

NOTICE OF SUBAWARD

Federal award identification

- a. Subrecipient's Name: [water user]
- b. Subrecipient's Contact Information:
 - [Subrecipient Name]
 - [Street address or PO Box]
 - [Street address or PO Box]
 - [City],[State][ZIP]
 - [Phone]
 - [Email]
- c. Subrecipient's Unique Entity Identifier (entities only): [from SAM.gov]
- d. Federal Award Identification Number (FAIN): R23AP00295
- e. IJA Award Date: 08/08/2023
 - i. First Amended IJA Award Date: 04/26/2024
 - ii. Second Amended IJA Award Date: 11/22/2024
- f. Subaward Period of Performance Start and End Date: 04/01/2025-12/31/2029
- g. Subaward Budget Period Start and End Date: [subaward date]-12/31/2029
- h. Amount of Federal funds obligated in the Subaward: [\$_____]
- i. Total amount of Federal funds obligated to the subrecipient by the pass-through entity, including the current financial obligation: [\$_____]
- j. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity: [\$_____]
- k. Federal award project description: Drought Contingency Plan Implementation Activities
- l. Name of the Federal agency: Department of the Interior, Bureau of Reclamation
- m. Name of pass-through entity: Upper Colorado River Commission
- n. Contact information for awarding official of the pass-through entity:
 - Ashley Nielson
 - 50 S 600 E Suite 100
 - Salt Lake City, UT 84111
 - Telephone: 801-531-1150
 - Email: anielson@ucrcommission.com
- o. Assistance Listings title and number: 15.567 – Colorado River System Conservation Pilot
- p. The Federal award is not for research and development.
- q. Indirect cost rate for the Federal award: N/A.

**UPPER COLORADO RIVER COMMISSION
COOPERATIVE AGREEMENT SUBAWARD
UTAH DIVERSION MEASUREMENT & TELEMTRY PROGRAM**

1. **Parties.** The parties to this Cooperative Agreement Subaward (“Subaward Agreement”) are the Upper Colorado River Commission (“UCRC”) and [Subrecipient’s Name], [a][an] [entity type][individual] (“Subrecipient”). Subrecipient and UCRC may be referred to individually as a Party or collectively as the Parties.
2. **Purpose.** UCRC is the recipient of a federal award entitled the “United States Department of the Interior Assistance Agreement R23AP00295 Between Bureau of Reclamation and the Upper Colorado River Commission for Upper Basin Infrastructure Investment & Jobs Act and Drought Contingency Plan Implementation Activities”, as amended on April 26, 2024 (R23AP00295-02) and November 22, 2024 (R23AP00295-03) (“IIJA Award”). The IIJA Award is intended to fund projects that support the Upper Division States’ and UCRC’s Drought Contingency Plan (“Upper Basin DCP”) implementation activities. UCRC, in collaboration with the Colorado River Authority of Utah (“Authority”), is utilizing IIJA Award funding to implement the Utah Diversion Measurement and Telemetry Program (“UDMT Program”) to enhance water measurement and monitoring infrastructure across the portion of the Colorado River Basin within the State of Utah.

The purpose of this Subaward Agreement is to allow UCRC to pass through a portion of the IIJA Award as a subaward for [the] [purchase] [and installation] of [a] [diversion measurement] [and] [telemetry] equipment (“Measurement Equipment”) to [measure] [and] [transmit] flow data for Subrecipient’s water diversion (the “Project”). A description of the Project is attached hereto as **Exhibit “A”**.
3. **Project Subaward.** For this Project, the UCRC is serving as a pass-through entity for the IIJA Award to grant a subaward to Subrecipient in the form of goods and services (“Subaward”). The particular goods and services funded by the Subaward and their associated values are described in **Exhibit “A”**.
4. **Construction and Installation Specifications.** The specifications for the construction and installation of the Measurement Equipment for the Project is attached hereto as **Exhibit “B”**.
5. **Right of Entry.** The UCRC and the Authority, acting through each entity’s staff, designees, contractors, or agents (individually or collectively, a “Program Representative”), shall have the right to access the Project, including the Measurement Equipment, in adherence with the Access terms set forth in **Exhibit “C”**. Subrecipient shall be solely responsible for gaining the permissions, taking the necessary actions, or making the arrangements necessary to grant the described Access to the Program Representative. The Program Representative is granted the right of Access to install, construct, maintain, inspect, and certify the results of the Project as specified in this Subaward Agreement.

