

EAST COLUMBIA BASIN IRRIGATION DISTRICT

RESOLUTION 2024 – 04

AMENDING THE FORM OF INTERRUPTIBLE FIRST PHASE CONTINUATION WATER SERVICE CONTRACT

**WHEREAS**, the District has previously adopted a form of Interruptible First Phase Continuation Water Service Contract in Resolution 2015-35 for water service contracts entered into under the Renewal Master Water Service Contract for First Phase Continuation Acres, as amended by Resolutions 2016-06, and 2022-11.

**WHEREAS**, the District desires to clarify and provide further transparency that the payment of the Construction Debt Service Charge includes the Development Fee, established at a rate determined by the District annually; and

**WHEREAS**, First Phase Continuation contract renewals shall not include 5(e); and

**WHEREAS**, the “Rules and Regulations for Water Service Contracts for First Phase Continuation” are amended to clarify the requirements for lands receiving water from public or private delivery systems.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors adopts the attached amended form of Interruptible First Phase Continuation Water Service Contract for use with landowners pursuant to Article 7 of the Amended Renewal Master Water Service Contract.

**DULY ADOPTED** in Open Meeting this 7<sup>th</sup> day of February, 2024.

BOARD OF DIRECTORS



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Attest:

*[Handwritten signature]*  
\_\_\_\_\_  
Secretary

Return to: East Columbia Basin Irrigation District  
P.O. Box E, Othello, WA 99344

Approved  
390-

**EAST COLUMBIA BASIN IRRIGATION DISTRICT  
Columbia Basin Project, Washington**

**INTERRUPTIBLE FIRST PHASE CONTINUATION WATER SERVICE CONTRACT  
FOR**

<b>Selection</b>	<b>Series</b>	<b>Description</b>
<input checked="" type="checkbox"/>	390	First Phase Continuation Acres – Groundwater Replacement

**Landowner:**

**THIS 390 CONTRACT**, hereinafter Contract, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between the **EAST COLUMBIA BASIN IRRIGATION DISTRICT**, an irrigation district organized and existing under the laws of the State of Washington, hereinafter called the District, and \_\_\_\_\_ hereinafter called the Landowner,

**WITNESSETH**, That:

**EXPLANATORY RECITALS**

2. **WHEREAS**, the following preliminary statements are made in explanation:

(a) The United States has entered into a repayment contract with the District dated October 9, 1945 (Contract and Symbol No. Ilr-1442 which was last amended and supplemented on December 18, 1968), relating in part to the Columbia Basin Project (Project) water supply for the irrigation of lands in the District, operation and maintenance of Project facilities, and repayment of the construction obligation; and

(b) The United States and the District have also entered into a Renewal Master Water Service Contract dated September 22, 2015 (Contract No. 159E101882); as amended on October 11, 2019, and June 3, 2021; and

(c) Pursuant to Article 7 of the Renewal Master Water Service Contract, the District is authorized to enter into contracts with landowners desiring to become District water users for the delivery of First Phase Continuation Water to certain First Phase Continuation Acres

for meeting (i) irrigation requirements of such acres, and (ii) requests for leaching and other miscellaneous purposes within the meaning of the term irrigation; and

(d) The Landowner is the holder of irrigable land, as evidenced by land classification and drainage determinations, identified as First Phase Continuation Acres and located in the vicinity of an existing Project irrigation facility within the operation of the District; and

(e) This contract shall not be deemed to be a subcontract or sub-agreement under the Renewal Master Water Service Contract, nor shall it create any third party beneficiary interests enforceable against the United States; and

(f) All references to the United States herein are to be construed as notices of select laws and policies of the United States which may affect Landowner responsibilities or District administration of this contract. Applicable laws and policies of the United States are not in any way limited to or by such specific references.

**NOW THEREFORE**, it is agreed as follows:

### **DEFINITIONS**

3. The following terms, for purposes of this contract, shall have the following respective meanings:

“Irrigation” shall mean the use of contract water to irrigate land primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto.

“Municipal and Industrial” shall mean the use of contract water for municipal, industrial, and miscellaneous other purposes not falling under the definition of “irrigation” use above or within another category of water use under an applicable Federal authority.

“First Phase Continuation Water” shall have the same meaning as it is defined in the Renewal Master Water Service Contract and shall include the water made available under this contract.

“Conserved Water” shall have the same meaning as it is defined in the Renewal Master Water Service Contract and shall include such water made available under this contract.

