Contract No. 25-WC-40-1015

UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

STRAWBERRY VALLEY PROJECT

CONTRACT

FOR THE USE OF STRAWBERRY VALLEY PROJECT WATER

FOR MISCELLANEOUS PURPOSES

THIS CONTRACT, made this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2025, is entered into by and among the Lake Shore Irrigation Company, the Spanish Fork South Irrigation Company, the Spanish Fork East Bench Irrigation Company, the Spanish Fork West Field Irrigation Company, the Spanish Fork South East Irrigation Company, the Salem Irrigation and Canal Company, the Strawberry High Line Canal Company (SHLCC), the Mapleton Irrigation District, the Springville Irrigation District (collectively called the Canal Companies), PE & Lelia Whiting, J Hayes, Clinton Farmers, Soldier Fork Farmers, Salem City, Payson City, Spanish Fork City, and the Strawberry Water Users Association (SWUA) (each a Contract Party, and collectively, the Contract Parties), and United States of America (United States) acting through the Bureau of Reclamation (Reclamation), pursuant to the Act of June 17, 1902 (32 Stat. 388) (the Reclamation Act), and all acts amendatory thereof or supplementary thereto, particularly the Sale of Water for Miscellaneous Purposes Act of February 25, 1920 (43 USC § 521), collectively known as the federal Reclamation laws.

WITNESSETH:

WHEREAS, pursuant to the Reclamation Act, Reclamation constructed the Strawberry Valley Project (SVP or Project), consisting, in part, of the original Strawberry Dam, the Strawberry Reservoir, and the Strawberry Tunnel, for the purpose of collecting, storing, and conducting a trans-basin diversion of water from tributaries of the Duchesne River into south Utah County; and

WHEREAS, in connection with the SVP, Reclamation acquired the rights to water from certain sources, including water from tributaries of the Duchesne River, accretion flows in the Strawberry Tunnel, and natural high-water flows in the Spanish Fork River; and

WHEREAS, in 1940 Reclamation and SWUA entered into Amendatory Contract No. Ilr-78, which supersedes and takes the place of the contracts between the United States and SWUA dated September 28, 1926, and November 20, 1928, and which obligates SWUA to repay to Reclamation certain Project costs, operate and maintain certain Project facilities, and assume Reclamation’s obligations under the Delivery Contracts; and

WHEREAS, under Reclamation law and policy, the 1991 Contract Water, the Accretion Flows, and the SVP High Flow Water (all as defined herein and collectively Project Water), are currently restricted and limited to use for irrigation purposes, and uses incidental thereto, and are appurtenant to the lands on which they are used; and

WHEREAS, Project Water has historically been delivered by the Canal Companies to SVP Shareholders for irrigation purposes pursuant to contracts between such Canal Companies and Reclamation, which contracts have been assigned to SWUA; and

WHEREAS, south Utah County is experiencing high levels of population growth and development, which requires the use of water for municipal and industrial purposes; and

WHEREAS, the SWUA Board of Directors and the SHLCC Board of Directors have requested that the Secretary of the Interior (Secretary) allow the use of the Project Water for purposes other than Irrigation, under the authority of the Sale of Water for Miscellaneous Purposes Act of 1920.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein

contained, the Parties hereto agree as follows:

1. DEFINITIONS
2. 1920 Act - the Sale of Water for Miscellaneous Purposes Act of February 25, 1920 (43 USC § 521)
3. 1991 Contract - Contract No. 1-07-40-R1330 dated July 29, 1991, among Reclamation, Central Utah Water Conservancy District, and SWUA.
4. 1991 Contract Water – Water stored in the enlarged Strawberry Reservoir that is allocated for SVP purposes under the terms of the 1991 Contract.
5. Accretion Flows – Strawberry Tunnel accretion water that is physically available for direct flow diversion.
6. Carrier Water – Water retained by a Canal Company to ensure that changes in type or place of use do not negatively affect SVP Irrigators.
7. Contract Parties – From 1914 to 1926, Reclamation enacted contracts with the Contract Parties listed above to ensure the delivery and/or use of water from the SVP, as well as the operation and maintenance of federal facilities
8. SVP Irrigators – Any SVP Shareholder using SVP Irrigation Water for authorized purposes under Reclamation laws and policies.
9. SVP Irrigation Water – Project Water used for commercial irrigation purposes not incongruent with Reclamation Policy PEC P05, which states: the use of contract water to irrigate land primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto.
10. SVP Shareholder – The original Project Water application or contract holder who puts Project Water to beneficial use, or the successor in interest to such contract holder.
11. Miscellaneous Purposes – The use of Project Water for purposes other than irrigation, including but not limited to municipal and industrial uses, and all beneficial purposes allowed under state law.
12. Project Water – Collectively, the 1991 Contract Water, the Accretion Flows, and the SVP High Flow Water.
13. Project Water Rights—The water rights established under Utah law to beneficially use Project Water. Specifically, Certificates 2115 (Water Right No. 43-3001), 2116 (Water Right No. 43-3102), 2117 (Water Right No. 51-1004), 2118 (Water Right No. 51-1016), and 5893 (Water Right No. 43-1259).
14. SVP Service Area – The area in which Project Water may be delivered and/or used, as identified in the SVP Service Area Map attached to this Contract as Exhibit A.
15. SVP High Flow Water – Water utilized under water rights of the United States obtained for the SVP in the Spanish Fork River when flows are greater than 390 cubic feet per second (cfs).
16. Third-Party Contracts – The contracts between the SVP Shareholder(s) and the Contract Party(ies), and reviewed by Reclamation, allowing for the change of use of Project Water for Miscellaneous Purposes, or contracts for intercanal transfers.

1. APPROVAL OF PROJECT WATER FOR MISCELLANEOUS PURPOSES

Subject to the terms and conditions of this Contract, the provisions of the 1920 Act, and the terms and conditions of existing SVP contracts (including but not limited to the times of use and delivery locations), all Project Water is available to be used for Miscellaneous Purposes. Project Water may only change from its current use after the necessary Contract Parties enter into Third-Party Contracts with SVP Shareholders to use and deliver Project Water for Miscellaneous Purposes.

1. 1920 ACT COMPLIANCE

To comply with the 1920 Act, (1) this Contract must be approved by all applicable water users’ associations, which Reclamation has determined consists of the Contract Parties; (2) a showing must be made that there is no other practical source of water supply for the purpose; and (3) the water furnished for Miscellaneous Purposes must not be detrimental to water service for the irrigation project or harm the rights of any prior appropriator.

These conditions are satisfied as follows:

1. Approval: The signature of each Contract Party to this Contract demonstrates its approval of this Contract.
2. No Other Practicable Source: Following extensive review of literature, reports, and other information, Reclamation has concluded that there are no other practicable sources of municipal and industrial water sufficient to meet the growth needs of south Utah County.
3. Protection of Irrigation: Reclamation has determined that the furnishing of Project Water for Miscellaneous Purposes under this Contract will not be detrimental to the irrigation purpose of the Project or harm the rights of any prior appropriator. The Contractual Protections section below outlines provisions for all current conveyance, operation and maintenance, and Contract Parties to remain whole.
4. INTERCANAL TRANSFERS

Reclamation will not prohibit the transfer of Project Water between the Canal Companies. All intercanal transfers will be in accordance with the rules and bylaws of the Canal Companies involved in the transfer and must be approved in advance by the affected Canal Companies. All intercanal transfers must protect SVP Irrigators through the provisions contained herein for Carrier Water and OM&R payments to the original Canal Companies.

1. SVP SERVICE AREA

Project Water must be used exclusively within service area described in the SVP Service Area map hereby attached as Exhibit A.

1. APPURTENANCE

Prior to the execution of this Contract, Reclamation irrigation water, including Project Water, was appurtenant to the farmland upon which it was historically used pursuant to Article 8 of the Reclamation Act of 1902. Project Water will no longer be considered appurtenant to the farmland on which it has historically been put to beneficial use, and may be used anywhere within the SVP Service Area, subject to applicable Third-Party Contracts. The federal suspension and transfer process is no longer applicable to the Project Water used for Miscellaneous Purposes under this Contract, subject to delivery capacity at the discretion of the Canal Company.

1. WATER RIGHTS AND USE

The Project Water Rights appropriated for the SVP are held in the name of the United States. The right to use and distribute Project Water is subject to federal law and contracts, and applicable State law and policies, rules, and regulations. This Contract does not create, enlarge, or diminish non-Project water rights held by any of the parties. Further, no third-party may claim a water right based on any legal theory arising under State or federal law, before any State or federal judicial or administrative body based on the use of Project Water under this Contract.

