UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Newlands Project, Nevada

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND THE TRUCKEE-CARSON IRRIGATION DISTRICT PROVIDING
FOR THE REPAYMENT OF EXTRAORDINARY
MAINTENANCE COSTS FOR THE TRUCKEE CANAL

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CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND THE TRUCKEE-CARSON IRRIGATION DISTRICT PROVIDING
FOR THE REPAYMENT OF EXTRAORDINARY
MAINTENANCE COSTS FOR THE TRUCKEE CANAL

THIS CONTRACT made this ___ day of _____________, 2022, pursuant to the
Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary
thereto, including but not limited to, Title IX, Subtitle G, Section 9603 of the Omnibus Public
collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
OF AMERICA, hereinafter referred to as the “United States”, and TRUCKEE-CARSON
IRRIGATION DISTRICT, hereinafter referred to as the “District”, a political subdivision of the
State of Nevada, duly organized, existing, and acting pursuant to the laws of the State of Nevada,
each sometimes hereinafter individually called “Party”, and sometimes hereinafter collectively
called “Parties”.

WITNESSETH, That:

RECITALS

a. The District has fully repaid the original Project construction costs; and

b. On November 25, 1996, the United States and the District executed contract
No. 7-07-20-X0348, as amended and supplemented, effective on January 1, 1997, to continue the
care, operation, and maintenance of the Project through December 31, 2021; and
c. The United States and the District entered into an eight-year repayment contract, No. 14-WC-20-47597, executed on April 4, 2018, for pre-construction activity costs associated with extraordinary operation and maintenance work (XM work) on the Truckee Canal (Canal); and
d. An Environmental Impact Statement (EIS) analyzing the impacts of the construction for the Truckee Canal Extraordinary Operations and Maintenance Project was prepared and the Bureau of Reclamation (Reclamation) signed a Record of Decision for the EIS on December 15, 2020; and
e. On August 25, 2021, the United States and the District executed contract No. 7-07-20-X0348-X, to become effective on January 1, 2022, for the operation, maintenance, and replacement of the Project through December 31, 2047; and
f. Pursuant to Section 9603 of Public Law 111-11, the Secretary of the Interior, acting through Reclamation, is authorized to expend funds for extraordinary operation and maintenance work and to negotiate a contract for repayment of those costs, with interest; and
g. Reclamation, in consultation with the District, has determined that XM work within the Truckee Division of the Newlands Project is needed on the Canal to ensure the continued safe, dependable, and reliable delivery of project water; and
h. The Truckee Canal XM Project Engineering and Economic Feasibility Design Study (Study) prepared in 2019 by Reclamation estimates the cost for the entire XM work on the Canal to be $148,000,000. Reclamation has been authorized to advance the costs incurred by the District in conducting XM work, up to $35,000,000 in total; and
i. Reclamation will provide final design, specifications and an updated cost estimate for the XM work defined in this Contract. The XM work covered by this Contract prioritizes the
areas of highest risk with public safety impacts and is not the entire XM work described in the
Study; and

j. Pursuant to Title XI, Section 1101 of Public Law 116-120, Reclamation’s existing
XM authority was amended by the establishment of the Aging Infrastructure Account (Account)
and an annual application process was established for eligible contractors to apply for funds and
extended repayment. The 2021 Bipartisan Infrastructure Law provided funding for the Account
for extraordinary maintenance needs over the next five years; and

k. The District submitted an application in January 2022 requesting funding from the
Account for lining 3-1/2 miles of the Truckee Canal and work associated with two check
structures, with a request that the canal lining be designated as emergency extraordinary
maintenance work. Reclamation determined that none of the work should be designated as
emergency extraordinary maintenance work; and

l. This Contract is established for the repayment of reimbursable costs arising from
XM work on the Canal; and

m. In consideration of the mutual and dependent covenants herein contained, the
Parties mutually agree as follows:

DEFINITIONS

1. When used in this Contract, the term:

   (a) “Contracting Officer” shall mean the Secretary of the Interior’s duly
authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
or regulation.

   (b) “Existing Contract” shall mean contract No. 7-07-20-X0348-X, effective
January 1, 2022, between the United States and the District.
(c) “Extraordinary Maintenance Work” or XM work shall mean major, nonrecurring maintenance on the Canal that is intended to ensure the continued safe, dependable, and reliable operation of the Canal consistent with 43 U.S.C. § 510 and is provided for in Article 3 and Exhibit B. XM Work includes construction costs, non-construction costs, and Reclamation oversight costs.

(d) “Fiscal Year” shall mean the period of October 1 through September 30 of the following year, both dates inclusive.

(e) “Project” shall mean the Newlands Reclamation Project located in California and Nevada.

(f) “Repayment Obligation” shall mean the entire sum of funds expended by the United States for any XM work pursuant to this Contract, plus accrued interest, as determined by the Contracting Officer and reflected in Exhibit A.