“First Phase Continuation Acres” shall have the same meaning as it is defined in the Renewal Master Water Service Contract and shall include those lands for which water is made available under this contract.

“Groundwater Replacement” shall mean changing the source of irrigation water from groundwater being withdrawn from the Odessa Ground Water Management Subarea (hereinafter Odessa Subarea) to Project First Phase Continuation Water made available pursuant to the Renewal Master Water Service Contract and this contract.

## TERM OF CONTRACT

4. (a) This contract becomes effective on the date first above written and covers the District delivery of First Phase Continuation Water to the First Phase Continuation Acres specifically described herein. This contract shall be in effect for a period of 20 years, unless sooner terminated as otherwise provided herein: Provided, that at the end of such period with the consent of the District this contract may be renewed for two additional 10-year periods: Provided, further, that in no event shall this contract or any renewal thereof be in effect beyond the term of Renewal Master Water Service Contract dated September 22, 2015, as amended (Contract No. 159E101882).

## PAYMENT FOR WATER

5. (a) The Landowner will pay to the District a nonrefundable annual minimum sum equal to the per acre charges determined in accordance with Article 5(b) multiplied by the number of acres authorized for irrigation hereunder immediately upon being notified of the execution of this contract and water availability by the District. Minimum annual payments thereafter shall be paid to the District in advance of delivery of water under this contract and, in any event, on or before April 30 of each year. Utilization of water prior to payment thereof shall, in addition to interest, subject the Landowner to a penalty of 5 percent (5%) of the annual minimum sum.

(b) The minimum annual per acre charge for the lands to be irrigated under this contract irrespective of whether the Landowner utilizes the full water allotment provided hereunder will consist of the following:

1. A charge of **\$3.89** per acre-foot of water, multiplied by the number of acres authorized by Article 6(b) of this contract and multiplied by the amount of water per acre authorized by Article 6(c) of this contract, said product being **3.0** acre-feet, provided such charge may be adjusted to reflect changes in the rate per acre-foot as provided in the Renewal Master Water Service Contract as supplemented.

2. A per acre operation and maintenance charge equal to the average per acre operation and maintenance assessment of platted lands (i.e., farm units and water delivery units within irrigation blocks) of the District for the then current year or a percentage thereof not exceeding one hundred percent, as determined by the District.

3. Such additional charges as the District may make for its own purposes, as follows:

- a. Pump Charges associated with pump modernization plan bonds at a rate of **\$1.70** per acre per year for the term of the associated bonds (2026 and 2027 Bonds).
- b. Account Fee established annually by the District.
- c. Emergency Reserve Fee established annually by the District.

- d. District construction debt-service charge not to exceed **\$190.00** per acre per year for term of associated financing(s) required for Odessa Groundwater Replacement Program implementation. This charge includes the following:
  - i. Development fee at a rate established annually by the District;
- e. Other charges and fees the District may establish annually (e.g. meter fees, etc.).

(c) In the event the Landowner is unable to utilize any First Phase Continuation Water provided for in the year this contract is entered into and notice of water availability is given, any charges, except for District construction debt-service charges, so paid shall be credited against the charges to be paid by the Landowner for the following year. In the event that the Landowner utilizes less than 50 percent (50%) of the minimum quantity of water provided for hereunder during the year the contract is entered into and notice of water availability is given, the charges for that year, except District construction debt-service charges, shall be prorated based upon the amount of water actually utilized and any credit to which the Landowner is entitled to shall be applied against the charges to be paid under this contract for the following year. In no event shall the provisions of this paragraph extend the payment of charges, or the prorating thereof, beyond the year following the year that the contract is entered into and notice of water availability is given. In the case of a District operated and maintained delivery system water service contract, the year the first payment of charges is enforced will be the year water is made available to the Landowner under this contract.

(d) Payment in advance of any delivery of water is a condition precedent to the delivery thereof. The District reserves the right to refuse delivery of water unless and until any charges owing to the District are paid including charges owing to the District for work performed by the District on behalf of the Landowner. The District further reserves the right to specify the method of irrigation to be used on the subject lands.

(e) The District and the Landowner hereby agree that the charges for the delivery of water hereunder may be collected and enforced in the manner provided in RCW 87.03.445 (5) and (6) for the collection and enforcement of rates, tolls, and charges. All charges imposed by this contract, upon compliance with the applicable procedural provisions of said RCW 87.03.445 (5) and (6) shall at once become and constitute a lien upon and against the lands for which they are charged, with interest from the date of delinquency in case of nonpayment as authorized by State law. Any collection or enforcement of the charges against the State shall be governed by the provisions of Chapter 79.44 RCW. Said collection procedure shall be in addition to any measures available to the District, including the right of contract termination as provided for in this contract.

