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MARIE G. KORTH
BOX ELDER COUNTY RECORDER

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AGREEMENT

This Agreement entered into this 10th day of JANUARY 1985, by and between the State of Utah, acting through the BOARD OF WATER RESOURCES, First Party, sometimes referred to herein as the STATE, and the THATCHER-PENROSE SERVICE DISTRICT, Utah Non-Profit Corporation, organized under the Laws of the State of Utah, Second Party, sometimes referred to herein as the WATER COMPANY:

WITNESSETH:

THAT WHEREAS, the Utah Legislature has authorized the BOARD OF WATER RESOURCES, under Title 73-10 Utah Code Annotated, to enter into contracts for the construction of water conservation projects, which in the opinion of the Board, will best conserve and utilize the water resources of the State of Utah; and

WHEREAS, the Parties hereto did on June 17, 1975 enter into an Agreement for construction of a culinary water system under which Agreement certain rights-of-way and water rights were transferred to the STATE, particularly Water Application No. 44660 (29-1944); and

WHEREAS, the STATE desires to promote a water conservation project to be funded from the Revolving Construction Fund, and consisting of drilling and equipping a new well, including a pump, pumphouse, and appurtenances and installing about 34,000 feet of transmission pipeline along with appurtenant facilities, hereinafter referred to as the PROJECT and located in Sections 15, 22, and 34, T12N, R4W, and Sections 3 and 10, T11N, R4W, SLB&M, Box Elder County, Utah; and

WHEREAS, it is the desire of the WATER COMPANY to enter into a contract with the STATE, for a consideration to be hereinafter provided, and to use the water developed by the PROJECT, and as the WATER COMPANY has the available manpower and facilities necessary to construct the PROJECT, and is ready, willing, and able to enter into a contract for such purpose;

NOW THEREFORE, the Parties hereto enter into this Agreement and make the following assignments:

1. The WATER COMPANY hereby agrees to convey, grant, and warrant to the STATE, title, in fee simple as required, to the real estate upon which the structures are to be constructed; and further agrees to convey, grant, and warrant to the STATE, title to such easements and rights-of-way as shall be necessary to enable the STATE to construct, maintain, and operate the PROJECT; and further agrees to grant and convey to the STATE an easement to use any and all of the WATER COMPANY'S facilities in Sections 9, 15, 16, 21, 28, and 29, T11N, R4W, SLB&M.

2. The WATER COMPANY hereby agrees to convey, assign, and warrant to the STATE, all right, title, and interest which it has or may have, to the right to the use of the water which shall be developed or conveyed through the use of the PROJECT, and particularly Application No. 46167-a (29-2964) as amended by Change Application No. a-12902. It is further agreed that the STATE shall retain for the life of this Agreement and the aforesaid previous agreement, title to the property, rights-of-way, and water rights vested in the STATE pursuant to said previous Agreement.

3. The WATER COMPANY recognizes as valid the conveyance of easements and rights-of-way executed by various owners of the land to the STATE, and agrees that all performance by the WATER COMPANY under this contract shall be subservient to, and in recognition of, the aforesaid rights of the STATE in and to the aforesaid easements and rights-of-way.

4. The WATER COMPANY agrees to supply the necessary manpower and facilities and agrees to complete the construction of the PROJECT regardless of unforeseen contingencies, in accordance with plans, specifications, and work items, a copy of which is hereby incorporated by reference and made a part hereof. For the purpose of this Agreement, the WATER COMPANY is construed to be the prime contractor for all work performed. Any construction contractor who enters into an agreement with the WATER COMPANY for the performance of all, or part, of the PROJECT work shall be termed a subcontractor.

5. The STATE agrees to pay to the WATER COMPANY Ninety Percent (90%) of the total cost of constructing the PROJECT, but in no event shall the amount paid by the STATE exceed Two Hundred Eighty-Two Thousand Dollars (\$282,000.00), and the WATER COMPANY agrees to pay all costs in excess of the amount paid by the STATE.

