

16-022-0001, 0002,
16-014-0001 to 0003, 0005, 0007 to 0016, 0019, 0023,
0027, 0030
16-062-0001 to 0004
16-151-0001, 0003 to 0008
16-059-0002, 0003, 0004
16-150-0001, 0010 to 0014
16-176-0001 to 0003, 0007
16-170-0001
16-081-0001 to 0006
16-082-0001 to 0012
16-083-0001 to 0004
16-084-0001 to 0006

16-013-0001 to 0004, 0020, 0041, 0042, 0043, 0036, 0019
16-066-0003 & 0004, 0006 to 0010, 0012 to 0020
16-067-0001 to 0011, 0013, 0014, 0015
16-127-0004 to 0011

16-015-0001, 0002, 0004 to 0011,
16-150-0002 to 0011
16-216-0003 to 0008, 0010
16-037-0031, 0032, 0061



"W2153139"

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E# 2153139 PG 1 OF 9
DUG CROFTS, WEBER COUNTY RECORDER
06-JAN-06 818 AM FEE \$1.00 DEP BB
REC FOR: STATE OF UTAH

AGREEMENT

This Agreement entered into this 1st day of December 1997, by and between the State of Utah, acting through the BOARD OF WATER RESOURCES, ("STATE"), and the WEBER-BOX ELDER CONSERVATION DISTRICT, a conservation district organized under the Laws of the State of Utah, ("DISTRICT"):

W I T N E S S E T H

THAT WHEREAS, the Utah Legislature has authorized the BOARD OF WATER RESOURCES, under Title 73 Chapter 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 October 26, 1990, enter into a contract for construction of water conservation facilities for the Pleasant View secondary system, under which contract certain water rights, easements, and rights-of-way were conveyed to the STATE; and

WHEREAS, the STATE desires to promote a water conservation project ("PROJECT"), estimated to cost \$680,000.00, and to provide from the Conservation and Development Fund, 80% of the PROJECT cost, but not more than \$544,000.00, for construction of about 20,000 feet of transmission pipeline and a booster pump station to expand the secondary system in the community of Pleasant View, located in and around the SW1/4, NE1/4, Section 19, T7N, R1W, SLB&M, in Weber County, Utah; and

WHEREAS, the DISTRICT desires to enter into a contract with the STATE, to construct the PROJECT described herein and to use the water developed by the PROJECT, and 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, by execution of this Agreement, and upon the consideration of the mutual covenants and agreements expressed herein, the STATE and the DISTRICT enter into this agreement and make the following assignments:

16-072-0001 to 0003, 0005 to 0011
16-038-0001 to 0013
16-039-0009, 0010, 0012
16-041-0002 to 0015, 0017, 0018

OVER →

16-031-0001 to 0004, 0007, 0010, 0012 to 0016
0021 to 0025, 0028, 0009

19-013-0019, 14-032-0038, 0025, 0027
16-013-0029

16-232-0001 to 0010
16-231-0001 to 0007
16-154-0001 to 0008
14-143-0001 to 0005
16-033-0001 to 0013
16-026-0001 to 0018

14-023-0004 to 0007
0008, 0015 to 0022
0024, 0025, 0026,
0027, 0029, 0030,
0033, 0034, 0036,
0041, 0045, 0046,
0043,

16-106-0001 to 0003
16-107-0001 to 0009
19-013-0064, 19-016-0042

16-026-0001 to 0005

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1. The DISTRICT hereby agrees to convey, grant, and warrant to the STATE, title, in fee simple as required, to the real property 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. The DISTRICT hereby grants to the STATE the right to use any and all of the DISTRICT'S water distribution system of pipelines, and all appurtenant facilities related to the Pleasant View system, including the right of ingress and egress for operations and maintenance.

2. The DISTRICT 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:

240 shares of capital stock in the North Ogden Irrigation Company.

The DISTRICT further agrees that the STATE shall retain for the life of this agreement and the aforesaid previous contract, the 100 shares of capital stock in the North Ogden Irrigation Company which were assigned to the STATE under said previous contract.

3. The DISTRICT 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 DISTRICT 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 DISTRICT 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.

5. The STATE agrees to pay to the DISTRICT Eighty Percent (80%) of the total cost of constructing the PROJECT, but in no event shall the amount paid by the STATE exceed Five Hundred Forty-four Thousand Dollars (\$544,000.00), and the DISTRICT agrees to pay all costs in excess of the amount paid by the STATE. Any grant funds received by the DISTRICT for the PROJECT, and not already included in the cost-sharing plan, shall reduce the STATE'S share by an amount equal to the grant.