## CONDITIONS OF WATER DELIVERY

6. (a) The District has heretofore entered into a repayment contract with the United States, dated December 18, 1968, which, together with the September 22, 2015, Renewal Master Water Service Contract, as amended, and the terms of this contract, govern the delivery of irrigation water and the Landowner's obligations hereunder.

(b) The Landowner may, after making advance annual payment therefore in accordance with Article 5 hereof, divert, when available, water from the East Low Canal at \_\_\_ for the irrigation of \_\_\_ acres of land, identified as First Phase Continuation Acres, which are shown on the map attached hereto and more particularly described as follows:

The Landowner shall receive said water at the above point of diversion and the Landowner shall be wholly responsible for the cost and expense thereof, and for taking said water at that point and diverting, conveying, and utilizing it. The water to be delivered hereunder shall be measured by means of a measuring device satisfactory to the District. In the case of water delivery from a non-District operated and maintained delivery system along the East Low Canal, such devices shall be furnished, installed, and maintained by and at the expense of the Landowner, but subject to the control of the District who may at all times have access to them over any land of the Landowner. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Landowner.

(c) Payment of the annual charges in accordance with Article 5 hereof will entitle the Landowner to water in the amount of 3.0 acre-feet per acre. Water purchased hereunder is made available on an interruptible basis. Such water may not be available for the irrigation of Landowner's lands during periods of water shortage or peak periods of use by other Project lands within irrigation blocks. The District will make the determination of availability of water and will control its use and delivery under this contract.

(d) The Landowner, without cost or expense to the District or the United States, shall acquire all necessary rights-of-way and construct all necessary facilities to furnish water to the Landowner's land from the point of delivery. The Landowner will be required to obtain a permit from the District and, if required, from the United States for all construction on Project rights-of-way. All plans for proposed construction, including measuring facilities, shall be approved in advance by the District and, if required, by the United States.

(e) It is expected that in the future the lands of the Landowner will be included into irrigation blocks or a District delivery system. In the event water does become available to the Landowner's lands by such inclusion through irrigation delivery facilities constructed by either the United States or the District, the Landowner will take delivery of water therefrom for all of the Landowner's lands in such blocks or District delivery systems, which will then be subject to assessments, or rates, tolls and charges on the same basis as other irrigable lands in such blocks or District delivery systems, and this contract shall be terminated as of January 1 of the year such water first will become available for a full irrigation season. In the event water does become available to the Landowner's lands by such inclusion in a District delivery system, the Landowner will take delivery of water therefrom and this contract will be amended or terminated and replaced

upon notice of the District. The amended or replacement contract will include a Construction Debt Service Charge including the Development Fee with credit for years paid under this contract.

(f) In the event water becomes available to the Landowner's lands as provided in Article 6(e) hereof, the Landowner shall convey to the United States at the appraised price all of the Landowner's facilities on Project rights-of-way which may be required as determined by the United States, as part of the irrigation facilities to be constructed. The Landowner shall further be notified of its facilities on the rights-of-way that are not required for these irrigation facilities to be constructed, and the Landowner may be required to remove or adapt the same to accommodate Project or District irrigation facilities. The Landowner shall bear all costs occasioned by its failure to remove or adapt the facilities within the time limit specified. The Landowner agrees that in any settlement in connection with acquisition or utilization of land or rights-of-way under 6(e) for the construction of irrigation facilities across lands covered by this contract, either by the United States or the District, no enhancement in land value because of the availability of water will be allowed.

**SPECIAL CONDITIONS – FIRST PHASE CONTINUATION ACRES:  
GROUNDWATER REPLACEMENT**

7. (a) The parties acknowledge that the landowner is the holder of a groundwater permit(s) or groundwater certificate(s) issued by the Washington State Department of Ecology which authorizes the use of said groundwater for the irrigation of the same acreage identified herein as First Phase Continuation Acres, said certificate(s) or permit(s) being: \_\_.

(b) As a condition precedent to delivery by the District of First Phase Continuation Water under this contract, the Landowner will apply to the Department of Ecology and receive a superseding groundwater right permit(s) or certificate(s) pursuant to RCW 90.44.510, and the Landowner shall reduce or cease withdrawal of groundwater from the Odessa Subarea as specified in the superseding permit(s) or certificate(s).

