

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

BOISE PROJECT, IDAHO

Contract with New York Irrigation District concerning
construction of Andersen Ranch Reservoir and related matters

THIS AGREEMENT, Made this 7th day of August, 1941, under
the provisions of the Act of Congress of June 17, 1902 (32 Stat.
388) and acts amendatory thereof or supplementary thereto, and
particularly the Act of August 4, 1939 (53 Stat. 1187), known as
the Reclamation Project Act of 1939, together hereinafter referred
to as the Federal Reclamation Law, between the UNITED STATES OF
AMERICA, hereinafter referred to as the United States, acting for
this purpose through the Under Secretary of the Interior, herein-
after referred to as the Secretary, and the NEW YORK IRRIGATION
DISTRICT, an irrigation district organized under the laws of the
State of Idaho and located in Ada County, Idaho, hereinafter
referred to as the District;

WITNESSETH:

Explanatory Recitals

2. WHEREAS, under the authority of the Federal Reclamation
Laws, the United States constructed that certain irrigation project
in the State of Idaho, commonly known as the Boise Project, and
also known as the Boise Reclamation Project; and

3. WHEREAS, the United States and the District entered into a contract dated September 27, 1926, said contract being hereinafter referred to as the Government-District contract; and

4. WHEREAS, the Government-District contract provides, among other things, for the payment by the District of a part of the expenditures made by the United States in the construction of said Boise Project; and

5. WHEREAS, the water users within the Arrowrock Division of the Boise Project have suffered a shortage of water during certain irrigation seasons in the past and, in order to improve their water supply, desire the construction of additional storage capacity; and

6. WHEREAS, the Secretary has caused investigations to be made of a proposed reservoir on the South Fork of the Boise River at or near the Anderson Ranch site, or approximately Five Hundred Thousand (500,000) acre-feet capacity, hereinafter referred to as the Anderson Ranch Reservoir, and the District, together with the other irrigation districts of the Arrowrock Division of the Boise Project, has requested the construction thereof; and

7. WHEREAS, the total cost of the proposed Anderson Ranch Reservoir, of sufficient size to create a storage reservoir of approximately 500,000 acre-feet capacity, and appurtenant works including facilities for the generation of electrical power at Anderson Ranch Reservoir, and related flood control improvements

at Arrowrock Reservoir, is estimated to be the sum of \$13,100,000, of which \$1,000,000 is the estimated cost of the flood control improvements at Arrowrock Reservoir and \$2,400,000 is the estimated cost of the power plant, and of which sum of \$13,100,000 the proportionate allocation for the storage of water for irrigation is \$4,650,000, the proportionate allocation for flood control is \$5,050,000, and the proportionate allocation for the generation of electrical power (including the estimated cost of the power plant) is \$3,400,000; and

8. WHEREAS, that portion of the actual cost of the Anderson Ranch Reservoir allocated to irrigation is the proportionate part of the Anderson Ranch Reservoir cost (exclusive of the cost of the power plant and of the Arrowrock flood control improvements) that \$4,650,000 is of \$10,300,000; and

9. WHEREAS, the District desires to enter into a contract with the United States for certain additional storage water to be made available by said Anderson Ranch Reservoir.

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

Works to be Constructed

10. The United States, subject to article 42 and article 45 of this contract, will construct, on the South Fork of the Boise River

at or near the Anderson Ranch site, a dam and reservoir (to be known as the Anderson Ranch Dam and Anderson Ranch Reservoir) designed to provide a storage capacity of approximately Five Hundred Thousand (500,000) acre-feet, and, at its option, may enlarge the outlet gates at Arrowrock Dam with a view to providing improved flood control facilities, and may construct a power plant in connection with the said Anderson Ranch Dam.

General Repayment Obligation of the District

11. As its general repayment obligation under this contract, the District shall pay to the United States, in the instalments hereinafter provided, the following amount, subject to adjustment as provided in article 16 hereof;

Should the actual cost of the Anderson Ranch Reservoir (exclusive of the power plant and of Arrowrock flood control improvements) as determined and stated by the Secretary in the notice and statement provided for in Article 12 (a) hereof, be the same as the estimated cost of \$10,300,000, the general repayment obligation of the District shall be \$513,825.