6. All payments made by the STATE to the WATER COMPANY under this Agreement shall be made payable to THATCHER-PENROSE SERVICE DISTRICT and mailed to Robert Zollinger, President, P. O. Box 335, Route 2, Tremonton, Utah 84337, Phone: 854-3730, or such person as may hereafter be designated by the WATER COMPANY. The WATER COMPANY shall, for the construction period under this Agreement, establish in a bank of its choice, a special checking account for the project, and all monies from any source to be used for payment of obligations towards the construction work shall be deposited in this special account and dispersed by check to meet the obligations of the project construction. All items of labor and equipment shall be fully accounted for, and once each month the WATER COMPANY shall send to the DIVISION OF WATER RESOURCES a photocopy of each check issued from the said special account during the month. A copy of each Bank statement shall also be provided to the DIVISION OF WATER RESOURCES.

7. It is further agreed that payment of the construction costs by the STATE shall be made periodically to the WATER COMPANY upon the presentation by the WATER COMPANY to the STATE of a certified statement of the payment requirement which shall be in the nature of a partial estimate of the work completed to date by the WATER COMPANY on each work item. The WATER COMPANY shall withhold Ten Percent (10%) of each payment until Fifty Percent (50%) of

the work has been completed, at which time the remaining partial payments may be made in full, if the work is progressing satisfactorily. Also, whenever the work is substantially complete, the amount withheld may be further reduced.

The amounts withheld as set forth hereinabove shall be deposited by the WATER COMPANY in a separate interest-bearing account, with the interest accruing to the benefit of the contractors and subcontractors on a pro rata basis according to the work performed by each. The withholdings and the interest earned thereon shall become due and payable to the said contractors and subcontractors upon satisfactory completion of the construction work under this Agreement, or sub-Agreements, and upon final inspection and acceptance of the work by an engineer designated by the STATE.

8. It is further agreed that the WATER COMPANY shall complete the construction of the PROJECT on or before December 1, 1985, and that title to the entire PROJECT, including all appurtenant facilities and water rights, shall immediately vest in the STATE.

9. The STATE agrees to sell, and the WATER COMPANY agrees to purchase, the land, easements, rights-of-way, water rights, the constructed works, and all appurtenant facilities acquired by the STATE in this Agreement and Assignments at a total purchase price defined to be the combined total of all funds paid by the STATE to the WATER COMPANY for the construction of the PROJECT, but not to exceed Two Hundred Eighty-Two Thousand Dollars (\$282,000.00), plus all expense incurred by the STATE for the investigation, engineering, and inspection of the PROJECT, and to be determined by the STATE upon completion of the PROJECT.

10. The purchase price shall be payable over a period of time not to exceed Eighteen (18) years, in annual installments of one-eighteenth (1/18), or more, of the total purchase price, as defined above, without interest. The first annual installment of one-eighteenth (1/18), or more, of the total purchase price, as defined above, shall become due and payable on the First Day of December, 1986, and a like sum, or more, shall be due and payable on the First day of December of each and every year thereafter until the purchase price, as defined above, shall have been paid in full. When the aforesaid previous Agreement of June 17, 1985 has been fully repaid, the annual installments under this Agreement shall be increased by Seventy-Five Dollars (\$75.00) for each connection to the system in excess of One Hundred Eighty (180) connections. Said sums shall be payable at the office of the DIVISION OF WATER RESOURCES and the first monies received by the STATE under the terms of this contract will be applied against the indebtedness incurred by the STATE for investigation, engineering, and inspection until fully paid, and any residue will be applied to funds paid by the STATE for the construction of the PROJECT. Delinquent payments shall bear interest at a rate of Eighteen Percent (18%) per annum.

In the event the WATER COMPANY changes the use of the PROJECT water or facilities from irrigation to include industrial or municipal, or hydroelectric power generation during the purchase period, the WATER COMPANY agrees that this Agreement will be amended to reflect a higher interest rate and/or a shorter repayment period for the outstanding balance due the STATE under this Agreement. The terms of the amendment shall be negotiable between the Parties hereto.

