

**INTERLOCAL COOPERATION AGREEMENT**

**THIS AGREEMENT is made by and between GRANT CONSERVATION DISTRICT ("GCD"), and PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON ("DISTRICT").**

**RECITALS**

Public agencies are authorized, pursuant to RCW Chapter 39.34 to enter into cooperative agreements. District and GCD are authorized pursuant to RCW Chapters 54.16 and 89.08 to engage in energy conservation programs.

District desires to have GCD administer a Scientific Irrigation Scheduling (SIS) project for District in order to obtain qualifying energy savings pursuant to the District/BPA energy efficiency efforts. District participates in the Bonneville Power Administration's (BPA) Conservation Rate Credit Program and BPA's Energy Conservation Agreement which provides reimbursement of costs for measurable energy savings.

**NOW THEREFORE, IT IS AGREED THAT:**

**1. PURPOSE**

The GCD will assist District in administering a Scientific Irrigation Scheduling (SIS) project. SIS methods are defined as utilizing proven techniques to determine the appropriate timing and amount of irrigation needed for a specific crop. These techniques include consideration of soil type, soil moisture content, and the monitoring of water usage to determine the actual amount of applied water during a growing season. Irrigation scheduling may be practiced with different levels of intensity, regularity, and sophistication.

**2. OBLIGATIONS OF THE PARTIES**

**A. GCD's duties include but are not limited to:**

1. Execution with participating farmers a Farmer Participation Agreement for Cost Sharing Assistance for the SIS Program.
2. Tracking SIS compliance of participant farmers throughout the irrigation season including but not limited to the following:
  - farmer record keeping requirements,
  - soil moisture monitoring
  - water application tracking.
3. Collecting and verifying data collected by the participating farmers throughout the season.
4. Reporting number of sign-up acres and data during irrigation season.
5. Developing and providing an instructional program
6. Submit a summary report by November 15th of each year, detailing signup details, reviewing SIS compliance and providing farmer end of season data. GCD will provide the report in MicroSoft Excel format to the District. The report may include accomplishments and recommendations for program improvements.

- B. GCD shall ensure that participants and any fields they wish to include in the SIS program meet the following criteria:**
- 1. The entire pumping load must be served by District.**
  - 2. The participating farmer's pump system must have sufficient system capacity and water availability to meet the crop water requirements under average EvapoTranspiration (ET) needs of the crop to be scheduled.**
  - 3. Any fields of a participating farmer included in the SIS program may not be used in any other water management incentive programs during the same period.**
  - 4. The participating farmer must install at least one moisture probe per field with more probes being preferable depending upon soil type and conditions.**
- C. The total acres allowed in this project are capped at 130,000. The program may be cancelled if farmer sign up is less than 10,000 acres. The number of acres included in the program during the first year shall establish a base line number of acres for the program for the years 2010, 2011 and 2012. GCD agrees to use all reasonable efforts to maintain the base amount of acres over this three year period.**
- D. GCD shall develop an instructional program for farmers participating in District's SIS program that instructs the farmers in the following knowledge and skill areas:**
- 1. The use of crop consumptive and ET data for the crop and for each field in question. Obtain ET data from regional sources such as AgriMet for irrigation scheduling.**
  - 2. Regular weekly measurement of soil moisture using soil moisture techniques such as Gravimetric Measurements or Neutron Probes for irrigation scheduling.**
  - 3. Measurement of the actual amounts of water applied through rainfall or irrigation.**
- E. GCD will execute a Farmers Participation Agreement for cost sharing assistance with each participating farmer for each farmer's field participating in the SIS program. Farmers Participation Agreement for cost sharing assistance shall contain the following terms and obligations:**
- 1. The Agreement will be for a three year term.**
  - 2. The Agreement will specify the number of acres to be included.**
  - 3. The Agreement will designate either a standard or real time monitoring method.**
  - 4. If the farmer selects the standard neutron probe monitoring method, the agreement must require the farmer to conduct, at least weekly, irrigation monitoring and scheduling based on the use of local weather-based ET information. Information gathered from the weekly monitoring shall include updated soil moisture status, forecasted and historic ET cumulative water use, precipitation, irrigation times, dates, and amounts.**
  - 5. If the farmer selects to use a real-time monitoring method, the Agreement shall require the farmer to use data loggers to collect soil moisture readings at a frequency of at least one reading per hour. The farmer may choose the precise frequency and shall manually retrieve the data from the logger. Information retrieved weekly shall include updated soil moisture status, forecasted and historic ET cumulative water use and precipitation, irrigation times, dates, and amounts.**

