydrology of 2000-2021 are also contributing to the lowest 22-year period since the closure of Glen Canyon Dam in 1963, with an average unregulated inflow of 8.46 million acre feet (“maf”), or 88% of the 30-year average (1991-2020), and projections that Lake Powell may begin January 1, 2022, at an elevation of less than 3,575 feet.
- D. Denver Water entered into a Conservation Master Agreement (“Master Agreement”), attached hereto as **Exhibit A**, with the Central Arizona Water Conservation District (“CAWCD”), Southern Nevada Water Authority (“SNWA”), Metropolitan Water District of Southern California (“MWD”), and the Central Utah Water Conservancy District (“CUWCD”) whereby the Parties to the Master Agreement agreed to a process for proposing and funding the study of certain projects involving innovative technologies that have demonstrated the potential to conserve water throughout the Colorado River Basin and for which the Parties intend to determine whether such technologies can be deployed at scale.
- E. Under the Master Agreement, the Parties thereto entered into an Interlocal Funding Agreement (“Interlocal Funding Agreement”), attached hereto as **Exhibit B**, for the funding of a multi-season (October 2021 – September 2023) alfalfa pilot study utilizing N-drip technology.
- F. Denver Water agreed to contribute an amount not to exceed \$60,000.00 to the funding of the alfalfa pilot study utilizing N-drip technology under the terms of the Interlocal Funding Agreement.

- G. Denver Water, Aurora Water, Springs Utilities, and Pueblo Water all utilize and depend upon Colorado River supplies to meet the needs of their customers.
- H. Aurora Water, Springs Utilities, and Pueblo Water desire to participate in the funding of the Interlocal Funding Agreement to help identify technologies that can be utilized to conserve Colorado River Basin water, and desire to commit funds to Denver Water to help fund the Interlocal Funding Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

Agreement

1. Recitals Incorporated. The above recitals are incorporated and made a part of the Agreement.
2. Contributions. Denver Water, on behalf of the Parties, has entered into the Master Agreement and Interlocal Funding Agreement. To help fund the Interlocal Agreement, the Parties to this Agreement will contribute to Denver Water a maximum amount not to exceed their respective amounts set forth below:
 - a. Aurora Water: \$7,500.00
 - b. Springs Utilities: \$7,500.00
 - c. Pueblo Water: \$7,500.00
 - d. Denver Water will be responsible for the remaining cost of its funding commitment under the Interlocal Funding Agreement.
3. No Responsibility for Other Party's Funding Contribution. No Party shall be responsible for payment of the obligations of any other Party under this Agreement.
4. Denver Water's Responsibility. Denver Water will collect funds from the Parties to cover the actual costs incurred under the Interlocal Funding Agreement not to exceed the Parties' respective contributions in paragraph 2 above. In accepting payments for the Interlocal Funding Agreement, Denver Water assumes no responsibility for the outcome or consequences of the pilot study to be performed under the Interlocal Funding Agreement. Denver Water shall not be responsible for any damages to persons or property which may result from the Interlocal Funding Agreement pilot study.
5. Invoicing. Following the effective date of this Agreement, Denver Water will invoice each Party for its contribution set forth in paragraph 2 above. These invoices shall be payable within thirty (30) days of the date of the invoice. If Denver Water invoices Parties for funds that are determined not to be needed for the Interlocal Funding Agreement, Denver Water will notify the Parties and refund any unneeded funds.
6. Term. This Agreement shall extend for a term beginning on the effective date and automatically terminate on December 31, 2023. The Parties' obligation to pay Denver Water their respective portion of the costs shall survive termination of this Agreement subject to paragraph 8 below.