**WASTE, SEEPAGE, AND RETURN FLOW WATERS**

8. (a) The Landowner assumes responsibility, during the life of this contract, for disposal of wastewater in connection with irrigation farming of the said land so as not to damage Project facilities or other properties and also for any necessary drainage of the said land. Failure of the Landowner to properly dispose of wastewater shall be grounds for the termination of this contract in accordance with Article 11 hereof.

(b) Neither the United States nor the District abandons or relinquishes any waste, seepage, or return-flow water resulting from the water being made available to the Landowner under this contract, and all such waters are reserved and retained as a source of water supply for the Project.

**WATER MANAGEMENT AND CONSERVATION**

9. The Landowner shall develop and carry out any water management and conservation program that may be required by the District.

## **DISCLAIMER**

10. It is understood and agreed between the parties that no provision for the delivery of First Phase Continuation Water under this contract will be construed to bind the United States or the District to make such water available on a continuing basis to the Landowner or be the basis of a permanent water right; that the United States and the District assume no responsibility for any permanent, continuing delivery of such water, and that neither they nor their officers, agents or employees shall have any liability for or on account of:

(a) The control, carriage, handling, use, disposal, or distribution of First Phase Continuation Water diverted from Project delivery facilities then being operated and maintained or utilized by the United States or the District;

(b) Damage claims of any nature whatsoever, including, but not limited to, property loss or damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of First Phase Continuation Water;

(c) Any damage, whether direct or indirect, arising out of or in any manner caused by seepage, absence of drainage, or shortage or absence of First Phase Continuation Water, whether such shortage or absence be on account of inspections, repairs, improvements, new construction, changes in operation, drought, hostile diversion, supplying other irrigated lands, prior or superior claims, administrative or court order, or any other causes;

(d) Water service hereunder may cease, in whole or in part, if the contract water source becomes unavailable as required by, or due to the application of, federal law, including but not limited to the Endangered Species Act.

## **TERMINATION**

11. In the event of any failure by the Landowner to comply with all the terms and requirements of this contract or any regulations issued in connection therewith, or if the use or attempted use of water furnished hereunder is in any way unreasonably wasteful or harmful to the Project as determined by the District or the United States, or if water is used for any purpose other than irrigation of the above-described land, the District may terminate this contract, after giving reasonable notice and opportunity to comply therewith. Either the Landowner or the District may terminate this contract by written notice to the other at the end of any irrigation season but not later than November 30 of any year, provided, however, that the Landowner may not terminate this contract unless all charges owing to the District have been paid. In addition, this contract will terminate as provided under Article 6(e) hereof at any time the Landowner's land is included into a new Project irrigation block, is added to an existing Project irrigation block, or is served by a District delivery system.

**COVENANTS**

12. All the terms, conditions, covenants and agreements herein made including the rules and regulations attached hereto and made a part hereof by reference shall be deemed to be covenants running with the land and shall be binding on the Landowner and its heirs, administrators, executors, assigns, and successors.

**OFFICIALS NOT TO BENEFIT**

13. (a) 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 herefrom. This restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) No official of the District shall receive any benefit that may arise by reason of this contract other than as a landowner within the Project and in the same manner as other landowners within the Project.

**EXCESS LANDS**

14. Project water made available under the terms of this agreement shall only be delivered by the District in compliance with the acreage limitation provisions of Federal Reclamation law as they now exist or may hereafter be amended. Under no conditions will recordable contracts be executed for the sale of excess lands or be accepted as a condition for delivery of water from the Project to First Phase Continuation Acres served under the terms of this agreement.

**RULES AND REGULATIONS**

15. The United States or the District may make rules and regulations, not inconsistent with the provisions of this contract, and the Landowner shall observe the same. Attached hereto and hereby made a part of this contract are rules and regulations entitled, "Rules and Regulations for Water Service Contracts for First Phase Continuation Acres, East Columbia Basin Irrigation District." Said Rules and Regulations shall be duly complied with by the Landowner. The District reserves the right to hereafter formulate and adopt such supplemental rules and regulations as it may deem necessary or advisable for the distribution and management of First Phase Continuation Water and such supplemental rules and regulations shall be adhered to by the Landowner, its heirs, administrators, executors, assigns, and successors.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

\_\_\_\_\_  
  
\_\_\_\_\_

EAST COLUMBIA BASIN IRRIGATION DISTRICT

(SEAL)