6. **Access, Operations, and Maintenance Requirements.** The Access, operations and maintenance requirements and procedures to be adhered to by Subrecipient and Program Representatives are set forth in the attached **Exhibit “C”**.

7. **Equipment.** Conditional title to the Measurement Equipment acquired under this Subaward will vest upon acquisition in Subrecipient, will full title withheld by the Bureau of Reclamation until the Subaward Agreement expires on December 31, 2029. During the term of the Subaward Agreement, the following restrictions apply to the use and disposition of the Measurement Equipment:

- a. The Measurement Equipment must be used for the purposes of the Project.
- b. Title to the Measurement Equipment may not be encumbered.
- c. Subrecipient may not dispose of the Measurement Equipment.
- d. The Measurement Equipment must be operated and maintained as described in **Exhibit “C”**.
- e. Following the expiration of the Subaward Agreement, the Measurement Equipment must continue to be used for the purposes of the Project for the remainder of its useful life, at which time Subrecipient shall provide notice to the UCRC that the equipment is no longer usable.
- f. If, for any reason, Subrecipient is unable to fulfill the obligations set forth in this Section 7 Subrecipient shall notify and await further instruction from the UCRC.
- g. The terms of this Section 7 shall survive the termination of the Subaward Agreement.

8. **Availability of Data.** The UCRC is required to make the data produced under this Subaward Agreement available to the Bureau of Reclamation for public release, consistent with applicable law, to allow meaningful third party evaluation and reproduction of the following: (a) the scientific data relied upon; (b) the analysis relied upon; and (c) the methodology, including models, used to gather and analyze data. The regulations at 2 CFR § 200.315 apply to data produced under the Subaward, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data as well as to authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. Subrecipient shall assist the UCRC in making the data produced under this Subaward Agreement available to the Bureau of Reclamation in accordance with the terms of the IJIA Award and as described in this Section 8 In addition, the UCRC intends that the data be transmitted, processed, integrated, and otherwise made publicly available through the State of Utah and the UCRC. Subrecipient acknowledges and consents to the collection, transmission, processing, integration, and use of the data generated by the Measurement Equipment as described herein. The terms of this

Section shall survive the termination of the Subaward Agreement, until the conclusion of the useful life of the Measurement Equipment.

9. **General compliance with IIJA Award terms and conditions, statutes, and regulations.**

The Parties shall comply with all provisions of the IIJA Award and the associated Federal regulations which apply to contracts entered into by UCRC under the IIJA Award, including those provisions not attached to this Subaward Agreement ("IIJA Conditions"). A portion of the IIJA Conditions excerpted from the IIJA Award and part of the Code of Federal Regulations which are most likely to apply to Subrecipient are attached hereto as **Exhibit "E"** for ease of reference.

10. **Additional Requirements.**

a. **Certification of Installation and Inspection.** A Program Representative will perform a final inspection and certification to verify that the Project is constructed and performed consistent with the terms of this agreement and the Exhibits with the assistance of its staff, designees or agents, and/or authorized designees in the state where the Project is located. At the time of certification a Federal Financial report is required to be submitted in the form of the SF-425.

The Bureau of Reclamation has the right to inspect and evaluate the work performed or being performed under this Subaward Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the Bureau of Reclamation performs inspection or evaluation on the premises of Subrecipient, Subrecipient will furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

b. **System for Award Management (SAM) registration.** If Subrecipient is a legal entity, Subrecipient must maintain a Unique Entity Identifier through the Federal SAM system until the final financial report under this Subaward Agreement is submitted.

c. **Reporting requirements.** Subrecipient must submit an annual performance report to the UCRC by October 31 of each year throughout the term of this Subaward Agreement. The contents and format of the required report are outlined in the attached **Exhibit "D"**.

d. **Regulatory compliance.** Subrecipient agrees to comply or assist the Bureau of Reclamation and the UCRC in their efforts to comply with all regulatory requirements and all applicable state, Federal, and local environmental and cultural and paleontological resource protection laws and regulations applicable to the IIJA Award and the Subaward. These may include, but are not limited to, the National Environmental Policy Act (NEPA), including the Council on Environmental Quality and Department of the Interior regulations implementing NEPA, the Clean Water Act, the Endangered Species Act, consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office. If Subrecipient begins project activities that require environmental or other regulatory compliance approval prior to

receipt of written notice from a Bureau of Reclamation Grants Officer that all such clearances have been obtained, the Bureau of Reclamation may initiate remedies for non-compliance as set forth in 2 CFR §§ 200.339-340, up to and including unilateral termination of the Subaward.

