

DEPARTMENT OF THE INTERIOR  
 BUREAU OF RECLAMATION  
 NEWLANDS IRRIGATION PROJECT, NEVADA

**CONTRACT BETWEEN THE  
 UNITED STATES OF AMERICA  
 AND THE TRUCKEE-CARSON  
 IRRIGATION DISTRICT**

*Providing for the Transfer of the Management of  
 the Irrigation Works to the District and for the  
 Repayment of the Construction costs*

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**TC10-5**

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DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
NEWLANDS PROJECT

*Contract Between the United States of America and the Truckee-Carson Irrigation District Providing for the Transfer of the Management of the Irrigation Works to the District and for the Repayment of Construction Charges.*

1. THIS AGREEMENT, made this 16th day of December, nineteen hundred twenty-six, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, acting for this purpose by E. C. Finney, First Assistant Secretary of the Interior, pursuant to the act of Congress approved June 17, 1902 (32 Stat., 328), and acts amendatory thereof or supplementary thereto, including the Act of May 25, 1936 (Public No. 234, 69th Congress) all of which acts are commonly known and referred to as the National Reclamation Law, and the TRUCKEE-CARSON IRRIGATION DISTRICT, a public corporation, created, organized and existing under and by virtue of the laws of the State of Nevada, with its principal place of business at Fallon, Churchill County, Nevada, hereinafter referred to as the District;

WITNESSETH:

Classes of Land in the Project

2. WHEREAS, the Carson and Truckee divisions of the Newlands Project include within their boundaries irrigable lands which receive their irrigation water supply from the irrigation works constructed by the United States, of which lands about 45,307 acres are covered by water right applications (hereinafter referred to as application land); about 22,148 acres are not now covered by water right applications (hereinafter referred to as non-application land); and about 20,145 acres are covered by vested water right agreements whereby the United States exchanged full-paid project water rights for private water rights (hereinafter referred to as vested right lands). Of the above lands so classified, approximately 77,600 acres are within the boundaries and included in the District, which includes about 44,000 acres hereinabove designated as application land; about 20,148 acres hereinabove designated as vested right lands, and about 13,456 acres hereinabove designated as non-application lands; and

Previous Agreements.

3. WHEREAS, under public notices heretofore issued by the Secretary of the Interior (hereinafter referred to as the Secretary) applicable to the Truckee and Carson Divisions of the Newlands project, certain entrymen and owners of private lands in the District have made land leveling agreements covering application land, which said agreements have been duly accepted and approved for and on behalf of the United States and constitutes contracts between such landowners and entrymen and the United States; such lands being hereinafter referred to as Government-levaled land; and

Water Users Desire Benefits of Relief Acts.

4. WHEREAS, the District and the water users therein desire (1) to obtain the benefits of said act of Congress approved May 25, 1936 (Public No. 234, 69th Congress) hereinafter referred to as the Adjustment Act, and (2) to take over the care, operation and maintenance of the irrigation works described in Article six (6) hereof;

NOW, THEREFORE, it is agreed as follows:

Nomenclature.

5. Application land in the District, the owners of which within sixty days after this contract becomes effective, accept same in order to receive the benefits of the Adjust-

ment Act, said acceptances to be by instrument in writing on the form attached hereto as Exhibit A and to be recorded at the expense of the owner with the Recorder of the County where the land is situated, is hereinafter referred to as consenting application land, (which term shall also include land, the owners of which impliedly accept this contract, as provided in Article 12) and the owners thereof, as consenting application landowners. Application land in the District, the owners of which do not so accept this contract, will hereinafter be referred to as non-consenting application land, and the owners thereof as non-consenting application landowners. Vested right land in the District, the owners of which accept this contract in like manner and within said period in order to receive an extension of the period within which they may pay their operation and maintenance charges that are delinquent at the date of this contract, said extension to be allowed as provided in Article 3 hereof and in the second paragraph of Section 45 of the Adjustment Act, will be referred to as consenting vested right land, and the owners thereof as consenting vested right landowners. The works to be transferred to the District under Article 6 hereof are hereinafter referred to, as the transferred works. The equipment and supplies to be transferred to the District under Article 15 hereof, will hereinafter be referred to as transferred equipment.

#### Works Transferred.

5. Effective December 31, 1926, there are hereby transferred to the District, the care, operation and maintenance of all lands and works used for operative purposes, including Labontan Reservoir lands and Dam, Lake Tahoe lands, Reservoir and Dam, the Derby Diversion Dam, lands and reservoir, Labontan Power Plant (subject to existing leases), Carson Lake pasture, and all other lands, dams, diversion works, buildings, canals, laterals, sub-terral, ditches, distribution and drainage systems, stock water pipe lines, power distribution lines, telephones and telephone lines, the Fallon office records, files, engineering maps and data, (which records, files, engineering maps and data shall be available at all times for use by the United States) and any other works now operated, owned or used by the United States in connection with the irrigation and development of lands of the Nevada project. No title to any of the works in this paragraph mentioned passes to the District. It is understood that the Secretary will reserve certain of the Fallon office records, files, engineering maps and data for the Denver and Washington offices, and the records, files, engineering maps and data so reserved are not to be transferred to the District, although the District is to have an opportunity to make copies or abstracts of same if desired.

