

Contract No. 17-LA-40-0110

Parcel Nos. SFS-03 (P1) (P2) (T1) (T2) (T3)

UNITED STATES
DEPARTMENT OF THE INTERIOR

UTAH LAKE DRAINAGE BASIN WATER DELIVERY SYSTEM

SPANISH FORK SANTAQUIN PIPELINE

CENTRAL UTAH PROJECT COMPLETION ACT

CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT, made this 11th day of April, 20 17, pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as Reclamation Laws, and the Colorado River Basin Project Act (Act of September 30, 1968, Public Law 90-537, 82 Stat. 885), Sec. 501 (a), and the Reclamation Projects Authorization and Adjustment Act of 1992, Public Law 102-575, as amended, among the UNITED STATES OF AMERICA, its successors and assigns, hereinafter referred to as the United States, and SPANISH FORK CITY, hereinafter referred to as the Grantor,

WITNESSETH, That for and in consideration of the mutual agreements herein contained, the parties hereto do covenant and agree as follows:

1. The Grantor, by this Contract and Grant of Easement, hereby conveys and warrants to the United States, free of lien or encumbrance, except as otherwise provided herein, the following described interests in real property situated in the County of Utah, State of Utah, to-wit:

A perpetual easement to construct, reconstruct, operate and maintain and replace underground water pipeline or pipelines and appurtenant structures ("Pipeline"), on, over, under, or across the following-described land:

Parcel SFS-03(P1)

PERPETUAL EASEMENT – PIPELINE

Commencing at the West Quarter Corner of Section 27, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along the West Section Line of said Section 27 South 0°12'05" East 666.54 feet; thence perpendicular to said West Section Line North 89°47'55" East 163.64 feet to a point on a boundary described in "Exhibit 'A'" of entry 172868:2006 as recorded by the Utah County Recorder's Office, said point being the True Point of Beginning; thence running along said

boundary South 55°04'48" East 50.05 feet; thence leaving said boundary North 37°21'42" East 282.99 feet; thence North 89°46'00" East 532.10 feet; thence South 0°14'00" East 20.00 feet; thence North 89°46'00" East 50.00 feet; thence North 0°14'00" West 20.00 feet; thence North 89°46'00" East 837.60 feet to a point on the Union Pacific Railroad property boundary; thence along said Railroad property boundary 51.47 feet along the arc of a 5694.65 foot radius curve to the left, chord bears North 13°56'40" West 51.47 feet; thence leaving said Railroad property boundary South 89°46'00" West 26.01 feet to a point on a boundary described in entry 105523:2004 as recorded by the Utah County Recorder's Office; thence continuing along said boundary South 89°46'00" West 1406.09 feet; thence leaving said boundary South 37°21'42" West 309.73 feet to the point of beginning.

Said Parcel SFS-03(P1) contains an area of 2.00 acres, more or less.

Parcel SFS-03(P2)

PERPETUAL EASEMENT – ACCESS ROAD

Commencing at the West Quarter Corner of Section 27, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along the West Section Line of said Section 27 South 0°12'05" East 8.00 feet; thence perpendicular to said West Section Line North 89°47'55" East 19.83 feet to a point on a boundary described in "Exhibit 'A'" of entry 172868:2006 as recorded by the Utah County Recorder's Office, said point being the True Point of Beginning; thence along said boundary South 0°37'02" East 20.00 feet; thence leaving said boundary North 89°22'58" East 10.73 feet; thence 177.67 feet along the arc of a 140.00 foot radius curve to the right, chord bears South 54°15'40" East 165.98 feet; thence South 17°54'19" East 400.07 feet; thence North 37°21'42" East 107.79 feet; thence South 89°46'00" West 71.98 feet; thence North 17°54'19" West 316.81 feet; thence 203.05 feet along the arc of a 160.00 foot radius curve to the left, chord bears North 54°15'40" West 189.70 feet; thence South 89°22'58" West 10.73 feet to the point of beginning.

Said Parcel SFS-03(P2) contains an area of 0.33 acres, more or less.

Parcel SFS-03(T1)

TEMPORARY EASEMENT

Commencing at the West Quarter Corner of Section 27, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along the West Section Line of said Section 27 South 0°12'05" East 470.69 feet; thence perpendicular to said West Section Line North 89°47'55" East 959.19 feet to the True Point of Beginning; thence South 0°14'00" East 20.00 feet; thence North 89°46'00" East 600.00 feet; thence South 0°14'00" East 100.00 feet; thence North 89°46'00" East 264.94 feet;

thence 123.08 feet along the arc of a 5694.65 foot radius curve to the left, chord bears North 13°03'59" West 123.07 feet; thence South 89°46'00" West 837.60 feet to the point of beginning.