Should the said actual cost exceed or be less than the said estimated cost, then the general repayment obligation of the District shall be that percentage of said actual cost which \$513,825 is of said estimated cost of \$10,300,000, as said actual cost is conclusively determined by the Secretary in accordance with the provisions

of Article 20 hereof, subject, however, to the limitation, that the maximum general repayment obligation of the District under this contract shall not exceed \$565,207.50.

Terms of Payment of Construction Instalments

12. (a) Whenever the construction of Anderson Ranch Reservoir is substantially completed, or is advanced to a point where storage water in an amount exceeding 275,000 acre-feet becomes available for irrigation use from said storage reservoir, the Secretary shall so announce, and shall give to the District notice thereof, hereinafter referred to as the tentative construction cost notice. Said notice shall be given prior to September 1 of the year in which given and shall include a statement of the cost of the Anderson Ranch Reservoir, as then estimated, and of the District's general repayment obligation under Article 11 of this contract, based on said statement of cost. Said tentative construction cost notice shall govern the amount of repayment obligation instalments until such time as the cost and the District's general repayment obligation based thereon can be determined by the Secretary, and the statement thereof submitted to the District in a final construction cost notice. Any difference between the District's general repayment obligation as stated in the tentative construction cost notice and said obligation as stated in the final construction cost notice shall be spread in such a manner as to maintain approximately equal overall

annual payments as hereinafter provided for in this article, as increases or decreases as the case may be in the instalments on account of Anderson Ranch Reservoir coming due after said final construction cost notice has been given to the District.

The Secretary's determinations of cost and of the District's general payment obligation in each of said notices shall be conclusive.

(b) At the time the Secretary gives to the District the tentative construction cost notice provided in (a) of this article, stating the District's general repayment obligation, the Secretary shall determine the respective amounts of the first ten (10) successive annual instalments of said obligation. The respective amounts of said first ten (10) instalments shall be determined so that the annual instalments, including the then estimate of those following the tenth, on account of Anderson Ranch Reservoir, when combined with the then unaccrued instalments to be paid by the District for the repair, resurfacing, improvement and enlargement of Arrowrock Dam (hereinafter referred to as Arrowrock repairs), and the Secretary's then estimate of the probable annual construction instalments to be paid by the District under the Government-District contract, form a combined, overall schedule of approximately equal annual instalments throughout the forty (40) year repayment period within which the District's general repayment obligation under this

contract shall be paid. In the year in which the tenth annual instalment due from the District on account of Anderson Ranch Reservoir accrues, the Secretary shall determine the respective amounts of the remaining thirty (30) instalments of the District's general repayment obligation under this contract in the same manner as provided above for the first ten instalments, excepting that the determination in said tenth instalment year shall be made upon consideration of the then unaccrued instalments on account of Arrowrock repairs and the Secretary's then estimate of probable annual construction instalments to be paid by the District under the Government-District contract. In no event, however, shall any annual instalment to be paid by the District on account of Anderson Ranch Reservoir be less than \$4,425.

(c) The District agrees to pay the general repayment obligation, in the forty (40) successive annual instalments, scheduled under (b) of this article; and there being no irrigation block designated by the Secretary and no development period fixed by him, the first instalment shall become due and payable in the calendar year following immediately after the one in which the Secretary gives the tentative construction cost notice provided for in (a) of this article. Each year's instalment on account of Anderson Ranch Reservoir shall become due and payable from the District to the United States one-half on July 1 and one-half on December 31 of the year in question.

(d) Each year the instalment of the District's general repayment obligation scheduled for such year shall be the construction charges due and payable by the District for such year, and the normal and percentage plan of payment shall not apply thereto unless such normal and percentage plan shall be hereafter adopted and provided for by supplemental contract, as authorized in Article 14 hereof.