e. **Audit requirements.** Subrecipient shall cooperate with or assist the UCRC as needed to respond to any Federal audit of the UDMT Program.

f. **Remedies for noncompliance.** If Subrecipient fails to comply with Federal statutes, regulations, or the terms and conditions of the IIJA Award, the Bureau of Reclamation or the UCRC may impose additional conditions, as described in 2 CFR 200.208 Specific conditions. If the Bureau of Reclamation or the UCRC determines that noncompliance cannot be remedied by imposing additional conditions, the Bureau of Reclamation or the UCRC may take one or more of the following actions, as appropriate in the circumstances.

- i. Require reimbursement of the UCRC for the cost of the goods and services described in **Exhibit "A"**.
- ii. Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Reclamation regulations (or in the case of the UCRC, recommend such a proceeding be initiated by Reclamation).
- iii. Withhold further Federal awards for the Project or bar Subrecipient's participation in other current or future UCRC programs.
- iv. Take other remedies that may be legally available.

g. **Conflicts of interest.** Subrecipient has disclosed any conflicts of interest, as that term is described, in the attached **Exhibit "F"**, and has certified therein and affirms in this Subsection 10.g. that Subrecipient is and will remain in compliance with the terms of **Exhibit "F"**.

11. **UCRC obligations.** The UCRC shall report this subaward as required by section II.19.I.a of the IIJA Award.

12. **Termination.**

a. The UCRC may terminate this Subaward Agreement if the IIJA Award has been terminated or partially terminated. In such a case, the Subaward Agreement will be terminated 30 days from Subrecipient's receipt of written notice from the UCRC of such termination of the Subaward Agreement.

b. If this Subaward Agreement is terminated, both Subrecipient and the UCRC shall remain responsible for maintaining compliance with the terms of this Subaward Agreement, the IIJA Award, and Federal regulations which explicitly or implicitly survive termination.

13. **Notices.** Any notice required to be given to either Party under this Subaward Agreement will be in writing and will be delivered via electronic mail (email), or by U.S. mail, either first

class or certified, return receipt requested, postage prepaid, to the address set forth in the Notice of Subaward.

14. **Indemnification.** Subrecipient agrees to indemnify, hold harmless, and release the UCRC, its officers, agents, employees, and volunteers, from and against any and all loss, damages, injury, liability, suits and proceedings arising out of the performance of this Subaward Agreement which are caused solely by the negligent acts, wrongful acts, errors, or omissions of Subrecipient, its officers, agents, employees, or volunteers. The UCRC agrees to indemnify, hold harmless, and release Subrecipient, its officers, agents, employees, or volunteers from and against any and all loss, damages, injury, liability, suits and proceedings arising out of the performance of this Subaward Agreement which are caused solely by the negligence of UCRC, its officers, agents, employees, or volunteers, it being the intent of the Parties that Subrecipient will not indemnify, hold harmless or release UCRC from UCRC's own willful misconduct, gross negligence, or UCRC's negligent acts or omissions, and UCRC will not indemnify, hold harmless or release Subrecipient from Subrecipient's own willful misconduct, gross negligence, or Subrecipient's negligent acts or omissions. If both Parties are negligent or otherwise at fault, each shall bear its proportionate share of any allocated fault or responsibility. Nothing contained in this Subaward Agreement shall be construed as waiving immunity, the monetary damage limitations, or any other provision set forth in applicable State or Federal laws.

15. **General provisions.**

a. **Authority.** Each Party represents and warrants to the other that the execution and delivery of this Subaward Agreement and the performance of such Party's obligations have been duly authorized.

b. **Amendments.** Any changes, modifications, revisions, or amendments to this Subaward Agreement that are mutually agreed upon by the Parties shall be incorporated by written instrument executed and signed by both Parties.

c. **Survival of certain contract terms.** Any provision of this Subaward Agreement that imposes an obligation on a Party after termination or expiration of this Subaward Agreement shall survive the termination or expiration of this Subaward Agreement and shall be enforceable by the other Party.

d. **Entirety of agreement.** This Subaward Agreement represents the entire understanding between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

e. **Severability.** Should any portion of this Subaward Agreement be judicially determined to be illegal or unenforceable, the remainder of this Subaward Agreement shall continue in full force and effect, and the Parties may renegotiate the terms affected by the severance.