Said Parcel SFS-03(T1) contains an area of 0.97 acres, more or less.

Parcel SFS-03(T2)

TEMPORARY EASEMENT

Commencing at the West Quarter Corner of Section 27, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along the West Section Line of said Section 27 South 0°12'05" East 695.34 feet; thence perpendicular to said West Section Line North 89°47'55" East 204.57 feet to the True Point of Beginning; thence South 55°04'48" East 120.11 feet; thence North 37°21'42" East 76.84 feet; thence North 17°54'19" West 121.68 feet; thence North 37°21'42" East 121.87 feet; thence North 89°46'00" East 522.26 feet; thence North 0°14'00" West 20.00 feet; thence South 89°46'00" West 532.10 feet; thence South 37°21'42" West 282.99 feet to the point of beginning.

Said Parcel SFS-03(T1) contains an area of 0.63 acres, more or less.

Parcel SFS-03(T3)

TEMPORARY EASEMENT

Commencing at the West Quarter Corner of Section 27, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along the West Section Line of said Section 27 South 0°12'05" East 421.19 feet; thence perpendicular to said West Section Line North 89°47'55" East 52.71 feet to the True Point of Beginning; thence South 5°26'00" East 45.39 feet; thence South 0°49'00" East 126.00 feet; thence South 55°04'48" East 128.90 feet, thence North 37°21'42" East 201.95 feet; thence North 17°54'19" West 89.63 feet; thence South 89°46'00" West 206.78 feet to the point of beginning.

Said Parcel SFS-03(T2) contains an area of 0.95 acres, more or less.

1a. The Grantor warrants that Grantor is the owner of the real property whereon the above-described easement lies.

1b. The Grantor, for himself, his successors and assigns, agrees that, within the perpetual easement area described herein they shall not: (i) erect, construct, or permit to be constructed, any permanent building, structure, or improvement of any kind (except as may be defined hereinafter), nor shall Grantor construct or permit others to construct or install any fences, hard surfaced areas, or other permanent or temporary obstructions or improvements within the boundaries of the easement area that might interfere with the United States ability to gain access

to the easement for operation, maintenance, repair, and replacement purposes. Any such obstruction installed or permitted to be constructed, installed, or maintained within the boundaries of the easement area shall be removed at Grantor's sole expense; (ii) plant any tree or shrubs on any portion of the easement, nor dig or drill any holes or wells, nor increase or decrease the ground elevations existing at the time this document is executed, on all or any portion of the easement; (iii) remove materials from the area without the approval of the United States, its agents or assigns; (iv) damage to the road or appurtenant structures will be repaired by the Grantor, at the sole cost of the Grantor.

1c. In the event that Grantor, its heirs, successors, or assigns, places or permits to be placed, any encroachment on any portion of the easement, the United States shall have the right to remove the encroachment after five (5) days written notice to Grantor, and Grantor, its heirs, or successors, or assigns, agrees to pay all costs incurred by the United States in removing the encroachment. All costs shall earn interest at the rates set by Utah law for interest on judgments until Grantor has reimbursed the United States for the cost of removal of any such encroachment. Any damage to the United States' property or appurtenant structures caused by the Grantor's use or encroachment of the easement shall be repaired at the sole cost and expense of the Grantor.

1d. The Grantor, for himself, his successors and assigns, understands and agrees that any alteration, modification, change, or placement of improvements, by Grantor or any third party, within the above-described easement area, subsequent to the date of execution of this Contract and Grant of Easement, shall be made at Grantor's own risk, and Grantor hereby releases the United States from liability for any and all loss or damage of every description or kind whatsoever which is caused by or as a direct result of such alteration, modification, change, or placement of improvements within said area; provided, however, that nothing in this Article shall be construed as releasing the United States from liability for its own negligence or the negligence of its employees, agents or contractors.

1e. It is understood and agreed that the rights to be granted to the United States, as described in Article 1 hereof, shall be free from lien or encumbrance except: (i) coal, oil, gas, and other mineral rights reserved to or outstanding in Grantor and/or in third parties as of the date of this contract; (ii) rights-of-way, unrecorded prescriptive easements and prescriptive right in third parties, for roads, railroads, telephone lines, transmission lines, ditches, conduits, or pipelines, on, over, under, or across said lands in existence on such date; and (iii) court liens, judgments or financial encumbrances, such as Deeds of Trust, for which a formal consent has been obtained from the court or the lien holder.

1f. It is understood and agreed that the United States or its assigns shall have the right to install gates where the pipeline or access road crosses existing fences, and also to install temporary construction fencing during construction.

1g. It is understood and agreed that the temporary easement herein granted shall terminate eighteen (18) months from the date of this contract or at the end of construction, whichever comes first.