District's Percentage of Stored Water
From Anderson Ranch Reservoir

13. Subject to the holdover rights provided for in Article 18 hereof, and the allowance of similar holdover rights provided for by contracts with other contracting districts and companies entitled to receive stored water from Anderson Ranch Reservoir, and subject to the adjustment authorized under Article 16 hereof, the United States, in the manner and subject to the conditions provided in this contract, will release for the use of the District each year (as ordered by the District through its operating agent, the Board of Control, or the manager or superintendent thereof) as nearly as is reasonably practicable eleven and five-hundredths percent (11.05%) of the stored water actually available from said reservoir that year for irrigation purposes, as determined by the Secretary.

Optional With Secretary to Measure and Deliver
Anderson Storage Either at Outlets of Anderson
Ranch Reservoir or at Outlets of Arrowrock
Reservoir

14. At the option of the Secretary, the Anderson Ranch Reservoir stored water to which the District is entitled may be measured and

delivered to or for the District either at the outlets of the Anderson Ranch Reservoir or at the outlets of the Arrowrock Reservoir.

Secretary Authorized to Determine the Administration of the Reservoirs and the Holding of Water Therein

15. In all matters not expressly covered by the provisions of this contract, the Secretary is authorized to determine the proper administration of the said Anderson Ranch Reservoir and Arrowrock Reservoir and the water supply therefrom, and his authority shall include but not be limited to the authority to determine the length of time and the extent to which the stored water belonging to either of said reservoirs may be held in the other without injury to the holders of rights to water therefrom.

Right Reserved to Provide Storage, for Big Bend District and Other Contractors

16. The United States reserves the right, at the option of the Secretary, to contract to furnish to the Big Bend Irrigation District and to such of the old canal companies and irrigation districts of the Boise Valley as may desire to contract for an additional water supply, the right to the use of the water available from a proportionate part of the storage capacity of Anderson Ranch Reservoir, not exceeding an aggregate amount of eleven and two-tenths percent (11.2%) of the part thereof available for irrigation, and in that event to reduce the percentage to be furnished to the District to such extent as the Secretary shall find necessary not

exceeding a reduction of eleven and two-tenths percent (11.2%). In that event the general repayment obligation of the District and any scheduled instalments thereof shall be reduced in the same proportion that the District's right to receive stored water under this contract is reduced. It is agreed that the rights to the use of water under contracts made with other parties in accordance with the reservation set out in the preceding sentence shall be full proportionate rights, in all respects on a par as to priority and dignity of right with the rights of the District hereunder, except as to hold-over rights unless they be provided for in the contract with said other party; and that the respective rights of the said four principal districts to the use of storage water made available by Anderson Ranch Reservoir shall be on a basis of equality as to priority and dignity of right.

Each District May Assign Part of its Contract Right

17. Each of the four principal districts (New York Irrigation District, Boise-Kuna Irrigation District, Nampa & Meridian Irrigation District, and Wilder Irrigation District) shall have the right, at its option, to assign and transfer a proportionate part of its right to receive water from said Anderson Ranch Reservoir: Provided, that the assignee assumes a like proportionate part of the obligations of the contract thus partially assigned to it, and provided further that no such assignment shall be valid and binding until approved by the Secretary.

Holdover Rights and Reservations For
Power and Flood Control and Temporary Holding
In One Reservoir of Water Belonging to Another

18. The rights provided for in this article will be referred to as the District's holdover rights. The District will be allowed to hold over in Anderson Ranch Reservoir from year to year stored water to which it may be entitled in any irrigation season but does not use during such season, and will be given credit therefor the following year or years subject to the following conditions and limitations:

(a) The District shall not be entitled to hold over to its credit in said reservoir at any one time more stored water than can be stored, subject to paragraph (g) of this article, in twenty-two and ten-hundredths percent (22.10%) of the available storage capacity of the reservoir usable for irrigation; that is to say, twenty-two and ten-hundredths percent (22.10%) of the capacity thereof other than that reserved for control of flash floods and that reserved for power.

