

AMENDED REPLACEMENT WATER LEASE AGREEMENT

THIS AMENDED REPLACEMENT WATER LEASE AGREEMENT (“Amended Agreement”) is entered into this ____ day of May, 2022 by and between the Huerfano County Water Conservancy District, whose address is P.O. Box 442, La Veta, CO 81055 (the “District”), and Huerfano County, whose address is c/o County Administrator, 401 Main Street, Suite 201, Walsenburg, Colorado 81089 (the “Participant”). The District and Participant are referred to collectively herein as “Parties” and individually as “Party.”

RECITALS

A. The District is a water conservancy district organized pursuant to Section 32-45-101 *et seq.*, C.R.S., known as the Water Conservancy Act.

B. The District operates an adjudicated augmentation plan pursuant to a decree entered on November 14, 2016 in Case No. 13CW3062, Colorado District Court, Water Division 2 (“Augmentation Plan”). Such decree is recorded in Huerfano County at Reception No. 407501. The service area of the Augmentation Plan is generally the Huerfano River drainage within Huerfano County.

C. Pursuant to the Augmentation Plan, the District has available consumptive use credits to provide augmentation water to replace out-of-priority depletions caused by participating water uses from the Huerfano River and its tributaries (“Replacement Credits”).

D. Participant was included as a plan participant within the Augmentation Plan.

E. The Participant entered into a lease with the District for the provision of 3 acre-feet of Replacement Credits dated _____ for road and bridge construction and maintenance activities throughout Huerfano County (“Original Agreement”).

F. Siete, Inc. (“Siete”), is a company contracted to conduct road and bridge construction and maintenance activities on I-25 within Huerfano County and is in need of water to conduct such activities.

G. The Participant wishes to increase the amount of leased Replacement Credits provided by the District to the Participant by nine (9) acre-feet for a total of twelve (12) acre-feet for May through July of 2023 in order to provide the additional nine (9) acre-feet of Replacement Credit to Siete.

H. The District is willing to lease the additional nine (9) acre-feet of Replacement Credit to the Participant.

I. No other modifications to the Original Agreement are made by this Amended Agreement.

AMENDED AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation by Reference.** The above recitals are incorporated herein by this reference as if fully set forth herein.

2. **Additional Replacement Credits.** The District agrees to lease to the Participant and the Participant agrees to lease from the District an additional nine (9) acre-feet of Replacement Credit, which is in addition to the three (3) acre-feet subject of the Original Agreement (“Additional Replacement”).

3. **Lease Price.** The lease price for the Additional Replacement shall be thirty two thousand one hundred ninety three dollars (\$32,193.00) (“Additional Rental”). This amount represents the price of three thousand five hundred seventy seven dollars (\$3,577.00) per acre-foot for Replacement Credit of Tier 1 water for a total of nine (9) acre-feet. The Additional Rental is due upon execution of this Amended Agreement.

4. **Administrative Cost.** The Participant shall also pay to the District _____ to cover legal and engineering expenses incurred by the District in order to lease the Additional Replacement to the Participant (“Administrative Cost”). The Administrative Cost is due upon execution of this Amended Agreement.

5. **Term.** The term of this Amended Agreement shall be for May through July of 2023.

6. **Timing and Amount of Diversion.** Subject to the approval requirement pursuant to Paragraph 8 herein, the Participant or Siete, as concerns the diversion of the Additional Replacement, shall not divert from the Huerfano River more than 1 acre-foot of water in May, 2023; 7.73 acre-feet of water in June, 2023; and 0.0869 acre-feet in July, 2023. However, as the County is leasing nine (9) acre-feet from the District, Participant or Siete is free to allocate the diversion of the remaining 0.1831 acre-feet as they deem fit, subject to the approval requirement of Paragraph 8 herein.

7. **Points of Withdrawal.** The locations the Additional Replacement may be taken from the Huerfano River by Participant or Siete remain the same as set forth in the Augmentation Plan and are described as follows:

- a. A point where County Road 560 crosses the Huerfano River in the NW1/4 of the NW1/4 of Section 24, Township 26 South, Range 70 West of the 6th P.M, UTM Coordinates Zone 13, NAD83; Easting: 484300, Northing: 4181185.

- b. A point near Badito Crossing just upstream of the point where County Road 616 crosses the Huerfano River in the NE1/4 of the SE1/4 of Section 5, Township 27 South, Range 68 West of the 6th P.M., UTM Coordinates Zone 13, NAD83; Easting: 498726, Northing: 4175615.
- c. A point just under one-half mile east of I-25 in the SW1/4 of the NW1/4 of Section 30, Township 26 South, Range 66 West of the 6th P.M., UTM Coordinates Zone 13, NAD83; Easting: 515155, Northing: 4179070.

8. Conferral with District Engineer. Due to the volume of the Additional Replacement that may potentially be taken at any given time from the Huerfano River, prior to diversions from the Huerfano River, Participant or Siete shall confer with the District's engineer, Steve Smith of the Applegate Group, to confirm timing and amounts of requested diversions and to receive approval for the requested diversions.

9. No Other Parties. No other parties other than the County or Siete are authorized to utilize the Additional Replacement without first obtaining approval from the District, which such approval is within the District's sole discretion.

10. Indemnity. Any use of water augmented by the District that is leased to or allowed to be utilized by Siete shall be subject to the lease agreements between the District and the County, the Rules and Regulations of the District, and the decree entered in Case No. 13CW3062, Colorado District Court, Water Division 2 and Siete shall be informed as such. Additionally, the County shall indemnify the District for any causes or claims arising from the County allowing Siete to divert water augmented by the District.

11. All Other Terms of the Original Agreement Remain in Effect. Other than as specifically set forth herein, no other terms and conditions of the Original Agreement are amended, and such terms remain in full force and effect.

THIS AMENDED AGREEMENT is entered into on the date and year set forth above.

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DISTRICT
HUERFANO COUNTY WATER
CONSERVANCY DISTRICT

BY:

Scott King, President

DATE:_____

PARTICIPANT
HUERFANO COUNTY

BY:

Name

Title

Signature

DATE:_____