(g) “Substantially Complete” or “Substantial Completion” shall mean the Contracting Officer’s determination, after consultation with the District, that the XM work is sufficiently complete so that the United States or the District may use, operate, or maintain the specific facilities for its intended purpose.

(h) “Year” shall mean the period January 1 through December 31, both dates inclusive.

**TERM OF THE CONTRACT**

2. This Contract shall become effective on the date first written above and shall remain in effect until the District has fully repaid its Repayment Obligation to the United States as described in Article 5 herein.
XM WORK TO BE COMPLETED BY RECLAMATION

3. (a) Reclamation will submit a solicitation package(s) for the XM work and will award the construction contracts. The scope of the XM work detailed in Exhibit B, includes, but is not necessarily limited to, the following:

   (1) Canal lining from station 640+00 to 828+00

   (2) Removal and replacement of the Fernley check structure

   (3) Modification of the Bango check structure

(b) Both Parties agree that the Canal outage for the construction window will be October 1, 2022, through September 30, 2023. The Canal outage may be extended up to thirty (30) days upon mutual agreement between the District and the Contracting Officer.

WORK TO BE COMPLETED BY DISTRICT

4. The District will complete the work detailed in Exhibit C.

DISTRICT’S REPAYMENT OBLIGATION

5. (a) The District shall be obligated to repay the entire sum of funds expended by Reclamation to perform XM work as provided in Article 3, plus accrued interest, as determined pursuant to paragraph (c) herein, which total is hereinafter referred to as the Repayment Obligation.

(b) The interest rate used for computing interest on federal funds applied towards XM work shall be the Department of the Treasury rate as of the beginning of the quarter in which federal funds are disbursed for XM work completed under this Contract, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the XM work, adjusted to the nearest 1/8 of 1 percent on the unamortized balance of any portion of the
Repayment Obligation. Interest accrual shall commence in the quarter when federal funds are incurred towards XM work and will be computed on an annual basis on the unpaid balance of the Repayment Obligation for XM work, as determined by the Contracting Officer.

(c) As soon as practicable following the written determination by the Contracting Officer that the XM work is Substantially Complete, and after consultation with the District, the Contracting Officer shall provide the District with a repayment schedule requiring equal annual installments within the term provided in paragraph (e) herein of this Contract, which schedule(s) shall be incorporated into this Contract as Exhibit A, and may be updated by the Contracting Officer without amendment of this Contract.

(d) The District shall repay the total Repayment Obligation over a period of no more than fifty (50) years from the date on which the Contracting Officer determines that the XM work is Substantially Complete.

(e) The District may, at any time, prepay all or a portion of the unpaid Repayment Obligation as provided herein without penalty, notwithstanding any interest accrued.

PRESERVATION OF EXISTING CONTRACT

6. Except as specifically provided herein, the Existing Contract shall continue in full force and effect as originally written, executed, and amended. Any dispute between this Contract and the Existing Contract shall be resolved pursuant to Article 8 of this Contract.

SEVERABILITY

7. In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Contract, but this Contract shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained
herein, unless the deletion of such provisions would result in such a material change so as to cause the fundamental benefits afforded the Parties to this Contract to become unavailable or materially altered.

RESOLUTION OF DISPUTES

8. Should any dispute arise concerning any provision of this Contract, the Contracting Officer’s representative shall meet and confer with the District in an attempt to resolve the dispute within sixty (60) days. If the dispute has not been resolved within the sixty (60) days, it shall be referred to the Contracting Officer to resolve the dispute within ninety (90) days.

CHARGES FOR DELINQUENT PAYMENTS

9. (a) The District shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the District shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes sixty (60) days delinquent, the District shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent ninety (90) days or more, the District shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of six (6) percent per year. The District shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

BOOKS, RECORDS, AND REPORTS

10. The District shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the District’s financial transactions; water supply data; project operation, maintenance, and replacement logs; project lands and rights-of-way use agreements; and other matters that the Contracting Officer
may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal law and regulations, each Party to this Contract shall have the right during officer hours to examine and make copies of the other Party’s books and records relating to matters covered by this Contract.

RULES, REGULATIONS, AND DETERMINATIONS

11. (a) The Parties agree that the delivery of water or the use of Federal facilities pursuant to this Contract is subject to Federal reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of Nevada, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the District.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

12. (a) The obligation of the District to pay the United States as provided in this Contract is a general obligation of the District notwithstanding the manner in which the obligation may be distributed among the District's water users and notwithstanding the default of individual water users in their obligation to the District.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract.