1. CONTRACTUAL PROTECTIONS

In accordance with the 1920 Act, the furnishing of Project Water for Miscellaneous Purposes allowed herein must not be detrimental to water service for the irrigation Project. Ensuring continued revenue and a sufficient flow of Carrier Water to the SVP Irrigators as provided below, fulfills this provision.

Each time a Third-Party Contract is entered into pursuant to this Contract, the then current Canal Company, must retain sufficient Carrier Water to ensure the supply of Project Water to remaining SVP Irrigators. Any modifications to the location of use within the Service Area or type of use contemplated under this Contract are subject to meeting this requirement. In calculating the amount of required Carrier Water, the parties to such Third-Party Contract will consult with each other. The quantity of Project Water required to be delivered by SWUA to meet Carrier Water obligations may be adjusted from time to time, at the request of either SWUA or the Canal Company; it being the intent of the parties that Carrier Water shall at all times be delivered in an amount sufficient, but not materially in excess, of the amount necessary to protect then remaining SVP Shareholders. If the affected parties cannot come to an agreement regarding the quantity of Carrier Water required, Reclamation will review the relevant data and make a final decision. Each Canal Company agrees to maintain its conveyance facilities in a reasonable state of repair for the purpose of minimizing water losses and the required amount of Carrier Water. Carrier Water in the agreed upon amounts shall continue to be delivered to the Canal Company until no longer needed for the intended purpose, at which time SWUA shall be entitled to allocate unused Carrier Water to one or more SVP Shareholders, in an equitable manner.

Additionally, the furnishing of water for Miscellaneous Purposes may not harm the rights of any prior appropriator. Reclamation has found and determined that the furnishing of Project Water for Miscellaneous Purposes as provided in this Contract and the Third-Party Contracts do not harm any prior appropriators.

In each Third-Party Contract in which Project Water is authorized to be moved out of a Canal Company’s facilities, the SVP Shareholder shall agree to continue payment to such Canal Company of all assessments, fees, and other charges to which such Canal Company is contractually entitled, regardless of whether or not such SVP Shareholder utilizes the Canal Company’s facilities.

This Contract is not intended to compel SVP Shareholder to modify their water use, but establishes a process to change the end-use of Project Water at such a time as the SVP Shareholder desires.

1. THIRD-PARTY CONTRACTS

Prior to the change of use of Project Water for Miscellaneous Purposes, or the transfer of Project Water from one Canal Company to another for continued Irrigation use on different land, a Third-Party Contract must be entered into by and between (1) the requesting SVP Shareholder (which may be a City), (2) the Contract Parties responsible for delivery of the Project Water to that SVP Shareholder , (3) the Canal Company from which the Project water is being moved (if applicable), (4) the Canal Company to which the Project water is being moved (if applicable), and (5) SWUA. with. All Third-Party Contracts must be reviewed by Reclamation to ensure that the 1920 Act and this Contract are followed. Approval and execution of each Third-Party Contract by the applicable parties, and review of each Third-Party Contract by Reclamation, will not be unreasonably withheld, conditioned or delayed. Third-Party Contracts must be in substantially the same form as Exhibit A attached hereto. Other contracts associated with the transactions contemplated in the Third-Party Contract may not contain provisions that contravene the terms and conditions of this Contract and the Third-Party Contract.

Third-Party Contracts may be amended only by written amendment signed by all parties and reviewed by Reclamation.

All Third-Party Contracts must contain the following terms:

1. A term governing Carrier Water, as provided in Article VIII above.
2. A term governing continued SVP Shareholder payments to the Canal Company, as provided in Article VIII above.
3. An acknowledgement that no SVP Shareholder may claim a water right based on any legal theory arising under State or federal law or before any State or federal judicial or administrative body based on the use of Project Water under this Contract.
4. An acknowledgement that the right to use Project Water for Miscellaneous Purposes is based strictly on the execution of federal contracts.
5. An acknowledgement that the SVP Shareholder is subject to this Contract and federal laws, state laws, and regulations applicable to Project Water.
6. A term specifying that if there are any conflicts between this Contract and any Third-Party Contract, this Contract will govern.
7. A term that requires the SVP Shareholder to establish and maintain records acceptable to the Secretary pertaining to the SVP Shareholder’s receipt and use of Project Water, and other matters as the Secretary may reasonably require. Records will be furnished to the Secretary in such form and on such date or dates as the Secretary may reasonably require.
8. A provision that all other contracts stemming from the Third-Party Contracts will be subject to all the terms and conditions of the 1920 Act Contract and the Third-Party Contract.\
9. Any changes in the place of use, point or points of diversion, or other aspects of use of Project Water that are contemplated in a Third-Party Contract but not authorized under the Project Water Rights, may only be allowed following the filing and approval of any additionally required change application, pursuant to State water law.
10. WATER DEDICATION AGREEMENTS