1h. The United States, at its sole cost and expense, will: (i) replace any boundary fence

damaged during construction with a fence of similar construction and materials. The United States may, in its sole discretion, erect, maintain, or use gates in all fences which now cross or later may cross any portion of the easement(s) to enable the United States to take equipment along the easement(s) to perform required maintenance and repair. Grantor may lock any such gate to prohibit the public from unlawful access to the easement area, but Grantor shall provide the United States a key to any such lock at Grantor's expense. The United States shall also be entitled to trim, cut, or clear away trees, brush, or other vegetation or flora from time to time as the United States determines in its sole discretion without additional compensation; (ii) grade to reasonably even and regular surfaces, all fills, cuts, and waste banks within the easement area; (iii) replace topsoil within the easement area.

1i. The United States also agrees that if damage occurs to existing driveways or other landscaping within the easement area as a result of and during construction, of said Spanish Fork Canyon Pipeline and appurtenant structures, (i) payment will be made by the United States to the owner thereof on the basis of an appraisal approved by the United States, or (ii) the United States will, at its option, make replacement or repair with material of like kind and equal quality.

2. The following SPECIAL PROVISIONS set forth additional details, terms, and specifications hereby agreed to in connection with construction of the Spanish Fork Reach of the Spanish Fork Santaquin Pipeline, which is the subject matter of this CONTRACT AND GRANT OF EASEMENT.

(a) The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted.

(b) The Pipeline will be constructed in accordance with the plan drawings and specifications submitted to, and received by Spanish Fork City. In the event that unidentified buried utilities, other hidden obstacles or unexpected geotechnical subsurface conditions are encountered during construction, the United States shall have the right to adjust the Pipeline grade or location in a manner acceptable to the Grantor to minimize impact, in consultation with the Grantor. Such changes in Pipeline grade or location will be noted on as-built drawings provided to the Grantor. The Grantor agrees to record a corrected permanent easement to reflect the as-built pipeline facility locations if requested by the United States.

(c) The plan drawings and standards and specifications will detail how the project is to proceed. The Contract C-2017-01 Volume 1-Specifications and Volume 2-Drawings for this project (the "Specifications and Drawings") have been reviewed and approved by the Grantor and shall be incorporated and made a part of this Agreement.

(d) Any Spanish Fork City utilities damaged or relocated during construction will be repaired or replaced to a condition at least equal to the existing condition.

(e) The United States agrees to design and construct the Pipeline in accordance with sound engineering standards.

(f) It is understood that the contractor hired to construct the pipeline will construct the pipeline in such a manner so as to not block the adjoining residents from ingress and egress to their homes or businesses for more than a twenty-four hour period, unless the contractor makes other arrangements with the affected property owners or businesses to provide alternative lodgings and related services at no cost to said property owners or businesses. In order to facilitate this process, the contractor will be required to hire a public information manager available at all hours of the day or night to deal with homeowner, renter, and business owner occupant issues related to the construction project. Grantor agrees to allow the construction contractor to sequentially close sections of roadway for construction work and to detour traffic in accordance with the Specifications and Drawings.

(g) The Grantor agrees that for all future utility projects, road ways, parking lots, trails or other hardened surface project crossing or within the permanent easement granted by this agreement to the United States, the Grantor shall submit notification to the United States for review. Said notification shall be submitted prior to the commencement of construction thereof and shall include details of the proposed action, including any applicable maps, engineering drawings to scale and specifications.

Within 30 days of receipt of Grantor's notification, the United States shall review the notification, determine if additional information is necessary and which additional reviews, including NEPA are required. The United States shall notify the Grantor of any additional requirements and the estimated time of completion of any required reviews. If Grantor does not receive a response from the United States within 30 days, Grantor may complete projects for which notification was submitted. Said notification and response will serve to provide mutual protection of the pipe and City utilities at no cost to the Grantor. The United States agrees that following any such review and response, approval will not be unreasonably withheld.

(h) The United States acknowledges that the existing access routes and utilities of Spanish Fork City shall not be interrupted following construction. The United States acknowledges that the access road north of U.S 6 Highway into, and within, the former gravel pit and the existing access road along the west side of the Spanish Oaks Golf Course are shared access which shall not be interrupted without the consent of Grantor, unless needed for emergency access to the

Pipeline or for operation, maintenance or replacement purposes. The existing 36-inch water line along the west side of the Spanish Oaks Golf Course shall not be disturbed. The flow of water within the Mill Race Canal or access along the Mill Race Canal may not be interrupted by the United States without the prior consent of Spanish Fork City, Spanish Fork West Field Irrigation Company and Spanish Fork Southeast Irrigation Company..