6. The Agreement shall direct that farmers wishing to participate must understand distribution uniformity and application efficiency concepts and their implications on SIS. This uniformity can be assessed using aerial photography or catch can method using a maximum can spacing of ten feet.
  7. The Agreement shall ensure that District will have access to the farmer's records relating to SIS program implementation on the farmer's fields.
- F. The Farmers Participation Agreement for Cost Sharing Assistance shall also require each participating farmer to provide the following support documentation to GCD, which GCD shall provide to District.
1. A farm map(s) showing each field under consideration for the SIS program. The map(s) should be labeled to include a field identification number, total acres (SIS- treated plus other acres), crop type, irrigation system type, and pump station location.
  2. Crop and irrigation system information which shall include the following: total scheduled acres by crop type, soil type, irrigation system type and delivery pressure.
  3. Pump station information which shall include water source, pump type, pump size, suction lift/head, discharge pressure, and meter number(s).
  4. Water records including weekly reports and end of the season total amount of water applied to each field.
  5. For each field, a soil moisture chart for the irrigation season.
  6. Each farmer shall submit a soil moisture record which is available in a file for each field under this SIS project.
- G. GCD shall submit the Farmers Participation Agreement for Cost Sharing Assistance to the District Representative for final approval before executing said agreement with participating farmers.

3. **TERM**

This Agreement shall remain in full force and effect until December 31, 2012 unless terminated per Section 15.

4. **MAINTENANCE OF RECORDS**

Each party hereto agrees to maintain books, records and documents using accounting procedures which accurately reflect all direct costs related to the performance of services under this Agreement. Each party may examine the other party's books and records to verify the accuracy of invoices. Each party's fiscal management system shall include the capacity to provide accurate and complete disclosure of all costs invoiced under this Agreement.

5. **INDEMNIFICATION**

District and GCD agree to hold each other harmless and indemnify one another for any acts of negligence committed or caused by one of them or their agents, consultants, employees or sub-contractors against the other or a third party including, but not limited to, property damage, cost, charge or expense, whether direct or indirect and whether occasioned by injury or loss to persons or property. This indemnity obligation specifically includes liability or alleged liability that may arise from injury or loss suffered by any employee of District or any subcontractor regardless of

any immunity provided by the Washington Industrial Insurance Act, RCW Title 51, or any other applicable law. The terms of this section, specifically including the preceding waiver of immunity, shall be deemed mutually negotiated to the fullest extent allowed by the laws of Washington.

**6. PAYMENT/COMPENSATION**

A. The District will pay to GCD, an administration fee of 90 cents per sign up acre per year. This fee will be paid within 30 days of receipt of invoice documented as follows:

- 40% (after April 15) upon receipt of Farmer Participation Agreements (FPA) and contract sign ups.
- 30% (after July 15) upon receipt of a report listing all participants with completed applications and number of acres by soil monitoring method used. In addition, a report of SIS compliance as detailed in the Farmer Participation Agreement.
- 30% (after November 15) upon completion of all cost share payment documents for District to make payment to the farmers and receipt of final summary report.

B. GCD may submit invoices to the District for cost share assistance to the farmers. Supporting documentation verifying individual farmer's completion of SIS requirements must be submitted with the invoice prior to the issuance of payment. The District shall make approved payments directly to the farmers. The SIS requirements are as follows:

- Standard time soil moisture monitoring at \$5.50 per acre
- Real time soil moisture monitoring at \$8.60 per acre

C. The District's total cost shall not exceed \$1,235,000.00 per year which includes payments made directly to the farmers and GCD. In no event however, shall the total amount paid to GCD and farmers for services exceed the maximum contract price of \$3,705,000.00, unless modified pursuant to Section 7 of the Agreement.

