

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

PARTIAL ASSIGNMENT AND TRANSFER OF COLORADO RIVER WATER UNDER
CONTRACT WITH GSC FARM, LLC TO
THE TOWN OF QUEEN CREEK

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
1.	Preamble	1
2.	Explanatory Recitals	1
3.	Partial Assignment and Transfer of Colorado River Water From GSC to Queen Creek.....	5
4.	Contract No. 13-XX-30-W0571, As Amended	5
5.	Development of Amended Contracts.....	5
6.	Counterparts.....	5
	Signature Pages.....	6-8

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOULDER CANYON PROJECT

PARTIAL ASSIGNMENT AND TRANSFER OF COLORADO RIVER WATER UNDER
CONTRACT WITH GSC FARM, LLC TO THE TOWN OF QUEEN CREEK

1. PREAMBLE: THIS PARTIAL ASSIGNMENT AND TRANSFER NO. 1 of Colorado River water under Contract No. 13-XX-30-W0571, as amended, made this ____ day of _____, 2023, by and between GSC Farm, LLC, a Delaware limited liability company, hereinafter called “GSC,” and the Town of Queen Creek, an Arizona municipal corporation, with its principal place of business in Queen Creek, Arizona, hereinafter called “Queen Creek,” hereinafter collectively called "Parties";

WITNESSETH THAT:

2. EXPLANATORY RECITALS:

2.1 WHEREAS, under Contract No. 13-XX-30-W0571, as amended, between GSC and the United States of America (United States) dated December 23, 2013 (GSC Contract), GSC has an entitlement to an annual diversion of up to 2,913.3 acre-feet of Arizona fourth-priority Colorado River water for Irrigation Use within the GSC Contract Service Area;

2.2 WHEREAS, GSC desires to partially assign the GSC Contract and to transfer the assigned portion of its Arizona fourth-priority Colorado River water entitlement under the GSC Contract to Queen Creek. GSC also desires to change the type of use for the portion of its Arizona fourth-priority Colorado River water entitlement it desires to retain;

2.3 WHEREAS, as approved by the Mayor and Council in Queen Creek Resolution Nos. 1246-15 and 1246-18, on December 17, 2018, Queen Creek entered into a Purchase and Transfer Agreement for Mainstream Colorado River Water Entitlement with GSC to acquire the

GSC Arizona fourth-priority Colorado River water entitlement held by GSC under the GSC Contract;

2.4 WHEREAS, Queen Creek desires to accept the partial assignment of the GSC Contract and the transfer of Arizona fourth-priority Colorado River water;

2.5 WHEREAS, Queen Creek desires to change the place of use, type of use, and point of diversion of the Arizona fourth-priority Colorado River water entitlement it is accepting;

2.6 WHEREAS, to effectuate delivery of the Arizona fourth-priority Colorado River water entitlement to Queen Creek's place of use, Queen Creek desires to enter a Reclamation Wheeling Contract with the United States or a Wheeling Contract with the Central Arizona Water Conservation District (CAWCD) for the transportation of non-project water through the Central Arizona Project (CAP) System, pursuant to the Central Arizona Project System Use Agreement Between the United States and the Central Arizona Water Conservation District, dated February 2, 2017, Agreement No. 17-XX-30-W0622, as it may be amended and supplemented; the Contract Between the United States and the Central Arizona Water Conservation District for Delivery of Water and Repayment of Costs of the Central Arizona Project, Contract No. 14-06-W-245, Amendment No. 1, dated December 1, 1988, as it may be amended and supplemented; and Federal reclamation law including the Arizona Water Settlements Act, Pub. L. 108-451, 118 Stat. 3478 (Dec. 10, 2004);

2.6 WHEREAS, pursuant to the provisions of Arizona Revised Statutes §§ 48-3701, et seq., Queen Creek has been organized with the power to enter into a contract or contracts with the Secretary of the Interior (Secretary) to accomplish the purposes of Arizona Revised Statutes, §§ 48-3701, et seq.;

2.7 WHEREAS, on or about November 2, 2009, Queen Creek, the United States, acting through the Secretary, and CAWCD, entered into a subcontract for the delivery of CAP municipal and industrial (M&I) water titled, "Subcontract Among the United States, the Central Arizona Water Conservation District, and the Town of Queen Creek, Providing for Water Service, Central Arizona Project," Subcontract No. 09-XX-30-W0542, as amended;

2.8 WHEREAS, on or about September 20, 2021, Queen Creek, the United States, acting through the Secretary, and the CAWCD, entered into a subcontract for the delivery of CAP Non-Indian Agricultural water, titled “Subcontract Among the United States, the Central Arizona Water Conservation District, and the Town of Queen Creek, Providing for Water Service, Central Arizona Project,” Subcontract No. 21-XX-30-W0696;

2.9 WHEREAS, Queen Creek, upon execution of the Arizona fourth-priority Colorado River Contract No. 20-XX-30-W0689 (Queen Creek Contract) between the United States and Queen Creek, will take delivery of up to 2,033.01 acre-feet per year of the Arizona fourth-priority Colorado River in accordance with the Queen Creek Contract and the Reclamation Wheeling Contract To Transport Non-Project Water No. 20-XX-30-W0691 (Reclamation Wheeling Contract);

2.10 WHEREAS, GSC will retain 50 acre-feet per year of Arizona fourth-priority Colorado River water for future Consumptive Use (69.93 acre-feet per year on a diversion basis) for residential development within the GSC Contract Service Area as defined in the GSC Contract, as amended;