\_\_\_\_\_  
President of the Board

**ATTEST:**

\_\_\_\_\_  
District Secretary

\*\*\*\*\*

STATE OF WASHINGTON)

COUNTY OF \_\_\_\_\_ )

On this day personally appeared before me \_\_\_\_\_, known to me to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington  
Residing at:  
Commission expires:

(SEAL)

\*\*\*\*\*

STATE OF WASHINGTON)

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared before me \_\_\_\_\_, known to me to be the President of the Board of Directors of the East Columbia Basin Irrigation District, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of Washington  
Residing at:  
Commission expires:

**RULES AND REGULATIONS FOR WATER SERVICE CONTRACTS  
FOR FIRST PHASE CONTINUATION ACRES**

**EAST COLUMBIA BASIN IRRIGATION DISTRICT**

The following Rules and Regulations and the District wide Rules and Regulations annually adopted by the Board of Directors of the East Columbia Basin Irrigation District which are incorporated herein by reference shall be a part of this water service contract granted by the East Columbia Basin Irrigation District for the irrigation of First Phase Continuation Acres and the terms and conditions thereof, where applicable as determined by the District, shall be fully complied with by the Landowner.

**I.**

**Construction of Irrigation Facilities to Serve Landowner's Lands**

1. When necessary, as determined by the District, the Landowner shall secure or convey a valid nonexclusive, perpetual easement(s) over the land on which the diversion facilities, water measuring device, pumping plant, power meter and distribution system and other required facilities are to be installed and constructed. Said easement(s) shall include the District's right of vehicular ingress and egress over, along and across the lands described in the easement(s) for purposes of conducting operation and maintenance activities, for the purpose of determining whether the terms and conditions of this contract are being kept and performed, and for other uses and purposes relative to this contract. The area of said easement shall be that required by the District, which shall include any necessary ingress and egress thereto. The District's title to said easements shall be subject to District approval and any title costs incurred in determining the validity of the District's title shall be paid for by the Landowner.

**II.**

**Conditions of Water Delivery**

1. The Landowner shall limit instantaneous delivery capacity to 12.5 g.p.m. (0.0278 cfs) per acre served for delivery systems serving 320 acres or less, to 10.0 g.p.m. (0.0222 cfs) per acre served for delivery systems serving over 320 acres but not over 640 acres and to 8.0 g.p.m. (0.0178 cfs) per acre served for delivery systems serving over 640 acres. The Landowner shall, at Landowner's expense, install a District-approved restrictive device, upon request by the District, to assure compliance with instantaneous flow limitations.
2. If the Landowner irrigates the land described in the Water Service Contract by means of manifold irrigation water delivery system through which irrigation water from other sources could also be delivered, then Landowner shall certify all lands serviced by the manifolded system as required by the Reclamation Reform Act of 1982 prior to delivery of water.

**III.**

**Miscellaneous Provisions**

1. The District, in the event it becomes necessary to enforce the terms and conditions of this contract, in its sole and uncontrolled discretion, may shut off the water to enforce the terms of this contract by locking the diversion facility.

2. In the event more than one area of land is being irrigated from a single diversion facility, additional quantities of water utilized over the minimum quantity shall be prorated among the two or more separate areas of land entitled to receive water and payment therefore shall be as in this contract provided.
3. Water will not be diverted from the District's facility by the Landowner when the District, in its sole and uncontrolled discretion, with consideration of the best interests of all water users of the District, determines that water should not be made available from its facilities.
4. Unless written consent of the District is obtained, Landowner shall not irrigate, nor cause or permit any land to be irrigated from the Landowner's irrigation facilities, any land other than that described in this contract, nor shall any water from the District's facility be utilized for any purpose other than agricultural irrigation of land.
5. In the case of a common pipeline constructed from the point of diversion of water from the District's facility to serve the lands of the Landowner, or any land to be served therefrom under any other water service contract entered into by the District with any third party or parties, and in the event the Landowner, or any third party utilizing said common pipeline, or any of them, or their lessees, heirs, assigns or successors, fails to pay to the District any amounts due under this contract, or any amendment or modification thereof, or fails to perform any other term or condition of this contract, the District may, at its sole and uncontrolled discretion and without liability to any person, shut off the water at the point of diversion from the District's facility until such default has been corrected, or the District may take any other enforcement action herein provided. The fact that one or more Landowner, but not all, has complied with all contract requirements shall not derogate from this provision.
6. Because of the demand for the District's available water, no water service contracts shall be granted for the irrigation of lands other than by pressurized irrigation delivery systems or other conservative distribution alternative(s). Variations from this condition will be permitted only if specifically authorized by the Board of Directors of the District.
7. The District shall not be liable for the construction, breakage, leakage, repair or maintenance of any Landowner's pipeline, including any common pipeline serving Landowner's lands and/or lands of any third party, nor for the securing and retention by the Landowner and/or any third party of any easement or right-of-way required for the delivery of water to the Landowner's lands or to the lands of any third party which may be served by any common pipeline. The District shall not be responsible for any damage, loss, cost or expense, occasioned to the Landowner or any other person, from the construction, breakage, leakage, seepage, or operation of any of the irrigation facilities, including pipelines, of the Landowner, and the Landowner shall hold the District harmless from any such loss, cost or expense.
8. To enable the District to comply with the excess lands provisions of the District's Repayment Contract dated December 18, 1968, with the United States of America, all land ownerships of the Landowner, or any of them, or any transfer thereof, must be recorded with the Auditor of the county in which the land is located. In the event a Landowner, or any of them, or any third party, being served from the District's facility becomes the owner of excess lands, by operation of law or otherwise, and in the event the lands are being supplied with irrigation water by a common pipeline in conjunction with other Landowners, the District shall refuse to deliver water to the common pipeline from

