

K.I.D.

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THIS AGREEMENT, made this sixth day of July, 1918, by and between the UNITED STATES OF AMERICA, acting for this purpose by E. C. Bradley Assistant to _____, the Secretary of the Interior, hereinafter styled the "Secretary"; under the provisions of the Act of Congress approved June 17, 1902 (32 Stat., 388), known as the Reclamation Act, and other acts amendatory thereof and supplementary thereto, all of which are hereinafter referred to as the "Reclamation Law", the KLAMATH IRRIGATION DISTRICT, a public corporation duly formed under the laws of the State of Oregon, having its principal place of business at Klamath Falls, Klamath County, Oregon, hereinafter styled the "District", and the KLAMATH WATER USERS ASSOCIATION, a private corporation duly formed under the laws of the State of Oregon, hereinafter styled the "Association",

WITNESSETH: That

WHEREAS the Association executed contract with the United States dated November 6, 1905, whereby the Association guaranteed to the United States the payments for that part of the cost of the irrigation work of the Klamath United States Reclamation Project which should be apportioned by the Secretary to the shareholders of the Association, and it is now the desire of the said shareholders that the said Association be dissolved and cooperation with the United States be carried on through the District; and

WHEREAS the District desires the discharge of liens against the lands of the District for water charges to the end that the said charges may be collected by the District under the general taxing power of the state laws;

NOW, THEREFORE, in consideration of the covenants herein contained, it is agreed as follows:

ARTICLE 1. It is understood that the irrigable lands of the District comprise, as regards the existence of water rights, the following classes:

(a) Lands for which water right applications to the United States have been made under the Reclamation Law;

(b) Lands which have been covered by so-called stock subscriptions to the Association, but which subscriptions have not been consummated by the execution of water right applications to the United States;

Release of liens attached

(c) Lands which have not been covered by any of the foregoing forms of instrument but are included within public notices heretofore issued by the Secretary pursuant to Section 4 of the Reclamation Act; and

(d) Lands which have not been covered by any of the said forms of instrument, and are not within the scope of any public notice yet issued;

(e) Lands known as the Henley-Ankeny tracts which are understood to have a pre-existing water right under contracts, which lands will not be covered by public notice and whose owners are obligated to pay for no part of the cost of irrigation works heretofore constructed under the authority of the United States.

ARTICLE 2. Nothing in this contract contained or in the formation of the District shall be deemed in any wise to have abrogated, enlarged or modified the said water right applications to the United States except as herein provided. The Association agrees that when its affairs and the liquidation of its liabilities will permit the lien contained in the stock subscriptions to the Association will be discharged of record. The United States agrees to assent to the release of the lien by the Association, as aforesaid, and to the discharge of the said corporation from the obligation of the aforesaid contract, dated November 6, 1905, and to the dissolution of the Association, and to release all liens created or evidenced by water right applications for the payment of charges existing in favor of the United States upon any or all lands within said District which are or shall become subject to assessment and levy and to the lien of assessment and levy of the District, except that nothing herein shall be construed as releasing or attempting to release the liens reserved to the United States in connection with patents or water right certificates issued under the act of August 9, 1912 (37 Stat., 265). The release of liens as in this article provided shall not, however, be made prior to confirmation of this contract, as provided by the Statutes of Oregon.

ARTICLE 3. The District hereby assumes liability for and will pay to the United States construction instalments and operation and maintenance charges for years subsequent to 1918 the aggregate annual sum due in each year to the United States from District lands covered by public notices

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issued pursuant to the Reclamation Law, and also all delinquent construction, operation and maintenance charges as shall then remain unpaid. Such delinquent charges as accrued prior to August 13, 1914, shall be payable as part of the instalments of construction costs payable under the public notice applicable to the respective tracts of land. Such delinquent charges as accrued subsequent to August 13, 1914, shall be paid in one-half as many years as the said delinquencies have been accruing against the respective tracts unless the years of such delinquency be an odd number, and in such case the next higher integral number of years than one-half of the years of delinquency shall be the period of payment thereof.

*Amended by
contract of 6-21-20*

The sums annually payable shall be divided into two equal instalments, payable April 20 and October 20 of each year, beginning with the year 1919.

The maximum aggregate sum payable to the United States under this contract, exclusive of operation and maintenance charges, penalties, and interest, shall be One Million, Three Hundred Sixty-three Thousand and Thirty-six Dollars and Twenty-six Cents (\$1,363,036.26), provided that said maximum sum does not include any proposed costs for additional drainage, replacement of perishable structures, or any rights to the Ankeny Canal, but covers only amounts expended or authorized to be expended prior to the date hereof.

No interest on deferred payments shall be paid to the United States, but if any of the sums called for by this article shall not be paid on the date when the same shall become due as herein stated a penalty shall be paid to the United States at the rate of one per centum (1%) per month until payment be made by the District.

ARTICLE 4. There is reserved to the Secretary the right to make reasonable rules and regulations and to modify the same in his discretion, in harmony, however, with this contract, to the end that the true intent of the law and of this contract shall be carried into effect; and the District agrees to use its powers for the purpose of carrying out such rules and regulations and this contract. The Secretary will not, however, withdraw or modify any public notice heretofore issued. The proper officials of the District shall have full and free access to the project books and official records of

the United States Reclamation Service relative to the costs of construction, operation and maintenance of the works constructed or operated by the United States, with the right at any time during office hours to make copies of and from the same. The representatives of the United States shall have the same rights in respect to the books and records of the District.