(b) Whenever the combined amount of storage water in the Arrowrock Reservoir and the Anderson Ranch Reservoir reaches a point where there remains in the two reservoirs only 45,000 acre-feet unfilled capacity, and additional water shall be available for storage, then such additional storable water shall be considered stored in reservoir capacity made available therefor by reducing and eliminating holdover storage in the following manner: Water shall be considered released from holdover storage of the contracting party having on hand the largest amount of holdover storage water in percent of its maximum

holdover storage as fixed by (a) of this article until such percent is reduced to that of the party having on hand the next highest percent, then from both parties' holdover storage, etc., until no party has holdover storage on hand. Any holdover right to and interest in water considered released under this paragraph shall be extinguished and terminated.

(c) It is fully agreed and understood that 75,000 acre-feet of the initial capacity in the Anderson Ranch Reservoir, and such water as can be stored therein, is reserved to the United States as dead storage and removable storage for power purposes, and that the removable part of the water stored in said 75,000 acre-feet of initial capacity may be held by the United States for release for power development purposes after the end of the irrigation season. Anderson Ranch Reservoir stored waters released for power production while Arrowrock Reservoir is not full, shall be considered stored in Arrowrock Reservoir, and in equal amounts may be subsequently replaced in Anderson Ranch Reservoir by storing therein waters storable in Arrowrock Reservoir, provided such replacement is effected prior to the next spill at Arrowrock Reservoir over the wasteway thereof.

(d) It is understood and agreed that a combined total of 45,000 acre-feet of empty storage space shall be kept available in the Anderson Ranch and Arrowrock Reservoirs for control of flash floods, except when used for control of such floods. Of water temporarily impounded in said 45,000 acre-feet capacity, when released, eleven

and five-hundredths percent (11.05%) of it, or any part of said percentage, may be diverted for the use of the District if it so desires.

(e) It is further understood and agreed that for flood control purposes it is most desirable that the empty storage space should be maintained in Arrowrock Reservoir rather than in Anderson Ranch Reservoir, and that the attempt will be made, so far as practicable, to keep the empty storage space in Arrowrock Reservoir so that it may be available to control floods from the largest possible watershed. With this purpose in view and for the purpose of making better use of the available water supply for power and irrigation purposes, storage water belonging to the Arrowrock Reservoir or the Deer Flat Reservoir may be held temporarily in the Anderson Ranch Reservoir, or vice versa, instead of holding the same in the reservoir in which it belongs on the basis of priority of right; but the temporary holding of such stored water in the Anderson Ranch Reservoir shall not in any way affect the rights of the several districts to the water in question, and such rights shall be considered to be the same as if said stored water were held at all times in the reservoir in which it properly belongs on the basis of priority of right. Storage water belonging in Arrowrock Reservoir or Deer Flat Reservoir but temporarily held in Anderson Ranch Reservoir will be turned down to the reservoir in which it belongs at or prior to the time that water available for storage in the Anderson Ranch Reservoir becomes available in sufficient

quantity to fill the full storage capacity thereof other than the capacity thereof reserved exclusively for control of flash floods.

(f) For the purpose of a more prompt and accurate control of the water supply at canal headgates, and other beneficial purposes including but not limited to the carrying of peak loads at the power plant at the Anderson Ranch Reservoir, stored water belonging in Anderson Ranch Reservoir, or to the holders of rights in said water, and holdover storage or storage otherwise credited to the Anderson Ranch Reservoir, may likewise be held temporarily in unused space in Arrowrock Reservoir without in any way impairing or affecting the rights of the parties entitled to such water; but such water shall not remain in Arrowrock Reservoir at any time when such use of Arrowrock capacity would injuriously affect the holders of Arrowrock storage rights in the benefit or enjoyment of such Arrowrock rights.

(g) In the filling of the available Anderson Ranch Reservoir capacity, except that reserved for power which will be filled first and except that amount of 45,000 acre-feet capacity reserved for control of flash floods, the reservoir management will endeavor so to handle the filling thereof that the same will serve both for the benefit of irrigation and for the benefit of flood control, and may for flood control purposes evacuate so much of its capacity as is deemed advisable with such releases to be first from holdover storage water on hand, in the same manner and with the same effect as provided in Article 18 (b).

