

CONTRACT BETWEEN WEBER BASIN WATER CONSERVANCY DISTRICT
AND Mountain Canal Irrigation Association
FOR THE SALE OF THE USE OF IRRIGATION WATER

THIS CONTRACT, made this 3rd day of November, 1961, between WEBER BASIN WATER CONSERVANCY DISTRICT, organized under the laws of the State of Utah, with its principal place of business at Layton, Utah, herein styled the District, and the Mountain Canal Irrigation Association a corporation, organized under the laws of the State of Utah, with its principal place of business at Huntsville, Utah, herein styled the Company:

WITNESSETH, That:

2. WHEREAS, the District made a contract with the United States dated December 12, 1952, which contract was amended under date of June 30, 1961, hereinafter referred to as the Government-District contract, for the repayment of certain costs of construction of the works of the Weber Basin Project, hereinafter referred to as the project, by means of which water, hereinafter referred to as project water, will be delivered from the Weber River and other sources for irrigation, municipal, industrial, and other uses, and a portion thereof will be available for use by the Company.

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

TERMS OF PAYMENT

4. The District will sell to the Company the perpetual right to the use of 1300 acre-feet of project water annually for irrigation purposes. The Company will pay to the District \$ 109200, herein referred to as the Company construction obligation, in successive annual payments of \$ 1820.00 for a period of sixty (60) years following the development period established, as provided by Article 11 of the Government-District contract, as amended, for the irrigation block in which is located the land served by the

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the Company construction obligation is based upon that part of the District obligation to the United States to be paid by irrigation water users, to-wit, \$23,508,000. Should the part to be paid by irrigation water users be finally determined to be less than such sum, then the Company construction obligation shall be reduced in the same proportion. Should the District hereafter agree to increase that part of its repayment obligation to the United States to be paid by irrigation users, pursuant to Article 7a. of the Government-District contract, the Company hereby agrees to pay its proportionate share of such increased obligation.

VARIABLE REPAYMENT PLAN

5. If the District should elect to make payments in accordance with the variable repayment plan, as provided in Article 13 of the Government-District contract, then, and in that event, the Company agrees that the annual installment payments provided for in the preceding article shall be increased or decreased, as the case may be, in the same ratio as payments by the District to the United States are increased or decreased under such repayment plan.

DEVELOPMENT PERIOD - ANNUAL CHARGE

6. A notice of the commencement of the development period shall be given by the District on or before March 1 of the year preceding the first year of such development period. The notice shall fix the number of years of the development period at not to exceed ten years, shall contain a statement of the charge per acre-foot or other charge for the use of project water for the first year of the development period, and shall provide that charges are payable on or before December 1 of the year in which such notice is given. A notice of the annual charge for each succeeding year of the development period shall be given by the District on or before March 1 of the year preceding the year for which the project water is to be received, and this charge shall be payable on or before December 1

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of the same year. Charges for the use of water shall be at least sufficient to pay that part of the expenses of operation and maintenance of the project works which the District may determine is properly chargeable to the irrigation block in which the lands served by the Company are located. After the close of the development period, charges collected pursuant to this article which are determined to be in excess of cost of operation and maintenance during the development period shall be credited to the construction obligation payable by the Company as provided in Article 4.

PAYMENT OF OPERATION AND MAINTENANCE EXPENSES

7. After the end of the development period, the Company agrees to pay to the District annually in advance its proper share of the expenses of operation and maintenance allocated to irrigation water users. The Company's share shall bear the same ratio to the operation and maintenance expenses allocated to the irrigation block in which the lands served by the Company are located as the quantity of project water purchased under this contract bears to the total quantity of project irrigation water sold or otherwise disposed of by the District within such irrigation block. An operation and maintenance charge notice, containing a statement of the estimated cost of operation and maintenance to be paid by the Company, shall be furnished to the Company annually on or before March 1 of the year preceding the year to which the notice is applicable. The Company shall pay the amounts set out in any such operation and maintenance charge notice on or before December 1 of the year in which such notice is given.

Whenever, in the opinion of the District, the funds so advanced will be inadequate to operate and maintain the irrigation works being operated by the District, a supplemental operation and maintenance charge notice may be given at any time stating therein the amount of the Company's share of the additional funds

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required, and the Company shall advance such additional amounts on or before the date specified in the supplemental notice. If the funds advanced by the Company under this article exceed the Company's pro rata share of the actual cost of operation and maintenance for such irrigation works for the year for which advanced, the surplus shall be credited on the operation and maintenance charge payment due for the succeeding year, or in the case there is no such payment due to the District for the succeeding year, it shall be applied on the next installment to be paid by the company to the District under the provisions of Article 4 of this agreement.

In the same manner as above, but beginning the first year in which water is available to the Company, the Company agrees to pay its proper share of annual payments to the reserve fund for operation and maintenance which the District is obligated to establish under the provisions of Article 18 of the Government-District contract, and of the sinking fund described in Article 19 of such contract.

