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BRENDA NELSON, Recorder
MORGAN COUNTY
For: MOUNTAIN VIEW TITLE & ESCROW IN
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Contract # 25056 (Replacement)

**REPLACEMENT CONTRACT BETWEEN WEBER BASIN WATER CONSERVANCY
DISTRICT
AND
GAILEY RANCH, LLC
FOR THE SALE AND USE OF UNTREATED WATER**

THIS CONTRACT, made this 29 day of July 2011, between the WEBER BASIN WATER CONSERVANCY DISTRICT, organized under the laws of the State of Utah, herein styled "District", and GAILEY RANCH, LLC of Morgan County, Utah, herein styled "Purchaser" supersedes and replaces the Contract for the Sale and Use of Untreated Water between the parties dated February 7, 2007 (the "Original Contract"), unless the Original Contract is reinstated pursuant to the terms of that certain Real Property Purchase Agreement dated December 17, 2010 (the "Real Property Purchase Agreement"), and the Replacement Contract for the Sale and Use of Untreated Water between the parties dated December 23, 2010 (the "2010 Replacement Contract"), and

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will require replacement, and the District has water to sell to the Purchaser to replace the water so intercepted and withdrawn; and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"

and

WHEREAS, this Contract and Purchaser's obligation to pay for the water as set forth herein shall constitute a lien upon Purchaser's undivided ownership interest in the real property described in Exhibit "A" less and excepting therefrom any portion thereof conveyed by Purchaser to the District (any conveyance of real property by Purchaser to District refers to Purchaser's undivided interest in the said property).

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

1. SALE OF RIGHT TO USE WATER: The District, for the price hereunder 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 up to 2500 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: Except as otherwise provided in paragraph 14 below, 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(s) or spring(s) or surface water for domestic, irrigation, municipal and other uses in and upon the following described lands in Morgan County, Utah:

SEE ATTACHED "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. Notwithstanding the foregoing or anything to the contrary herein, in the event the Purchaser reasonably determines that it will not be feasible or desirable, for any reason, to locate and divert underground water to meet the Purchaser's needs, the District agrees to allow the diversion and use of surface water rather than underground water as provided above, provided the Purchaser has complied with all then applicable administrative requirements of the District (including, without limitation, the payment of all applicable fees and related costs) and further provided, at any time beyond eight (8) years after the Closing as defined in the Real Property Purchase Agreement (the "Closing" or the "Real Property Closing"), the District then has replacement water capacity available.

Delivery of such water shall be as directed by the State Engineer or his representative at the outlet works of _____ 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 other than in the normal course of business in supplying water for domestic and miscellaneous use and consistent with the District's then applicable policies and procedures as referenced above.

3. OBLIGATION OF PURCHASER TO PAY FOR WATER: The District acknowledges that the Purchaser owes no payments to the District under the Original Contract. The District will make available to the Purchaser, at the Purchaser's discretion, up to 2,500 acre feet of water per year commencing at any time within eight (8) years after the Real Property Closing in accordance with the following: The Purchaser may provide written notice to the District at any time, and from time to time, within eight (8) years after the Closing of Purchaser's intention to begin taking all or any part of the allotted 2,500 acre feet of water. The Purchaser will not be obligated to pay for the said water until the earlier of eight (8) years after the Closing or the date by which both of the following events shall have occurred: (a) the State Engineer has approved an exchange application or change application allowing the diversion and use of the water as desired by the Purchaser and (b) the Purchaser has timely delivered a written notice to the District specifying the quantity of water, up to a cumulative total of 2,500 acre feet per year, to be provided to the Purchaser pursuant to this Contract (hereinafter the "Operational Date").

For water designated in a notice given by the Purchaser to the District, the Purchaser shall pay the District's then current rate for such water as of the date of the notice. For the first year when a payment to the District will be required, such payment shall be prorated to the

Operational Date and shall be due and payable within thirty (30) days after the Operational Date applicable to the same. For purposes of illustration, should the amount of water designated in the notice be 1,000 acre feet, and should the Operational Date be July 1st, the amount due and payable within thirty (30) days thereafter shall be based upon 500 acre feet (one-half of the amount specified in the notice because the year is half over) times the District's then current rate. Succeeding annual payments for the full amount of water specified in the notice 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.