16-029-0001 to 0013
16-154-0001 to 0008
16-028-0001 to 0013
16-140-0001 to 0012
17-062-0050

16-030-0001 to 0006, 0008, 0009, 0011 to 0013, 0015
0017 to 0020, 0022 to 0029, 0031 to 0034,
0036 to 0041, 0043, 0045, 0047 to 0052, 0054,
0057 to 0060, 0062 to 0064

OVER →

16-027-0001 to 0007, 0009 to 0022, 0024 to 0026
0031 to 0033

16-016-0003 to 0007, 0010 to 0013, 0015 to 0018
16-017-0001, 0008 to 0010,
16-018-0006 to 0009

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6. Payments for work done under this agreement, in the form of state warrants, shall be mailed to the DISTRICT in care of Terel Grimley, General Manager, 471 West 2nd Street, Ogden, Utah, 84404 (Phone 621-6555), for disbursement to the contractors or other payees (VENDORS). At the option of the STATE, warrants will be made payable either to the DISTRICT solely or jointly to the DISTRICT and the VENDOR as co-payees. Joint warrants shall be endorsed by the DISTRICT officials and immediately forwarded to the appropriate VENDOR. Warrants payable to the DISTRICT only, along with all other monies dedicated to the PROJECT, shall be deposited in a checking account established by the DISTRICT and disbursed by check to meet PROJECT obligations. All costs related to PROJECT shall be fully accounted for, and upon completion of construction, the DISTRICT shall send to the DIVISION OF WATER RESOURCES a financial report summarizing all project expenditures.

7. It is further agreed that payment of the STATE'S share of the construction costs shall be made periodically to the DISTRICT upon the presentation by the DISTRICT 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 DISTRICT on each work item. The DISTRICT shall withhold Ten Percent (10%) of each payment to the construction contractor until Fifty Percent 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 DISTRICT 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 DISTRICT shall complete the construction of the PROJECT on or before May 1, 1998, 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 DISTRICT 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 DISTRICT for the construction of the PROJECT, but not to exceed

Five Hundred Forty-four Thousand Dollars (\$544,000.00), plus all expense incurred by the STATE for the investigation, development, and administration of the PROJECT, plus interest at the annual rate of Five Percent (5%). Interest shall accrue on the outstanding balance beginning on the date of the first partial payment by the STATE. The actual cost of investigation, development, and administration shall be determined by the STATE upon completion of the PROJECT.

10. The purchase price, as defined above, shall be payable over a period of time not to exceed Fourteen (14) years in annual installments commencing on the First day of March, 1999, and shall continue to be due and payable on the same day of each and every year thereafter until the purchase price, as defined above, shall have been paid in full. Annual installments shall be in the amounts specified as follows:

<u>Years</u>	<u>Payment to Board</u>
1999	\$ 13,000
2000	20,000
2001	27,000
2002	36,000
2003	45,000
2004	54,000
2005	65,000
2006	76,000
2007	89,000
2008-2012	109,000± (balance amortized)

Payments may be increased without penalty, at the option of the DISTRICT. Delinquent payments shall bear an interest penalty at the rate of Eighteen Percent (18%) per annum. Said sums shall be payable at the office of the DIVISION OF WATER RESOURCES to be applied as follows: After all accrued interest has been paid, said annual payments shall be applied first against the indebtedness incurred by the STATE for project investigation, development, and administration until fully paid, and then to principal, and finally to penalties.

11. During the purchase period, the DISTRICT may not change the use of any PROJECT water or facilities from secondary irrigation to municipal or hydroelectric power generation without the written consent of the Board of Water Resources. The DISTRICT agrees that such consent may be conditional upon an amendment to this agreement 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.

12. During the period of such purchase under this contract, provided the DISTRICT is not delinquent in any manner, the DISTRICT 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 DISTRICT agrees to assume, at the DISTRICT'S expense, the full and complete obligation of maintaining and operating the constructed works, and other facilities, and of protecting all water rights, easements, and rights-of-way from forfeiture, including the payment of any related fees or assessments.

13. In order to secure the payment of the aforesaid purchase price, it is hereby expressly agreed that the STATE may require the DISTRICT to increase its water rates, if needed, to pay the full amount of any delinquencies in the aforesaid purchase installments. It is further agreed by the DISTRICT 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.

14. The DISTRICT 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 DISTRICT hereby agrees to indemnify the STATE to the extent of such claim or cause of action.

15. A. In constructing or causing the PROJECT to be constructed, the DISTRICT shall comply with the provisions of the Utah Anti-Discrimination Act (Act) of 1965 and hereby agrees as follows:

1. The DISTRICT will not discriminate against any employee or applicant for employment because of race, color, sex, age, religion, national origin, or handicap.
2. In all solicitations or advertisements for employees, the DISTRICT will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, national origin, or handicap.
3. The DISTRICT will send to each labor union or workers' representative notices stating the DISTRICT'S responsibilities under the Act.

4. The DISTRICT will furnish such information and reports as requested by the Anti-Discrimination Division for the purpose of determining compliance with the Act.

5. The DISTRICT will include the provisions of subsections 1 to 4 above in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor unless exempted by law.