7. Notices. The Parties shall contact the persons listed below for all matters related to administration of this Agreement. All notices required or given under this Agreement shall be in writing and shall be deemed effective: (a) when delivered personally to the other party; or (b) seven (7) days after posting in the United States mail, first-class postage prepaid, properly addressed as follows; or (c) when sent by e-mail. If notice is provided by e-mail, the notifying Party must follow up with a hard copy of the notice sent by United States mail; however, the notice will be effective as of the original e-mail date.
- a. City of Aurora, Colorado, acting by and through its utility enterprise, ("Aurora Water"), whose contact information is 15151 E Alameda Pkwy #3600, Aurora, Colorado, 80012, (303) 739-7370; c/o Rick Kienitz (rkienitz@auroragov.org).
 - b. The City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities, whose contact information is 1521 Hancock Expressway, Mail Stop 1825, Colorado Springs, Colorado, 80903, (719) 668-8720; c/o Maria Pastore (mpastore@csu.org).
 - c. The Board of Water Works of Pueblo, Colorado ("Pueblo"), whose contact information is 319 West Fourth Street, Pueblo, Colorado, 81003, (970) 584-0235; c/o Alan Ward (award@pueblowater.org).
 - d. The City and County of Denver, acting by and through its Board of Water Commissioners ("Denver Water"), whose contact information is 1600 West 12th Avenue, Denver, Colorado, 80204, (303) 628-6762; c/o Greg Johnson (Greg.johnson@denverwater.org).


or such other persons or addresses as the Parties may have designated in writing.

8. No Multi-Year Fiscal Obligation. Nothing in this Agreement is intended or shall be construed to create a multiple fiscal year financial obligation or debt of any Party. Where activities or payment obligations provided in the Agreement extend beyond the current fiscal year, continued expenditures or appropriations are contingent on the approval of that Party's governing body. Any unexpended contributed funds may be carried forward and used to fund any future conservation activities, at the discretion of the Party contributing funds.
9. Entire Agreement. This Agreement is the entire Agreement between the Parties regarding the subject matter hereof and supersedes previous oral and written agreements pertaining to the same subject matter and shall be modified by the Parties only by a duly executed written instrument approved by all the Parties.
10. No Third Party Beneficiaries. This Agreement is not intended by any of the undersigned to give any benefits, rights, privileges, actions or remedies to any person, partnership, firm or entity other than the Parties as a third party beneficiary or otherwise under any theory of law.

11. Choice of Law. This Agreement is subject to, and shall be governed by, performed and construed under the laws of the State of Colorado. Court jurisdiction for any litigation arising under this Agreement shall be exclusively in the District Court for the Second Judicial District of Colorado, Denver County, Colorado
12. Governmental Immunity. The Parties understand and agree that they are each relying upon, and have not waived, the monetary limitations and all other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as it may be amended from time to time.
13. Counterparts. This Agreement may be executed in any number of counterparts.
14. Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall in no way affect the validity, legality or enforceability of any other provision; and if any provision is held to be unenforceable as a matter of law, the other provisions shall not be affected thereby and shall remain in full force and effect.
15. Effective Date. The effective date of this Agreement shall be the date it is signed by all Parties below.

IN WITNESS WHEREOF, the Parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions stated above.

By: _____ Date: _____
Earl Wilkinson, Chief Water Compliance Innovation Officer
Colorado Springs Utilities

By:  _____ Date: 1/24/22
Seth Clayton, Executive Director
The Board of Water Works of Pueblo, Colorado

City of Aurora, Colorado,
acting by and through its Utility Enterprise

Mike Coffman, Mayor

Date: _____

ATTEST:

Kadee Rodriguez, City Clerk

Date: _____

Approved as to form for Aurora:

Christine McKenney
Client Group Manager
City Attorney Office

Date 21031166
ACS #

STATE OF COLORADO)
) SS
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Mike Coffman, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora, Colorado.

Witness my hand and official seal.

Notary Public

My commission expires: _____

(Seal)

**CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS**

APPROVED:

By: _____
Richard B. Marsicek, Chief Water
Resource Strategy Officer

By: _____
James S. Lochhead, CEO/Manager

DATE: _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:
CITY AND COUNTY OF DENVER

By: _____
Office of General Counsel

By: _____
Timothy M. O'Brien, CPA
Auditor

City of Colorado Springs on Behalf of its Enterprise
Colorado Springs Utilities

By: _____ Date: _____
Aram Benyamin, Chief Executive Officer
Colorado Springs Utilities

APPROVED AS TO FORM:

City Attorney's Office
Utilities Division