#### District Accepts Care, Operation and Maintenance of Transferred Works.

7. The District hereby accepts the care, operation and maintenance of the transferred works, and will care for, operate and maintain the same and deliver water therefrom in full compliance with the National Reclamation Laws, as said laws now exist or as they may hereafter be amended or supplemented, court orders and decrees, contracts heretofore entered into between the United States and various persons for the delivery of water, the terms and conditions of this agreement, the rules and regulations of the Secretary now in force or hereafter promulgated; and, in such manner that said transferred works shall remain in as good and efficient condition and of equal capacity for the development, diversion and distribution of irrigation water and for the development of power as is now the case, reasonable wear and damage by the elements excepted, and will use all proper methods and precautions to secure the economical and beneficial use of irrigation water. The said operation and maintenance and control of said transferred works to be without cost to the United States.

#### Extension of Time for Payment of Delinquent Operation and Maintenance and Delinquent Construction Charges.

8. Within sixty days after this contract becomes effective, application under the second paragraph of Section 45 of the Adjustment Act may be made to the United States for any extension of time within which the operation and maintenance and construction charges that are delinquent at the effective date of this contract may be paid, together with interest at the rate of six per cent per annum as provided in said section 45, it being understood that the period of extension of time for the payment of delinquent construction charges will be fifteen years, within which time such delinquent construction charges must be paid in full in equal semi-annual installments on January 15 and July 15 of each year beginning on January 15, 1928. It is also understood that the period of extension of time for the payment of delinquent operation and maintenance charges may not exceed five years. The extended operation and maintenance charges will be paid in semi-annual installments, as nearly equal as possible. Extensions will be allowed only where the landowner shows a financial inability to make payment, and where the District and the Superintendent or other duly authorized representative of the Secretary are of the opinion that an extension should be allowed. The installment of the construction charges due in December, 1926, is not to be included among the charges extended, except upon a showing, satisfactory to the Secretary of the Interior, that the landowner is unable to pay this installment and that he probably would be able to pay the charge, if a period of extension is granted. Delinquent operation and maintenance charges on consenting vested right land may be extended, subject to the same conditions, for a period of not exceeding five years. Consenting owners of Government-levied land may have the payments due under their land leveling contracts and delinquent at the date of this contract extended as provided above for construction charges. Extensions under this paragraph will be granted only to consenting owners. Within thirty days after the close of the period within which applications for extension of time may be made under the first sentence of this article, the United States will furnish the District, for its use in apportioning benefits, a statement showing for each tract of land in separate ownership upon which an extension has been granted (1) the due dates and respective amounts of such extended installments, the due dates being the dates when such installments are due from the District and (2) the due dates and respective amounts of deferred installment interest charges due under the second paragraph of Section 45 of the Adjustment Act, the due dates of such interest installments being the dates when the interest installments are due from the District. Delinquent charges covered by crop mortgages taken by the United States as security for the payment of the same will not be extended under the provisions of this article, except as authorized by the Secretary. The owner of any land outside the District may receive the benefit hereof by petitioning for the inclusion of his land within the District, and upon the inclusion of said land in the District, the District will levy assessments so that the extended amounts due the United States hereunder may be paid to the United States on the dates due, without deduction on account of the failure of some or any of the water users to pay their taxes when due.

#### District Assumes Payment of Construction Charges and Acts as Fiscal Agent of the United States.

9. The District hereby assumes liability for and agrees to pay to the United States in the manner hereinafter stated construction charges as follows: (Item 1) the total, as of the date this agreement becomes effective of the unpaid construction indebtedness to the United States, including interest and penalties as determined by the Secretary of all consenting application charges, with including the installments of construction charges, with in-

interest, that have heretofore come due, but the time for the payment of which may be extended under Article 8 of this contract; (Item 2) the total as of the date this agreement becomes effective of the unpaid and unaccrued land leveling charges (with interest as determined by the Secretary) due the United States from the owners of Government-levied land, including such charges, and interest thereon as may be extended under Article 8 of this contract; (Item 3) construction charges at the rate of \$58.00 per irrigable acre upon the land (whether now in the District or hereafter brought into the District) not now under water right application but which may be brought under water right application or subjected to the payment of construction charges between the date hereof and January 1, 1937; provided, that if on or before January 1, 1937, sufficient land, not now under water right is not subjected to the payment of construction charges to equal or exceed the sum of \$500,000, the deficit shall be paid by the District in such installments and on such dates as the Secretary may then prescribe; (Item 4) the amount (not exceeding \$150,000) expended by the United States in the enlargement of the Truckee-Canals as provided in Article 27 and said construction charges, being the total of Items 1 to 4 inclusive, will so far as application land is concerned, be determined from the Newlands project books, individual water right applications and land leveling contracts and other contracts and applicable public notices. In case of dispute as to the amount of any of the foregoing items, the matter will be determined by the Secretary whose decision will be final and binding upon the parties hereto. The payment of construction charges by the District to the United States as provided in this article, shall continue until the said construction indebtedness hereby assumed and agreed to be paid has in fully met, provided that payment of construction charges shall not be required from the District on unwatered or abandoned public lands, while such lands remain in that status. The Secretary agrees, when the federal laws and or existing contracts permit, to aid the District in the enforcement of its collections to be made from its water users under the terms of this agreement and to that end, will deem it sufficient cause for the cancellation of any entry or water right application made upon land in the District, (which entry or water right application is cancellable upon the failure of the entryman or landowner to pay reclamation charges within one year after same are due) upon receipt of a certified copy of a resolution by the District specifying that any person or persons holding such land has become delinquent in the payment of any operation and maintenance or construction charges and has so remained delinquent for more than a year after such charge became due.