This Contract does not entitle the Purchaser to take water prior to the effective date of the written notice from the Purchaser to the District respecting the said water. Nevertheless, the Purchaser may apply for and pursue a change application, exchange application and/or other approvals of the State Engineer in furtherance of approval of the use of water represented by this Contract for the replacement of underground water or surface water to be diverted or withdrawn from well(s) and/or spring(s), or otherwise, for use as provided in paragraph 2 above. The parties acknowledge that the Purchaser has already filed exchange application no. _____ with the State Engineer. The District agrees not to protest the said application.

Nothing in this Contract will preclude or limit the ability of the Purchaser to enter into one or more contracts with the District to purchase water at any time after eight (8) years from the Closing, to the extent the District has water available for sale, pursuant to such contractual terms as may then be negotiated by the parties.

If after 8 years from the Real Property Closing date, the Purchaser has not purchased all of the 2500 acre-feet, the District agrees to provide a notice at least annually concerning the amount of uncommitted water the District has available for use in the vicinity where the real property described in attached Exhibit "A" is located. Said notice will continue until the earlier of Purchaser purchasing all water from the District or 20 years from the Real Property Closing date.

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 Purchaser's interest in 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(s) or spring(s) and appurtenant facilities and/or other diversion facilities necessary to divert 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 the well(s) or spring(s) or other diversion facilities.

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 hereunder to beneficial use in accordance with law.

9. SUCCESSORS AND ASSIGNS OBLIGATED: The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto. By way of illustration, but not limitation, a local district may be organized to encompass part or all of the Purchaser's real property (and may include other lands). The Purchaser may assign all or part of its rights and responsibilities under this Contract to such local district provided, however, that such assignment shall not relieve the Purchaser of its payment obligations hereunder except to the extent that the District agrees to release the Purchaser from the same. Notwithstanding the foregoing, however, upon having reasonably determined that the local district has the financial ability to carry out the terms and requirements of this Contract, the District agrees to release the Purchaser from such responsibilities and liabilities under this Contract. Furthermore, particularly for purposes of paragraph 14 below, subsequent purchasers of the real property described in attached Exhibit "A" shall be the Purchaser's successors and assigns hereunder as designated by the Purchaser.

10. NOTICE: Any notice herein required to be given to the Purchaser shall be sufficiently given if sent by registered mail addressed to Purchaser at 1425 Brush Hill Road, Milton, Massachusetts 02186 with a copy to Nielsen & Senior, attention Mark H. Anderson, 5217 South State Street, Suite 400, Salt Lake City, Utah 84107 and to 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. REUSE: 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.

13. EFFECTIVE UPON DELIVERY: Effective immediately upon delivery of a fully signed copy or original of this Contract to Purchaser, this Contract shall become operative and effective and shall supersede and replace, in its entirety, the Original Contract and the 2010 Replacement Contract, and, subject to paragraph 14 immediately below relative to the possible reinstatement of the Original Contract, the Original Contract and the 2010 Replacement Contract shall thereafter be null and void, neither party shall have any duty or liability to the other party under the Original Contract or the 2010 Replacement Contract, and this Contract shall control the rights and duties of the Parties respecting the subject matter hereof.

14. REINSTATEMENT OF ORIGINAL CONTRACT. In the event the Original Contract is reinstated pursuant to the terms of the Real Property Purchase Agreement:

(a) Purchaser shall have the right to notify the District of its election to reduce the amount of water to which it is entitled under the Original Contract, and thereby reduce the amount of water for which it must pay, by so notifying the District in writing pursuant to the requirements of paragraph 10 entitled "Notice". From and after the delivery of such a notice, the quantity of water (expressed in acre feet) stated in that notice shall be substituted for the quantity of water specified in the Original Contract and, from that date forward, shall be the amount of water to which the Purchaser is entitled and for which the Purchaser must pay provided, however, that such notice may only reduce, not increase, the specified quantity of water.

