

Account #41539

CONTRACT AND LIEN BETWEEN WEBER BASIN WATER CONSERVANCY DISTRICT

AND

Leavitt Enterprises

FOR THE SALE AND USE OF UNTREATED WATER

THIS CONTRACT, made this 29, day of Sept., 1998, between the WEBER BASIN WATER CONSERVANCY DISTRICT, organized under the laws of the State of Utah, herein styled "District", and Stanley D. Leavitt, of Kamas herein styled the "Purchaser",

WITNESSETH:

WHEREAS, the Purchaser desires, by means of a well/spring to divert or withdraw underground water for domestic and miscellaneous purposes, which diversion will intercept and withdraw water that will require replacement, and the district has water to sell to the Purchaser to replace the water so intercepted and withdrawn; and

WHEREAS, Purchaser intends to utilize said water upon the following described lands:

See Attached Exhibit "A" **00527177** BK01219 P600127-00135

and

ALAN SPRIGGS, SUMMIT CO RECORDER
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REQUEST: WEBER BASIN WATER CO

WHEREAS, this contract and purchaser's obligation to pay for the water as set forth herein shall constitute a lien upon the real property described in Exhibit "A";

NOW, THEREFORE, in consideration of the mutual and dependent promises and covenants herein contained, it is hereby mutually agreed by and between the parties hereto as follows:

1. SALE OF WATER: The District for the price hereinafter specified, hereby sells and agrees to deliver in the manner and at the place hereinafter provided, and the purchaser hereby purchases the right to use in each calendar year untreated District water in amounts of 6 acre-feet,

except the District will not be obligated to deliver water to the Purchaser as herein provided until satisfactory evidence is furnished that the use of this water as replacement water has been approved by the State Engineer of Utah.

2. PLACE OF DELIVERY AND USE: The water covered hereby is sold to the purchaser solely for the replacement of underground water diverted, withdrawn or to be diverted or withdrawn by said well or spring for domestic and miscellaneous use in and upon the following described lands in Weber County, Utah:

SEE EXHIBIT "A"

and for no other use or purpose. Its use as replacement water shall be subject to such rules and regulations as the State Engineer of Utah may prescribe.

Delivery of such water shall be as directed by the State Engineer or his representative at the outlet works of Wanship Reservoir. The District shall have no obligation to provide works or facilities of any type to conduct such water from such point of delivery to its ultimate place of use. The Purchaser shall have no right to hold over or accumulate water from year to year, nor to sell or rent the water.

3. OBLIGATION OF PURCHASER TO PAY FOR WATER: For the purchase of the annual quantity of water which the District holds and will hold for the Purchaser as herein provided, the Purchaser shall pay to the District an annual amount to consist of the total of the following items:

- (a) \$99.66 per acre-foot of water. Such price per acre-foot shall continue until such time as the District may otherwise determine; provided, only, that an increase in such price shall become operative only at the beginning of the next calendar year.
- (b) A fair proportionate amount of estimated operating and maintenance charges of

the District for the then calendar year. Such fair proportionate amount shall be determined each year by the Board of Directors of the District and the determination shall be final and conclusive.

The first annual payment under items (a) and (b) above shall be made by the Purchaser to the District concurrently with the execution hereof by Purchaser, and shall be in payment for water available for use of Purchaser in the calendar year in which this contract is approved by the Board of Directors of the District; provided, however, if such approval by the Board of Directors of the District is given on or subsequent to October 1 of the then year, the payment so made by Purchaser shall apply as a credit upon the amount accruing hereunder for the next succeeding calendar year, and no payment shall be required for the remainder of the calendar year in which such initial payment is made. Succeeding annual payments shall be made by the Purchaser to the District on or before January 1 of each year thereafter. Each annual payment shall be made to the District whether or not all or any part of the water is called for or used hereunder.

Purchaser's obligation to pay for the water as described above exists irrespective of whether purchaser actually uses the water.

4. PENALTY FOR DELINQUENCY: Every installment or charge required to be paid to the District under this contract, which shall remain unpaid after its due date, shall bear interest from date of delinquency at the existing prime interest rate as of January 1 of each year.

5. REMEDIES OF DISTRICT IN CASE OF DEFAULT: The annual amount payable hereunder shall be and constitute a perpetual lien upon the lands hereinabove described. If the Purchaser shall fail to make any payment due hereunder on or before the due date, the District may refuse the delivery of water, or upon written notice to Purchaser, cancel this contract in its entirety, but either or both of these remedies are not exclusive, and the District may exercise any other remedy

given by this contract or by law to enforce collection of any payment due hereunder, and for the foreclosure of the lien hereby created.

6. RELIEF IN EVENT OF DROUGHT AND WATER SHORTAGE: In the event there is a shortage of water caused by drought, inaccuracies in distribution not resulting from negligence, hostile diversion, prior or superior claims or other causes not within the control of the District, no liability shall accrue against the District or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom and the payments to the District provided for herein shall not be reduced because of any such shortage or damage. During periods of water shortage, allocations of treated and untreated water for municipal, domestic and industrial use shall have first priority.

