INTERLOCAL COOPERATIVE AGREEMENT BETWEEN COLUMBIA IRRIGATION AND KITTITAS COUNTY FOR GENERAL EQUIPMENT AND/OR SERVICES THROUGH DEPARTMENT OF PUBLIC WORKS

THIS AGREEMENT is made and entered into by and between Columbia Irrigation (Hereinafter "Columbia Irrigation") and Kittitas County, (Hereinafter "Kittitas") 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 Columbia Irrigation District or Kittitas County will provide equipment and/or services through its Department of Public Works, as requested by either party in a manner convenient to the county providing the equipment or service. Either party to this agreement shall make a reasonable effort to assure the availability of equipment and/or services to the other party.

ARTICLE II
ADMINISTRATION

2.01 ***ADMINISTRATOR.*** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this 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.

2.02 Columbia Irrigation's representative shall be Joel Teeley.

2.03 Kittitas representative shall be the Director of Public Works.

ARTICLE III
DURATION AND RENEWAL OF AGREEMENT

3.01 ***DURATION AND RENEWAL***. This Agreement shall be effective when executed by both parties and shall continue unless terminated in writing by either party. Thereafter, this Agreement shall automatically renew annually on January 1st unless terminated by either party.

ARTICLE IV
COMPENSATION TO THE COUNTY

4.01 ***COMPENSATION TO THE COUNTY***. Both parties hereby agree to reimburse the other for the costs of the work performed or equipment rented and shall be based on the actual cost of labor, equipment, plus all costs for fringe benefits to labor, including but not limited to, Social Security, retirement, industrial and medical aid costs, prorated sick leave, holidays and vacation time, and group medical insurance. Also, an additional fifteen percent of the total costs shall be added for overhead expenses for accounting, billing and administrative services, after a certified statement of the costs is provided within thirty (30) days of the service or equipment rental. The amount invoiced shall be paid within thirty (30) days after billing.

ARTICLE V
PERFORMANCE OF AGREEMENT

5.01 ***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.

5.02 ***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 subjected to inspection, review and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records, documents and other materials for the applicable retention period under federal and Washington law.

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

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

5.05 ***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.

5.06 ***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.

5.07 ***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.

5.08 ***NOTICE***: Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to Kittitas shall be to the Director of Public Works, 411 N. Ruby, Ste. 1, Ellensburg, WA 98926 and to the Kittitas County Commissioners, 205 W 5th Ave, Suite 108, Ellensburg, WA 98926.
Notice to Columbia Irrigation District for all purposes under this Agreement shall be to:

ARTICLE VI
INDEMNIFICATION

6.01 ***INDEMNIFICATION.*** Columbia Irrigation agrees to and shall defend, indemnify and hold harmless Kittitas, its appointed and elective officers, agents and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Kittitas, its elected or appointed officials, agents or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Columbia Irrigation, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of Kittitas, its appointed or elected officials, agents or employees. It is further provided that no liability shall attach to Kittitas by reason of entering into this contract, except as expressly provided herein.

Kittitas agrees to and shall defend, indemnify and hold harmless Columbia Irrigation, its appointed and elective officers, agents and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon

Columbia Irrigation, its elected or appointed officials, agents or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Kittitas, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of Columbia Irrigation, its appointed or elected officials, agents or employees. It is further provided that no liability shall attach to Columbia Irrigation by reason of entering into this contract, except as expressly provided herein.

ARTICLE VII
DISPUTES

7.01 ***TIME.*** Time is of the essence of this Agreement

7.02 ***GOVERNING LAW AND VENUE***. This Agreement shall be governed exclusively by the laws of the State of Washington. The Kittitas County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.

7.03 ***ATTORNEY'S FEES.*** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees incurred in that action, arbitration or proceeding.

ARTICLE VIII
TERMINATION

8.01 ***TERMINATION.*** Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

ARTICLE IX

GENERAL PROVISIONS

9.01 ***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.

9.02 ***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.

9.03 ***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.

9.04 ***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 any of the parties hereto.

9.05 ***FILING***. Pursuant to RCW 39.34.040, This Agreement shall be posted on Kittitas' public website.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day

of February, 2013

APPROVED:

COLUMBIA IRRIGATION
BENTON COUNTY

Joel Teeley, Secretary/Manager

(Date 1-29-2013

APPROVED:

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Obie O'Brien, Chairman

Paul Jewell, Vice Chair

Gary Berndt, Commissioner

COUNTY COMMISSIONERS SEAL KITTITAS COUNTY WASHINGTON

ATTEST:

By: Julie Kjorsvik, Clerk of the Board

APPROVED AS TO FORM:

By:_____
Deputy Prosecuting Attorney