f. **Third party beneficiary rights.** The Parties do not intend to create in any other individual or entity the status of the third-party beneficiary, and this Subaward Agreement shall not be construed so as to create such status. Any rights, duties, and obligations contained in this Subaward Agreement shall operate only between the Parties and shall inure solely to the benefit of the Parties.

g. **Choice of law, jurisdiction, and venue.** This Subaward Agreement will be enforced, governed by and construed in accordance with federal law. In the absence of federal law, the laws of the state of Utah will apply. Venue for resolution of any dispute brought in federal court will be the United States District Court for the District of Utah. Venue for resolution of any dispute brought under state law will be in the Utah Third District Court in Salt Lake County.

h. **Assignment.** The rights and obligations of the Parties under this Subaward Agreement may not be transferred or assigned without the prior, written consent of the other Party. Any attempt at assignment or transfer without such consent shall be void.

i. **Binding effect.** All provisions of this Subaward Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

j. **Counterparts.** This Subaward Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

16. **Signatures.** The Parties, through their duly authorized representatives, have executed this Subaward Agreement on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Subaward Agreement as set forth herein.

UPPER COLORADO RIVER COMMISSION

Chuck Cullom, Executive Director

Date

[Water User]

[Water User]

Date

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EXHIBIT A

PROJECT DESCRIPTION

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EXHIBIT B

CONSTRUCTION AND INSTALLATION SPECIFICATIONS

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EXHIBIT C

ACCESS, OPERATIONS, AND MAINTENANCE REQUIREMENTS

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**EXHIBIT D
UPPER COLORADO RIVER COMMISSION
UTAH DIVERSION MEASUREMENT & TELEMETRY PROGRAM
ANNUAL PERFORMANCE REPORT**

Purpose: To verify that the equipment provided under the Cooperative Agreement Subward is maintained, functional and being used for its intended purpose.

Instructions for Completing the Form:

1. Fill out all the below sections
 2. Attach current photos clearly showing all the awarded equipment in its installed location
 3. Attach real-time data reports to verify the equipment is operational.
 4. Please submit the completed form and all attachments by **September 30** each year:
 - a. **UCRC Website:** <http://www.ucrccommission.com/agencies-programs/utah-diversion-measurement-telemetry-program/>
 - b. **Email:** reporting@ucrccommission.com
 - c. **Mail:** Upper Colorado River Commission
50 S 600 E, Ste 100
Salt Lake City, Ut 84102
-

Reporting Year: Click or tap here to enter text.

Subrecipient Information:

- **Subrecipient's Name:** Click or tap here to enter text.
- **Subrecipient Contact Information:**
 - Street Address: Click or tap here to enter text.
 - City, State, ZIP: Click or tap here to enter text.
 - Phone: Click or tap here to enter text.
 - Email: Click or tap here to enter text.

Verification

- **Equipment Present:** ☐ Yes ☐ No
- **Equipment Maintained and Functional:** ☐ Yes ☐ No
- **Real-Time Data Available** ☐ Yes ☐ No
- **Issues Encountered:** ☐ Yes ☐ No

Please provide any additional details or notes:

Click or tap here to enter text.

Attach Supporting Documentation:

- Photos of equipment: ☐ Attached
- Real-time data reports: ☐ Attached

Certification

I certify that the information provided above is accurate to the best of my knowledge.

Subrecipient Signature: Click or tap here to enter text.

Date: Click or tap to enter a date.

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EXHIBIT E

IIJA CONDITIONS

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EXHIBIT F

CONFLICT OF INTEREST

The Upper Colorado River Commission ("Commission") strives to provide full, fair, and open solicitation, competition, and sole-sourced contracting that is free of actual or perceived unfair advantage or conflict of interest. This document is intended to provide guidance on when a conflict of interest may exist, and instructions for disclosure of actual and/or perceived conflicts of interest. This document is not intended to be and should not be construed as legal advice. If you are unsure whether a conflict of interest exists, please consult your legal counsel.

In this document, "Offeror" means the person(s) or entity submitting a bid or proposal to a solicitation, an entity that has been selected for a sole-sourced contract, any subcontractors, and all related entities including parent companies, subsidiaries, and companies owned, controlled, or owned and controlled by the same or closely related people.

The Offeror, by signing the Disclosure and Certification form attached, certifies that to the best of its knowledge and belief there are no relevant facts or circumstances that could give rise to actual or perceived conflicts of interest, or has determined that one or more conflicts of interest exist and has disclosed all relevant facts pertaining to such conflict/s.

When does a conflict of interest exist?