GCD shall invoice the District for services rendered. All invoices shall be sent to the Contracting Officer at the following address. Failure to send the invoice to the Contract Officer may result in payment delays.

Jay Taylor, Contract Officer  
Public Utility District No. 2  
of Grant County, WA  
15655 Wanapum Village Lane SW  
Beverly, WA 99321

Phone No.: 509-793-1468  
E-mail: [Jtaylor@gcpud.org](mailto:Jtaylor@gcpud.org)

**7. AGREEMENT ALTERATIONS & AMENDMENTS**

This Agreement may be amended by mutual agreement of both parties. Such Amendments shall be executed using the Amendment form attached hereto as Exhibit A and shall not be binding unless the Amendment is in writing and signed by authorized personnel.

8. NOTICE

Any notice or other communication under this Agreement shall be submitted in person, delivered, mailed or e-mailed to the following:

District Representative

Attn: Frank Majer  
P.O. Box 878  
Ephrata, WA 98823  
E-mail: [fmajer@gcpud.org](mailto:fmajer@gcpud.org)  
Phone No.: 509-754-5088 ext. 2933

GCD Representative

Attn: Jennifer Reilly  
2145 Basin St. SW, Suite C  
Ephrata, WA 98823  
E-mail: [Jennifer-reilly@wa.nacdnet.org](mailto:Jennifer-reilly@wa.nacdnet.org)  
Phone No.: 509-754-2463 ext. 1134

9. EFFECT OF OTHER AGREEMENTS

This Agreement shall not change or affect the responsibilities and obligations of GCD under any other agreements it may enter into. The intent of this Agreement is to facilitate the efficient use of expertise toward meeting District's measurable energy savings opportunities.

10. JURISDICTION AND ATTORNEY FEES

This Agreement is made, executed under and is to be governed by, construed and enforced in accordance with the laws of the State of Washington. In the event of a suit, the undersigned agree that a visiting judge shall be assigned to the case so that a resident judge, who is also a customer of either District or GCD, will not hear the case. The substantially prevailing party in any legal action herein shall be entitled to reasonable attorney fees and all reasonable costs, including, but not limited to, expert witness fees and travel and lodging expenses.

11. AUTHORITY

Each person signing this Agreement has the full authority of the entities on behalf of which they are signing to execute this Agreement and to bind those entities to the terms of this Agreement.

12. RELATIONSHIP OF THE PARTIES

No agent, employee or representative of District shall be deemed to be an agent, employee, or representative of GCD for any purpose, and the employees of District are not entitled to any of the benefits GCD provides to GCD's employees. No agent, employee or representative for GCD shall be deemed to be an agent, employee or representative of District for any purpose, and the employees of GCD are not entitled to any of the benefits District provides to District's employees.

In the performance of the work herein contemplated, the party performing the work is an independent contractor with authority to control and direct the performance of the details of the work; however, the work contemplated herein shall be subject to the general rights of inspection and review of the party requesting the work be done, to secure the satisfactory completion thereof.

GCD shall perform its services with the level of skill, care and diligence normally provided by and expected of professional persons performing services similar to or like those to be performed

hereunder. GCD understands that District will be relying on the accuracy, competency, credibility, and completeness of the services provided by GCD hereunder.

13. **INSURANCE**

A. Prior to the commencement of any work under this Agreement, and at all times during the term of this Agreement, GCD shall obtain and maintain continuously, at its own expense a policy, or policies of insurance with insurance companies rated A- VII or better by A.M. Best, as enumerated below. All insurance required by this Contract shall be primary insurance with respect to any insurance carried by the District. GCD shall have no right to call upon or seek contribution from any insurance carried by the District. Any significant deductible, self-insured retention or coverage via captive must be disclosed and is subject to approval by District's Risk Manager. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of GCD.