The District is hereby designated fiscal agent of the United States for the purpose of (a) collecting construction charges (with interest or penalty) now or hereafter due to the United States from non-consenting application landowners within the District, and from application lands not now located within the District, and while without the District (b) collecting construction charges (with interest or penalty) now due the United States and not extended under Article 8 hereof, (c) of collecting any operation and maintenance charges (with interest or penalty) due the United States at the date of this contract, the time for the payment of which is not extended under Article 8 hereof and (d) any other amounts due the United States on the date of this contract on behalf of the Carson and Truckee divisions. The District will forward the funds so collected together with accrued interest or penalties to the United States within 30 days after such collection. Should the District fail or be unable to collect any of the charges for which it is herein authorized to act as fiscal agent of the United States in making collection, and such charges remain unpaid for the period of one year after the date of this contract for all charges now due, and after the period one year from the due date as to all charges hereafter

coming due, the district assumes a primary liability, dating from the termination of said one year period, for the payment of same. The District shall furnish a bond in the penal sum to be fixed by the Secretary to guarantee its faithful performance of its duties as fiscal agent of the United States.

#### Terms of Payment of Construction Charges Under Individual Contracts Modified.

10. In lieu of the terms of payment of construction charges provided in individual water right applications, land leveling contracts and other agreements on account of consenting application land, the construction charges thereon which are to be paid by the District to the United States (and the construction charges on non-application land, if any) will be paid as follows:

(a) Each consenting application landowner the first payment on whose contract matured on or before December 31, 1916, may complete the payment of his unaccrued and unpaid construction charges in equal semi-annual installments within 40 years from the date of the first payment which matured under his application.

(b) Each consenting application landowner and each non-application landowner, the first payment of whose construction charge matured or matures later than December 31, 1916, and prior to January 1, 1937, may complete the payment of his construction charges in equal semi-annual installments, the last of which shall be payable not later than July 15, 1937.

(c) All owners of non-application lands and 1 or of application lands, the first payment of the construction charges on which may mature subsequent to January 1, 1937, must complete the payment of their construction charges in such number of installments of such amount per installment per irrigable acre and on such due dates from the District as may be hereafter fixed by the Secretary.

(d) The Chief Accountant of the Bureau of Reclamation, or one of his representatives, will audit the District in restating the accounts of such consenting landowners under sub-paragraphs (a) and (b) of this article. It is understood that each consenting landowner referred to in said two sub-paragraphs is to complete payment of his construction charges through the District in the number of equal semi-annual installments of the amount per installment and on the due dates from the District to the United States as fixed within the limitations stated in sub-paragraphs (a) and (b) hereof by the District and the said Chief Accountant, it being understood that in case of difference of opinion as to matters covered by these sub-paragraphs between the Chief Accountant and the District, the matter will be finally and conclusively determined by the Secretary. The District hereby assumes a primary liability for the payment of the total of said charges due under the terms of this paragraph on any such date, and will pay said total to the United States on said due date without deductions on account of the failure of some of the water users to meet their assessments when due. The semi-annual installments of the construction charges on behalf of non-application land will be due on January 15 and July 15 of each year, within the above limitations, the first being due on January 15 of the year following the calendar year when the District finds non-application land now or hereafter in the district to be assessable for construction charges. Notice of such finding shall be given promptly by the District to the Secretary.

#### Interest on Delinquent Charges.

11. On any charges that may remain unpaid by the District to the United States after the same becomes due from the District interest shall be paid at the rate of six per cent per annum from the said due date to the date of payment.

#### Accepting Benefit Waives Objection.

12. Every land owner who offers no objection to the apportionment provided for herein, or accepts the benefit

of this contract by payment at a lower rate than would otherwise be in effect against his land, or by the acceptance and use of water at times when such land would not be entitled (on account of delinquency in payment) to the delivery of water under the terms of water right applications and public notices heretofore applicable thereto had this contract not been made or not been applicable to such land thereby impliedly consents to all the provisions of this contract and waives any and all objections thereto.

#### Operation and Maintenance Charges Payable in Advance.

13. The estimated operation and maintenance charges applicable to each tract of land receiving water through or by the transferred works shall be collected by the District in advance beginning with the effective date of this agreement. In order to conform as closely as possible both to the provisions of Section Five (5) of the Act of August 13, 1914 (38 Stat., 686), requiring operation and maintenance charges to be based on the number of acre-feet of water delivered, with a minimum operation and maintenance charge, whether water is used or not, and subsection "N" of the Act of December 5, 1924 (43 Stat., 701), requiring payment of the operation and maintenance charges in advance; it is agreed that the operation and maintenance charges to be collected in advance may be based upon an estimate of the number of acre-feet of water to be used by each tract of land during the ensuing year, and a charge will be made for each acre foot of water to be delivered under such estimate and assumption, but with a minimum operation and maintenance charge per irrigable acre whether the land is irrigated or not, entitling the owner to delivery of not less than one acre-foot of water per irrigable acre at the rate per acre-foot computed on the foregoing assumption.

#### No Water to be Delivered Without Payment.

14. Pursuant to the provisions of Section three (3) of the Act of Congress of August 13, 1914 (38 Stat., 686), no water shall be delivered to or for any tract of land in the District the owner or lessee of which shall be in arrears more than one year for the payment of any annual construction charge and repairs, or any assessment levied by the District for the purpose of paying such construction charges, or who after the effective date of this agreement shall fail to pay in advance the annual operation and maintenance charges as required by subsection "N" of the aforesaid Act of December 5, 1924, and the District is authorized to require payment of operation and maintenance charges in advance as a toll charge and to withhold delivery of water until full payment thereof is made. The District will make no delivery of water to lands other than vested right land not subject to the payment of construction charges, unless such charges have been paid in full.

