

**INTERLOCAL COOPERATIVE AGREEMENT  
BETWEEN KENNEWICK IRRIGATION DISTRICT AND COLUMBIA IRRIGATION DISTRICT  
FOR SHARING LABOR AND EQUIPMENT**

THIS AGREEMENT is made and entered into by and between Columbia Irrigation District (hereinafter "CID") and Kennewick Irrigation District, (hereinafter "KID") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

**ARTICLE I  
PURPOSE**

- 1.01 **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which CID and KID may share labor and equipment in times of emergency or necessity. Neither CID nor KID are required to provide labor or materials under this Agreement when it is determined provision of such would not be in the best interest of the providing party. No new or separate legal or administrative entity is created by this Agreement.

**ARTICLE II  
SCOPE OF SERVICES**

- 2.01 KID may provide labor, equipment, and/or materials for engineering, construction, and maintenance as requested by CID to the extent that KID deems it to be in its interest and has the labor, equipment, and/ or materials available to fulfill the written request by CID.

CID may provide labor, equipment, and/or materials for engineering, construction, and maintenance as requested by KID to the extent that CID deems it to be in its interest and has the labor, equipment, and/ or materials available to fulfill the written request by KID.

**ARTICLE III  
ADMINISTRATION**

- 3.01 **ADMINISTRATOR.** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of the Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party within 15 working days of the change occurring.

3.02 CID's representative shall be District Manager.

3.03 KID's representative shall be District Manager.

**ARTICLE IV  
DURATION AND RENEWAL OF AGREEMENT**

**4.01 DURATION AND RENEWAL.** This Agreement shall be effective when executed by both parties and shall continue until December 31, 2025 and renew for successive five-year periods, unless terminated in writing by either party as provided in Section 8.01 of this Agreement. The obligation to provide compensation for labor and equipment provided during the term of this Agreement shall survive this Agreement's termination or expiration.

**ARTICLE V  
COMPENSATION FOR LABOR AND EQUIPMENT**

**5.01 COMPENSATION.** Both parties hereby agree to reimburse the other for the costs of any labor or equipment provided hereunder. Cost of labor shall include regular wages, plus all costs for fringe benefits to labor, including, but not limited to: Social Security, retirement, industrial and medical aid costs, prorated sick leave, holiday and vacation time, and group medical insurance. Cost of equipment shall be the commercially reasonable rental rate for the Tri-Cities region. Also, an additional ten percent (10%) of the total costs shall be added for the overhead expenses for related accounting, billing, and administrative services. Said amount shall be paid within thirty (30) days of billing.

**ARTICLE VI  
PERFORMANCE OF AGREEMENT**

**6.01 COMPLIANCE WITH ALL LAWS.** Each party shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the performance of this Agreement, including without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

**6.02 MAINTENANCE AND AUDIT OF RECORDS.** Each party shall maintain books, records, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by either party or its designee, and the Washington State Auditor's Office. Each applicable record shall be retained per the respective retention period under federal and Washington law.

**6.03 ON-SITE INSPECTIONS.** Either party or its designee may evaluate the performance of this agreement through on-site inspection to determine whether performance complies with the standards set forth in this Agreement and in compliance with federal, state, and local laws, rules, regulations, and ordinances.

**6.04 TREATMENT OF ASSETS AND PROPERTY.** No assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

**6.05 IMPROPER INFLUENCE.** Each party agrees, warrants, and represents that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees,

warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

**6.06 CONFLICT OF INTEREST.** The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest within the purposes of this Agreement.

**6.07 ASSIGNMENT AND SUBCONTRACTING:** No portion of this Agreement may be assigned or subcontracted to any other individual, firm, or entity without the express and prior written approval of both parties.

**6.08 NOTICE:** Except as specifically set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to CID shall be to the District Manager, 10 E. Kennewick Avenue, Kennewick, WA 99336 notice to KID shall be to the District Manager, 2015 S. Ely Street Kennewick, WA 99337.

#### **ARTICLE VII INDEMNIFICATION**

**7.01 INDEMNIFICATION.** To the extent of its comparative liability, each party agrees to indemnify, defend and hold harmless the other party, its elected and appointed officials, employees, agents and volunteers, from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

A party shall not be required to indemnify, defend, or hold the other party harmless if the claim, damage, loss, or expense for personal injury, for any bodily injury, sickness, disease, or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other party.