(h) Holdover storage will be charged its pro rata share of evaporation and seepage losses.

General Obligation of the District

19. The District's obligation hereunder is a general repayment obligation under which the District as a whole is obligated to pay to the United States the full amount or amounts herein agreed upon according to the terms stated, notwithstanding any individual default in the payment to the District by any individual water users of any assessments, tolls, or other charges levied by the District; and while the District, so far as its powers under the laws of Idaho permit, may distribute said obligation among its landowners in a manner that takes into account the productivity of the various classes of lands of its landowners and the benefits accruing to said lands by reason of the construction herein provided, no such distribution of said obligation shall in any manner be deemed to relieve the District, or any of its landowners, or any land therein, of the District's general obligations to the United States.

Computation of Cost

20. The cost of the Anderson Ranch Reservoir, which shall be the basis of determining the District's obligation as provided in Article 12 hereof, shall embrace all expenditures of whatsoever kind in connection with, growing out of, or resulting from the work described, including the cost of labor, material, equipment, investigations, engineering, legal work, superintendence, administration, overhead,

rights of way, property, and damages of all kinds, and also including expenditures made for any of said above-mentioned purposes incurred prior to the date of this contract. The determination of what costs are properly chargeable hereunder, and the amount thereof, shall be conclusively made by the Secretary.

Cost of Operation and Maintenance to be Paid In Advance

21. For the year in which the first general repayment obligation instalment becomes due, as provided in Article 12 (c) above, and for each year thereafter, the District will pay to the United States in advance, in the manner hereinafter provided, its share of the operation and maintenance costs of Anderson Ranch Reservoir. Payment shall be made on the basis of annual estimates made by the Secretary. Such annual estimates, hereinafter referred to as the operation and maintenance charge notice, shall contain a statement of the estimated cost to be incurred during the calendar year covered by said notice for the operation and maintenance of Anderson Ranch Reservoir, a statement of the part of said estimated costs allocated to the storage of water for irrigation, and the District's share thereof. The District's share shall be eleven and five-hundredths percent (11.05%) of the part of said estimated costs allocated by the Secretary to the storage of water for irrigation, less any reduction, not to exceed eleven and two-tenths percent (11.2%), thereof made under Article 16 hereof.

Such operation and maintenance charge notice shall be given to the District and to the Board of Control of the Arrowrock Division,

Boise Project, on or before April 1 of the calendar year covered by said notice. The District agrees to pay its share of the estimated cost of operation and maintenance allocated to the storage of water for irrigation as set out in said notice on or before May 1 of the year in which said notice is given. Whenever in the opinion of the Secretary, funds so advanced will not be adequate to meet the District's share of costs of operating and maintaining Anderson Ranch Reservoir, he may give to the District and to the Board of Control a supplemental operation and maintenance charge notice stating therein the amount of the District's share, determined in the manner above provided, of the additional amount required for such operation and maintenance. The District shall pay its share of such additional amount, as set forth in said supplemental notice, on or before the due date fixed by the Secretary in said notice. If funds advanced by the District under this article exceed the District's share of the actual cost and maintenance for the year for which advanced, as determined conclusively by the Secretary, the excess will be credited to operation and maintenance charges due from the District subsequent to the determination of such excess.

There shall be included in the operation and maintenance costs covered by the provisions of this article an annual equitable charge, as determined by the Secretary, to cover general expenses and the cost of bookkeeping, accounting, clerical and legal work of the

Bureau of Reclamation in connection with the accounts and collections for storage water from Anderson Ranch Reservoir.

Any expense incurred in running or protecting the Anderson Ranch Reservoir water in the channel of Boise River or the South Fork thereof or in diverting the same into the Main South Side Canal of the Arrowrock Division shall be considered a part of the cost of operation and maintenance of the Anderson Ranch Reservoir and charged accordingly in like manner as other operation and maintenance expenses in connection with said reservoir.