(b) Should the Purchaser deliver such a notice to the District prior to January 1, 2013, the Purchaser shall be entitled to a credit against future payments owed to the District under this Agreement equal to the value of the quantity of water released for the period of time between the date of delivery of the notice and January 1, 2013, calculated pursuant to the value as if sold to a third party pursuant to the normal course of the District's business without usage restrictions on said date.

(c) If such a notice is given on or before May 30, 2012, said notice may specify that it is retroactive to July 1, 2010, and Purchaser shall be obligated to pay for 2,500 acre feet of water attributable to calendar year 2009 and one-half (1/2) of calendar year 2010, and thereafter to the extent of water for which Purchaser has not elected a reduction in the amount of water to which Purchaser is entitled as provided above in this paragraph 14, as provided in the Original Contract.

(d) If such a notice is not given on or before May 30, 2012, Purchaser shall be obligated to pay for water attributable to calendar years 2009 and thereafter except to the extent Purchaser has elected a reduction in the amount of water to which Purchaser is entitled as provided above in this paragraph 14.

4825-2379-9045HI122.001

APPROVED DATE: July 29, 2011

WEBER BASIN WATER
CONSERVANCY DISTRICT

By: Scott Peterson
Scott Peterson
Chair

ATTEST:

Mark D. Anderson

Mark D. Anderson
Assistant General Manager



EXHIBIT "A"

Legal description

IN TOWNSHIP 3 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN:

ALL OF SECTIONS 2, 3, AND 11.

01-003-0062 00-0000-3408
01-003-003 00- 3432
01-003-004 00- 3465

ALSO: THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, THE
SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, AND THE SOUTHEAST
QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10. 07-008-0003 DAVIS

ALSO: THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE
NORTHWEST QUARTER OF THE NORTHWEST QUARTER, THE EAST ONE-HALF OF
THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST
QUARTER OF SECTION 14. 07-008-0001 DAVIS

IN TOWNSHIP 4 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 1, RUNNING THENCE EAST
98 RODS; THENCE SOUTH 320 RODS; THENCE WEST 98 RODS; THENCE NORTH 320
RODS TO THE PLACE OF BEGINNING.

01-004-007
00-0001-1586

ALSO: ALL OF SECTION 2. 01-004-008
00-0001-1554

ALSO: ALL OF SECTION 3. 01-004-009
00-0001-1583

ALSO: THE EAST HALF OF THE SOUTHWEST QUARTER, AND THE SOUTHEAST
QUARTER OF SECTION 4. 01-004-010
00-0001-1617

ALSO: ALL OF SECTION 9, LESS THE FOLLOWING DESCRIBED PROPERTY:
BEGINNING ON THE SOUTH LINE OF SECTION 9, AFORESAID, AT A POINT WHERE
SAID SECTION LINE CROSSES THE TOP OF THE MOUNTAIN; THENCE NORTH
ALONG THE TOP OF THE MOUNTAIN TO THE NORTH LINE OF SAID SECTION 9;
THENCE WEST TO THE NORTHWEST CORNER OF SAID SECTION; THENCE SOUTH
ONE MILE TO SOUTHWEST CORNER OF SAID SECTION; THENCE EAST TO POINT
OF BEGINNING.

01-004-012
00-0001-1666

ALSO: ALL OF SECTION 10. 01-004-013
00-0001-1690

ALSO: ALL OF SECTION 11. 01-004-014
00-0001-1724

ALSO: THE SOUTH HALF, AND THE SOUTH HALF OF THE NORTH HALF OF
SECTION 12. ALSO: BEGINNING AT A POINT 23.50 CHAINS WEST FROM THE

NORTHEAST CORNER OF SAID SECTION 12, AND RUNNING THENCE SOUTH 20.00 CHAINS; THENCE WEST 32.50 CHAINS; THENCE NORTH 20.00 CHAINS; THENCE EAST 32.50 CHAINS TO THE POINT OF BEGINNING.

01-004-015
00-0001-1773

ALSO: ALL OF SECTION 13. 01-004-019
00-0001-1849

ALSO: THE WEST HALF AND THE SOUTHEAST QUARTER OF SECTION 14. 01-004-020
00-0001-1872

ALSO: ALL OF SECTION 15. 01-004-022
00-0001-1922

ALSO: THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20. ^{1/4}
DAN 11-168-0001

ALSO: THE EAST HALF, AND THE EAST HALF OF THE WEST HALF OF SECTION 22.