its facilities for the excess Landowner unless and until the excess status of any Landowner or third party shall have been resolved.

9. Violation or default of any of the terms and conditions herein contained shall entitle the District to terminate this water service contract. Further, in the event a Landowner utilizes water made available hereunder in a manner that is unreasonably wasteful or harmful to the District facilities or downstream water users, (including the return of irrigation wastewater to District facilities containing undue or harmful amounts of silt and debris), or in the event the irrigation of the Landowner's lands occasions damage, by seepage or otherwise, to District facilities, the District may terminate this contract.
10. In the event the Landowner sells or conveys the land covered by this contract, such sale or conveyance shall constitute an assignment of this contract by the Landowner and the terms and conditions hereof shall be binding upon the Landowner's grantees or successors. In the event a grantee or successor is not entitled to receive irrigation water from the District for any reason whatsoever, including the excess land provisions of Federal Reclamation law, the District shall have the right to terminate this contract. In event any person acquires title, including a purchaser's interest from the Landowner of all or a portion of the lands covered by this contract, the District may, at its option, terminate this contract and require the then Landowner or Landowners to enter into a new contract or contracts with the District.
11. The term "Landowner" referred to herein in the singular shall include any and all persons herein named, whether one or more, and each shall be individually and jointly bound to the terms and conditions of this contract.
12. In addition to the termination provisions provided for in this contract, the District shall have all rights and remedies provided by law for the recovery of moneys owing and for damages occasioned by any default or breach of covenant on the part of the Landowner.

#### IV.

#### Private Delivery Systems

1. Landowner shall obtain a District permit approving of the plans for the construction of irrigation facilities, including but not limited to the diversion facilities, water measuring device, and pumping plants. Construction shall be subject to the approval of the District and shall be at Landowner's expense. The diversion facilities and the water measuring device shall be under the District's exclusive control.
2. The Landowner shall furnish to the District construction plans for Landowner facilities to access Columbia Basin Project irrigation supplies. The plans shall include a lockable headgate/valve and water measuring device, both of which shall be under the control of the District, and pumping plant details. The plans shall show, in detail, the location of the proposed diversion facilities, water measuring device, pumping plant, the power meter(s), and the size and length of the pipelines, together with any such other information as may be required by the District Manager. Landowner shall furnish to the District a map showing the location of the distribution system, including dimensions of circle sprinkled areas and other areas and the acreage to be irrigated, and the point of water diversion from the Landowner's pipeline or other conveyance facility to each of said areas. If the size of a Landowner's proposed diversion, in the event of an operation failure, could adversely affect the District's

operation, the District may require the Landowner to install an automatic alarm system.

3. An approved water flow meter shall be installed by the Landowner at the location designated by the District Manager and shall be of the type and size required by the District. The meter shall be for the purpose of determining the amount of water used by the Landowner and shall be read and recorded by the District at such times as deemed necessary by the District. All water diverted from the District's facility must be measured. In the event the water flow meter becomes inoperative, the District Manager shall estimate the amount of water diverted under this contract for the irrigation of any lands served from the headgate, and such estimate and the resulting cost of water so estimated to have been diverted shall be binding upon and shall be paid for by the Landowner as in this contract provided.