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GARY W. OTT

RECORDER, SALT LAKE COUNTY, UTAH

UT ST-DIV OF WATER RESOURCES

1594 W NORTH TEMPLE

PO BOX 146201

SLO UT 84114-6201

BY: ZJM, DEPUTY - MA 7 P.

AGREEMENT

93 2780

This Agreement entered into this 2nd day of APRIL 1993, by and between the State of Utah, acting through the BOARD OF WATER RESOURCES, sometimes referred to herein as the STATE, and the BELL CANYON IRRIGATION COMPANY, a corporation organized under the Laws of the State of Utah, sometimes referred to herein as the WATER COMPANY:

W I T N E S S E T H

THAT WHEREAS, the Utah Legislature has authorized the BOARD OF WATER RESOURCES, under Title 73-10 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 STATE desires to promote a water conservation project, estimated to cost \$196,000, and to provide 85% of the project cost from the Revolving Construction Fund for construction of a breach of the existing Lower Bell Canyon Reservoir main dam, a rock-lined channel and stilling basin and outlet structure, hereinafter referred to as the PROJECT and located in Sections 11, 12, 13, and 14, T3S, R1E, SLB&M, in Salt Lake 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 to an easement as required over, across and through the real estate upon which the structures are to be constructed, as shall be necessary to enable the STATE to construct, maintain, and operate the PROJECT.

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 Water Users Claim 57-8751, which rights were decreed

in the District Court of the Third Judicial District, County of Salt Lake, State of Utah, Decree No. 3429, Dry Creek Reservoir and Irrigation Company, et al, vs. Draper Irrigation Company, dated January 8, 1902.

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.

5. The STATE agrees to pay to the WATER COMPANY Eighty-five Percent (85%) of the total cost of constructing the PROJECT, but in no event shall the amount paid by the STATE exceed One Hundred Sixty-six Thousand Dollars (\$166,000.00), and the WATER COMPANY agrees to pay all costs in excess of the amount paid by the STATE.

6. Payments from the STATE to the WATER COMPANY, for work done under this agreement, shall be made with state warrants sent to the WATER COMPANY for disbursement to the contractors or other payees (VENDORS). At the option of the STATE, warrants will be made payable either jointly to the WATER COMPANY and the VENDOR as co-payees, or to the WATER COMPANY solely. Payments shall be mailed to Lance Larkin, Secretary, BELL CANYON IRRIGATION COMPANY, 260 East South Temple, Salt Lake City, Utah, 84111, (Phone 363-5781). Joint warrants shall be endorsed by the WATER COMPANY officials and immediately forwarded to the appropriate VENDOR. Warrants payable to the WATER COMPANY only, along with all other monies dedicated to the PROJECT, shall be deposited in a checking account established by the WATER COMPANY and disbursed by check to meet PROJECT obligations. All costs related to PROJECT shall be fully accounted for, and upon completion of construction, the WATER COMPANY 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 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 to the construction contractor 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 July 1, 1993, 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 One Hundred Sixty-six Thousand Dollars (\$166,000.00), plus all expense incurred by the STATE for the investigation, development, and administration of the PROJECT. 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 without interest, over a period of approximately Twenty (20) years, in annual installments of Eight Thousand Three Hundred Dollars (\$8,300.00) (or more at the WATER COMPANY'S option). Said annual installments shall be due and payable commencing on the First day of December, 1993, 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. 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: 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 WATER COMPANY may not change the use of any PROJECT water or facilities from irrigation or municipal to industrial or hydroelectric power generation without the written consent of the Board of Water Resources. The WATER COMPANY 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 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 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 fees or assessments for said water rights, easements or rights-of-way.

13. 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.

14. 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.

15. In constructing or causing the PROJECT 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 canceled, terminated or suspended in whole or in part.

(f) The WATER COMPANY will include the provisions of Items (a) through (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.

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 WATER COMPANY 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 WATER COMPANY 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 WATER COMPANY shall have paid in full the purchase price, as defined above, the STATE shall execute such deeds and bills of sale as will be necessary to revert the same title to the aforesaid property and water rights in the WATER COMPANY.

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 WATER COMPANY, 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 WATER COMPANY, and until complete performance by the WATER COMPANY 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 WATER COMPANY for any commitments made by the WATER COMPANY 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 Chairman and Director of the said BOARD OF WATER RESOURCES by authority of a resolution of said Board; and the BELL CANYON IRRIGATION COMPANY, has caused these presents to be signed and executed on its behalf by Almon A. Nelson, its President, and Lance Larkin, its Secretary, by authority of a resolution of its Stockholders at a meeting held October 8, 1992.

BELL CANYON IRRIGATION COMPANY

BOARD OF WATER RESOURCES

Almon Nelson
President

Clark J. Wall
Chairman

James Paul
Secretary

D. Larry Anderson
Director

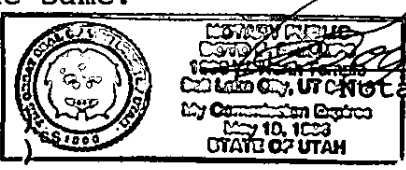
87-0357128
Employer Identification No.

AVAILABILITY OF FUNDS:
Scott Hage
Division Budget/Accounting

APPROVED: DIVISION OF FINANCE
Richard B. Gubler 4/5/93
for Director of Finance

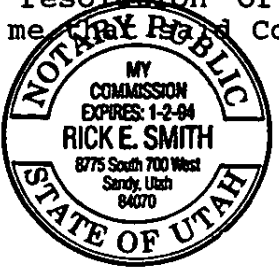
STATE OF UTAH)
County of Salt Lake) ss

On the 11th day of March, 1993, personally appeared before me Clark J. Wall and D. Larry Anderson, 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.



STATE OF UTAH
County of Salt Lake

On the 24th day of March, 1993, personally appeared before me Almon A. Nelson and Lance Larkin, who being duly sworn did say that they are respectively the President and Secretary of the BELL CANYON IRRIGATION COMPANY and that they signed the foregoing instrument in behalf of said Corporation by authority of a resolution of its Stockholders, and they also acknowledged to me that said Corporation executed the same.



Tom E. Sp
Notary Public