#### Turning Over Certain Equipment and Supplies.

15. At some suitable time prior to the apportionment of construction charges as provided in Article 22 hereof, the Project Superintendent or other representative selected for that purpose by the Secretary will meet with the Board of Directors of the District and will cause to be submitted to said Board a list of the equipment and supplies used in connection with the operation and maintenance of the transferred works, together with the book value thereof, the said book value being the cost thereof less estimated depreciation. Items on said list which the said Board, or a majority thereof present, shall indicate that the District does not desire to take over will be stricken from the list, and as soon as practicable after the transfer date described in Article (8) hereof the items remaining on the list will be turned over to the District. The value of all equipment and supplies transferred to the District under the provisions of this article shall be added to the total obligation of the District under the terms of this agreement, and shall be paid for in 15 equal annual installments, and the same annually payable

shall be divided into two (2) equal installments payable July 15th and January 15th of each year, beginning with the year 1928, provided that such equipment and supplies required by the United States for use in the construction of drains as provided in the contract dated April 30, 1925, between the District and the United States and in the enlargement of the Truckee Canal as hereinafter provided, shall be retained by the United States until such construction is completed when the District may select all or such portion of said equipment and supplies as it may desire to take over under the terms and conditions hereinabove specified, payment for which shall be made by the District in equal semi-annual installments on January 15 and July 15 of each year, commencing on the next following January 15th after the date when such equipment is taken over by the District and terminated in 1943. Should any loss accrue to the United States by reason of unsalable equipment and supplies (for equipment and supplies that the United States is unable to dispose of for a sum equal to its book value) being left with the Government after the District has selected such equipment and supplies as it may desire under this Article, such loss shall be added to the sum of \$500,000 payable by the District to the United States under Article 9 hereof.

#### Lands Added to District by Petition or Otherwise.

16. Lands hereafter brought into the District by petition or otherwise shall be entitled to the terms of payment and other benefits fixed in this contract as applicable to application and non-application lands already in the District, except as hereinbefore otherwise stated, and shall likewise be subject to the obligations and conditions applicable to application and non-application lands already in the District. Upon the inclusion of such additional lands in the District, by petition or otherwise, the number of non-application acres thus included will be added to the number of acres of non-application lands already in the District in determining (a) the total obligation of the District to the United States, and (b) the amounts of the semi-annual construction charge installments due the United States hereunder, and the District shall apportion to such application and non-application lands so brought in by petition or otherwise construction and operation and maintenance benefits in the same manner as such benefits are apportioned to application and non-application lands already in the District; provided, however, that no lands shall be excluded from the District without first having had and obtained the written consent of the Secretary; and provided further, that when the Secretary shall so request, and when settlement and economic conditions permit, the District shall take all necessary steps to have included in the District public lands of the United States situated in Churchill and Lyon Counties, Nevada, which may be susceptible of irrigation from the transferred works. (The District will at its own expense construct laterals or other irrigation facilities needed to deliver water for such additional lands, provided always that the District shall not be required to construct laterals or other irrigation facilities for Indian lands in the project, unless arrangements are made, satisfactory to the District, to meet the cost of such laterals or irrigation facilities for such Indian land.)

#### Cooperation Between the United States and the District in Guiding Settlement

17. The United States will not approve any application for a water-right covering irrigable lands in the Carson and Truckee Divisions of the Newlands project, outside of the District boundaries, except upon recommendation of the District.

#### Operation and Maintenance Charges for Vested Right Lands.

18. Nothing in this contract contained shall be construed as prohibiting the District from establishing uni-

form operation and maintenance rates for all lands embraced within the District.

**Selection of Manager or Superintendent.**

18. Until completion of payment to the United States of the construction charges against the lands of the District, the District shall employ as project manager or superintendent a competent person who shall have had experience in the operation of similar irrigation works. The selection of said person shall be subject to the approval of the Secretary, and upon notice from the Secretary that said project manager or superintendent is or has become unsatisfactory the District shall within a reasonable time, and without delay, and as often as such notice is given, terminate the employment of such unsatisfactory employee and employ one acceptable to the Secretary.

**District to Keep Books and Records.**

19. In order that the United States may withdraw as completely as possible under the law from the care, operation and maintenance of the transferred works, the District shall:

(a) Install and maintain a modern set of books of account, to be acceptable to the Secretary, showing all the financial transactions of the District, and furnish such financial reports and statements as may be required from time to time by the Secretary;

(b) Keep each year a careful and accurate record of the water supply and the disposition of the same, and furnish such detailed reports concerning the same as may be required by the Secretary;

(c) Keep and report such other records as the Secretary may require and in the manner and form he may require.

**Inspection of Transferred Works.**

21. The Secretary shall cause to be made from time to time a reasonable inspection of the transferred works to ascertain whether the terms of this contract are being satisfactorily executed by the District. Such inspection shall include examinations of the transferred property and the books, records and papers of the District, together with examinations in the office of the Bureau of Reclamation of all contracts, papers, plans, records and programs connected with the said property, as well as any expense incurred by the United States in 1927 in connection with arranging for the transfer to the District of the project irrigation system and works. The actual expense of such inspection as found by the Secretary, in any one calendar year, shall be paid by the District to the United States on July 15 of each year following the year in which such inspection is made, or the expense herein in this article provided for is incurred.