ARTICLE 5. The Secretary will furnish to the District on request, for its information, in advance and as early as practicable, the items proposed to be contained in the budget for Congressional appropriation for expenditures in connection with District lands.

ARTICLE 6. The United States will continue the operation and maintenance of the project in accordance with existing contracts, rules and regulations, until otherwise provided by contract after vote by the electorate of the District, or until the payments required by the Reclamation Law are made for the major portion of the lands irrigated from the project works; then in the latter case the management and operation of said works shall pass to the District to be maintained at the cost of the District under such rules and regulations as may be acceptable to the Secretary, pursuant to Section 6 of the Reclamation Act, unless the management and control shall have previously passed to the District under contract after vote of the electorate, as in this article hereinbefore provided, and unless provision shall otherwise have been made by Congress.

ARTICLE 7. The Secretary hereby signifies his approval of the plans of the District in compliance with the Act of Congress approved August 11, 1916, entitled "An Act to promote reclamation of arid lands", and hereby designates all public lands situated within the District subject to the provisions thereof.

ARTICLE 8. If the Secretary shall find any lands within the District to be temporarily incapable of successful cultivation on account of seepage, or alkaline or other conditions, he may exempt the District from the payment of construction or of operation and maintenance charges, or both, for such lands for a specified period or until further notice, whereupon the District shall exempt from assessment and levy the lands so specified during the period named. All existing contracts with landowners and departmental orders for the

exemption of lands from charges on account of such conditions shall be respected by the District during the respective terms for which the same shall run. Nothing in this article contained shall deprive the Secretary of discretionary power as regards the exemption of the District for the payment of charges for any tract, nor shall the landowners be deemed by any implication to be relieved from responsibility of improving drainage conditions.

ARTICLE 9. If the Secretary shall deem any lands of the District permanently insusceptible of reclamation on account of seepage or other conditions, he may, in his discretion, contract with the District for the severance of the water rights from such lands and for their becoming appurtenant to other lands within the District or to lands which by appropriate proceedings are brought within the District. Nothing in this article contained, however, shall be deemed to release the District from its liability for reimbursement of the reclamation fund for the cost of the project works, but if transfers of water right be made to lands without the District, as in this article provided, and the United States shall thereby be satisfactorily secured for proportionate reimbursement, the obligation of the District shall be reduced to the same extent.

ARTICLE 10. The District and the Association expressly warrant that they have employed no third person to solicit or obtain this contract in their behalf, or to cause or procure the same to be obtained upon compensation in any way contingent, in whole or in part, upon such procurement; and that they have not paid, or promised or agreed to pay, to any third person, in consideration of such procurement, or in compensation for services in connection therewith, any brokerage, commission, or percentage upon the amount receivable by them hereunder; and that they have not, in estimating the contract price demanded by them, included any sum by reason of any such brokerage, commission, or percentage; and that all moneys payable to them hereunder are free from obligation to any other person for services rendered, or supposed to have been rendered, in the procurement of this contract. They further agree that any breach of this warranty shall constitute adequate cause for the annulment of this contract by the United States, and that the United States may retain to its own use from any sums due or to become due thereunder an amount equal to any brokerage, commission, or percentage so paid or agreed to be paid.

ARTICLE 11. No Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment or either before or after he has qualified and during his continuance in office, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in Section 116 of the Act of Congress approved March 4, 1909 (35 Stat., 1109).

IN WITNESS WHEREOF the parties hereto have caused these presents to be duly executed by their respective officers the day and year first above written.

Approved September 10, 1918
By Mr. E. C. Bradley

UNITED STATES OF AMERICA

By E. C. Bradley
Assistant to the Secretary of the Interior

(Corporate Seal)

ATTEST:

Albert E. Elder
Secretary.

P. O. Address
Klamath Falls, Oregon.

ATTEST:

A. L. Wishard
Secretary.

P. O. Address
Klamath Falls, Oregon.

(Corporate Seal)

Witnesses:

J. B. Bond
E. V. Hillius

KLAMATH IRRIGATION DISTRICT

By G. W. Offield
President.

KLAMATH WATER USERS ASSOCIATION

By G. W. Offield
President.

STATE OF OREGON

County of Klamath

} ss.

THIS CERTIFIES that on this 21st day of August, 1918, before me, the undersigned, G. C. Hogue, a Notary Public in and for said County and State, personally appeared the within named G. W. Offield, President of the Klamath Irrigation District and also of the Klamath Water Users Association, and Albert B. Elder, Secretary of the Klamath Irrigation District, and A. L. Wishard, Secretary of the Klamath Water Users Association, corporations, and they being known to me to be such officers and the identical persons described in and who executed the within instrument for and on behalf of said corporations, and said corporations being known to me to be the identical corporations for and on whose behalf the said instrument was executed, and said G. W. Offield, President, and Albert B. Elder and A. L. Wishard, Secretaries, respectively of the aforementioned corporations, did then and there acknowledge to me that they did as such officers as in this certificate described execute the said instrument as and for the act and deed of said corporations in whose names and behalf they executed said instrument, and affixed thereto the corporate seals of said corporations, under authority in them vested by the Board of Directors of the said respective corporations.

WITNESS my hand and Notarial seal the day and year last aforesaid.

G. C. Hogue (NOTARIAL SEAL)
My commission expires April 22, 1921.
Notary Public for Oregon