2.11 WHEREAS, the GSC Contract will be amended to: (1) decrease GSC’s Arizona fourth-priority Colorado River water entitlement from an annual diversion of up to 2,913.3 acre-feet to an annual diversion of up to 69.93 acre-feet for use within GSC’s Contract Service Area and (2) change the type of use from Irrigation Use to Domestic Use;

2.12 WHEREAS, the Queen Creek Contract, when executed, will provide an entitlement for the annual diversion and Consumptive Use of up to 2,033.01 acre-feet of Arizona fourth-priority Colorado River water for Domestic Use within the Queen Creek Contract Service Area and will retain the priority date of the Colorado River water entitlement under the GSC Contract;

2.13 WHEREAS, the Arizona State legislature has enacted A.R.S. § 45-107.D which states that certain entities are to cooperate, confer with and obtain the advice of the director of the Arizona Department of Water Resources (ADWR) in connection with certain contracts relating to Colorado River water;

2.14 WHEREAS, ADWR adopted its Substantive Policy Statement No. CR11, entitled, “Policy and Procedure for Transferring an Entitlement of Colorado River Water” on September 4, 2020, which supersedes Substantive Policy Statement No. CR10, dated January 16, 2019;

2.15 WHEREAS, ADWR, in accordance with its Substantive Policy Statement No. CR11, entitled, “Policy and Procedure for Transferring an Entitlement of Colorado River Water”, recommended by letter dated September 4, 2020, that the partial assignment and transfer be approved;

2.16 WHEREAS, by letter dated January 20, 2021, ADWR recommended that 2,033.01 acre-feet per year of GSC’s historical Consumptive Use of 2,083.01 acre-feet per year, based on an unmeasured return flow factor of 0.285 (calculated as 2,913.30 acre-feet per year of diversions * 0.715), be assigned and transferred to Queen Creek;

2.17 WHEREAS, ADWR also recommended on January 20, 2021, based on the GSC Development Plan submitted by GSC to ADWR in November 2020, that GSC retain 50 acre-feet per year for future Consumptive Use (69.93 acre-feet per year on a diversion basis) on the GSC lands;

2.18 WHEREAS, in accordance with the Central Arizona Project System Use Agreement Between the United States and the Central Arizona Water Conservation District, dated February 2, 2017, Agreement No. 17-XX-30-W0622, Reclamation has coordinated and consulted with the CAWCD regarding the Reclamation Wheeling Contract No. 20-XX-30-W0691;

2.19 WHEREAS, in accordance with the National Environmental Policy Act, 43 U.S.C. 4321 et seq., the United States completed the Final Environmental Assessment and a Finding of No Significant Impact for this Contract No. 13-XX-30-W0571, Partial Assignment and Transfer No. 1; the Amendment No. 2 to the GSC Contract; the Queen Creek Contract; and the Reclamation Wheeling Contract No. 20-XX-30-W0691;

2.20 WHEREAS, Article 34 of GSC’s Contract requires that any assignment of the contract binds the successor of the contract to the full terms of the contract and that the assignment shall not be valid until approved by the Contracting Officer.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

3. PARTIAL ASSIGNMENT AND TRANSFER OF COLORADO RIVER WATER FROM GSC TO QUEEN CREEK:

3.1 GSC hereby assigns its entitlement to divert up to 2,033.01 acre-feet per year of Arizona fourth-priority Colorado River water for Irrigation Use to Queen Creek, including its rights, interests, and obligations in the GSC Contract.

3.2 Queen Creek hereby accepts and assumes the assignment from GSC in Subsection 3.1.

4. CONTRACT NO. 13-XX-30-W0571, AS AMENDED: GSC's Arizona fourth-priority Colorado River water entitlement to divert up to 2,913.3 acre-feet per year under the GSC Contract will be reduced to a diversion of up to 69.93 acre-feet per year (approximately 50 acre-feet per year for future Consumptive Use), and the type of use will be changed from Irrigation Use to Domestic Use within the GSC Contract Service Area.

5. DEVELOPMENT OF AMENDED CONTRACTS: This Contract No. 13-XX-30-W0571, Partial Assignment and Transfer No. 1 is approved contingent upon GSC entering into an amended Colorado River water delivery contract with the United States, Queen Creek entering into a Colorado River water delivery contract with the United States, and Queen Creek entering into a Reclamation Wheeling Contract, all within 1 year from the date of this Partial Assignment and Transfer No. 1, unless an extension is agreed to by the Contracting Officer.

6. COUNTERPARTS

6.1 This Contract No. 13-XX-30-W0571, Partial Assignment and Transfer No. 1 may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single executed Partial Assignment and Transfer No. 1.

IN WITNESS WHEREOF, the Parties have executed this Contract 13-XX-30-W0571,
Partial Assignment and Transfer No. 1 on the day first written above.

GSC FARM, LLC

Attest: _____
Mr. Michael Malano

By: _____
Mr. Michael Schlehuber

Signatures continue on next page.

DRAFT

Signatures continue from previous page.

Approved as to Form:

TOWN OF QUEEN CREEK

Scott Holcomb, Town Attorney

By: _____
Manager

Signatures continue on next page.

DRAFT

Pursuant to Section 34 of Contract No. 13-XX-30-W0571, dated December 23, 2013, as amended, this Contract No. 13-XX-30-W0571, Partial Assignment and Transfer No. 1 by GSC to Queen Creek is hereby approved.

THE UNITED STATES OF AMERICA

By: _____
Jacklynn L. Gould, P.E.
Regional Director
Interior Region 8: Lower Colorado Basin
Bureau of Reclamation

DRAFT