**Apportionment of Benefits.**

22. The District shall apportion benefits against each tract of consenting application land now in the District, of application land hereafter brought into the District and of non-application land, now or hereafter in the District, when in the opinion of the board of directors of the District construction charge assessments shall be initiated upon any tract of non-application land now or hereafter in the District, the Secretary to be notified of such opinion or finding as provided in Article 10. In the amount of the unpaid balance of the construction charges remaining against such lands as provided herein, and shall also apportion benefits equitably against the District lands in the amount of the remaining indebtedness herein assumed by the District, and annual assessments shall be levied against such lands until the full construction charges apportioned to each tract shall have been paid in full. If necessary the District shall levy an assessment upon its lands each year in order to obtain a sum sufficient to meet delinquencies of past year and/or the estimated delinquencies for the current year. Such assessments may be levied on the lands of the District even though the construction charges thereon have been fully paid, and the sums paid by the owners of such lands to make up the def-

iciencies due to the failure of others to make payments shall not be considered as payment on the construction charges assessed against such lands upon which such payments are made.

**Release of Liens After Apportionment of Benefits.**

23. After the confirmation of the apportionment of benefits hereunder the lien of the individual water right applications and land leveling contracts heretofore made, and also the liens reserved in the patents, shall (subject to the provisions of Section two of the Act of Congress of May 15, 1922, 42 Stat., 547), be released as to all consenting application lands.

**Charges a General Obligation of the District.**

24. The District is obligated to pay to the United States the full amounts herein agreed upon according to the terms stated regardless of individual default in the payment of any assessment levied by the District but it is understood and agreed that when construction assessments on any tract of land in the District have been paid in an aggregate amount equal to the full amount of such land's construction charges and of all the items mentioned in this agreement, such tract of land (hereinafter referred to as paid-up land) shall thereafter be liable for construction assessments for the purpose of meeting the obligations of the District under this contract only in the event that the District is delinquent in its payment to the United States, and only to the extent that assessments are levied to meet estimated or existing delinquencies in the payment of charges, and may be assessed at a lesser rate than the rate applicable to lands of similar class which are not paid up in full. If such lesser rate, together with the District's other collections are sufficient to meet the District's obligations, or estimated delinquencies to the United States, and in the event of such delinquencies on the part of the District and/or the collections of construction assessments from such paid-up lands it shall be the duty of the District to refund to the owners of such paid-up lands the construction assessments collected therefrom in excess of the total construction charge pertaining thereto, or so much of said excess as can be paid out of the funds available as soon as there are sufficient funds available in the Treasury of the District, and not required to pay the District's obligations to the United States, either under this agreement or other agreement or agreements, or the cost of the operation and maintenance of the transferred works, and the maintenance of the District organization.

**District to Use All Powers to Collect Agreed Charges.**

25. The District agrees that it will cause to be levied and collected all necessary assessments and will use all the powers and resources of the District, including the taxing power of the District and the power to withhold delivery of water, to collect and pay to the United States all charges provided for in this agreement in full on or before the day that the same become due.

**Profits From the Sale of Power and Other Privileges.**

26. The Secretary hereby fixes the net accumulated power revenues of the Newlands project as of June 30, 1926, as being the sum of \$135,816.82 and likewise determines the net profits from the leasing of project grazing and farm lands and the sale or use of town sites as of June 30, 1926 as being the sum of \$25,458.69, making a total sum of \$162,281.57, which together with the net profits from the same sources for the six months' period ending December 31, 1926 (as said six months' net profits are determined by the Secretary) shall be credited to the construction charge obligation herein assumed by the District. Such credit will be allowed to the District in semi-annual installments as nearly equal as practicable, applicable to the first to sixth, both inclusive, semi-annual installments of the construction charge coming due from the District to the United States hereunder. Commencing

with the calendar year ending December 31, 1927, and annually thereafter the net profits from such sources may be used by the District to be credited annually first on account of construction charges, second, on account of operation and maintenance charges and, third, as the District may direct but no distribution to individual water users shall be made out of any such profits before all obligations to the United States shall have been fully paid.

Derby Dam to be Repaired and the Truckee Canal to be Restored to its Original Capacity by the United States at the Expense of the District.

17. The United States agrees to expend the sum of not to exceed \$150,000 in making repairs to Derby Diversion dam and repairs and enlargements of the Truckee Canal, subject to the availability of appropriations therefor by Congress. The District will repay to the United States the sum so expended in sixty equal semi-annual installments without interest, payable on January 15 and July 15 of each year, commencing on January 15 of the year succeeding the completion of the expenditure by the United States, in accordance with the Secretary's notice thereof to the District. In the event of the extension of the Newlands project whereby any lands are irrigated through the Truckee Canal other than the lands now embraced in the Carson and Truckee divisions, the District shall receive credit on the payments to be made by it as provided in this article in a ratable proportion based upon the relative irrigable areas involved, as determined by the Secretary.

United States Reserves Right to Use Truckee Canal.