A conflict of interest occurs when any of the following circumstances arise:

- **Lack of Impartiality or Objectivity.** When the Offeror is unable, or potentially unable, to provide impartial or objective assistance or advice to the Commission due to existing professional or personal relationships, past, present, or currently planned contracts or activities, or any other circumstances related to the work to be performed for this solicitation.
- **Unequal Access to Information.** The Offeror has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.

Conflicts of interest may exist at an organizational level and at a personal level. Conflicts of interest may be "actual" or they may be "perceived," meaning a reasonable person with knowledge of all the material facts believes there appears to be a conflict, whether or not the organizations or individuals involved are in relationships that actually create or experience bias or unfair advantage. Actual, potential, and perceived conflicts of interest are collectively referred to as "conflicts of interest" in this document.

Please note that the information provided serves as a guide only, and a conflict may arise in other situations not described in this document.

Disclosure of Conflict of Interest

An Offeror shall either: (1) disclose all conflicts of interest, or (2) certify that the Offeror is unaware of any facts or circumstances that would give rise to a conflict of interest in

performing work under this solicitation. (See Disclosure and Certification, p. 3). **A disclosure will not necessarily disqualify the Offeror from being awarded a contract.**

Failure to Disclose

If, in the Commission's sole discretion, a conflict is discovered after award or execution of a contract, the Commission may cancel the contract if it deems such termination necessary. If the contractor was aware of a potential conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose, or misrepresented, relevant information to the contracting officer, the Commission may terminate the contract for default, or pursue such other remedies as may be permitted by law or equity.

Instructions for Preparation of Disclosure and Certification Regarding Conflict of Interest Form

The Offeror must determine whether a conflict of interest exists. Offerors and their subcontractors or subconsultants must complete and submit the attached Disclosure and Certification Regarding Conflict of Interest form ("Disclosure and Certification Form"), including forms for all proposed subcontractors. If the Offeror determines that a conflict of interest exists, it must, when completing the Disclosure and Certification form, disclose the particular conflict of interest and provide a general description of the nature of the conflict of interest. The Commission and RFP Evaluation Committee, in their sole discretion, will make the final determination as to whether a conflict of interest exists and, if so, whether to disqualify the Offeror or proceed with the evaluation of Offeror's proposal and possible award of a contract.

EXHIBIT F - Disclosure and Certification Regarding Conflict of Interest

Name: _____ (the "Offeror")

Relationship: _____ (i.e. contractor, consultant, subcontractor, etc.)

1. Certification. The Offeror hereby acknowledges that it has read the Upper Colorado River Commission Conflict of Interest Guidelines and has, to the best of its knowledge and belief:

(Choose One)

_____ Certified that there are no relevant facts or circumstances which could give rise to actual or reasonably foreseeable conflicts of interest that would impinge on its ability to render impartial, technically sound, and objective assistance or advice, or result in the Offeror having an unfair competitive advantage. (Offeror may provide an explanation or any supporting documentation).

OR

_____ Determined that one or more conflicts of interest exists. Offeror must identify and provide a description of the conflict of interest on Attachment F-1.

The Disclosure and Certification Regarding Conflict of Interest form(s) must be submitted to the UCRC Contract Manager.

2. Subcontractors and Subconsultants. The Offeror must include a signed copy of this certification form for each of its subcontractors and subconsultants. The Offeror must submit all subcontractor forms to the Commission.

3. Continuing Obligations. The Offeror has a continuing obligation to the Commission to disclose conflicts of interest during the solicitation or, if awarded a contract, throughout the duration of the contract.

4. Failure to Disclose. If the Offeror was aware of a potential conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose, or misrepresented, relevant information to the contracting officer, the Commission may terminate the contract for default, or pursue such other remedies as may be permitted by law or equity.

By signing below, the Offeror certifies that the information contained in this form is accurate to the best of its knowledge and that the Offeror agrees to comply with the requirements herein. By signing below, the Offeror further acknowledges its continuing obligation to the Commission to disclose, as soon as practicable, conflicts of interest to the Commission, through the Contract Manager, during the solicitation phase or, if awarded a contract, at any time a conflict of interest arises throughout the duration of the contract.

Signed:

_____ Title:

Name: _____ Date:

EXHIBIT F-1

Description of Conflict of Interest: Please identify all relevant facts relating to past, present, or planned interest(s) of the Offeror's team (including subcontractors, etc.) that may result in, or could be perceived as, a conflict of interest in connection with this solicitation. Please attach additional pages, as necessary.

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