NOTICES

13. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the District, when mailed, postage prepaid, or delivered to the Area Manager, Lahontan Basin Area Office, Bureau of Reclamation, 705 N. Plaza Street, Room 320, Carson City, Nevada 89701, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors, Truckee-Carson Irrigation District, PO Box 1356, Fallon, Nevada 89407-1356. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

14. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the District from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.
OFFICIALS NOT TO BENEFIT

15. No Member of or Delegate to the Congress, Resident Commissioner, or official of the District shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

16. The provisions of this Contract shall apply to and bind the successors and assigns of the respective Parties, but no assignment or transfer of this Contract or any right or interest therein by either Party shall be valid until approved in writing by the other Party.

EQUAL EMPLOYMENT OPPORTUNITY

17. During the performance of this contract, the District agrees as follows:

(1) The District will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The District will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The District agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The District will, in all solicitations or advancements for employees placed by or on behalf of the District, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The District will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the District’s legal duty to furnish information.

(4) The District will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers’
representative of the District’s commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The District will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The District will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the District’s noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the District may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The District will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The District will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the District becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the District may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS


(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this
Contract, the District agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The District makes this Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial assistance extended after the date hereof to the District by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The District recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article, and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the District shall be investigated by the Contracting Officer’s Office of Civil Rights.

CERTIFICATION OF NONSEGREGATED FACILITIES

19. The District hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The District agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The District further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.
MEDIUM FOR TRANSMITTING PAYMENTS

20. (a) All payments from the District to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the Contract, the District shall furnish the Contracting Officer with the District’s taxpayer’s identification number (TIN). The purpose for requiring the District’s TIN is for collecting and reporting any delinquent amounts arising out of the District’s relationship with the United States.

CONTRACT DRAFTING CONSIDERATIONS

21. This Contract has been negotiated and reviewed by the Parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 8 of this Contract have been drafted, negotiated, and reviewed by the Parties, and no one Party shall be considered to have drafted the stated Articles.
IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of the day and year first above written.

UNITED STATES OF AMERICA

By: ____________________________________
Regional Director
Interior Region 10: California-Great Basin
Bureau of Reclamation

(SEAL) TRUCKEE-CARSON IRRIGATION DISTRICT

By: ____________________________________
President of the Board of Directors

Attest:

By: ____________________________________
Secretary of the Board of Directors
EXHIBIT A

Truckee-Carson Irrigation District
Newlands Project

REPAYMENT SCHEDULE(s)

Repayment Schedule will be finalized upon the Contracting Officer’s issuance of Substantial Completion notice.
EXHIBIT B

Truckee-Carson Irrigation District
Newlands Project

Scope of Work

The scope of the XM work includes, but is not necessarily limited to, the following:

(1) Canal lining from station 640+00 to 828+00
(2) Removal and replacement of the Fernley check structure
(3) Modification of the Bango check structure
EXHIBIT C

Truckee-Carson Irrigation District
Newlands Project

District Responsibilities

Definitions used in this Exhibit:
“Contractor” shall mean the contractor hired by the United States to complete the XM work.
“District” shall mean the Truckee-Carson Irrigation District.

1. Products and/or Services Furnished by District

a. Fernley Check Structure
   i. Contractor will furnish and install wiring for entire electrical system except for wiring related to the Programmable Logic Controller (PLC) and instrumentation. District will be responsible for wiring the PLC, instrumentation/alarms, and the motors to the building (and to the PLC).
   ii. Water measuring device to be furnished and installed by District.
   iii. District will furnish and install all process control and automation equipment.
   iv. District will coordinate with local electrical power provider to establish grid power at Fernley Check Structure new control building location.
   v. Contractor will furnish and install conduit for the entire electrical system including a separate ¾-inch direct current (DC) and controls conduit along the 2-inch alternating current power conduit.
   vi. Contractor will provide an appropriately sized NEMA 12 PLC cabinet.
   vii. Contractor will furnish and install a manual transfer switch and associated wiring.
   viii. Contractor will furnish and install all lighting, panelboards, receptacles, and light switches.

b. Bango Check Structure
   i. Contractor will furnish and install wiring for entire electrical system except for wiring related to the PLC and instrumentation. District will be responsible for wiring the PLC, instrumentation/alarms, and the motors to the building (and to the PLC).
   ii. Water measuring device to be furnished and installed by District.
   iii. Contractor will provide electric generator (EG) and lay out the 2-inch (for power supply only) and ¾-inch conduit (for DC and control wiring).
   iv. The Contractor will furnish and install conduit from the motors for the gates to the control building.
   v. District will provide all process control and automation equipment
   vi. Contractor will furnish and install conduit for the entire electrical system.
   vii. Contractor will furnish an appropriately sized NEMA 12 PLC cabinet.
   viii. District will be responsible for the design, furnishment of equipment, and installation of a future solar/battery system.
ix. Contractor will furnish and install all lighting, panelboards, receptacles, and light switches.