Water Rental Before Commencement
of Construction Cost Repayment

22. Prior to the year in which the first general repayment obligation instalment provided for in Article 12 (c) accrues, storage water, if available, may be released for the use of the District only upon advance payment by the District to the United States of a charge per annum per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water. After the expiration of the water rental period, if any, any such charges collected and which the Secretary determines to be in excess of the cost of operation and maintenance, during the period, allocated by the Secretary to the District shall be credited to the general repayment obligation of the District under this contract in the manner determined by the Secretary.

Refusal of Water in Case of Default

23. No water from the Anderson Ranch Reservoir shall be delivered

to or for the District if the District shall be in arrears in the advance payment of the operation and maintenance charges provided for in Article 21 or in arrears in the payment of any other operation and maintenance charges due to the United States, or more than twelve (12) months in arrears in the payment, as required by the terms of this contract, of the general repayment obligation instalments provided for in Article 12 of this contract, or more than twelve months in arrears in the payment of any other construction charge instalments due to the United States. The District agrees that it will refuse to deliver water to lands or parties which are in arrears in the advance payment of operation and maintenance charges due from said lands or parties to the United States or to the District, or to lands or parties who are in arrears for more than twelve months in the payment of the amounts due from said lands or parties to the United States or to the District for the general repayment obligation instalments due from the District to the United States under this or any other contract. The provisions of this article are not exclusive and shall not in any manner prevent the United States from exercising any other remedy given by this contract or by law to enforce the collection of any payments due under the terms of this contract.

Penalty for Delinquent Payments

24. In the event that any payment provided for in this contract is not made on or before the date that such payment is due and payable, there shall be added to the amount unpaid a penalty of one-half

of one percent ($\frac{1}{2}\%$) on the day following the due date, and there shall be added a like penalty of one-half of one percent of said unpaid amount on the first day of each calendar month thereafter so long as such default shall continue.

Title to Reservoir in the United States

25. Pursuant to the provisions of section 6 of the Act of June 17, 1902 (32 Stat. 388), title to the Anderson Ranch Reservoir shall remain in the United States until otherwise provided by Congress.

Power Resources to Remain Perpetually in the United States

26. The rights and resources which may be used or useful for the development of power, and any plant or plants and appurtenant structures and facilities which may be now or hereafter constructed by or under the authority of the United States which may be used or useful for the development of hydroelectric power, are hereby reserved to and shall be and remain in the exclusive control, possession and ownership of the United States: Provided, That no costs, as determined by the Secretary and which are in his opinion, attributable solely to power development, shall be taken into account in determining the District's construction cost obligation under this contract. All revenues, including miscellaneous revenues from or incident to the establishment or use of power plants or appurtenant structures and facilities, and from the use, also or other disposal of power in any form, shall be and remain the property

of the United States and shall be disposed of as provided in the Interior Department Appropriation Act, 1939, (Act of May 9, 1938, 52 Stat. 291, 322).

Operation and Maintenance of Works by the United States

27. The works constructed by the United States under the provisions of Article 10 above will be operated and maintained by the United States as a part of the reserved works of the Arrowrock Division of the Boise Project in the same manner as that provided in the Government-District contract, but the District's share of the cost of operation and maintenance of said works shall be paid by the District as provided in Article 21 above.

Board of Control as Operating Agent

28. The provisions of the Government-District contract relating to the Board of Control are hereby made applicable to the collection of operation and maintenance charges provided for in this contract, and to the payment to the United States of said charges and to the enforcement of the provisions of Article 23 of this contract, and to the distribution of the water to the lands entitled to receive the same. It is agreed that under the administration of the Board of Control the transferred works of the Arrowrock Division of the Boise Project shall be available for the conveyance of the Anderson Ranch water to the lands entitled to receive the same, in similar manner and subject to similar conditions applicable to the distribution of Arrowrock and Deer Flat water.