GCD shall ensure that all policies of insurance that GCD carries as insurance shall include a waiver of the insurer's right of subrogation to the benefit of the District.

1. Commercial general liability insurance, written on an occurrence form. The commercial general liability insurance shall not exclude:
  - Broad Form Contractual Liability
  - Broad Form property Damage including completed operations
  - XCU coverage
  - Independent Contractor's Liability

Said policy(s) must provide the following coverage:

Bodily Injury and Property Damage -  
\$2,000,000 Per Occurrence/Aggregate  
\$2,000,000 Products and Completed Operations Aggregate  
\$1,000,000 Personal and Advertising Injury  
\$500,000 Fire Damage

Stop Gap Employers Liability:  
\$1,000,000 Each Accident  
\$1,000,000 Disease - Policy Limit  
\$1,000,000 Disease - Each Employee

2. Business automobile liability for all vehicles used under the contract including, when applicable, coverage for owned, non-owned, leased or hired vehicles written on an insurance industry standard form (ISO - CA 00 01) or equivalent.

Such policy must provide the following coverage:

Bodily Injury and Property Damage  
\$1,000,000 per accident

3. Worker's Compensation - GCD shall comply with the provisions of Title 51 of the Revised Code of Washington.

B. Evidence of Insurance - Prior to performing any services, and within ten (10) days after receipt of the Contract Award, GCD shall file with the District a Certificate of Insurance showing the Insuring Company, policy numbers,

effective dates, limits of liability and deductibles with a copy of the endorsement naming the District as an Additional Insured (not required for Workman's Comp).

Failure of the District to demand such certificate or other evidence of compliance with these insurance requirements or failure of the District to identify a deficiency from the provided evidence shall not be construed as a waiver of GCD's obligation to maintain such insurance. Acceptance by the District of any certificate or other evidence of compliance does not constitute approval or agreement by the District that the insurance requirements have been met or that the policies shown in the certificates or other evidence are in compliance with the requirements.

The District shall have the right but not the obligation of prohibiting GCD or subcontractor from entering the project site until such certificates or other evidence of insurance has been provided in full compliance with these requirements. If GCD fails to maintain insurance as set forth above, the District may purchase such insurance at GCD's expense. GCD's failure to maintain the required insurance may result in termination of this contract at the District's option.

- C. Sub-contractors - GCD shall insure that each Subcontractor meets the applicable insurance requirements and specifications of this Agreement. All coverage for subcontractors shall be subject to all the requirements stated herein and applicable to their profession. GCD shall furnish the District with copies of certificates of insurance evidencing coverage for each subcontractor
- D. Cancellation of Insurance - GCD shall not cause any insurance policy to be canceled or permit any policy to lapse. All insurance policies shall include a provision to the effect that the insurance policy shall not be subject to cancellation, lapse, or to reduction in the required limits of liability or amount of insurance until notice has been mailed to the District by the insuring company stating the date that such cancellation, lapse or reduction shall be effective which date shall be not less than thirty (30) calendar days after the mailing of such notice.

14. FILING

Prior to its entry into force, this Agreement shall be filed with the county auditor or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source as required by RCW 39.34.040.

15. TERMINATION

Either party may terminate this Agreement at any time provided it gives the other written notification of the same at least 30 days prior to the effective date of termination.

16. Non-Waiver


No waiver of any provision of this Agreement, or any rights or obligations of either Party under this Agreement, shall be effective, except pursuant to a written instrument signed by the Party or Parties waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing. The failure of either Party to require the performance of any term of this Agreement or the waiver of either Party of any breach under this

Agreement shall not operate or be construed as a waiver of any other provision hereof, nor shall it be construed as a waiver of any subsequent breach by the other Party hereto.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed on the date indicated below.

PUBLIC UTILITY DISTRICT NO. 2  
OF GRANT COUNTY, WASHINGTON

GRANT CONSERVATION DISTRICT

By:   
Tony Webb  
Director of Customer Service

By: 

Date: 3/10/10

Date: 3-16-10