7. CONSTRUCTION, OPERATION AND MAINTENANCE OF PURCHASER'S FACILITIES: The Purchaser shall construct, operate and maintain, without cost to the District, the well or spring and appurtenant facilities necessary to secure and accurately measure its water supply. The metering or other measuring device installed by the Purchaser shall be satisfactory to the State Engineer. The District has no responsibility for the quality or quantity of water that the Purchaser is able to secure through the operation of its well or spring.

8. BENEFICIAL USE OF WATER: The basis, the measure and the limit of the right of the Purchaser in the use of water shall rest perpetually in the beneficial application thereof, and the Purchaser agrees to put the water purchased by him hereunder to beneficial use in accordance with law.

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9. ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED:

The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto.

10. NOTICE: Any notice herein required to be given to the Purchaser shall be sufficiently given if sent by mail addressed to Purchaser at: P.O. Box 96, Kamas, 84036 and

the District if sent to 2837 East Highway 193, Layton, Utah 84040.

11. OBSERVATION OF FEDERAL AND STATE POLLUTION LAWS: The Purchaser agrees that it will comply fully with all applicable Federal laws, orders and regulations and the laws of the State of Utah, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, ground water or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts or other pollutants.

12. The reuse of water delivered pursuant to this contract shall not be allowed without permission of the District. The waste, seepage, or return flow from water delivered pursuant to this contract shall belong to the United States or the Weber Basin Water Conservancy District for the use and benefit of the Weber Basin Project.

IN WITNESS WHEREOF, the parties have caused this contract to be executed and signed the day and year first above written.

PURCHASERS:

Leavitt Enterprises
Stanley D. Leavitt

ATTEST

By:

Its:

Stanley D. Leavitt
General Partner

00527177 Bx01219 Pg00131

Address:

395 So. 300 East
P.O. Box 96
Kamas, UT 84036

APPROVED DATE: October 23, 1998

WEBER BASIN WATER CONSERVANCY DISTRICT

Stephen A. Osguthorpe
Stephen A. Osguthorpe, President

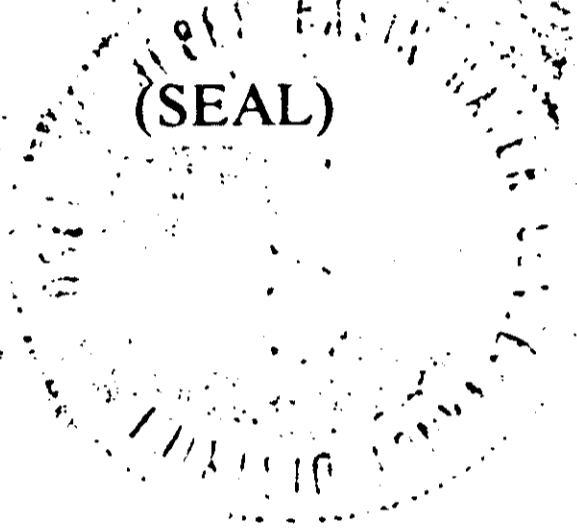
ATTEST:

Ivan W. Flint

Ivan W. Flint

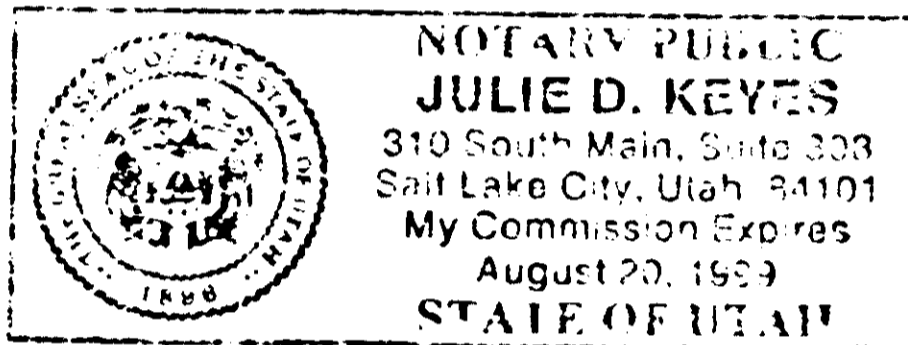
Secretary

(SEAL)



STATE OF UTAH)
COUNTY OF Summit SS.

The foregoing instrument was acknowledged before me this 30 day of Sept, 1998 by
Stanley Leavitt, the general ptr. of Leavitt Enterprises.



Julie D. Keyes
Notary Public
Residing at _____
My Com. Exp.: _____

STATE OF UTAH)
COUNTY OF DAVIS) SS.

The foregoing instrument was acknowledged before me this ___ day of _____, 1997,
by _____, the _____ of _____.

Notary Public
Residing at _____
My Com. Exp.: _____

EXHIBIT "A"

Being a part of Section 10, Township 2 South, Range 6 East of the Salt Lake Base and Meridian, and commencing at a point which is 10.75 chains East from the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 10 aforesaid; thence East 9.52 chains; thence South 20.05 chains; thence West 11.10 chains; thence North 40°45' East 20.12 chains to the place of beginning, containing 20.75 acres, more or less.