In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after the liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

In any and all claims arising out of the performance of this Agreement against CID or its officers, officials, employees, or agents by any employee of KID, subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this article of this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for KID or subcontractor

under workers' compensation acts, disability benefit acts, or other employee benefits acts. For purposes of the indemnity provided pursuant to this Agreement, it is acknowledged and agreed by the parties hereto that KID expressly waives any immunity KID might have had under such laws, including, but not limited to Title 51 of the Revised Code of Washington.

In any and all claims arising out of the performance of this Agreement against KID or its officers, officials, employees, or agents by any employee of CID, subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this article of this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CID or subcontractor under workers' compensation acts, disability benefit acts, or other employee benefits acts. For purposes of the indemnity provided pursuant to this Agreement, it is acknowledged and agreed by the parties hereto that CID expressly waives any immunity CID might have had under such laws, including, but not limited to Title 51 of the Revised Code of Washington.

#### ARTICLE VIII DISPUTES

**8.01 GOVERNING LAW.** This Agreement shall be governed exclusively by the laws of the State of Washington.

#### ARTICLE IX TERMINATION

**9.01 TERMINATION.** Either party may terminate this Agreement upon thirty (30) days' written notice, either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the other party. If this Agreement is so terminated, the parties shall be liable only for the performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

#### ARTICLE X GENERAL PROVISIONS

**10.01 CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.** The Agreement may be changed, modified, amended, or waived only by written agreement signed by the parties and adopted by resolution of each party's legislative authority. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence, or omission, and shall not constitute a waiver as to any other term or condition or future act, occurrence, or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

**10.02 ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further subcontract, or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

**10.03 SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

**10.04 ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto.

**10.05 INTERLOCAL COOPERATION ACT PROVISIONS.** All vehicles, equipment, inventory, and any improvement thereon or fixtures owned or purchased by CID, shall remain the sole property of CID. All vehicles, equipment, inventory, and any improvements thereon or fixtures owned or purchased by KID, shall remain the sole property of KID.

It is not intended that a separate legal entity be established to conduct this cooperative undertaking, and therefore no independent special budget or funds are anticipated, nor shall be created without the prior written agreement of the parties.

A copy of this Agreement shall be filed with the Benton County Auditor's office or posted on CID's or KID's website as required by RCW 39.34.040.


**10.06 ARBITRATION.** In the event either party alleges any failure to agree, default or breach against the other arising out of this Agreement and they are unable to resolve the same by direct negotiation within seven (7) days, then the arbitration provisions herein shall immediately apply. In the event of any such claims or disputes over this Agreement, and as a condition precedent to the commencing of any legal action on said Agreement, the parties do hereby agree that they will first submit said dispute to arbitration in one of the Tri-Cities, Washington. A single arbitrator shall be selected by agreement of the parties or, in the alternative, by the presiding judge of Benton County Superior Court. Each party shall be responsible for one-half (1/2) of the fees and expenses of the arbitrator. The mandatory arbitration rules of the Benton/Franklin County Superior Courts shall be binding as to procedure, except as to the unique right of appeal which is not applicable herein. Within ten (10) days of notice of arbitration by a party, an arbitrator shall be designated, and the hearing held within forty-five (45) days thereof, and a decision made within ten (10) days of such hearing. The right of appeal under the general arbitration laws of the State of Washington shall apply.

**10.07 ATTORNEY'S FEES.** In case litigation is instituted arising directly or indirectly out of this Agreement, the losing party shall pay to the prevailing party the prevailing party's reasonable attorney's fees and costs as determined by the arbitrator or court, at hearing, trial or any appeal therefrom.

IN WITNESS WHEREOF, the parties have executed this Agreement this 15<sup>th</sup> day of February, 2022.

APPROVED:


BOARD OF DIRECTORS,  
KENNEWICK IRRIGATION DISTRICT

  
Gene Huffman, President

  
David McKenzie, Vice President

  
Griffin Hanberg, Member

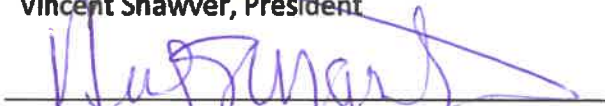
  
Arland Ward, Director


  
David McKenzie, Director  
Kirk Rathbun

APPROVED:

BOARD OF DIRECTORS,  
COLUMBIA IRRIGATION DISTRICT

  
Vincent Shawver, President

  
Neil Martin, Vice President

  
Bo Ayde, Director

  
Marilyn Dickenson, Director

  
Sherri Thackham, Director

APPROVED AS TO FORM:

By:   
Kennewick Irrigation District  
Attorney

APPROVED AS TO FORM:

By:   
Columbia Irrigation District  
Attorney