ALSO: ALL OF SECTION 23. 01-004-024
00-0001-2003 01-004-023
00-0001-1963

ALSO: THE WEST HALF, AND THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 26. 01-004-040
00-0001-2276

ALSO: ALL OF SECTION 27. 01-004-041
00-0001-2292

ALSO: THE SOUTHWEST QUARTER, AND THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 35. 01-004-047
00-0001-2409

ALSO: THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36. 01-004-049
00-0001-2466

IN TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN.

THE NORTHWEST QUARTER OF SECTION 19. 01-004-262

IN TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 26, THENCE WEST 80 RODS; THENCE NORTH 30 RODS, MORE OR LESS, TO THE WEBER RIVER; THENCE UP SAID RIVER SOUTH 75° 00' EAST 20.86 CHAINS; THENCE SOUTH 8 RODS TO THE POINT OF BEGINNING. 01-005-057-01
00-0002-6185

ALSO: BEGINNING AT A POINT 11.50 CHAINS EAST FROM THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26; RUNNING THENCE NORTH 5°30' WEST 7.39 CHAINS TO THE UNION PACIFIC RAILROAD FENCE; THENCE FOLLOWING SAID FENCE SOUTH 83°30' EAST 24.30 CHAINS; THENCE SOUTH 9°00' EAST 4.66 CHAINS, MORE OR LESS, TO THE QUARTER, QUARTER LINE; THENCE WEST 24.50 CHAINS TO THE POINT OF BEGINNING. 01-005-057

IN TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN:

ALSO: THE SOUTH HALF OF THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26.

01-005-058
00-0002-6227

ALSO: THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 27, EXCEPTING THOSE PORTIONS THEREOF CONDEMNED FOR GATEWAY CANAL IN BOOK "R" OF DEEDS, PAGE 119, AND THAT PORTION THEREOF CONVEYED TO THORNLEY K. SWAN AND J.W. SWAN, BY DEED RECORDED IN BOOK "R" OF DEEDS, PAGE 624.

01-005-062
01
00-0002-6334

ALSO: BEGINNING AT THE CENTER OF THE SOUTHEAST QUARTER OF SECTION 27, RUNNING THENCE NORTH 8.00 CHAINS, MORE OR LESS, TO THE RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD COMPANY; THENCE WEST 3.50 CHAINS; THENCE SOUTH 78°00' WEST ALONG SAID RIGHT-OF-WAY 17 CHAINS, MORE OR LESS, TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 27; THENCE SOUTH ON SAID LINE 3 CHAINS, MORE OR LESS, TO THE QUARTER, QUARTER CORNER; THENCE EAST 20 CHAINS TO THE PLACE OF BEGINNING, EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THORNLEY K. SWAN AND J.W. SWAN BY DEED RECORDED IN BOOK "R" OF DEEDS, PAGE 624.

01-005-059
00-0002-6292

ALSO: BEGINNING AT THE CENTER OF THE SOUTHEAST QUARTER OF SECTION 27, AND RUNNING THENCE NORTH 8 CHAINS; THENCE RUNNING ALONG THE SOUTH SIDE OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY EASTERLY 11.55 CHAINS; THENCE SOUTH 8 CHAINS TO THE QUARTER, QUARTER SECTION LINE; THENCE WEST 11.55 CHAINS TO THE PLACE OF BEGINNING.

01-005-061
00-0002-6375

ALSO: THE SOUTH HALF OF THE SOUTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28.

01-005-069
00-0002-6623

ALSO: ALL OF SECTION 33.

01-005-070
00-0002-6680

ALSO: ALL OF THE EAST HALF, AND THE EAST HALF OF THE WEST HALF OF SECTION 34.

01-005-071
00-0002-6722

ALSO: ALL OF SECTION 35, EXCEPTING THAT PORTION THEREOF CONDEMNED FOR GATEWAY CANAL IN BOOK "R" OF DEEDS, PAGE 119.

01-005-072
00-0002-6805