COMPANY TO USE ALL POWERS TO COLLECT CHARGES

8. The Company will levy and collect all necessary assessments and calls against its outstanding stock, including amounts sufficient to make up for the defaults of its stockholders who do not pay such assessments and calls, in order to pay to the District all charges specified in this agreement. The Company agrees to use all of its powers and resources, including but not limited to the power to sell the stock of delinquent stockholders and to withhold delivery of project water, in order to collect the necessary funds to pay such charges. If other purchasers or allottees of project water default in their payments to the District and if the District is otherwise unable to meet its indebtedness to the United States under said Government-District contract, the Company agrees to levy and collect additional assessments in sufficient amount to pay to the District its proper share of such delinquencies. If said delinquencies are finally

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recovered from the defaulting purchasers or allottees, the District agrees to make appropriate adjustments in subsequent charges against the Company.

SECURITY FOR PAYMENT

9. The Company hereby grants to the District a first lien upon the proceeds of annual and special assessments against the stock of the Company to the extent necessary to meet the annual payments due the District under this contract.

REFUSAL OF WATER IN CASE OF DEFAULT

10. No project water shall be delivered through the project works to or for the Company if it is in arrears in the advance payment of development period charges or of operation and maintenance charges or other charges due the District, or if it is in arrears more than 12 months in the payment of the annual installments provided in Article 4, supra, or more than 12 months in arrears in the payment of any other amounts due the District. The provisions of this article are not exclusive and shall not in any manner prevent the District 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 DELINQUENCY

11. Every installment or charge required to be paid to the District under this contract which shall remain unpaid after its due date shall bear interest at the rate of 6 percent per annum from the date of delinquency.

OPERATION AND MAINTENANCE OF COMPANY FACILITIES

12. The Company shall operate and maintain, without cost to the District, or the United States, all of its canals and other facilities necessary to take and utilize its water, including the water purchased under this contract.

BENEFICIAL USE OF WATER

13. The basis, the measure, and the limit of the right of the Company to the use of project water shall rest perpetually in the beneficial application

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thereof and the Company agrees to put such water to beneficial irrigation use in accordance with law.

LAND LIMITATIONS IN THE USE OF PROJECT WATER

14. Pursuant to the provisions of the Federal Reclamation Laws, project water shall not be delivered to more than 160 acres of irrigable land in the ownership of any one person or other entity, nor to more than 320 acres of irrigable land in the ownership of a husband and wife jointly, or as tenants in common except that delivery may be made to lands held in excess of this limitation if the excess lands are covered by a recordable contract made in accordance with the provisions of Section 46 of the Act of May 25, 1926 (44 Stat.649). In the event the Congress of the United States should repeal or amend the so-called 160-acre limitation provisions of the Federal Reclamation Laws, this article shall, from the effective date of such congressional action, be considered amended in accordance therewith.

WASTE WATER, SEEPAGE WATER AND RETURN FLOW

15. The waste, seepage, or return flow from water delivered pursuant to this contract shall belong to the United States for the use and benefit of the project. The District may substitute in lieu of stored water any other water available to the project to the extent that it can be delivered at points where it can be used, provided such water is of quality suitable for project irrigation use. The stockholders of the Company who accept the benefits of this contract shall be deemed thereby to have consented to such substitution of water.

POINT OF DELIVERY OF PROJECT WATER

16. Project water furnished under this contract, including water delivered pursuant to Article 15, shall be delivered and measured at a point or points designated by the District. It shall be the responsibility of the Company to provide works to convey such water from said point or points to the place of

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use. All project water users shall be charged a pro rata share of all conveyance and operation losses from project storage reservoirs to said point of points of delivery.

WATER SHORTAGE

17. In the event there is a shortage of project water caused by drouth, inaccuracy in distribution, hostile diversion, prior or superperiod claims, or other causes, no liability shall accrue against the District or the United States, or any of their officers, agents, or employees, or either of them, for any damage, direct or indirect, arising therefrom and the payments to the District provided for herein shall not be reduced because of any such shortage or damage. Deliveries to irrigation water users shall be reduced in the proportion that the number of acre-feet of such shortage, as determined by the District, bears to the total number of acre-feet allocated for irrigation use.

SALE OF PROJECT WATER LIMITED

18. The Company agrees not to sell the use of project water purchased under this contract to any person other than an irrigation water user within the same irrigation block as the company, either on a permanent or temporary basis. Without the advance consent of the District in writing.

CROP REPORTS, ACCOUNTING, AND OTHER MEASURES

19. The Company shall take such measures as the District deems proper

- (a) to keep a record of crops produced in the area served by the Company system
- (b) to account for money received and expended, and (c) to keep and furnish suitable records of water supply and the disposition thereof.

ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED

20. The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any part thereof or interest therein shall be valid until approved by the Secretary of the Interior.

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APPROVAL OF UNITED STATES NECESSARY

21. This agreement shall not be effective until approved by the Secretary of the Interior, or his duly authorized representative. This agreement may be amended by the parties hereto and such amendments shall be effective upon approval of the Secretary of the Interior or his duly authorized representative.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

WEBER BASIN WATER CONSERVANCY DISTRICT

ATTEST: [Signature]
Secretary

BY Elmer Lawrence
President

(SEAL)

Mountain Canal Irrig. Association
COMPANY

ATTEST: Carl Felt
Secretary

BY Loren J. Hardy
President

(SEAL)

APPROVED: F. M. Clinton
Authorized Secretary of the Interior
representative of the

Checked as to Engineering Data
By M.A.N. Date 6-7-62