Reclamation will no longer sign water dedication agreements to dedicate Project Water to municipalities. All existing water dedication agreements will remain valid and enforceable, unless the parties thereto, desire to replace an existing water dedication agreement with a Third-Party Contract.

1. INTERFERENCE

No party to this Contract will unduly interfere, inhibit, or otherwise limit any other party from exercising the rights, privileges, and powers authorized under this Contract and applicable law.

1. ENVIRONMENTAL COMPLIANCE

Environmental compliance for this Contract was provided under Environmental Assessment No. PRO-EA-22-04 and accompanying Finding of No Significant Impact dated August 19, 2024.

1. CONTRACT EXECUTION AND TERM

This Contract will be effective the date it is signed by Reclamation and any single other party and will continue for the life of the Project. Additional Contract Parties may sign this Contract and participate in the 1920 Act Conversion, subject to the provisions of the 1920 Act, any needed environmental compliance. Modification or amendment of this Contract requires the written approval of all parties affected by such modification or amendment. This Contract may be terminated only upon the approval of all parties, or pursuant to court order. No Contract Party that has not signed this Contract may enter into Third-Party Contracts for Miscellaneous Use.

1. SEVERABILITY

In the event that any one or more of the provisions contained herein is, for any reason, held to be invalid, illegal or unenforceable  in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of this Contract, but this Contract is to be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause the fundamental benefits afforded the parties by this Contract to become unavailable or materially altered.

1. COMPLIANCE WITH LEGAL REQUIREMENTS

All Contract Parties will comply with all applicable federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract.

1. STANDARD ARTICLES

PEC 10-03 CHARGES FOR DELINQUENT PAYMENTS

PEC 10-04 GENERAL OBLIGATION-BENEFITS CONDITIONED UPON PAYMENT

PEC 10-10 CONFIRMATION OF CONTRACT

PEC 10-11 NOTICES

PEC 10-12 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

PEC 10-13 OFFICIALS NOT TO BENEFIT

PEC 10-14 CHANGES IN CONTRACTOR’S ORIGANIZATION

PEC 10-15 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

PEC 10-16 BOOKS, RECORDS, AND REPORTS

PEC 10-17 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

PEC 10-19 PROTECTION OF WATER AND AIR QUALITY

PEC 10-22 WATER CONSERVATION

PEC 10-25 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

PEC 10-30 MEDIUM FOR TRANSMITTING PAYMENTS

PEC 10-31 CONTRACT DRAFTING CONSIDERATIONS

PEC 10-32 AVAILABILITY AND ALLOCATION OF WATER

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed the day and year first written above.

REVIEWED FOR LEGAL SUFFICIENCY: UNITED STATES OF AMERICA

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Office of the Regional Solicitor Regional Director

Bureau of Reclamation

Interior Region 7 – Upper Colorado Basin

LAKE SHORE IRRIGATION COMPANY

SPANISH FORK SOUTH IRRIGATION CO.

THE SPANISH FORK SOUTH IRRIGATION COMPANY

EAST BENCH CANAL COMPANY

SPANISH FORK WEST FIELD IRRIGATION CO.

SPANISH FORK SOUTH EAST IRRIGATION COMPANY

FARMERS OF CLINTON UNIT

SPANISH FORK CITY

PAYSON CITY

STRAWBERRY HIGH LINE CANAL COMPANY

SALEM IRRIGATION AND CANAL COMPANY

P.E. & LELIA WHITING

JOHN H. HAYES, JOHN I. HAYES, AND BESEY A. HAYES

FARMERS OF SOLIDER FORK UNIT

SPRINGVILLE IRRIGATION DISTRICT

MAPLETON IRRIGATION DISTRICT

TOWN OF SALEM

STRAWBERRY WATER USERS ASSOCIATION