B. Failure of the DISTRICT 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 may be canceled, terminated or suspended in whole or in part.

16. 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.

17. The DISTRICT hereby agrees to indemnify and hold harmless the STATE and its officers, agents and employees from any and all liability or claims in connection with this agreement or the development, design, inspection, construction, or operation and maintenance of the Project, including, but not limited to, any and all claims for injury or death of persons or animals, or for any property loss or damage, including damage to the Project facilities; except for any such claims arising from or caused by the sole negligence of the STATE.

18. It is mutually understood that the STATE'S review of the plans and specifications, bidding documents and general conditions is solely for the purpose of assuring that the PROJECT to be constructed by the DISTRICT is as represented in its application and that the PROJECT meets the STATE'S lending criteria. Neither the STATE or officers, employees, or agents thereof shall have any duty to note any design or other defect relating to the PROJECT, and none shall be liable for any loss, claim or damages with respect to the design, bidding, construction, maintenance or operation of the PROJECT or any water system of which the PROJECT is a part.

19. After the DISTRICT shall have paid in full the purchase price, as defined above, and provided the DISTRICT has satisfied the terms of the aforesaid previous contract, 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 DISTRICT.

20. 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 corporation, by the said DISTRICT, without first having secured the written consent of the STATE to any such proposed assignment or disposition of this agreement.

21. No covenant or condition of this contract can be waived except by the written consent of the STATE. Forbearance or indulgence by the STATE in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the DISTRICT, and until complete performance by the DISTRICT of said covenant or condition, the STATE shall be entitled to invoke any remedy available to the STATE under this contract or by law or in equity despite said forbearance or indulgence. Receipt by the STATE of a partial payment of any installment due hereunder shall be deemed to be part payment only and notwithstanding any endorsement, the STATE may accept said payment without prejudice to its right to recover the balance.

22. 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 DISTRICT for any commitments made by the DISTRICT until this agreement has been fully executed.

IN WITNESS WHEREOF, the State of Utah, acting through the BOARD OF WATER RESOURCES, has caused these presents to be signed by the Chairwoman and Director of the said BOARD OF WATER RESOURCES by authority of a resolution of said Board; and the WEBER-BOX ELDER CONSERVATION DISTRICT, has caused these presents to be signed and executed on its behalf by James N. Randall, its President, and Dale Valcarce, its Secretary, by authority of a resolution of its Board of Directors at a meeting held , 19 .

WEBER-BOX ELDER CONS. DIST.

BOARD OF WATER RESOURCES

James N. Randall
President

M. Karlynn Hinman, Ph.D., J.D.
Chairwoman

Dale Valance
Secretary

D. Larry Anderson
Director

87-6122964
Employer Identification No.

AVAILABILITY OF FUNDS:

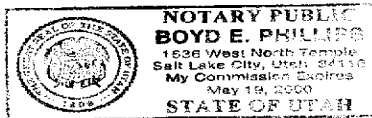
Denilyn R. Jackson
Division Budget/Accounting

APPROVED: DIVISION OF FINANCE

CONTRACT RECEIVED AND
PROCESSED BY
DIVISION OF FINANCE

STATE OF UTAH)
County of Salt Lake) ss

On the 14 day of November, 1997, personally appeared before me M. Karlynn Hinman, who being duly sworn did say that she is the Chairwoman of the BOARD OF WATER RESOURCES, and that she signed the foregoing instrument in behalf of the said BOARD by authority of a resolution of said BOARD, and she also acknowledged to me that the said BOARD executed the same.

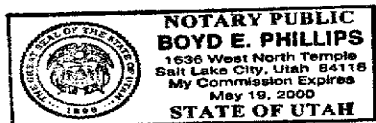


Boyd E. Phillips
Notary Public

981123

STATE OF UTAH)
County of Salt Lake)^{ss}

On the 10 day of November, 1997, personally appeared before me D. Larry Anderson, who being duly sworn did say that he is the Director of the BOARD OF WATER RESOURCES, and that he signed the foregoing instrument in behalf of the said BOARD by authority of a resolution of said BOARD, and he also acknowledged to me that the said BOARD executed the same.

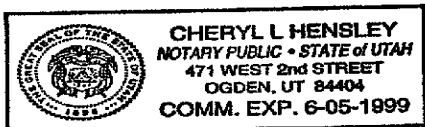


Boyd E. Phillips

Notary Public

STATE OF UTAH)
County of Weber)^{ss}

On the 26th day of November, 1997, personally appeared before me James N. Randall and Dale Valcarce, who being duly sworn did say that they are respectively the President and Secretary of the WEBER-BOX ELDER CONSERVATION DISTRICT and that they signed the foregoing instrument in behalf of said District by authority of a resolution of its Board of Directors, and they also acknowledged to me that said District executed the same.



Cheryl L. Hensley

Notary Public