(i) The United States shall maintain access entry to the former gravel pit at all times and further shall provide at least one location at all times for vehicle access crossing the Pipeline during construction work within the former pit so Spanish Fork City may freely access both the north and south areas of the former gravel pit during the construction period.

(j) To the extent authorized by law, the United States of America agrees to waive fees for future encroachment permits filed by the City for the Spanish Fork Reach Pipeline.

3. The acquiring federal agency is the Department of the Interior represented by the officer executing this Contract, his duly appointed successor, or his duly authorized representative.

4. The United States shall purchase said easement on the terms herein expressed, and on execution and delivery of this Contract and Grant of Easement, and approval by the proper officials of the United States, it shall cause to be paid to the Grantor as full purchase price the sum of forty-one thousand one hundred and twelve dollars (\$41,112.00).

5. The Grantor shall, at his own cost, procure and have recorded all assurances of title and affidavits which the Grantor may be advised by the United States are necessary and proper to show in the Grantor complete fee simple unencumbered title to the property whereon the above-described easement lies, subject only to the interests, liens, or encumbrances expressly provided herein. Abstracts or certificates of title or title insurance will be procured by the United States at its expense unless otherwise provided in this Contract and Grant of Easement. The expense of recording this Contract and Grant of Easement shall be borne by the United States.

The United States shall reimburse the Grantor in an amount deemed by the United States to be fair and reasonable for the following expenses incurred by the Grantor:

(a) Recording fees, transfer taxes and similar expenses incidental to granting the easement described herein to the United States; and

(b) Penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering said real property.

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever

is earlier.

The Grantor agrees to furnish the United States evidence that these items of expenses have been billed to and paid by him and further agrees that the United States alone shall determine the fairness and reasonableness of the expenses to be paid.

6. In the event that liens or encumbrances other than those expressly provided herein, do exist, the United States may, at its option, remove any and all such outstanding liens and encumbrances by reserving from the purchase price herein set forth the necessary amount and discharge same with the money so reserved, but this provision shall not be construed to authorize the incurrence of any lien or encumbrance as against this Contract and Grant of Easement, nor as an assumption of any lien or encumbrance by the United States.

7. It is agreed that, at its election, the United States may draw its check in payment for granting the above-described easement to the order of the title contractor or closing agent, and the Grantor hereby authorizes the said contractor or agent to cash the check and make disbursements out of the proceeds to satisfy and pay any taxes, assessments, and encumbrances which are a lien against the real estate; to pay any State and local recording or transfer taxes where required, and any other expenses incident to the closing of title which are properly chargeable to the Grantor; and to remit the balance of the proceeds to Grantor; together with an itemized statement of the payments made on Grantor's behalf.

8. This Contract and Grant of Easement shall become effective to bind the United States to purchase said easement immediately on its execution by the contracting officer acting under the authority of the Secretary of the Interior and shall inure to the benefit of and be binding on the heirs, executors, administrators and assigns of the Grantor, and the assigns of the United States.

9. After execution of this contract by the United States, the proper officers, agents, and assigns of the United States shall, at all times, have unrestricted access to said easements for any purpose including the construction, reconstruction, operation, or maintenance of the Pipeline, free of any claim for damage or compensation on the part of the Grantor, except as otherwise provided for in this contract. Notwithstanding the foregoing, the United States agrees to compensate the Grantor for any damage to Grantor's real and personal property outside of the easement areas resulting from or arising out of the construction, reconstruction, operation or maintenance of the Pipeline.

10. If the Secretary of the Interior determines that the title to the easement should be acquired by the United States by judicial procedures, either to procure a safe title or to obtain title more quickly, then the award to be made for the interest acquired in said lands in said proceedings shall be the same amount as the purchase price herein provided.

11. The Grantor warrants that the Grantor has not employed any person to solicit or secure this Contract and Grant of Easement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul the Contract and Grant of Easement, or, in its discretion, to deduct from the contract price

or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business with others than the United States.

12. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Contract and Grant of Easement, or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

13. Time is of the essence in the performance of this Contract and Grant of Easement.

14. The terms of this Contract and Grant of Easement will survive the grant provided for herein.

15. All notices and other communications under this Contract shall be in writing and shall be deemed duly given when delivered (a) personally or by certified mail, with a record of receipt, or (b) the day of transmission if sent by facsimile or e-mail (with a copy promptly sent by mail or certified mail) to the parties at the following addresses or facsimile numbers (or to such other address or facsimile number as a party may have specified by notice given to the other party pursuant to this provision), or (c) in case of emergency by telephone contact (with a copy promptly sent by mail or certified mail):

Spanish Fork City
Attn: Seth Perrins, City Manager
40 South Main Street
PO Box 358
Spanish Fork City, Utah 84660

Department of Interior
CUPCA
302 East 1860 South
Provo, Utah 84606