ALSO: Beginning at the Southeast Corner of the Northeast Quarter of Section 11, Township 2 South, Range 6 East, Salt Lake Base and Meridian; running thence South 63.10 feet; thence South 37°12' West 594.90 feet; thence South 51°22' West 698.0 feet; thence South 45°16' West 309.80 feet; thence South 84°23' West 664.30 feet; thence South 89°51' West 271.0 feet; thence North 11°41' West 587.34 feet; thence North 81°24' East 225.00 feet; thence North 52°11' East 195.40 feet; thence North 70°57' East 141.30 feet; thence North 81°19' East 359.50 feet; thence North 63°0' East 117.00 feet; thence North 28°34' East 84.10 feet; thence North 66°38' East 346.40 feet; thence South 87°06' East 78.30 feet; thence North 67°49' East 295.70 feet; thence North 43°13' East 192.90 feet; thence North 24°59' East 269.20 feet; thence North 20°17' East 414.50 feet; thence North 19°30' East 774.76 feet; and thence South 1329.29 feet to the point of beginning, containing 41.02 acres, more or less.

ALSO: Commencing at the Southwest Corner of Lot 2, (The Southwest Quarter of the Northwest Quarter) of Section 13, Township 2 South, Range 6 East, Salt Lake Base and Meridian; and running thence North 80 rods; thence East 80 rods; thence South 43 rods; thence West 28 rods; thence Southwesterly 67 rods, more or less, to the place of beginning, containing 27.52 acres, more or less.

SUBJECT to a right of way for ingress and egress of vehicles and horses ridden and led over, upon and across a strip of land extending from the Westerly line of the 41.02 acre tract described hereinabove, to a point North of the East Quarter corner of said Section 13. SUBJECT ALSO to a right of way for ingress and egress of vehicles and livestock over, upon and across a strip of land 32 feet wide and extending along and continuous to the Southerly side of above described tract.

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ALSO: Commencing at the Southeast Corner of the Northwest Quarter of Section 10, Township 2 South of Range 6 East, Salt Lake Base and Meridian; and running thence North 60 rods; thence West 40 rods; thence South 80 rods; thence East 40 rods to the point of beginning, containing 20 acres, more or less.

ALSO: All that portion of land not heretofore decided lying and being in the Southeast Quarter and the Southwest Quarter of the Northwest Quarter of Section 13, Township 2 South, Range 6 East, Salt Lake Base and Meridian, containing 10 acres, more or less. Reference is made in the above-described tract to U. S. Patent issued to Joram K. Mitchell and recorded in Book 11 of Deeds, Page 468 in the records of Summit County, Utah.

EXHIBIT "A"

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ALSO: Commencing at a point 50 rods West of the Southeast Corner of the Northwest Quarter of Section 10, Township 2 South, Range 6 East, Salt Lake Base and Meridian; and running thence West 15 1/2 rods; thence North 7°46' East 50 rods; thence East 10 rods; thence 50 rods South to the place of beginning, containing 4 acres, more or less.

ALSO, Commencing at a point 40 rods West of the Southeast Corner of the Northwest Quarter of Section 10, Township 2 South, Range 6 East, Salt Lake Base and Meridian; and running thence North 00 rods; thence West 10 rods; thence South 00 rods; thence East 10 rods to the place of beginning, containing 5 acres, more or less.

ALSO: All of Lot 1 of Section 10, Township 2 South, Range 6 East, Salt Lake Base and Meridian, containing 40.70 acres, more or less, said lot 1 being the Northwest Quarter of the Northwest Quarter of said Section 10.

ALSO: Commencing at a point that is 1310.51 feet West and 1 Rod North from the Southeast Corner of Section 7, Township 2 South, Range 6 East of the Salt Lake Base and Meridian; and running thence North 1041.5 feet; thence South 03°0' West 715.65 feet; thence South 954.29 feet; thence East 710.32 feet to the point of commencement, containing 16.28 acres, more or less, and being situated in the Southeast Quarter of said Section 7.

ALSO: Beginning at a point 1961.01 feet West of the Southeast Corner of the above-named Section 7, Township 2 South, Range 6 East, Salt Lake Base and Meridian; and running thence South 4°45' West 956.88 feet; thence West 1961.01 feet; thence North 902.5 feet; thence East 2027.7 feet to the point of commencement, containing 44.99 acres, more or less, being part of the Northwest and Northeast Quarters of Section 10, Township 2 South, Range 6 East, Salt Lake Meridian.

ALSO: Commencing at a point 11.19 chains West of the Southeast Corner of the Northwest Quarter of the Northeast Quarter of Section 10, Township 2 South, Range 6 East, Salt Lake Base and Meridian; and running thence West 115 1/4 rods, more or less, to the Southwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 10; thence North 20.75 rods; thence East 117 rods; thence West of South 21 rods to the place of beginning, containing 15 acres, more or less.