18. The United States reserves the right to, and the District agrees that it may, use the Derby Diversion Dam or the diversion of waters for the Spanish Springs Division of the Newlands project, and that it may use the Truckee Canal, or such portion thereof as the Secretary in his judgment may deem necessary or advisable for the conveyance and delivery of such waters. The United States also reserves the right to and the District agrees that it may, construct such structures in the said Truckee Canal as may be necessary or convenient in the delivery of water for said Spanish Springs Division; provided, however, that the construction of such structures and the maintenance thereof shall be without expense to the District. The cost of operating and maintaining such diversion dam, and such portion of the Truckee Canal as may be used by the United States in carrying and delivering water for said Spanish Springs Division, shall be borne by each party in the proportion that the amount of water diverted and carried for either party hereto bears to the total amount of water diverted and carried. The United States if it makes use of the Derby Dam and the Truckee main canal, under the power reserved in this article, will allow the District credit annually on any amounts due under this agreement for the Government's proportion, as determined by the Secretary, of the cost of operating and maintaining said diversion dam, and such part of said canal as may be used by the United States.

Keeping Transferred Works in Repair.

19. No substantial change in any of the transferred works shall be made by the District without first having had and obtained the written consent of the Secretary, and the Secretary's opinion as to whether any change in any of the transferred works is or is not substantial shall be conclusive and binding upon the parties hereto. The District shall promptly make any and all repairs to the transferred works which in the opinion of the Secretary are deemed necessary for the proper care, operation and maintenance of the transferred works. In case of neglect or failure of the said District to make such repairs, the United States at the option of the Secretary may take in the care, operation and maintenance of the transferred works, or may cause the repairs to be made and charge the cost thereof to the District, and the District

shall make, levy and collect sufficient operation and maintenance assessments to pay the same to the United States in addition to providing the necessary funds to meet the other obligations of the District. The cost to the United States of making any of the repairs contemplated by this article shall be repaid by the District to the United States together with and in addition to the first installment of charges falling due hereunder hereafter.

Contract Does Not Affect Certain Other Agreements.

20. The transfer of the care, operation and maintenance of the Lahontan Power Plant shall not affect that certain agreement bearing date January 29, 1923, between the United States and the Canyon Power Company, a corporation, covering the lease of said power plant and power privileges at Lahontan Dam and Reservoir, save and except that the District is hereby authorized and empowered to collect and receive all moneys due from said power company to the United States under the terms of said lease and to take, use and dispose of all electrical energy therein in said agreement reserved for the use and benefit of the United States. This agreement shall not in any manner change, alter, modify or affect either of the following listed agreements:

Agreement dated January 22, 1921, between the United States and the Truckee-Carson Irrigation District covering the construction and operation and maintenance of drainage works.

Agreement dated April 30, 1925, between the United States and the Truckee-Carson Irrigation District covering the construction and operation and maintenance of certain drainage works.

The District does, however, hereby assume and agree to carry out all the obligations assumed by, and shall enjoy the benefits conferred upon, the United States by all those certain agreements between the United States and various water users on or in the vicinity of the Newlands project covering the sale and purchase of electricity.

Community Pasture Lease and Operation and Maintenance Deficit Contract Abrogated.

21. That certain contract dated May 25, 1922, between the United States and the District, known as the operation and maintenance deficit contract, and that certain contract dated June 30, 1925, between the United States and the District known as the Carson Lake Community Pasture Lease are each hereby terminated, the said contract of May 25, 1922, having been nullified by the charge-off authorized by Congress in the Adjustment Act and the Community Pasture Lands being included in the transferred works hereinabove described to be operated and controlled by the District without the payment of further rentals after the expiration of the year ending December 31, 1925.

Contract May be Terminated in Case of Breach.

22. In case of the breach of any of the terms or conditions of this contract by the District, the United States reserves the right, upon one year's written notice to the District, to terminate this contract; and upon the termination hereof the transferred property shall be returned to the United States in as good condition as when received, reasonable wear and damage by the elements excepted; provided, however, that in the event the District fails to carry out in accord with its correct intent and meaning that certain decree of June 4, 1915, entered in the District Court of California, Second Division, in the suit entitled "United States of America, Plaintiff, vs. The Truckee River General Electric Company, a corporation, Defendant" and designated therein as number 14861, then and in that event this contract may be terminated upon fifteen days' written notice to the District. Such return of the transferred works shall not affect the amount and terms of construction charges as herein provided. The waiver

of a breach of any of the provisions of this agreement shall not be deemed to be a waiver of any other provision hereof or of a subsequent breach of such provision.

#### District Contracts to be Approved by Secretary.

33. No contract affecting the lands within the boundaries of the District, made by the District with reference to the care, operation and maintenance of the transferred works, or the delivery of water therefrom, except contracts for the usual labor, equipment, supplies and services in connection with the operation and maintenance of the transferred works, shall be valid until approved by the Secretary, and a copy of all such contracts shall be submitted to and approved by the Secretary before execution.

#### Rules and Regulations.

34. The Secretary reserves the right, so far as the purport thereof may be consistent with the provisions of this contract, to make reasonable rules and regulations, and to add to and modify them as may be deemed proper and necessary to carry out the true intent and meaning of the law and of this contract, and the District hereby agrees that in the operation of the transferred works, all such rules and regulations will be fully adhered to.

#### Quantity of Water to be Delivered to District.

35. The quantity of water decreed to the United States by the District Court of the United States in and for the District of Nevada in the suit entitled "The United States of America, Plaintiff, vs. Orr Water Ditch Company, a corporation, et al. Defendants," and designated therein in Exhibit Packet No. A-E, which may be diverted by the District shall be, in equitable proportions, as nearly as practical operations will permit, of the water actually available at that time for all the irrigable area of the Carson and Truckee Divisions of the Newlands project.