Collections Outside Districts

29. The District agrees that, if requested by the Secretary to do so, the Board of Control will collect charges due to the United States under Anderson Ranch Reservoir contracts from parties other than the four principal districts named in Article 17 hereof, and will pay over promptly to the United States such charges so collected, and where such organization or individuals receive such storage water from Anderson Ranch Reservoir through the transferred works in control of the Board of Control, the said Board, in accordance with the terms of such contracts, will enforce the payment of such charges by withholding delivery of water, and is authorized to do so. If, by reason of the fact of the lands involved being out of cultivation, or for any other reason, the withholding of water proves ineffectual in securing the payment of such charges, the Board of Control will report such cases to the authorized representative of the Secretary, for such action as the United States shall deem advisable.

Selection of Manager or Superintendent

30. The obligation of the Board of Control to employ a project manager or superintendent as provided in Article 61 of the contract between the United States and the District dated September 27, 1926, shall continue until completion of the payment to the United States of all instalments due to the United States under this contract.

Economical Use of Water

31. It is understood and agreed that if Anderson Ranch Reservoir is to be effective in reducing water shortages in dry cycles it is essential that the District take every reasonable measure to effect economical and efficient use of water by every water user within the District; and the District agrees to take such measures. It is further understood and agreed that whenever wasteful, inefficient or uneconomical use of water is being made by a water user within the District, the District with the advice and cooperation of the Bureau of Reclamation will take such action as may be necessary to correct such wasteful, inefficient, or uneconomic use of water.

District to Use All Powers to Collect Charges

32. The District agrees 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 pay to the United States all charges provided in this contract in full on or before the day that the same become due.

Shortage of Water

33. On account of droughts, inaccuracy of distribution, or other causes, it is expected there will occur at times a shortage in the quantity of storage water which normally can be made available from Anderson Ranch Reservoir, and in no event shall any liability accrue

against the United States or any of its officers, agents, or employees for any damages, direct or indirect, arising from any such shortage; and the payments to the United States provided for herein shall not be reduced because of any such shortage or damage.

Losses in Running Stored Water to be Deducted

34. A pro rata share of such losses, if any, as may be incurred in running the Anderson Ranch Reservoir stored water from the reservoir to the head of the New York Canal will be charged to the District.

Contract to be Authorized by Electors
and Confirmed by Court

35. The District agrees that, upon the execution of this contract, it will proceed promptly to secure the authorization of this contract by the electors of said District, and will secure a decree of the proper court of the State of Idaho approving and confirming this contract and decreeing and adjudging the same to be a lawful, valid and binding general obligation of the District, and decreeing the same to be lawful and valid, and promptly will apportion the benefits of this contract to the lands of the District and will secure a confirmation court decree confirming such apportionment as provided for in the Idaho statutes. The District shall furnish certified copies of such decrees to the Secretary. In the event that in the opinion of the Secretary satisfactory confirmatory decrees are not promptly secured as herein provided, the Secretary may terminate this contract.

Waste Water, Seepage, and Return Flow Water Not
Abandoned and Right Reserved to Recapture the Same

36. It is agreed and understood that the United States does not abandon or relinquish any of the waste, seepage or return flow water resulting from the use, application or conveyance of the said Anderson Ranch Reservoir water, but that the same is reserved and intended to be retained for the benefit of the Boise Project.

Assignment of Contract

37. No assignment or transfer of this contract, or any part hereof, or interest therein, shall be valid until approved by the Secretary. All rights for breach of this contract are reserved to the United States as provided in Section 3737 of the Revised Statutes of the United States.

Secretary the Arbiter -- Secretary's Acts,
Decisions and Determinations Conclusive

38. In the event of disputes between the parties hereto arising out of this contract involving questions of fact, and in so far as the provisions hereof require a determination of fact to be made, the Secretary is hereby designated as the arbiter of such questions and as the one required to make such determination of facts; and his decision therein shall be conclusive and binding on the parties hereto. In all acts, matters and determinations provided in this contract to be done, determined or decided by the Secretary or by the United States, it is agreed that the acts, decisions, findings and determinations by the Secretary shall be final and conclusive and shall be accepted as

final and conclusive by all the parties to this contract and by all persons claiming any rights under or by virtue of this contract or in any wise based upon or arising out of this contract or any act or proceeding carried on thereunder.

