

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is made effective the ___ day of _____, 2020, by and between the Rio Blanco Water Conservancy District (“Rio Blanco”), and the Yellow Jacket Water Conservancy District (“Yellow Jacket”).

RECITALS

A. Rio Blanco and Yellow Jacket are authorized to supply water for beneficial use within their boundaries pursuant to the Water Conservancy Act (C.R.S. §37-45-101, *et seq.*) and the Water Activity Enterprise Act.

B. Rio Blanco and Yellow Jacket have adjoining service areas within the White River basin. Rio Blanco’s District boundaries are depicted on the attached Exhibit A. Yellow Jacket’s District boundaries are depicted on the attached Exhibit B.

C. Rio Blanco and Yellow Jacket are authorized to cooperate between themselves to provide functions and services lawfully authorized to each of them pursuant to C.R.S. § 29-1-203 and to enter leases or exchanges of water with other political subdivisions of the state pursuant to C.R.S. § 37-83-106.

D. The Colorado River Risk Study Phase III has estimated average annual depletions to water rights perfected by use after November 24, 1922 on the White River (“Post-compact Rights”) to be 11,887 acre-feet if there is a compact curtailment.

E. Yellow Jacket and Rio Blanco have further identified needs for water within the White River beyond the event of a compact call.

F. In 2014, Rio Blanco commissioned a Water Storage Feasibility Study by W.W. Wheeler & Associates and EIS Solutions for the lower White River Drainage (“Feasibility Study”).

G. Based on the Feasibility Study, on October 29, 2014, Rio Blanco’s Board of Directors adopted Resolution 2014-01 (“Initial Resolution”) authorizing filing of a conditional water right application for Wolf Creek Reservoir that is currently being adjudicated in Case No. 14CW3043, Water Division No. 6 (“Wolf Creek Reservoir”).

H. Rio Blanco intends to use water from Wolf Creek Reservoir to provide augmentation supplies for domestic, municipal, commercial, industrial, irrigation and environmental purposes, and to augment depletions from Post-compact Rights if there is a compact curtailment on the Colorado River, or from administration of the White River.

I. In addition, consistent with the original plan and intent regarding use of water from Wolf Creek Reservoir in the Initial Resolution, on February 26, 2020 Rio Blanco’s Board of Directors adopted Resolution 2020-001 authorizing adjudication of an umbrella augmentation plan as soon as practicable using water from the Wolf Creek Reservoir as a primary source for augmentation (the “Augmentation Plan”).

J. Available water supplies are inadequate to meet existing and future water demands, especially in the event of a compact curtailment on the Colorado River. The parties desire to enter into the within Intergovernmental Agreement to ensure a legal water supply for their respective constituents' health, welfare and benefit.

AGREEMENT

Now, therefore, Rio Blanco and Yellow Jacket agree as follows:

1. Incorporation of Recitals. The above Recitals are hereby incorporated into and made a material part of this Agreement.

2. Rio Blanco's Agency. Rio Blanco shall act pursuant to this IGA on behalf of Yellow Jacket in the contracting of Rio Blanco's Wolf Creek Reservoir water supplies within the Yellow Jacket boundaries. This Agreement shall not affect Yellow Jacket's management of or contracting for Yellow Jacket's own water rights within its boundaries. Rio Blanco will serve the water users in the Yellow Jacket boundaries on terms determined from a Cost of Service Study for the recovery of all Wolf Creek Reservoir Project costs. Nothing herein shall prevent Rio Blanco and Yellow Jacket from entering into a separate agreement to allow for the storage of water rights owned by Yellow Jacket in Wolf Creek Reservoir and for use by Yellow Jacket.

3. Term and Termination: This contract shall be for a term of 40 years with an automatic 40 year renewal at the end of the initial term. This Agreement may only be terminated upon the mutual consent of both parties.

4. Ownership of Facilities: Rio Blanco will initially own Wolf Creek Reservoir, its water right, the Augmentation Plan, and related facilities. Rio Blanco may contract with Yellow Jacket or other entities for joint ownership of, or a contractual interest in, a portion of such rights or in the capacity of the reservoir

5. Adjudication of Augmentation Plan: Rio Blanco shall be responsible for adjudicating the Augmentation Plan so that it will allow Rio Blanco to provide augmentation water to customers within Yellow Jacket's boundaries without monetary contribution from Yellow Jacket. Yellow Jacket expressly agrees not to oppose any water rights applications in Water Division No. 6 filed by Rio Blanco for this purpose.

6. Notices: Any notice required by or made pursuant to this Agreement shall be made by giving the party to be noticed a written statement thereof by hand delivering or mailing the same by first class, United States postage at or to the following addresses:

To Rio Blanco:
Rio Blanco Conservancy District
c/o Alden Vanden Brink
2252 E. Main
Rangely, CO 81648

With copy to:

Edward B. Olszewski, Esq.
Olszewski, Massih & Maurer, P.C.
Post Office Box 916
Glenwood Springs, CO 81602
Telephone: (970) 928-9100

To Yellow Jacket
Yellow Jacket Water Conservancy District
P.O. Box 447
Meeker, CO 81641

With copy to:
Scott Grosscup, Esq.
Balcomb & Green, P.C.
P.O. Drawer 790
Glenwood Springs, CO 81602
Telephone: (970) 945-6546

The parties may change their addresses for receipt of notice by giving notice as provided herein.

7. Agreement: This Agreement constitutes the entire, integrated understanding of the parties as to the subject matter effective hereby, and all prior or contemporaneous discussions and understandings regarding such subject matter are merged herein or discharged hereby.

8. Amendments: Any amendment or extension of this Agreement shall not be effective unless stated in writing, approved and executed by all parties.

9. Indemnification and Liability: To the extent permitted by law, the individual parties hereby indemnify each other for their individual acts and omissions and assume full liability for their individual acts and omissions. The parties do not hereby waive any application of the Colorado Governmental Immunity Act, and no third-party beneficiaries are intended or created by this Agreement.

10. Jurisdiction. Any suit involving any dispute or matter arising under this Agreement may only be brought in Rio Blanco County, Colorado, having jurisdiction over the subject matter of the dispute or matter. All parties hereby consent to the exercise of personal jurisdiction by any such court with respect to any proceeding. The prevailing party in any such dispute or matter shall be entitled to an award of its reasonable costs including but not limited to reasonable attorney's fees.

IN WITNESS whereof, the parties have executed this Agreement on the date shown below.

RIO BLANCO WATER CONSERVANCY DISTRICT

By: _____
_____, President

Date: _____

YELLOW JACKCET WATER CONSERVANCY DISTRICT

By: _____
_____, President

Date: _____