The provisions of this article shall also apply as to any water decreed to the United States by the District Court of the United States in and for the District of Nevada in the suit entitled "The United States of America, Plaintiff, vs. Alpine Land and Reservoir Company, a corporation, et al. Defendants," and designated therein in Equity, D-133, and in any other suit or proceeding that may be hereafter instituted concerning the waters of the Truckee River and of the Carson River, and of the tributaries of such streams or either of them; provided, however, that the provisions of this article shall not be construed or held as entitling, nor shall it entitle, the lands of the Truckee and Carson Divisions of the Newlands project to any of the waters of the aforesaid streams which may be impounded and stored for use upon lands of the Spanish Springs Division of said project and of any other divisions thereof where the cost of facilities for impounding and storing such waters is assessed to and repaid by such lands, but the lands of said Truckee and Carson Divisions shall have a prior right to the economical and beneficial use of all such waters in sufficient quantity to properly irrigate arable areas of land, and until such priority has been satisfied none of the waters of the aforesaid streams shall be diverted or impounded by the United States for use upon other lands. In no event, however, shall any liability accrue against the United States, its officers, agents, or employees, or any of them, for damage direct or indirect arising from floods, drought, hostile diversion, interruption of service made necessary by repair, unavoidable accidents, shortage of water supply or other causes.

#### Miscellaneous Expenses.

36. (a) After the care, operation and maintenance of the transferred works has been turned over to the parties hereto shall cooperate in obtaining any data and evidence for presenting the Government in that certain suit now pending in the District Court of the United States in and for the District of Nevada, entitled "The United States of America, Plaintiff,

vs. Alpine Land and Reservoir Company, a corporation, et al. Defendants," and designated therein as in Equity D-133. The District shall bear such expense as would otherwise be charged to the Carson and Truckee Divisions of the Newlands project. No expense shall be incurred in this connection by either of the parties hereto, without the consent of the other party.

(b) Any expense of administering the decree in that certain suit or proceeding particularly mentioned in paragraph (a) of this article which may be assessed against the United States shall be paid by the District. Upon failure of the District to do so, such expense may be paid by the United States, and the amount thereof shall be added to the next instalment of charges due from the District hereunder.

(c) All expense of administering the decree in the aforesaid suit of the United States of America, Plaintiff, vs. Orr Water Ditch Company, a corporation, et al. Defendants, which may be assessed against the United States, shall be paid by the District except such portion thereof as may be determined by the Court as chargeable to the Pyramid Lake Indian Lands, and in the event the District fails to make such payments, the same may be paid by the United States, and the amount thereof shall be added to the first instalment of charges thereafter due from the District hereunder.

(d) The District shall reimburse the United States for any and all damages that may be awarded in the District Court of the United States in and for the District of Nevada, in an action entitled "The United States of America, Plaintiff, vs. John W. Freeman Company, a corporation, Defendant," and designated therein as case Number 352. Such amount shall be due the United States at the same time and in addition to the first instalment of charges due the United States hereunder after judgment in said suit has been fully satisfied.

(e) The District shall bear all cost of administration of that certain decree of June 4, 1915, entered in the District Court of the United States in and for the Northern District of California, second Division, in the suit entitled "United States of America, Plaintiff, vs. The Truckee River General Electric Company, a corporation, Defendant," and designated therein as number 14861.

#### Certain Areas Excluded from the Project.

37. The lands in the District found by the Board of Survey and Adjustment to be permanently unproductive because of lack of fertility in the soil, shall upon request of the owners thereof, and upon their accepting the provisions of this contract, be excluded from the project, and no water shall thereafter be delivered to them unless and until they are restored to the project by proper proceedings. The water right formerly appurtenant to such permanently unproductive lands shall be disposed of by the United States under the Reclamation Law; provided, that the water users within the project shall have a preference right to the use of the waters; and provided further, that any surplus waters temporarily available may be furnished upon a rental basis for use on lands excluded from the project under this article, on such terms and conditions as may be approved by the Secretary. After such lands have been excluded from the project, the construction charges theretofore paid thereon shall be applied as a credit on the charges (both construction and operation and maintenance) due or to become due on any remaining irrigable lands covered by the same water-right contract. If the charges so paid exceed the amount of all water-right charges due and unpaid, plus the construction charges not yet due, credit therefor shall be allowed the District on the first instalment of charges due the United States hereunder after such lands have been excluded, and the District shall promptly make suitable adjustment with the landowners involved. In the event all the irrigable lands of a water-right applicant are with his consent excluded from the project as permanently unproduc-



live, and no exchange of lands is made as provided in section forty-four (44) of the Act approved May 25, 1926 (Public No. 286, 69th Congress), and as provided in the rules and regulations of the Secretary promulgated thereunder, the total construction charges theretofore paid, less any accrued and unpaid charges on account of operation and maintenance, shall be refunded to the record owner of such lands by the United States, and all construction charge obligations of such landowners shall be released.

#### Construction Charges Suspended on Certain Areas.

36. The lands found by the Board of Survey and Adjustments to be temporarily unproductive for lack of fertility in the soil, shall be relieved of any further payment of construction charges until such time as the Secretary shall declare them to be possessed of sufficient productive power to be placed in a paying class, and shall give notice thereof to the District, whereupon payment of construction charges against such area shall be resumed. The opinion of the Secretary that the areas on which payments of construction charges have been suspended have become possessed of sufficient productive power to be placed in a paying class, shall be final and conclusive and binding upon the parties hereto. While the said lands are so classified as temporarily unproductive and the construction charges against them are suspended, water for irrigation purposes may be furnished upon the payment of the usual operation and maintenance charges. Should any of the lands in this paragraph particularly described, in the future be found by the Secretary to be permanently unproductive, they shall thereupon, upon request of the owners thereof, be excluded from the project, and they shall thereupon be treated in the same manner as the lands particularly described in Article thirty-seven (37) hereof.