11. During the period of such purchase under this contract, provided the WATER COMPANY is not delinquent in any manner, the WATER COMPANY shall have and is hereby given the right to use the STATE'S water rights, and all facilities constructed thereunder. During the life of this Agreement, the WATER COMPANY agrees to assume, at the WATER COMPANY'S expense, the full and complete obligation of maintaining the constructed works, and other facilities, and of protecting all water rights, easements, and rights-of-way from forfeiture, including the payment of any fees or assessments for said water rights, easements or rights-of-way.

12. In order to secure the payment of the aforesaid purchase price, it is hereby expressly agreed that the STATE may require the WATER COMPANY to assess all outstanding shares of its stock for the full amount of any delinquencies in the aforesaid purchase installments. It is further agreed by the WATER COMPANY that it will not incur any mortgages or encumbrances, other than those already acquired by it, on any of its property, real or personal, without first securing the written consent of the STATE.

13. The WATER COMPANY hereby warrants the STATE that the construction of the PROJECT will not interfere with existing water rights. If the PROJECT herein described shall give rise to a claim, or cause of action to any holder of any water rights because of the interference with such rights by the operation of the PROJECT, then the WATER COMPANY hereby agrees to indemnify the STATE to the extent of such claim or cause of action.

14. In constructing or causing the PROJECT under this Agreement to be constructed, the WATER COMPANY shall comply with the provisions of the Utah Anti-Discrimination Act of 1965 and hereby agrees as follows:

- (a) The WATER COMPANY will not discriminate against any employee or applicant for employment because of race, color, sex, religion, ancestry, or national origin.
- (b) In all solicitations or advertisements for employees, the WATER COMPANY will state that all qualified applicants will receive consideration without regard to race, color, sex, religion, ancestry or national origin.
- (c) The WATER COMPANY will send to each labor union or workers representative notices to be provided, stating the WATER COMPANY'S responsibilities under the statute.
- (d) The WATER COMPANY will furnish such information and reports as requested by the Anti-Discrimination Division for the purpose of determining compliance with the statute.
- (e) Failure of the WATER COMPANY to comply with the statute, the rules and regulations promulgated thereunder and this non-discrimination clause shall be deemed a breach of this contract and it shall be cancelled, terminated or suspended in whole or in part.

(f) The WATER COMPANY will include the provisions of Items (a) - (e) in every subcontract or purchase order (unless exempted under the statute or rules and regulations) so that such provisions will be binding upon such subcontractor or vendor.

15. If either party to the contract violates any of the conditions or covenants made herein, the other may give written notice of such breach or failure, and if the same shall not be cured within Ninety (90) days after such notice, the other may declare the contract forfeited and may proceed to its remedies at law for such breach.

16. The WATER COMPANY hereby agrees to indemnify and save harmless the STATE and its officers, agents, and employees from any and all liability in connection with this agreement, including any and all claims for injury or death of persons or animals, or for any property loss or damage that may arise from the construction, maintenance, or operation of the PROJECT.

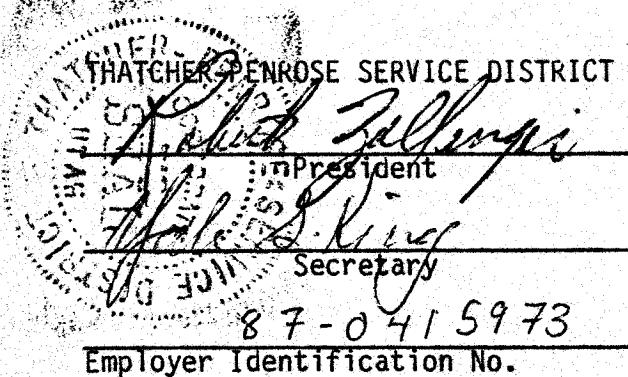
17. After the WATER COMPANY shall have paid in full the purchase price, as defined above, and provided the WATER COMPANY has satisfied the terms of the aforesaid Agreement dated June 17, 1975, the STATE shall execute such deeds and bills of sale as will be necessary to revest the same title to the aforesaid property and water rights in the WATER COMPANY.