Changes in Organization of District

39. While this contract is in effect no change will be made in the District, either by inclusion or exclusion of lands, by partial or total consolidation or merger with another district, by proceedings to dissolve, or otherwise, except upon the Secretary's written assent thereto.

Rules and Regulations

40. The Secretary reserves the right, so far as the purport thereof may be consistent with the provisions of this contract, to make rules and regulations and to add to and modify them, as may be deemed proper and necessary to carry out this contract and to supply necessary details of its administration, and, by suitable rules and regulations, to provide for the administration of the Anderson Ranch Reservoir and the water supply thereof as to any details of such administration not expressly covered by the terms of this contract; and the District agrees to observe such rules and regulations.

Representative of Secretary

41. It is agreed and understood that where this contract requires action by the Secretary, said action may be taken for and on behalf of

the Secretary by his representative duly authorized in writing by the Secretary. Written notice of any such authority shall be mailed to the Board of Control within one week from the date of such authorization.

Obligation to Proceed Contingent Upon the Execution
of Contracts in Form Satisfactory to the Secretary
Covering the Full Amount Allocated to Irrigation

42. The obligation of the United States to proceed with the construction provided for under the provisions of Article 10 hereof is contingent upon the execution and confirmation of contracts in form satisfactory to the Secretary providing for the repayment to the United States of the full proportionate part of the cost of the Anderson Ranch Reservoir allocated to irrigation.

Substitution of Payette or Salmon River Water

43. It is agreed that in lieu of the water which the District is entitled to receive from the Boise River and its tributaries and the reservoirs thereon, or any part of such water, the United States, at the option of the Secretary, shall have the right to substitute an equal amount of water from the Payette River or the Salmon River, or in part from the Payette and in part from the Salmon, and in the event of such substitution the Secretary, upon the completion of the necessary tunnels and other works to such extent as may be necessary to convey such Payette River or Salmon River water to the Boise River immediately above the government diversion dam, for the Arrowrock Division of the Boise Project, will make, by appropriate credits,

such readjustment, if any, in the charges against the District as he shall then find to be equitable in view of the changed conditions then applicable to the water supply furnished for the District, but such readjustment, if any, shall not increase the financial obligations of the District under this contract nor reduce the amount of water which the District is entitled to receive under this contract.

Right to Include Obligations in
Contract Under Reclamation Project Act of 1939

44. In the event that the District enters into an amendatory contract under the provisions of section 4 of the Reclamation Project Act of 1939 (53 Stat. 1187) for the purpose of securing the benefits of said section of said act, the right is reserved to the District to have included in such amendatory contract the construction charge obligations of the District under this contract, and in that event the then unaccrued portion of the charges for the costs incurred in the Arrowrock repairs shall be treated as part of the Arrowrock dam construction charges, as authorized by Act of April 22, 1940 (54 Stat. 155).

Contingent Upon Appropriation or Allotments of Funds

45. The expenditure of any money or the performance of any work by the United States herein provided for which may require appropriations of money by Congress or the allotment of funds, shall be contingent upon such appropriations or allotments being made. The failure of Congress

so to appropriate funds, or the failure of an allotment of funds, shall not relieve the District from any obligations under this contract and no liability shall accrue to the United States in case funds are not so appropriated or allotted.

Officials Not to Benefit

46. 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, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

Former Contracts Remain in Effect

47. All provisions of the contract between the United States and the District dated September 27, 1926, to the extent that they are not inconsistent with the terms and provisions of this contract, shall remain in full force and effect.

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

UNITED STATES OF AMERICA

By John J. Dempsey
Under Secretary of the Interior

NEW YORK IRRIGATION DISTRICT

By J. M. Lampert
President.

(Seal)

Attest:

Chas. L. King
Secretary