#### District to Save United States Harmless.

37. After the transfer of said transferred works, the District shall save the United States, its officers, agents, servants, and attorneys, harmless as to any and all damages which may in any manner grow out of the care, operation and maintenance of the transferred works.

#### Contract to be Authorized by Election and Confirmed by Court.

38. The execution of this contract shall be authorized by the qualified electors of the District at an election held for that purpose. Thereafter, without delay, the District shall prosecute to decree proceedings in court for a judicial confirmation of the authorization of this contract and the apportionment of benefits provided herein. The United States shall not be in any way bound to continue to proceed under the terms of this contract unless a confirmatory final judgment in such proceedings shall have been rendered, including final decision in any appeal prosecuted therefrom. The District shall without delay furnish the United States for its files, certified copies of all proceedings relating to the election upon this contract and the confirmation proceedings in connection therewith.

#### Delivery of Water to Lands Outside of District.

39. The District shall maintain and operate for the United States all canals, laterals, sublaterals and ditches now used for the delivery of water to lands under water-right application, but not included within the boundaries of the district, and will deliver irrigation water to all such lands, all water to be so delivered to be an equitable share of the entire water supply available for the Truckee and Carson Divisions of the Newlands project. For such service the District, acting for and on behalf of the United States, is hereby authorized and empowered to charge and collect from such lands annually the same amount of operation and maintenance charge per acre that is charged lands within the District. All construction charges due from such lands shall be paid to the District as Fiscal

Agent of the United States, until such time as said lands may be included in the District.

#### Plans for New Construction to be Approved by United States.

40. In the event any of the unentered irrigable lands in the Truckee and the Carson Divisions of the Newlands project is entered and requires additional construction work for the proper irrigation of such lands or any portion thereof, the District will construct such additional work according to plans and specifications approved by the United States, provided, however, that the district and the United States shall cooperate so as to secure new settlement in compact form so far as practicable. This article is not to obligate the District to construct new laterals and irrigation structures, unless in its opinion expenditure therefor is justified, taking into consideration the cost of the new work and the benefits to be afforded the new land.

#### Taxation of Government Land.

41. All unentered public lands and entered lands for which no final certificate has been issued, now located within the district (or hereafter annexed to the District upon the Secretary's consenting, in the case of land hereafter annexed to the District, in the taxation hereunder of such added land, which consent will be manifested by a letter filed with the District, a copy of such letter to be filed with the General Land Office and a copy with the Local Land Office at Carson City, Nevada) and described, so far as concerns lands now located within the district, in a statement marked Exhibit B attached hereto and made a part hereof, are hereby designated as subject to the provisions of the act of August 13, 1916, 39 Stat., 508, and the act of May 18, 1923, 42 Stat., 841. Vacant public lands, however, now in the district or hereafter added to the district are not to be subject to assessment while in that status.

#### Interest in Contract Not Transferable.

42. No interest in this agreement is transferable by the District to any other party, and any such attempted transfer shall cause this contract to become subject to annulment at the option of the United States.

#### Rights Reserved under Section 3737 Revised Statutes.

43. All rights of action for breach of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

#### Remedies Under Contract Not Exclusive.

44. Nothing contained in this contract shall be construed as in any manner abridging, limiting or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

#### Member of Congress Clause.

45. No member of or Delegate to Congress or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom. Nothing, however, herein contained shall be construed to extend to this contract if made with a corporation for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

#### THE UNITED STATES OF AMERICA

By E. C. FINNEY,  
First Assistant Secretary of the Interior  
TRUCKEE-CARSON IRRIGATION DISTRICT  
By C. E. KENT, President

Attest:  
L. V. FINGER, Secretary

EXHIBIT A

ACCEPTANCE OF CONTRACT BY APPLICATION  
LANDOWNER OR VESTED RIGHT LANDOWNER

and

his wife,

hereinafter referred to as landowner, hereby accepts the terms of the contract between the United States and the Truckee-Carson Irrigation District and agree that said contract shall constitute a modification of the landowner's contract relations with the United States, so far as said contract between the United States and the said District may require.

The landowner is the owner of the tract of land described as follows:

The landowner holds an application for water right approved on behalf of the United States covering the irrigable area or a part of the irrigable area of the above-referred to tract, which said application is reported, beginning at page \_\_\_\_\_ of Vol. \_\_\_\_\_ of the

Records of \_\_\_\_\_ County, Nevada.

The landowner holds land covered by a vested water right contract, covering the irrigable area or a part of the irrigable area of the above-referred to tract, which said vested water right contract is recorded, beginning at page \_\_\_\_\_ of Vol. \_\_\_\_\_ of the

Records of \_\_\_\_\_ County, Nevada.

(STRIKE OUT EITHER OF THE FOREGOING PARAGRAPHS, IF NOT APPLICABLE)

The landowner waives any irregularity in the formation of the Truckee-Carson Irrigation District, in the proceedings leading up to the execution of this contract, or in the apportionment of benefits or in the assessments levied or to be levied to carry out the terms thereof. The landowner expressly agrees that assessments may be levied to meet construction charge payments due the United States under said contract, prior to the completion of the apportionment of benefits and of the judicial confirmation of said apportionment.

Dated: \_\_\_\_\_ 19\_\_\_\_  
(To be acknowledged)