18. This Agreement, or any part thereof, or the benefits to be received under this Agreement, may not be the subject or any assignment to any person, firm, or district, by the said WATER COMPANY, without first having secured the written consent of the STATE to any such proposed assignment or disposition of this Agreement.

19. This Agreement shall not become binding upon the STATE until it has been signed by all persons and agencies required by law, and the STATE shall not become liable to the WATER COMPANY for any commitments made by the WATER COMPANY until this Agreement has been fully executed.

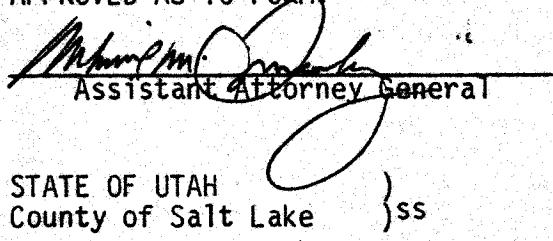
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IN WITNESS WHEREOF, the State of Utah, acting through the BOARD OF WATER RESOURCES, Party of the First Part, has caused these presents to be signed by the Chairman and Director of the said BOARD OF WATER RESOURCES by authority of a resolution of said Board; and the THATCHER-PENROSE SERVICE DISTRICT Party of the Second Part, has caused these presents to be signed and executed on its behalf by Robert Zollinger, its President, and ~~John Holmgren~~, its Secretary, by authority of a resolution of its Stockholders at a meeting held 6 December, 1983.



Employer Identification No.

APPROVED AS TO FORM:



STATE OF UTAH
County of Salt Lake } ss

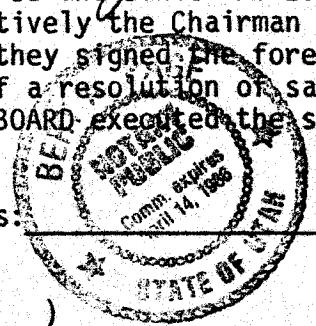
On the 10th day of January, 1985, personally appeared before me John P. Holmgren, II and Daniel F. Lawrence, who being duly sworn did say that they are respectively the Chairman and Director of the BOARD OF WATER RESOURCES, and that they signed the foregoing instrument in behalf of the said BOARD by authority of a resolution of said BOARD, and they also acknowledged to me that the said BOARD executed the same.

My Commission Expires:

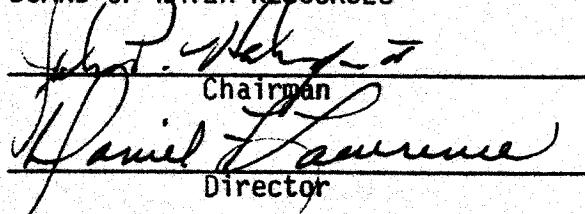
STATE OF UTAH
County of Box Elder } ss

On the 10th day of January, 1985, personally appeared before me Robert Zollinger and ~~John Holmgren~~, who being duly sworn did say that they are respectively the President and Secretary of the THATCHER-PENROSE SERVICE DISTRICT and that they signed the foregoing instrument in behalf of said District by authority of a resolution of its Stockholders, and they also acknowledged to me that the said District executed the same.

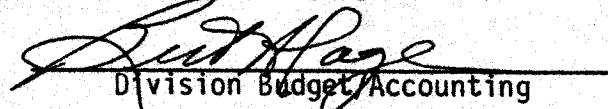
My Commission Expires:



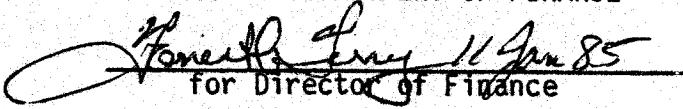
BOARD OF WATER RESOURCES



AVAILABILITY OF FUNDS:



APPROVED: DEPARTMENT OF FINANCE



My Commission Expires:

