

**A G E N D A**  
**GRANT COUNTY PUBLIC UTILITY DISTRICT**  
**30 C Street SW – Commission Meeting Room**  
**Ephrata, Washington**  
**COMMISSION MEETING**  
**Tuesday, April 12, 2022**

An Executive Session may be called at any time for purposes authorized  
by the Open Public Meetings Act

- 9:00 a.m.** Commission Convenes
- 9:30 a.m.** Reports from staff
- 12:00 Noon** Lunch
- 1:00 p.m.** Safety Briefing  
Pledge of Allegiance  
Attendance  
Public requests to discuss agenda items/non-agenda items  
Correspondence  
Business Meeting

**1. Consent Agenda**

Approval of Vouchers

Meeting minutes of March 22, 2022

**2. Regular Agenda**

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract 130-10739 with Open Systems International, Inc (OSI) for delivery of an Energy Management System, in an amount not-to-exceed \$3,013,231.00. (3401)

**3. Review Items For Next Business Meeting**

Motion authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Change Order No. 5 to Contract 130-08756 with North Sky Communications, LLC (NSC) increasing the not-to-exceed contract amount by \$18,400,000.00 for a new contract total of \$70,700,000.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 5. (xxxx)

Motion authorizing payment to Harris Institute of Technical Training, for invoice #2021-1230-01 dated December 30, 2021 in the amount of \$86,348.00. (xxxx)

Motion approving Employment Agreement with Richard Wallen, General Manager/CEO. (xxxx)

Motion authorizing Commission approval of Service Area Agreement 140-10993 with Douglas PUD, authorizing each party to provide electrical service to certain customers within the other party's service area with prior approval. (xxxx)

Motion authorizing payment to VAR Technology Finance for invoice dated January 9, 2022 in the amount of \$18,613.94. (xxxx)

**4. Calendar**

**5. Reports from Staff (if applicable)**

**Adjournment**

# **CONSENT AGENDA**

# Draft – Subject to Commission Review

## REGULAR MEETING OF PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

March 22, 2022

The Commission of Public Utility District No. 2 of Grant County, Washington, convened at 9:00 a.m. at Grant PUD's Main Headquarters Building, 30 C Street SW, Ephrata, Washington and via Microsoft Teams Meeting / +1 509-703-5291 Conference ID: 627 899 217# with the following Commissioners present: Judy Wilson, President; Nelson Cox, Vice-President; Tom Flint, Secretary; Terry Pyle, Commissioner and Larry Schaapman, Commissioner.

The Commission convened to review vouchers and correspondence.

A round table discussion was held regarding the following topics: notice of Mid-C sponsorship of APPA Resolution 22-12 in Support of Hydropower, the Federal Columbia River Power System, and Opposing Breach of the Lower Snake River Dams; inquiry regarding fiber availability at the Farm Service Agency Building; 2022 annual Irrigation calling campaign; brief report from Dobler Orchard Lease meeting; Big Bend Community College apprenticeship program; inquiry from City of Ephrata regarding storage of Christmas Banner; inquiry regarding use of public assets to assist cities with set up and take down of Christmas decorations; concern with technology available to commissioners; appreciation expressed for having a dedicated CSR assigned to irrigation needs; and inquiry regarding scope of work and invoices associated with McKinstry.

The following new employees were introduced to the Commission: David Baumgardner, Apprentice Trainee for Operations, David Keyser, Apprentice Trainee for Operations; Joshua Johnston, Power Production Mechanic; Austin Schooler, Power Production Mechanic; Caleb Pietrandrea, Power Production Mechanic; Michael King, Power Production Mechanic; Calvin Mizner, Power Production Electrical Engineer; and Nick Guthrie Power Production Electrician.

Craig Bressan, Senior Manager of Safety, reviewed the Safety Report.

Craig Bressan, Senior Manager of Safety, provided the Safety Health and Improvement Plan (SHIP) Programmatic Report.

Kevin McCarthy, Senior Manager of Internal Services, and Carol Mayer, Manager of Procurement and Warehouse, presented the Internal Services Report. In addition, Ms. Mayer reviewed the Grant PUD Purchase Authorization Table.

The Commission recessed at 12:00 p.m.

The Commission resumed at 1:00 p.m.

Pat and Gerry Husband, Quincy, Washington, spoke in support of installing a kayak launching platform at the Crescent Bar Recreation area. In addition, she spoke in frustration of call center wait times and lack of response when leaving a message.

Consent agenda motion was made Mr. Flint and seconded by Mr. Schaapman to approve the following consent agenda items:

|                              |           |         |           |                 |
|------------------------------|-----------|---------|-----------|-----------------|
| Payment Number               | 119350    | through | 119645    | \$24,438,962.60 |
| Payroll Direct Deposit       | 193372    | through | 194093    | \$1,994,877.02  |
| Payroll Tax and Garnishments | 20220309A | through | 20220309B | \$857,594.47    |

Meeting minutes of March 8, 2022.

After consideration, the above consent agenda items were approved by unanimous vote of the Commission.

Resolution No. 8990 relative to supporting the carbon-free and environmental stewardship benefits of Northwest Hydropower, including the Lower Snake River Dams was presented to the Commission. Motion was made by Mr. Flint and seconded by Mr. Cox to approve Resolution No. 8988. After consideration, the motion passed by unanimous vote of the Commission.

#### RESOLUTION NO. 8990

#### A RESOLUTION SUPPORTING THE CARBON-FREE AND ENVIRONMENTAL STEWARDSHIP BENEFITS OF NORTHWEST HYDROPOWER, INCLUDING THE LOWER SNAKE RIVER DAMS

#### Recitals

WHEREAS, hydroelectric dams represent close to 90 percent of the Northwest's renewable, carbon-free annual electricity production, which has made the Pacific Northwest a national leader in clean, renewable energy production;

WHEREAS, thanks to hydropower, the Northwest boasts the nation's least carbon-intensive electric grid and the lowest cost for clean energy, which power's our region's economy and helps to keep the air we breathe clean with emissions-free electricity;

WHEREAS, hydropower acts as a renewable energy multiplier because dams can store water and release it to generate electricity when needed and, therefore, when hydroelectric resources are present, more solar and wind can be added to the grid.

WHEREAS, federal and locally-owned hydropower dams on the Columbia River system have invested billions of dollars in fish-passage technology to provide for successful passage at hydropower facilities;

WHEREAS, a study by the National Oceanic and Atmospheric Administration (NOAA) Fisheries found ocean warming caused by climate change to represent an extinction-level threat to Chinook salmon populations within the next forty years;

WHEREAS, a peer-reviewed study demonstrated nearly-uniform salmon survival declines over the past 50 years along the West Coast of North America, whether salmon originated in rivers with dams or from free-flowing rivers;

WHEREAS, NOAA Fisheries analysis showed that Chinook from the rivers that flow into the Salish Sea (including Puget Sound) – not the Columbia and Snake Rivers, which drain directly into the Pacific Ocean – are the top priority salmon stocks for Southern Resident Orcas; and biologists have indicated that due to geography and timing, Snake River salmon are not the “key limiting resource or prey” for Southern Resident Orcas;

WHEREAS, many residents in the Pacific Northwest are served by not-for-profit electric utilities, such as co-ops, municipalities, rural electric utilities, and public utility districts (PUDs), and some of these utilities operate locally-owned hydropower facilities and many others purchase hydropower generated by federal dams from the Bonneville Power Administration (BPA);

WHEREAS, BPA has identified the federally-owned Lower Snake River Dams as important renewable energy resources that annually produce 1,000 average megawatts of carbon-free power generation for the region and can produce over 2,000 megawatts of capacity during peak winter demand;

WHEREAS, major upgrades to the lower Columbia and Snake river dams have led to a survival rate past each dam of 93 to 99%, depending on the fish species. About 50% of the juvenile salmon that enter the uppermost reservoir in the lower Snake River make the journey past Bonneville Dam, which is a comparable survival rate to that of a free flowing river;

WHEREAS, the state of Washington enacted the Clean Energy Transformation Act (CETA) in 2019, which established a goal for 100 percent of all retail energy sales to come from carbon free resources by 2045, and includes hydropower in meeting that goal;

WHEREAS, Public Utility District No. 2 of Grant County (Grant PUD) is a member of Northwest River Partners (NWRP), an alliance of farmers, consumer-owned electric utilities and businesses that advocates for the bettering of our communities, our region, and the world through our low-cost, carbon-free hydropower system; and

WHEREAS, Grant PUD encourages the balanced use of Columbia Basin rivers, while working towards solutions that help hydropower and salmon coexist and thrive.

NOW, THEREFORE BE IT RESOLVED that Public Utility District No. 2 of Grant County (Grant PUD), Washington supports the carbon-free and environmental stewardship benefits of Northwest hydropower and opposes the removal of the four Lower Snake River Dams, which is counter to regional, state and local efforts underway to support carbon-free energy production.

PASSED AND APPROVED by the Commission of Public Utility District No. 2 of Grant County, Washington, this 22<sup>nd</sup> day of March, 2022.

Motion was made by Mr. Flint and seconded by Mr. Cox authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Change Order No. 7 to Contract 430-3217 with MacKay and Sposito, Inc., increasing the not-to-exceed contract amount by \$3,945,634.13 for a new contract total of \$12,203,271.13 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 7. After consideration, the motion passed by unanimous vote of the Commission.

The Commissioners reviewed future agenda items.

The Commission calendar was reviewed.

A copy was provided and discussion was held regarding the Community Activity Policy.

Tim Fleisher, Facilities Manager, provided the Facilities Master Plan Update.

Motion was made by Mr. Schaapman and seconded by Mr. Cox authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Change Order No. 5 to Contract 130-09724 with Quanta Infrastructure Solutions Group, LLC increasing the not-to-exceed contract amount by \$13,350,943.00 for a new contract total of \$71,513,194.26 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 5.

After discussion, motion was made by Mr. Schaapman and seconded by Mr. Cox to amend the motion and total contract not-to-exceed dollar limits.

After further consideration, motion was made by Mr. Schaapman and seconded by Mr. Flint to table Motion No. 3399. The motion was passed by unanimous vote of the Commission.

Motion was made by Mr. Schaapman and seconded by Mr. Flint to remove Motion No. 3399 from the table. The motion was passed by unanimous vote of the Commission.

The Commission acted on the motion to amend Motion No. 3399 with the new change order and total contract not-to-exceed dollar limits as read into the record. The motion was passed by unanimous vote of the Commission.

After final consideration, the motion as amended, authorizing the General Manager/CEO, on behalf of Grant PUD, to execute amended Change Order No. 5 to Contract 130-09724 with Quanta Infrastructure Solutions Group, LLC increasing the not-to-exceed contract amount by \$14,003,913.56 for a new contract total of \$72,228,752.90 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 5. The motion passed by unanimous vote of the Commission.

Thomas Stredwick, Senior Manager of Leadership & Organizational Development, provided the Organizational Development Report.

The Commission recessed at 3:10 p.m.

The Commission resumed at 3:15 p.m.

Chuck Allen, Senior Manager of External Affairs and Communications, provided the Public Power / Industrial Outreach Activity report.

Daniel Blazquez, Senior Manager of Operational Excellence, provided the OPEX Quarterly Business Report.

Trade association and committee reports were reviewed.

An executive session was announced at 4:45 p.m. to last until 5:30 p.m. to review performance of a public employee with legal counsel present pursuant to RCW 42.30.110(1)(g). The executive session concluded at 5:30 p.m. and the regular session resumed.

An additional executive session was announced at 5:30 p.m. to last until 5:40 p.m. to review performance of a public employee with legal counsel present pursuant to RCW 42.30.110(1)(g). The executive session concluded at 5:40 p.m. and the regular session resumed.

There being no further business to discuss, the March 22, 2022 meeting officially adjourned at 5:40 p.m.

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Judy Wilson, President

ATTEST:

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Tom Flint, Secretary

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Nelson Cox, Vice President

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Terry Pyle, Commissioner

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Larry Schaapman, Commissioner

# **REGULAR AGENDA**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Contract 130-10739 with Open Systems International, Inc (OSI) for delivery of an Energy Management System, in an amount not-to-exceed \$3,013,231.00.

**MEMORANDUM**

**March 7, 2022**

**TO:** Rich Wallen, General Manager/Chief Executive Officer

**VIA:** Jeff Grizzel, Managing Director of Power Delivery/Interim Chief Operating Officer



**FROM:** Kevin Carley, Manager Control Systems Engineering

**SUBJECT:** Award of Contract 130-10739

**Purpose:** To request Commission approval to award Contract 130-10739 to Open Systems International, Inc. (OSI) of Medina, Minnesota for the delivery of an Energy Management System (EMS) for a not to exceed price in the amount of \$3,013,231.00.

**Discussion:** The District's current Energy Management System (EMS) was last updated in 2009. The system has exceeded its original intended lifespan and reached End of Life support from the vendor requiring a major upgrade. The existing system had been heavily modified to support the now discontinued Mid-Columbia Coordination making a simple upgrade infeasible and giving us the opportunity to solicit proposals from major vendors in the industry. The District advertised a Request for Proposal and OSI was the top evaluated proposal based on several evaluation criteria. District Staff has worked with OSI staff to produce a well-defined Statement of Work that encompasses all aspects of the EMS Upgrade Project (Project).

**Justification:** The Current EMS has been in production for 13 years and has exceeded its life cycle. During that period, significant customizations were made to the existing EMS making a simple upgrade not possible. Regulatory requirements from NERC and WECC have increased over time and necessitate that the District have a fully functioning EMS to support mandated compliance obligations and ultimately, the reliability of the electric system.

If this Project is not approved, the District would be exposed to increased levels of risk from the inability to meet strict interpretations of the NERC and WECC standards. The aging hardware adds additional operational risk as replacement parts have become difficult to obtain. The potential loss of remote control of system devices (circuit breakers) resulting from failed hardware is minimal due to automatic protection schemes at the substation. The inability to isolate and restore portions of the Grant County electric system can have unexpected safety impacts where customers rely on power for life-saving devices. The newer software platforms reduce some future operational and financial risks because they can integrate more seamlessly with changing markets, including the Energy Imbalance Market (EIM) should the District pursue this endeavor.

**Vendor Selection Process:** The District utilized an independent third-party consultant to facilitate the RFP development, proposal evaluation, and vendor selection. There were only two proposals submitted during the RFP process. Both vendors, GE and OSI, were deemed to meet minimum requirements to move on to evaluation. The following table shows the weighting factors for the criteria that were evaluated:

GENERAL QUALIFICATIONS – 10%  
Management Plan (2%)

Capabilities of Vendor (4%)

Response Time (2%)

Cost Control Experience (2%)

TECHNICAL QUALIFICATIONS AND EXPERIENCE – 70%

Client List and Client References (5%)

Equivalent Projects and Services (5%)

Key Personnel Qualifications and Relevant Experience (5%)

Support Services Organization and Capabilities (5%)

Ability to Meet Technical Requirements (50%)

ACCESSIBILITY TO DISTRICT AND PROJECT SITES – 5%

Availability to travel to Grant County as needed during the process.

PRICING – 15%

The ability for each vendor to meet technical requirements was the most heavily weighted criteria. The evaluation spreadsheets included 285 specific requirements. Clarification to vendor responses, where the vendor proposed alternatives or customizations, were addressed through follow-up questions and during a two-day vendor demonstration with each vendor.

Pricing was evaluated by comparing the vendors proposed pricing with the Engineer's estimates. Through discussions with both vendors, the hardware infrastructure requirements were determined to be similar between the two proposed systems. The District determined that better hardware pricing could be obtained through state contract and only vendor specific hardware was included in the pricing evaluation.

Scoring worksheets were used to aggregate the weighted scores for individual criteria and normalize the final scores to a 0-100 range with 100 being a "perfect" score.

OSI received a score of 92.5 compared to the GE score of 89.4.

As the best evaluated candidate, an Intent to Award with OSI was issued. Through the Statement of Work development process with OSI, the list of required components was revised to determine the final contract price. Our due diligence had us perform a similar evaluation and revision to the GE pricing. The final cost comparison between the two vendors resulted in nearly equal pricing, with OSI coming in at \$3,013,231.00 and GE coming in at \$3,016,965.00.

**Financial Considerations:** The capital budget for the EMS Upgrade Project is \$3,990,000.00 and the Project will be completed over a 2-year period from the date the contract is signed. The total capital budget includes, in addition to the OSI contract, Project Management services and hardware that will be procured from other vendors.

The use of State Contracts will enable the District to receive lower pricing for hardware than the pricing proposed by the vendor.

Annual Software Support, Maintenance and Licensing Costs, which are ongoing O&M, are in line with similar software licensing and maintenance fees in this technology space. The proposed licensing costs for the initial five years of service were \$909,808 for OSI and \$1,096,401 for GE.

Funding for this Project will be both Capital and O&M. The Approved Capital Plan includes an estimate that will be updated to reflect the actual costs.

**Contract Specifics:** This contract was negotiated via RFP. The expected completion of this Project is Q2 of 2024.

**Recommendation:** Commission approval to award Contract 130-10739 to Open Systems International, Inc. for delivery of an Energy Management System for a not to exceed price in the amount of \$3,013,231.00.

**Legal Review:** See attached e-mail(s).

Kevin Carley  Digitally signed by Kevin  
Carley  
Date: 2022.03.07 10:55:35  
-08'00'

PROFESSIONAL SERVICES AGREEMENT

This Agreement, effective upon full execution, is by and between Public Utility District No. 2 of Grant County, Washington (“District or GCPUD”) and Open Systems International, Inc. (“Contractor or OSI”);

R e c i t a l s :

The District desires to obtain professional services, software and implementation of an Energy Management System (EMS) Replacement; and

The District's Manager of Control Systems Engineering believes the EMS is an essential component to ensure the District meets its regulatory reliability and operational compliance requirements; and

The Contractor, through an established review procedure, has been selected and is willing to provide services on the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto agree as follows:

**GENERAL CONDITIONS**

GC-1. FORM OF CONTRACT

The form of the Contract shall be lump sum and unit price type.

GC-2. DEFINITIONS

Whenever these words occur in the Contract Documents, they shall have the following meanings:

“BID OR PROPOSAL” – The written proposal submitted by the Contractor in response to the District’s RFP 130-10739.

“CONTRACT AWARD” - Contract Award is defined as the date the Contractor is first notified in writing that the District has accepted the Contractor's proposal.

“CONTRACT DOCUMENTS” - The Contract Documents shall include all sections of this document including General Conditions, Specific Requirements, Contractor Safety Requirements, and Exhibits.

“CONTRACT PRICE” - The total price specified in the Contract Award and any properly approved Change Orders approved subsequent to Contract Award.

“CONTRACTOR” - The successful Respondent who is awarded the Contract to perform the work covered by these Contract Documents.

“DISTRICT” OR “OWNER” - Public Utility District No. 2 of Grant County, Washington.

“DISTRICT REPRESENTATIVE” - The employee designated by the District as its representative during the progress of the work.

“FINAL ACCEPTANCE” - Acceptance of the work by the District in writing. Final Acceptance shall not constitute an acceptance by the District of any work performed or goods supplied which are not in strict compliance with the Contract Documents.

“SUBCONTRACTOR” - A contractor hired by the Contractor to perform a portion of the work covered by these Contract Documents.

GC-3. SUSPENSION OF WORK/TERMINATION OTHER THAN FOR DEFAULT

The District may, at its sole option, by notice in writing to the Contractor suspend or terminate at any time the performance of all or any portion of work to be performed under the Contract. Upon such notice of suspension or termination of work, the District shall designate the amount and type of plant, labor, and equipment to be committed to the work site during the period of suspension or termination. The Contractor shall use its best efforts to utilize its plant, labor, and equipment in such a manner as to minimize costs associated with suspension or termination.

- A. Upon receipt of any such notice, the Contractor shall:
1. Immediately discontinue work as specified in the notice;
  2. Place no further orders or subcontracts for material, services, or equipment with respect to suspended or terminated work;
  3. Promptly suspend or terminate all orders, subcontracts, and rental agreements to the extent they relate to performance of work suspended or terminated;
  4. Continue to protect and maintain the work, including those portions on which work has been suspended;
  5. Assist District Representative or District in the maintenance, protection, and disposition of work in progress, plant, tools, equipment property, and materials acquired by Contractor or furnished by Contractor under this Contract; and
  6. Complete performance of the work which is not terminated.
- B. As full compensation for such suspension the Contractor shall be reimbursed for the following costs, reasonably incurred, without duplication of any item, to the extent that such costs directly result from such suspension of work:
1. A standby charge, as determined to be equitable by the District Representative, to be paid to the Contractor during a period of suspension of work sufficient to compensate the Contractor for keeping, to the extent required in the notice, its organization and equipment committed to the work in a standby status;
  2. All reasonable costs, as determined to be equitable by the District Representative, associated with any demobilization and remobilization of the Contractor's plant, forces, and equipment;
  3. Any claim on the part of the Contractor for additional time or compensation shall be made within 10 days after receipt, by Contractor, of a notice to suspend work.

Failure to submit a claim within the 10 day period shall constitute a waiver of any such claim; and

4. In no event shall the amount to be paid the Contractor pursuant to this section exceed the Contract Price.
- C. Upon receipt of notice to resume suspended work, the Contractor shall immediately resume performance of the suspended work to the extent required in the notice. Any claim on the part of the Contractor for time or compensation shall be made within 10 days after receipt of notice to resume work and the Contractor shall submit a revised project schedule for review.
- D. Upon delivery of a written notice to the Contractor, the District may, without cause and without prejudice to any other right or remedy, elect to terminate the Contract. Upon receipt of any such notice, the Contractor shall take all appropriate steps in part A of this Section GC-3.

Upon any such termination, Contractor shall waive any claims for damages including Contractor's overhead, loss of anticipated profits, and all other inconvenience, expenses, damages, costs and lost profits whatsoever.

If such termination is effected after Contract Award but prior to the District issuing Notice to Proceed to the Contractor, the District shall pay the reasonable, verifiable and directly attributable costs incurred by the Contractor in the preparation of their Proposal plus 15% of such costs. If such termination is effected after the District has issued Notice to Proceed and the Contractor has commenced performance hereunder, the District shall pay the reasonable, verifiable and directly attributable costs incurred by the Contractor as determined by the physical progress of the work satisfactorily completed to date plus costs of removing equipment and materials and otherwise demobilizing, plus 10% of the sum of all such costs; provided, said payment shall not in any event exceed the Contract Price hereunder. The payment of the District shall constitute full and complete satisfaction and settlement for the Contractor's overhead, anticipated profits, and all other inconvenience, expenses, damages, costs and lost profits whatsoever. The Contractor shall be entitled to no further payments whatsoever for the work. Amounts retained and accumulated under RCW Chapter 60.28 shall be held and disbursed as provided therein.

Contractor shall submit within 30 days after receipt of notice of termination, a request for adjustment to the Contract Price in accordance with the above provisions. District Representative shall review, analyze, and verify such request, and upon District Representative's approval, the Contract shall be amended in writing accordingly.

Those provisions of the Contract that by their nature survive Final Acceptance under the Contract shall remain in full force and effect after such termination.

#### GC-4. TERMINATION FOR DEFAULT/NONCOMPLIANCE

##### A. Acts of Default

If Contractor fails in any material way to comply with any of the conditions or provisions of the Contract Documents or is unable to pay its debts as they mature or authorizes or takes any action under bankruptcy or reorganization, readjustment of debt, insolvency, liquidation or other similar laws or proceedings it shall be considered an act of default.

B. Consequences of Default

In the event of default, the District may immediately, without limiting any other remedy available to it in law or equity, withhold any amount otherwise due under the Contract. The District shall provide written notice of default. In the event the default can be cured, and Contractor fails to correct the default within 10 days after written notice of default, the District may terminate the Contractor's right to proceed with all or any portion of the work.

C. Noncompliance

The Contractor shall, upon receipt of written notice of noncompliance with any provision of this Contract and the action to be taken, immediately correct the conditions to which attention has been directed. Such notice, when served on the Contractor or its representative at the site of the work, shall be deemed sufficient. If the Contractor fails or refuses to comply promptly, the District Representative may issue an order to suspend all or any part of the work. When satisfactory corrective action is taken, an order to resume work shall be issued. No part of the time lost due to any such suspension order shall entitle the Contractor to any extension of time for the performance of the Contract or to reimbursement for excess costs or damages.

GC-5. ASSIGNMENT

The Contractor shall not assign this Contract or any interest in or part thereof, or any monies due or to become due hereunder, without the prior written approval of the District. Any costs to the District associated with the assignment may be deducted from amounts due to the Contractor.

GC-6. HOLD HARMLESS AND INDEMNITY

Contractor shall, at its sole expense, indemnify, defend, save, and hold harmless the District, its officers, elected members and employees from all third party actual or potential claims or losses, including reasonable costs and legal fees at trial and on appeal, and damages or claims for damages to property or persons, suffered by anyone whomsoever, including the District, to the extent caused by any negligent act of or omission of the Contractor or its subcontractors, excluding damages caused by the negligence of the District, in the administration or performance of this Agreement or any subcontracts, and for which either of the parties, their officers, agents, or employees may or shall be liable. In situations where liability for damages arises from third party claims of bodily injury to persons or damage to property, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors. Contractor waives its immunity under industrial insurance, Title 51 RCW, to the extent necessary to effectuate this indemnification/hold harmless agreement. Contractor's indemnification obligation shall not apply to liability for damages arising out of bodily injury to a person or damage to property caused by the negligence of the District or its agents or employees and not attributable to any act or omission on the part of the Contractor. In the event of damages to a person or property caused by or resulting from the concurrent negligence of District or its agents or employees and the Contractor or its agents or employees, the Contractor's indemnity obligation shall apply only to the extent of the Contractor's (including that of its agents and employees) negligence.

Contractor acknowledges that by entering into this Contract with the District, it has mutually negotiated the above indemnity provision with the District. Contractor's indemnity and defense obligations shall survive the termination or completion of the Contract and shall remain in full force and effect until satisfied in full.

Contractor's obligations under this Section GC-6 to indemnify, defend, save, and hold harmless will not apply if District has failed to:

1. Promptly notify Contractor in writing of the filing or threat of any suit/claim against the District;
2. Allow Contractor to control completely the defense and settlement of the suit/claim; and
3. Provide, at Contractor's expense, all reasonable assistance requested by Contractor to defend against the suit/claim.

#### GC-7. LAWS, REGULATIONS, PERMITS

The Contractor and Subcontractors shall comply with all applicable building, health, and construction codes. The Contractor represents that it is familiar with, and shall be governed by and comply with, all Federal, State and local statutes, laws, ordinances, and regulations including amendments and changes as they occur. In the event of a conflict, the most stringent provision shall apply. The Contractor and any Subcontractors shall be responsible for ensuring that its employees fully comply with the District's Code of Ethics, a copy of which is available at the District's offices.

All written instruments, agreements, specifications and other writing of whatsoever nature which relate to or are a part of this Contract shall be construed, for all purposes, solely and exclusively in accordance and pursuant to the laws of the State of Washington. The rights and obligations of the District and Contractor shall be governed by the laws of the State of Washington. Venue of any action filed to enforce or interpret the provisions of this Contract shall be exclusively in the Superior Court, County of Grant, State of Washington or the Federal District Court for the Eastern District of Washington at the District's sole option. In the event of litigation to enforce the provisions of this Contract, the prevailing party shall be entitled to reasonable legal fees in addition to any other relief allowed.

Unless the Contract Documents provide otherwise, all permits and licenses necessary to the prosecution of the work shall be secured by the Contractor at its own expense, and Contractor shall give all notices necessary and incident to the due and lawful prosecution of the work.

#### GC-8. DAMAGES

Any claims arising under the Contract by the Contractor shall be made in writing to the District Representative no later than 10 days after the beginning of the event or occurrence giving rise to the claim. Failure to make written claim prior to the time specified in the Contract Documents shall constitute waiver of any such claim.

#### GC-9. INDEPENDENT CONTRACTOR, SUPERINTENDENT, AND EMPLOYEES

It is understood and agreed that in all work covered by the Contract, the Contractor shall act as an independent contractor, maintaining complete control over its employees and all of its Subcontractors. The Contractor shall perform the work in accordance with its own methods, subject to compliance with the Contract. The Contractor shall perform the work in an orderly and workmanlike manner, enforce strict discipline and order among its employees and assure strict discipline and order by its Subcontractors, and shall not employ or permit to be employed on the work any unfit person or anyone unskilled in the work assigned to them.

The Contractor shall designate in writing before starting work competent, authorized site representative(s) who shall be authorized to represent and act for the Contractor in all matters relating to the Contract. The Contractor's letter designating representative(s) shall clearly define the scope of their authority to act for the Contractor and define any limitations of this authority. Said authorized representative(s) shall be present at the site of the work at all times when work is in progress. Arrangements acceptable to the District shall be made for any emergency work which may be required. The Contractor's authorized representative(s) shall be supported by competent assistants as necessary, and the authorized representative(s) and assistants shall all be satisfactory to the District. All directions given to the authorized representative(s) by the District shall be binding as if given to the Contractor.

The Contractor and its Subcontractors shall employ only orderly workers. Employees deemed by the District to be incompetent, subversive, or disorderly shall be removed from the performance of the work, and such removal shall not form the basis of any claim for compensation or damage upon the District.

The Contractor and Subcontractor shall be responsible for ensuring that its employees fully comply with all applicable federal, state and local laws and support the District's commitment to provide a safe, healthy, and drug free work environment. The Contractor and Subcontractor shall immediately remove any employee from further work when it is determined that they are not fit for duty. Furthermore the Contractor and Subcontractor shall immediately remove any employee from further work if it is determined by the District, at its discretion, that the employee is not fit for duty for any reason. Failure on the part of the Contractor or Subcontractor to comply with any of the above shall be considered an act of default in accordance with Section GC-4.

#### GC-10. CORRECTION OF WORK/WARRANTY

All materials and equipment incorporated into any work under the Contract shall be new and of the most suitable grade of their respective kinds for their intended uses unless otherwise specified. All workmanship shall be in accordance with sound work practices acceptable to District Representative. Contractor warrants all equipment, materials and labor it furnishes or performs under this Contract against defects in design, materials, and workmanship. Contractor's warranty is provisioned through its support program, provided the District has elected to purchase software support pursuant to the contract pricing (Exhibit "B", Pricing/Rate Schedule, and shall remain in effect for a period of 365 days after Final Acceptance. Contractor's obligation under a selected software support program shall be to repair any defects in the Contractor software. Contractor will pass through to the District all standard OEM warranties on all third-party hardware and software supplied by Contractor (if any). The minimum term of OEM warranties is as identified by the individual manufacturer(s).

If at any time prior to the expiration of the warranty period, Contractor or District discovers any defect in such design, materials or workmanship, the Contractor shall, upon written notice from the District given within a reasonable time after discovery, correct such defects to the satisfaction of the District by redesigning, repairing or replacing the defective work at a time acceptable to District. All costs incidental to such corrective action including removal, disassembly, reinstallation, re-work, re-testing and re-inspection as may be necessary to correct the defect or demonstrate that the previously defective work conforms to the requirements of the Contract shall be borne by the Contractor.

Contractor warrants any and all corrective action against defects in design, materials, and workmanship for the remaining warranty period but will not receive an additional warranty. Software warranties for Contractor software will not be extended beyond the original warranty period unless an ongoing software support program subscription is in place.

If, after due notice, the Contractor shall refuse or persistently neglect to make corrections so as to meet the requirements of the Contract, the District may proceed to make such corrections as they may be required and Contractor shall reimburse District for all cost and expenses incurred in connection therewith.

The warranty requirements in this section are the minimum requirements for materials, equipment and work under this Contract. Any other warranty requirements specified in the Contract, including the Technical Specifications, are in addition to, and not in lieu of the minimum requirements specified herein.

#### GC-11. CHANGES IN WORK

Except as provided herein, no official, employee, agent or representative of the District is authorized to approve any change in this Contract and it shall be the responsibility of the Contractor before proceeding with any change, to satisfy himself that the execution of the written Change Order has been properly authorized on behalf of the District. The District's management has limited authority to approve Change Orders. The current level and limitations of such authority are set forth in District Resolution No. 8609 which may be amended from time to time. Otherwise, only the District's Board of Commissioners may approve changes to this Contract.

Charges or credits for the work covered by the approved changes shall be determined by written agreement of the parties and shall be made on Change Order form as reflected on Exhibit "D".

When a change is ordered by the District, as provided herein, a Change Order shall be executed by the District and the Contractor before any Change Order work is performed. When requested, Contractor shall provide a detailed proposal for evaluation by the District, including details on proposed cost. The District shall not be liable for any payment to Contractor, or claims arising there from, for Change Order work which is not first authorized in writing. All terms and conditions contained in the Contract Documents shall be applicable to Change Order work. Change Orders shall be issued on the form attached as Exhibit "D" and shall specify any change in time required for completion of the work caused by the Change Order and, to the extent applicable, the amount of any increase or decrease in the Contract Price.

#### GC-12. COMPENSATION AND PAYMENT

- A. Compensation for services rendered and all reimbursable costs shall be per the rates set forth in Exhibit "B", Pricing/Rate Schedule. A payment is considered made on the day it is mailed or sent through electronic or wire transfer.

In no event shall the total amount paid to the Contractor for materials, equipment, labor and services exceed the sum of \$3,013,231.00 USD unless a Change Order authorizing the same is issued in accordance with Section GC-11.

- B. Invoices shall include the Contract number, Milestone number and a detailed description of the work performed. Compensation for reimbursable expenses shall be in accordance with Exhibit "B", Pricing/Rate Schedule and shall be included on the invoice.
- C. The District will notify the Contractor when it has deemed that the requirements of a Milestone have been met. Once notified, the Contractor shall submit a completed Exhibit "F", Milestone Acceptance Form (MAF) identifying the Milestone delivered and the expected amount. The District will have five business days to approve or reject the MAF,

the signature which constitutes acceptance, and such approval shall not be unreasonably withheld. Upon approval of the MAF, the Contractor shall submit the invoice for the Milestone payment.

- D. Contractor will submit sufficient documentation to assure the District that Contractor has satisfactorily performed such tasks. The preliminary acceptance for payment in no way abrogates Contractor's responsibility to correct any errors in compensated work tasks.
- E. Payment will be made by the District upon completion of work following District approval of Contractor's invoices. Invoice shall be subject to the review and approval of the District. Invoice shall be in a detailed and clear manner supported by such information District may require. The District will make payment to Contractor within 30 days after District's receipt and approval of said invoices
- F. Contractor shall submit invoices to the attention of:
  - Public Utility District No. 2  
of Grant County, Washington  
Attn: Accounts Payable  
PO Box 878  
Ephrata, WA 98823
  - Phone: (509) 793-1450  
E-mail: [AccountsPayable@gcpud.org](mailto:AccountsPayable@gcpud.org)
- G. The District Representative may approve additional Contractor employees, personnel categories, and/or equipment rates to be added to the Rate Schedule, if applicable, provided that any additional employees have at least equivalent training and skills and are compensated at the same or lower rates than those listed on the current approved Rate Schedule for similar work. There shall be no change in the total Contract not to exceed amount. All additions must be approved in writing prior to performing services under the Contract.

#### GC-13. PAYMENTS WITHHELD

In addition to the above percentage retained, the District may withhold the whole or part of any payment to such extent as may be reasonably necessary to protect itself from loss on account of:

Defective or damaged work not remedied or warranties not met.

Claims filed or reasonable evidence indicating filing of claims against the Contractor.

Failure of the Contractor to make payments properly to Subcontractors or for materials, labor, or equipment.

A reasonable doubt that the Contract can be completed for the balance then unpaid.

Damage to another Contractor.

Damage to or loss of District-furnished materials or District property.

Contractor's failure to meet any performance warranties required by the Contract Documents.

Contractor's liability for payments due to the District as the result of terms and conditions of these Contract Documents.

The Contractor shall provide a contact name, address, and email address to facilitate notification if any payment, or portion of any payment, is withheld for any of the reasons above, or for missing documentation or items incorrectly invoiced. Notification shall be made via email, or shall be mailed, properly addressed and stamped with the required postage to the person designated by the Contractor.

#### GC-14. DISTRICT REPRESENTATIVE'S STATUS, AUTHORITY AND PROTEST PROCEDURE

The District Representative shall represent the District. The District Representative has authority to stop the work whenever such stoppage may be necessary to ensure the proper execution of the Contract. District Representative shall also have authority to reject all work, equipment, and materials which do not conform to the Contract and to decide questions which arise in the execution of the work.

Approval by the District Representative signifies favorable opinion and qualified consent. It does not carry with it certification, assurance of completeness, assurance of quality, nor assurance of accuracy concerning details, dimensions, and quantities. It is not an acceptance by the District or certification that Contractor has performed the Contract work correctly or according to Contract Documents. Such approval shall not relieve the Contractor from responsibility for errors or for deficiencies within its control.

All claims of the Contractor and all questions relating to the interpretation of the Contract, including all questions as to the acceptable fulfillment of the Contract on the part of the Contractor and all questions as to compensation, shall be submitted in writing to the District Representative for determination within the applicable time period specified in the Contract Documents.

All such determination and other instructions of the District Representative shall be final unless the Contractor shall file with the District Representative a written protest, stating clearly and in detail the basis thereof, within 10 days after the District Representative notifies the Contractor of such determination or instruction. The protest shall be forwarded by the District Representative to the District's General Manager, who shall issue a decision upon each such protest, and its decision shall be final. Pending such decision, the Contractor, if required by the District Representative, shall proceed with the work in accordance with the determination or instructions of the District Representative.

The District Representative may appoint assistants and inspectors to assist in determining that the work performed and materials furnished comply with Contract requirements. Such assistants and inspectors shall have authority to reject defective material and suspend any work that is being done improperly, subject to the final decisions of the District Representative, or to exercise such additional authority as may be delegated to them by the District Representative. All work done and all materials furnished shall be subject to inspections by the District Representative or inspector at all times during the work.

The District Representative and contact information for this Contract is listed below.

Kevin Carley  
Public Utility District No. 2  
of Grant County, Washington  
PO Box 878

Ephrata, WA 98823  
(509) 793-6541  
Kcarley@gcpud.org

#### GC-15. COOPERATION WITH OTHERS

There may be other contractors or forces of the District working the same area where work under this Contract shall be performed. The Contractor shall fully cooperate with such other contractors and the District's employees and carefully fit their work with the other work consistent with orderly and expeditious performance and completion of the project as a whole.

#### GC-16. INSURANCE

- A. Prior to the commencement of any work under this Contract, and at all times during the term of this Contract, Contractor shall provide 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. 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 the Contractor and not recoverable under any part of this Contract.

##### Contractor Required Insurance

1. **General Liability Insurance:** Commercial general liability insurance, covering all operations by or on behalf of Contractor against claims for bodily injury (including death) and property damage (including loss of use). Such insurance shall provide coverage for:

- a. Premises and Operations;
- b. Products and Completed Operations;
- c. Contractual Liability;
- d. Personal Injury Liability (with deletion of the exclusion for liability assumed under Contract);

with the following **limits:**

- e. \$1,000,000 Each Occurrence
- f. \$1,000,000 Personal Injury Liability
- g. \$2,000,000 General Aggregate (per claim)
- h. \$2,000,000 Products and Completed Operations Aggregate

Commercial general liability insurance will include the District as additional insured, to the extent of Contractor's liabilities assumed under the Agreement, on a primary and non-contributory basis for ongoing and completed operations. A waiver of subrogation, to the extent of Contractor's liabilities assumed under the Agreement, will apply in favor of the District.

2. **Workers' Compensation and Stop Gap Employers Liability:** Workers' Compensation Insurance as required by law for all employees. Employer's Liability Insurance, including Occupational Disease coverage, in the amount of **\$1,000,000 for Each Accident, Each Employee, and Policy Limit**. The Contractor expressly agrees to comply with all provisions of the Workers' Compensation Laws of the states or countries where the work is being performed, including the provisions of Title 51 of the Revised Code of Washington for all work occurring in the State of Washington.

3. **Automobile Liability Insurance:** Automobile Liability insurance against claims of bodily injury (including death) and property damage (including loss of use) covering all owned, rented, leased, non-owned, and hired vehicles used in the performance of the work, with a **limit of \$1,000,000 per accident** for bodily injury and property damage combined and containing appropriate uninsured motorist and No-Fault insurance provision, when applicable.

Automobile liability insurance will include the District as additional insured, to the extent of Contractor's liabilities assumed under the Agreement, on a primary and non-contributory basis. A waiver of subrogation, to the extent of Contractor's liabilities assumed under the Agreement, will apply in favor of the District.

4. **Professional Liability/Network Security Insurance:** Contractor shall obtain professional errors and omissions liability insurance in an amount of **\$10,000,000 per claim and in the aggregate**. Coverage shall respond to wrongful acts in the rendering of, or failure to render, professional services under this Agreement, electronic data losses or damage or breaches of electronic data security including disclosures of private or confidential information of the District or any employee, participant or beneficiary of the services provided by Contractor pursuant to this contract. The Professional Liability Insurance retroactive coverage date shall be no later than the effective date of this Agreement. Contractor shall continuously maintain such insurance or purchase an extended reporting period providing that claims first made and reported to the insurance company within five (5) years after termination of the Agreement will be deemed to have been made during the policy period.

If Contractor shall hire Subcontractor for all operations and risk involving professional network services exposure, this requirement may be satisfied by Subcontractor's policies. Contractor shall impute the insurance requirements stated in this section to Subcontractor by written contract or written agreement. Any exceptions must be mutually agreed in writing with the District.

5. **Excess Insurance:** Excess (or Umbrella) Liability insurance with a **limit of \$2,000,000 per occurrence and in the aggregate when combined with underlying primary limits**. This insurance shall provide coverage in excess of the underlying primary liability limits, terms, and conditions for each category of liability insurance in the foregoing subsections 1, 2 and 3. If this insurance is written on a claims-made policy form, then the policy shall be endorsed to include an automatic extended reporting period of at least five years.

Excess/umbrella liability insurance will include the District as additional insured, to the extent of Contractor's liabilities assumed under the Agreement, on a primary and non-contributory basis. A waiver of subrogation, to the extent of Contractor's liabilities assumed under the Agreement, will apply in favor of the District.

- B. Evidence of Insurance - Prior to performing any services specified within this contract, and within 10 days after receipt of the Contract Award, the Contractor shall file with the District a Certificate of Insurance showing the Insuring Companies, policy numbers, effective dates, limits of liability and deductibles with a copy of the blanket additional insured endorsement including the District as an Additional Insured for each policy where indicated in Section A.

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 the Contractor'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 the Contractor 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 the Contractor fails to maintain insurance as set forth above, the District may purchase such insurance at the Contractor's expense. The Contractor's failure to maintain the required insurance may result in termination of this Contract at the District's option.

- C. Subcontractors - Contractor shall ensure that each Subcontractor meets the applicable insurance requirements and specifications of this Contract. All coverage for Subcontractors shall be subject to all the requirements stated herein and applicable to their profession. Contractor shall furnish the District with copies of certificates of insurance evidencing coverage for each Subcontractor upon request.
- D. Cancellation of Insurance - The Contractor shall not cause any insurance policy to be canceled or permit any policy to lapse. Insurance companies or Contractor shall provide 30 days advance written notice to the District for cancellation or any material change in coverage or condition, and 10 days' advance written notice for cancellation due to non-payment. Should the Contractor receive any notice of cancellation or notice of nonrenewal from its insurer(s), Contractor shall provide immediate notice to the District no later than two business days following receipt of such notice from the insurer. Notice to the District shall be delivered by email.

#### GC-17. SAFETY

The Contractor shall comply with the safety requirements of these Contract Documents, all District policies pertaining to COVID-19 located at <https://www.grantpud.org/for-contractors> and the current version of the applicable requirements of the following codes and standards (including reports and records as required) as applicable to Contractor's scope of work which includes but are not limited to:

|  |        |
|--|--------|
| Applicable Local Codes and Statutes        |        |
| American Concrete Institute                | (ACI)  |
| American Institute of Steel Construction   | (AISC) |
| American National Standards Institute      | (ANSI) |
| American Society of Civil Engineers        | (ASCE) |
| American Society of Mechanical Engineers   | (ASME) |
| American Society for Testing and Materials | (ASTM) |

|   |         |
|---|---------|
| American Welding Society                          | (AWS)   |
| American Wood Preservers Association              | (AWPA)  |
| Division of Occupational Safety and Health        | (DOSH)  |
| Edison Electric Institute                         | (EEI)   |
| Institute of Electrical & Electronics Engineers   | (IEEE)  |
| Insulated Cable Engineers' Association            | (ICES)  |
| International Building Code                       | (IBC)   |
| International Energy Conservation Code            | (IECC)  |
| International Existing Building Code              | (IEBC)  |
| International Fire Code                           | (IFC)   |
| International Mechanical Code                     | (IMC)   |
| International Plumbing Code                       | (IPC)   |
| National Electrical Code                          | (NEC)   |
| National Electrical Manufacturers' Association    | (NEMA)  |
| National Electrical Safety Code                   | (NESC)  |
| National Fire Protection Association              | (NFPA)  |
| Occupational Safety and Health Administration     | (OSHA)  |
| Washington Administrative Code                    | (WAC)   |
| Washington Industrial Safety & Health Act         | (WISHA) |
| Washington State Department of Ecology            | (WSDOE) |
| Washington State Department of Health             | (WSDOH) |
| Washington State Department of Transportation     | (WSDOT) |
| Washington State Department of Labor & Industries | (LNI)   |
| Washington State Energy Code                      | (WSEC)  |
| United States Environmental Protection Agency     | (EPA)   |

Any accidents or damage to District property shall be reported immediately to the District Representative in accordance with the Contractor Safety Requirements section of these Contract Documents.

Nothing herein shall be deemed to impose any duty or obligation on the District to determine the adequacy or sufficiency of the Contractor and Subcontractors' safety programs. Contractors and Subcontractors remain solely responsible for safety of the general public and employees, as provided herein.

**GC-18. CONFLICT AND PRECEDENCE/INTENT**

In the event there are any conflicting provisions or requirements in the component parts of the Contract, the several Contract Documents shall take precedence in the following order:

1. Change Orders
2. Addenda
3. Specific Requirements
4. General Conditions
5. Exhibit A – Statement of Work
6. Exhibit B – Pricing/Rate Schedule
7. Exhibit C – Software License Agreement
8. Exhibit I – CIP-013 Supply Chain Risk Management

9. Exhibit J – Project Scope Package dated December 19, 2021 (incorporated by reference)
10. Contractor’s Response to RFP 130-10739 dated May 18, 2021, and Contractor’s updated EMS Vendor Workbook dated June 18, 2021 (incorporated by reference due to its extensive volume)

All use and operation of the Contractor Software shall be pursuant to and governed by the Software License Agreement “Exhibit C”, executed by the parties concurrently with this Contract.

#### GC-19. PROGRESS MEETINGS

Progress review meetings shall be held at regular intervals as deemed necessary by the District Representative. Progress meetings shall be utilized to review the work schedule and discuss any delays, unusual conditions, or critical items which have affected or could affect the progress of the work.

Time is of the essence for this Contract. If at any time during the progress of work, the Contractor's actual progress, in the opinion of the District Representative, is inadequate to meet the Contract completion dates, the District may issue a written notice of noncompliance to the Contractor who shall thereupon take such steps as may be necessary to improve its progress. If within a reasonable period as determined by the District Representative, the Contractor does not improve performance to meet the work schedule, the District may direct the Contractor to accelerate the work through an increase in the Contractor's labor force, the number of shifts, overtime operations, additional days of work per week and/or an increase in the amount of plant; all without additional cost to the District. Neither such notice by the District nor the District's failure to issue such notice shall relieve the Contractor of its obligation to achieve the quality of work and rate of progress required by the Contract.

Failure of the Contractor to comply with the instructions of the District may be grounds for determination by the District that the Contractor is not prosecuting its work with such diligence as shall assure completion within the times specified. Upon such determination, the District may terminate the Contractor's right to proceed with the performance of the Contract, or any separable part thereof in accordance with Section GC-4.

#### GC-20. DELAYS AND EXTENSIONS OF TIME

If the Contractor is delayed at any time in the progress of work by any unforeseeable causes beyond the control of the Contractor, the Contract time shall be extended for such reasonable time as the Parties shall agree. The Contractor agrees to complete the work within the Contract time as thus extended. Such extensions shall not be grounds for claim by the Contractor of damages or for additional costs, expenses, overhead or profit or other compensation. Additionally, to the extent of delays caused solely by the Contractor, extensions of time granted to the Contractor shall be the Contractor's sole and exclusive remedy for such delays due to causes beyond the control of the Contractor. For the avoidance of doubt, Contractor and the District may agree upon claims for damages, including but not limited to additional compensation, for delays due to causes beyond the control of the Contractor for which Contractor is not the sole cause.

All claims for extension of time shall be made in writing to the District no more than three business days after the Contractor knows or by reasonable diligence should know of the event causing or likely to cause the delay; otherwise, they shall be waived. In the case of a continuing cause of delay only one claim is necessary. Contractor's failure to give such notice reasonably within such time

limit shall be deemed sufficient reason by the District Representative for denial of any time extension request.

Avoidable delays in the prosecution or completion of the work, for which no time extension shall be granted, shall include all delays which could have been avoided by the exercise of care, prudence, foresight and diligence on the part of the Contractor or its Subcontractors. Additionally, delays in the prosecution of parts of the work which may in themselves be unavoidable but do not necessarily prevent or delay the prosecution of other parts of the work nor the completion of the whole work within the time herein specified shall constitute avoidable delays for which no time extension shall be granted.

All changes of the time or changes of the schedule shall be made by Change Orders to the Contract pursuant to Section GC-11.

#### GC-21. AUDIT OF RECORDS

To the extent that the Contractor invoices the District on a time and materials basis, Contractor shall maintain records and accounts in accordance with Generally Accepted Accounting Principles (GAAP) in connection with the performance of the Contract which shall accurately document incurred costs both direct and indirect. The District Representative will work in conjunction with Contractor to establish a uniform codes of accounts for time and materials work performed, Contractor shall use such codes in identifying its records and accounts. District Representative or their representatives shall have the right to examine and copy at all reasonable times, with advance notification, Contractor's records and accounts for the limited purpose of verifying requests for payment when costs are the basis of such payment and for evaluating the reasonableness of proposed Contract Price adjustments and claims. Contractor shall make such records and accounts available to the District for review at Contractor's office. The costs of any such audit including but not limited to travel expenses shall be the obligation of the District.

#### GC-22. TAXES

Except for the Washington State retail sales and use taxes as may be levied upon the Contract, pursuant to RCW Chapters 82.08 and 82.12, the Contract Price includes and the Contractor shall have the full exclusive liability for the payment of all taxes, levies, duties and assessments of every nature due and payable in connection with this Contract or its employees and subcontractors performing work related to this Contract.

Washington State retail sales tax and use taxes levied upon this Contract pursuant to RCW Chapters 82.08 and 82.12 are excluded from the rates and if applicable will be reimbursed as follows:

If the Contractor has, or is required to have a valid Washington State sales tax identification number, the identification number shall be furnished to the District upon request. The Contractor shall make payment of any Washington State retail sales and use taxes due and Contractor shall be reimbursed by the District for the same. Contractor shall be solely responsible for any interest or penalties arising from late or untimely payment of said taxes.

If the Contractor is not required to have a valid Washington State sales tax identification number, it shall notify the District of the same. In such event, the District, after receiving proper invoices from Contractor, shall make payment of said Washington State retail sales and use taxes levied upon this Contract to the Washington State Department of Revenue.

GC-23. PUBLIC RECORDS ACT

The District is subject to the disclosure obligations of the Washington Public Records Act of RCW 42.56. The Contractor expressly acknowledges and agrees that any information Contractor submits is subject to public disclosure pursuant to the Public Records Act or other applicable law and the District may disclose Contractor's proposal and/or information in accordance with its obligations under applicable law, unless an exemption under the Public Records Act or other laws applies or Contractor asserts and establishes a valid and enforceable exception, objection, exclusion or privilege from the disclosure requirements. In the event the District receives a request for such disclosure, the District shall notify Contractor of such request and Contractor shall assert any objections to disclosure and/or pursue judicial relief precluding or limiting such disclosure. The District shall work in cooperation with Contractor to provide any properly redacted information that is deemed exempt from public disclosure pursuant to the Public Records Act or other applicable law.

GC-24. NON-WAIVER

No waiver of any provision of this Contract, or any rights or obligations of either party under this Contract, 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 Contract or the waiver of either party of any breach under this Contract 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.

GC-25. OWNERSHIP OF CUSTOM WORK PRODUCT/COPYRIGHT

- A. District understands and agrees that all of Contractor's products and services are standard and pre-existing products, techniques, or methods and no intellectual property rights will be transferred to District. District's use of the Software shall be pursuant to the Software License Agreement executed between the parties. If any works or products are developed exclusively for District ("Custom Work Product"), Contractor understands and agrees that Custom Work Product, if any, would be District's intellectual property, as defined by the laws of the United States regarding copyrights. For the avoidance of doubt, if included in any scope of work provided by Contractor, such Custom Work Product must be specifically identified as such in a mutually agreed specification subject to these terms and conditions (see Exhibit A to this Agreement). Contractor further understands that District has full, complete and exclusive ownership of the Custom Work Product. Contractor agrees not to use the Custom Work Product in furtherance of any project other than the Work or for the benefit of anyone other than District, without District's prior written permission.
- B. Contractor shall attach and, to the extent applicable, require each of its subcontractors to attach the following statement to all Custom Work Product as identified in the Statement of Work.

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON. ALL RIGHTS RESERVED UNDER U.S. AND FOREIGN LAW, TREATIES AND CONVENTIONS.

THE ATTACHED WORK WAS SPECIFICALLY ORDERED UNDER AN AGREEMENT WITH PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON. ALL RIGHTS IN THE VARIOUS WORK PRODUCED FOR OR

UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO STUDY PLANS AND STUDY RESULTS, DRAFTS, CHARTS, GRAPHS AND OTHER FORMS OF PRESENTATION, SUMMARIES AND FINAL WORK PRODUCTS, ARE THE EXCLUSIVE PROPERTY OF THE DISTRICT.

- C. Upon final acceptance or termination of this Agreement, Contractor shall immediately turn over to the District all Custom Work Product. This does not prevent the Contractor from making a file copy for their records.

GC-26. LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES DISCLAIMER

- A. CONTRACTOR AND ITS AFFILIATES WILL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF CUSTOMER STATED IN THIS CONTRACT ARE EXCLUSIVE. REGARDLESS OF THE TYPE OF THE CLAIM (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), CONTRACTOR'S AND ITS AFFILIATES' LIABILITY TO CUSTOMER AND ITS AFFILIATES WILL NEVER EXCEED THE GREATER OF THE CONTRACT PRICE OR \$10,000,000.
- B. NEITHER PARTY WILL EVER BE LIABLE FOR (A) DAMAGES FOR LOSS OR CORRUPTION OF DATA OR CYBER ATTACKS, OR (B) INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. "CONSEQUENTIAL DAMAGES" INCLUDE BUT ARE NOT LIMITED TO LOSS OF ANTICIPATED PROFITS, REVENUE, PRODUCTION OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, REPLACEMENT PRODUCT AND CLAIMS OF EACH PARTY'S AFFILIATES.
- C. NOTHING IN THIS SECTION GC-26 LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES DISCLAIMER EITHER LIMITS, OR IS INTENDED TO LIMIT, THE AMOUNTS CLAIMED ON INSURANCE LISTED IN SECTION GC-16 INSURANCE, FOR THE SAKE OF CLARITY, TOTAL INSURANCE CLAIMS MAY EXCEED THE \$10,000,000 IN SECTION A ABOVE BUT WILL NOT EXCEED THE TOTAL AMOUNTS ALLOWED IN GC-16.

## SPECIFIC REQUIREMENTS

### SR-1. SCOPE OF WORK/WORK TO BE PERFORMED BY THE CONTRACTOR

The Contractor shall furnish all software, hardware, software customizations, integration with field devices and other District systems, engineering support (e.g. testing), training, and documentation as specified in these Contract Documents for the Energy Management System Replacement located in Ephrata, Washington.

### SR-2. COMPLETION SCHEDULE

The Contractor shall not commence any work under this Contract until after all of the following: (1) receipt of notification of Contract Award; (2) full execution of the Contract Form; (3) providing the required Insurance Certificates; and (4) attending the pre-work conference, if any. The Contractor shall complete such work in a diligent and workmanlike manner. Work shall be completed within 24 months of Contract Award date,

### SR-3. MATERIALS AND EQUIPMENT

#### A. Materials Furnished By Contractor

The Contractor shall purchase and furnish for this Contract all materials for the project except for the equipment and materials which shall be supplied by the District. The materials to be furnished by the Contractor and incorporated into the work shall be new and of grades and quality specified. Any materials required for a completed project, that are not specified below as being furnished by the District are to be furnished by the Contractor.

#### B. Materials Furnished By District

None.

### SR-4. SUBCONTRACTS/PURCHASING

There will be no Subcontracts or purchases made.

### SR-5. PHYSICAL SECURITY

It shall be the responsibility of the Contractor to ensure that its employees and those of its Subcontractors are informed of and abide by the District's Contractor Security Plan Information as if fully set out herein a copy of which shall be provided to the Contractor at the preconstruction meeting or prior to beginning work. Without limiting the foregoing, Contractor and its employees shall be required to:

- A. Keep all external gates and doors locked at all times and interior doors as directed.
- B. Visibly display ID badges on their person at all times.
- C. Stay out of unauthorized areas or in authorized areas outside of authorized work hours, without express authorization from the District.

- D. Provide proper notification to the appropriate parties, and sign in and out upon entry and exit to secured locations. If unsure of who to notify, Contractor shall contact the District Representative.
- E. Immediately notify the District if any of Contractor's employees no longer need access or have left the Contractor's employment.
- F. Immediately report any lost or missing access device to the District Representative. A minimum charge will be assessed the Contractor in the amount of \$50.00 per badge and the fee for lost or non-returned keys may include the cost to re-key the plant facilities. The Contractor is strictly prohibited from making copies of keys.
- G. Not permit 'Tagging on' through any controlled access point (i.e. person(s), authorized or unauthorized, following an authorized person through an entry point without individual use of their issued ID badge or key).
- H. Return all District property, including but not limited to keys and badges, to the District Representative when an individual's access to the facility is no longer needed.

The Contractor and any of its Subcontractors, when on a District site, shall comply with the safety requirements of these Contract Documents and all District policies pertaining to COVID-19 located at <https://www.grantpud.org/for-contractors>.

#### SR-6. SECURITY, SAFETY AWARENESS TRAINING

Prior to receiving access to any District facilities, all Contractors, Contractor's employees, subcontractors and subcontractor's employees, material suppliers and material supplier's employees, or any person who will be engaged in the work under this Contract that requires access to District facilities, shall be required to take and pass the District's Security and Safety Awareness training before being issued a security access badge to access District facilities. Under no circumstances will the failure of any Contractor or subcontractor employee to pass the required training, be grounds for any claim for delay or additional compensation.

The Security and Safety Awareness training manual is available in three formats: CD, on-line, or hard copy, and includes step by step instructions for all formats to complete the training. The Security and Safety Awareness training manual shall be issued to the Contractor at the pre-work conference (if any). If a pre-work conference is not held for any reason, the District shall provide the Security and Safety Awareness training manual to the Contractor at such time when a Notice to Proceed is issued by the District. Contractor shall ensure that its employees, subcontractor's and subcontractor's employees have completed, passed and printed the certificate of completion for the training in a timely manner to avoid any delay in execution of the work. All such certificates shall be submitted to the District Representative before any security access badges will be issued.

#### SR-7. CONFIDENTIAL INFORMATION

The State of Washington, Federal Energy Regulatory Commission (FERC) and/or North American Reliability Corporation (NERC) has established regulations for the protection of sensitive plans, drawings and records defined as Security Sensitive Information (SSI), Critical Energy Infrastructure Information (CEII) and/or Bulk Electric System Cyber System Information (BCSI), reference Exhibit "G". In accordance with the Revised Code of Washington (RCW), FERC and NERC regulations, and using them as guidance, the District has identified and designated certain

information as SSI, CEII, and/or BCSI (hereinafter referred to collectively as “Confidential Information”). Because of the sensitive nature of certain District Confidential Information that could be used in this Contract, Contractor is bound by the terms and conditions set forth in the Mutual Non-Disclosure Agreement (NDA) executed at the time of this Agreement and included as Exhibit “E”. Such Information must be clearly identified as confidential.

#### SR-8. APPROVAL OF PERSONNEL CHANGES

The Contractor shall submit to the District Representative for review and approval a proposed list of individuals who will have access to SSI, CEII, or BCSI or to restricted areas of District facilities. Unless otherwise required or prohibited by law, the Contractor shall supply the following information for each individual: full legal name, qualifications, years of experience, along with their experience and qualifications for the type of work they will perform. Subject to prior written authorization of District Representative, Contractor may add or change personnel on the approved list provided that the same identifying information listed above is provided to the District Representative for review and approval. The Contractor shall submit to the District Representative all additions to the approved list of individuals along with the above listed information for review and approval. The District reserves the right to deny approval of any proposed individual if, as determined by the District, such individual is unsatisfactory to the District. The District will be the sole judge of such effect. All personnel shall be subject to the nondisclosure provisions of this Contract which shall survive their replacement or termination as provided herein.

#### SR-9. BACKGROUND CHECKS

The District reserves the right to require Contractor to conduct criminal background checks on its employee(s) before the District will grant such individuals access to secure areas of District facilities or Confidential Information. Criminal background checks may be conducted in such depth as the District reasonably determines to be necessary or appropriate for the type of access to be granted. Contractor shall execute one certification for each employee requiring a background check on the form provided by the District and attached hereto as Exhibit “H”. The cost of such background checks shall be borne by the Contractor.

In the event the District determines in its sole discretion that an individual is unsatisfactory to the District or fails to provide a background check as requested by the District, the District reserves the right to require the Contractor to remove such individual from the job site and/or to exclude such individual from having any access to SSI, CEII, or BCSI.

#### SR-10. QUALIFICATION OF CONTRACTOR’S ACCESS APPROVAL

The District reserves the right to deny any Contractor or employee thereof access to secure areas of District facilities or Confidential Information at the District’s sole discretion. The District will be the sole judge of such effect. All Contractors and employees thereof shall be subject to the nondisclosure provisions of this Contract.

Further, the Contractor must provide the following prior to receiving Confidential Information and/or being granted access to secure areas:

- A. Provide resumes of Contractor’s personnel who may have access to Confidential Information or who will be working on site in a secure area at the project facilities. The resumes shall include full legal name, qualifications, years’ of experience, along with their qualifications for the type of work they will perform.

- B. Any individual requesting access to Bulk Electric System Cyber System Information (BCSI) shall complete the District’s CIP Protected Information Training course and provide a certificate of completion prior to receiving access to BCSI or protected areas.

In the event the District determines in its sole discretion that an individual or Contractor is unsatisfactory or fails to provide a background check as requested by the District, or fails to provide the information listed above, the District reserves the right to exclude such individual or Contractor from secure areas and/or from having any access to Confidential Information.

SR-11. BCSI TRAINING

In accordance with the requirements of Section SR-7, Confidential Information, Contractor shall ensure that its employees, subcontractors and employees of subcontractors or anyone having access shall complete the appropriate District CIP Security Training Program and provide the certificate of completion for each person with the executed Contract.

All persons receiving Confidential Information or having access to secured sites shall complete CIP training prior to receiving such access and periodically, but no less than annually, thereafter. CIP training is conducted through the District’s learning management system (LMS). LMS privileges will be coordinated through the District Representative.

IN WITNESS WHEREOF, the Contractor and the District have executed this Agreement each by its proper respective officers and officials thereunto duly authorized the date as written below..

Public Utility District No. 2  
of Grant County, Washington

Open Systems International, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "D" – CHANGE ORDER**

NO. \_\_

Pursuant to Section GC-11, the following changes are hereby incorporated into this Contract:

- A. Description of Change:
  
- B. Time of Completion: The revised completion date shall be \_\_\_\_\_.  
*OR*  
 The completion date shall remain \_\_\_\_\_.
  
- C. Contract Price Adjustment: As a result of this Change Order, the not to exceed Contract Price shall remain unchanged (be increased/decreased by the sum of \$\_\_\_\_\_ plus applicable sales tax). This Change Order shall not provide any basis for any other payments to or claims by the Contractor as a result of or arising out of the performance of the work described herein. The new total revised maximum Contract Price is \$\_\_\_\_\_, including changes incorporated by this Change Order.
  
- D. Except as specifically provided herein, all other Contract terms and conditions shall remain unchanged.

Public Utility District No. 2  
of Grant County, Washington

Open Systems International, Inc.

Accepted By: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Name of Authorized Signature  
Title

Name of Authorized Signature  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "E" – MUTUAL NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement ("NDA") is entered into on the last date shown on the signature page between Public Utility District No. 2 of Grant County, Washington ("District"), and Open Systems International, Inc., ("Contractor or OSI"), sometimes collectively referred to as the "Parties" or individually as "Recipient" or "Owner."

**RECITALS**

The Parties are contemplating a transaction or transactions that may require them to disclose Proprietary Information regarding this Agreement, during the term of this NDA.

NOW, THEREFORE, the Parties agree as follows:

1. Definitions

"Proprietary Information" - all financial, technical and other non-public or proprietary information which is furnished or disclosed orally, in writing, electronically or in other form or media by disclosing Party or its Representatives to Recipient or its Representatives in connection with the Purpose and that is described or identified (at the time of disclosure) as being non-public, confidential or proprietary, or the non-public or proprietary nature of which is apparent from the context of the disclosure or the contents or nature of the information disclosed.

"Recipient" - a Party to which the other Party or its Representatives discloses Proprietary Information.

"Representative(s)" - the officers, directors, members, managers, employees, contractors, financial service providers, and other representatives of a Party.

"Owner" - the holder of Proprietary Information.

"Purpose" – for the exchange of information related to the provision of a "SCADA/EMS/GMS" system.

2. Proprietary Information shall be limited to only that written information exchanged under this NDA, identified by the Owner and clearly marked as Proprietary Information.
3. No partnership, joint venture, agency or other business relationship is intended by the Parties or created by this NDA.
4. No Party has an obligation to supply Proprietary Information or any other information hereunder except as may be mutually agreed to facilitate the contemplated transaction(s).
5. Nothing in this NDA shall be deemed to grant a license directly, indirectly or otherwise under any patent or patent application or copyright related to any information to which this NDA applies.
6. The Receiving Party shall hold in confidence, and shall not, directly nor indirectly, reveal, report, transmit or disclose the Owner's Proprietary Information to any person outside the Receiving Party's organization (other than professional consultants who have been retained by Recipient), and shall use such Proprietary Information only for the Purpose. Recipient may disclose Owner's Proprietary Information to persons within the Receiving Party's organization and to any

professional consultants who have been retained by Recipient, who have a need to know such Proprietary Information in the course of the performance of their duties.

7. The obligations of Recipient specified in Section 6 above shall not apply, and the Recipient shall have no further obligations with respect to any Proprietary Information which is:
  - A. Rightfully in the public domain prior to receipt by the Recipient or becomes rightfully in the public domain after receipt by the Recipient without violation by the Recipient of the terms of this NDA;
  - B. Known, as evidenced by documentation reasonably satisfactory to Owner, to the Recipient without restriction prior to disclosure by the Owner;
  - C. Independently developed without any wrongful means by employees of the Recipient who did not have access to the Proprietary Information;
  - D. Disclosed without restriction to the Recipient by a third party having a bona fide right to disclose the same;
  - E. Disclosed with the prior written approval of Owner;
  - F. Later rendered nonproprietary through the issuance of a patent or other publicly available instrument, or which legitimately comes into the public domain; or
  - G. Required to be released by law or court order, provided, however, that the Owner shall be provided notice and an opportunity to seek a protective order as specified in Section 8. The Receiving Party shall reasonably cooperate with Owner's efforts to secure a protective order.
  
8. In the event a request for or order to release Proprietary Information is made to either Party pursuant to the Washington State Public Records Act, other law, regulation, or government or court order, the Receiving Party shall, prior to disclosure of said Proprietary Information, provide the Owner of the Proprietary Information with five (5) days written notice of the impending release thereof so as to allow the Owner the option of negotiating proprietary protection for the information, seeking a protection order, approving release of the information or defending any legal action that is brought to enforce such request. In such event, the Owner shall bear its costs of the litigation, any damages or attorney's fees that may be awarded and reimburse the Receiving Party for any out of pocket expenses incurred in providing such support to the Owner. If the Owner has not obtained a protection order, negotiated protection for the information, or taken other action within the five (5) day period, the Receiving Party may disclose the Proprietary Information without further liability. In no event shall the Receiving Party be liable for any release which is either compelled from the Receiving Party by process of law, or where notice was provided and the Owner took no action to oppose the release of information.
  
9. This NDA shall become effective upon full execution and shall terminate thirty (30) days from the date that written notice of termination is given by one Party to the other, or one (1) year from the effective date of this NDA, whichever shall occur first; except that the obligations set forth in Section 6 above shall continue for a period of two (2) years from the effective date of this NDA. Upon termination of this NDA, each Recipient, at the request of the Owner, shall return all Proprietary Information delivered under this NDA, including all copies and work product containing such Proprietary Information unless Recipient is required to retain it pursuant to applicable law.

10. Any notice or other communication under this NDA given by either Party shall be sent via email to the email address listed below, or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address and to the attention of the person specified below and shall be deemed served when received and not mailed. Either Party may from time to time change such address by giving the other party notice of such change.

| District  | Contractor   |
|---|--|
| Public Utility District No. 2<br>of Grant County, Washington<br>Attn:<br>PO Box 878<br>Ephrata, WA 98823<br>Kcarley@gcpud.org | Open Systems International, Inc.<br>4101 Arrowhead Dr.<br>Medina, MN 55340<br><a href="mailto:Contracts@osii.com">Contracts@osii.com</a> |

11. This NDA is made under, and shall be construed according to, the laws of the State of Washington and the Parties agree to the exclusive jurisdictions of the state courts and U.S. Federal courts located there for any dispute arising out of this NDA. Further, Recipient agrees that in the event of any breach or threatened breach by Recipient, Owner may seek to obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect Owner against any such breach or threatened breach.
12. This NDA contains no warranties, of any kind, express or implied, about accuracy, fitness for particular purpose, or any other warranty regarding the Proprietary Information. Notwithstanding the foregoing, Owner warrants that it has the right to disclose the Proprietary Information for the Purpose.
13. This NDA may not be assigned without the express written consent of both Parties.
14. This NDA constitutes the entire understanding of the Parties on the subject matter hereof and may be amended or modified only by a written agreement instrument executed by the authorized Representatives of all Parties, and shall be binding upon the Parties and their respective successors and assigns.
15. This NDA may be signed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Signatures transmitted electronically shall be deemed valid execution of this NDA, binding on the parties.

*Signatures contained on next page.*

IN WITNESS WHEREOF, the Parties have caused this NDA to be signed by their duly authorized representatives as of the date first written above.

Public Utility District No. 2  
of Grant County, Washington

Open Systems International, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT “F” – MILESTONE ACCEPTANCE FORM**

| Client Name and Project Code           | DATE COMPLETED | DATE DELIVERED |
|--|----------------|----------------|
|  |                |                |
| Agreement/Task Order Number            |                |                |
|  |                |                |
| Milestone Number, Description, & Value |                |                |
|  |                |                |

Upon signature of this document the District hereby accepts the milestone set forth above. Contractor shall invoice the District for the total value of the above referenced milestone in accordance with the terms and conditions of the Contract.

Public Utility District No. 2  
of Grant County, Washington

Open Systems International, Inc

Accepted By: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Name of Authorized Signature  
Title

Name of Authorized Signature  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT “G” – DEFINITION OF CEII, BCSI, AND SSI****Definition of Critical Energy Infrastructure Information (CEII)**

The Critical Energy Infrastructure Information (CEII) guidelines of the Federal Energy Regulatory Commission (FERC) define CEII as specific engineering, vulnerability, operational or detailed design information about proposed or existing critical energy infrastructure (physical or virtual) that relates to the production, generation, transportation, transmission or distribution of energy, could be useful to a person planning an attack on critical infrastructure, is exempt from mandatory disclosure, and gives strategic information beyond the location of the critical infrastructure. 18 CFR §388.113 and RCW 42.56.520.

**Definition of Bulk Electric System Cyber System Information (BCSI)**

The North American Electric Reliability Corporation (NERC) has been designated by the FERC, through the Energy Policy Act of 2005, to establish and enforce standards and requirements for the reliable operation of the Bulk Electric System. The Bulk Electric System includes the District’s electrical generation resources, transmission lines, and interconnections with neighboring electric systems. Information related to the District’s Bulk Electric System Cyber Systems (BCS) is required to be protected due to the sensitive security nature of such information, and the need to protect public safety (hereinafter referred to as “BCSI”). BCSI generally (not exclusively) is defined as information about the BCS that could be used to gain unauthorized access or pose a security threat to the BCS and affect the reliable operations of the Bulk Electric System. The District is required to protect this information including, but not limited to, network topology/diagrams; floor plans for computing centers; equipment layouts; security configuration information and other information as defined in the NERC standards. FERC Order No. 706, issued January 18, 2008; 18 CFR Part 40; and RCW 42.56.070.

**Definition of Security Sensitive Information (SSI)**

Security Sensitive Information is those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal or terrorist acts, which are acts that significantly disrupt the ability of the District to fulfill its mission and goals and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety. SSI includes: (a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; (b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism; and (c) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.



**EXHIBIT “H” – BACKGROUND CHECK/IDENTITY VERIFICATION BY CONTRACTOR**

Contractor Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Contract Number: \_\_\_\_\_ Procurement Officer: \_\_\_\_\_  
Project Manager: \_\_\_\_\_

In accordance with NERC Reliability Standards CIP 002-011, we are providing Public Utility District No. 2 of Grant County, Washington certification of background checks performed on personnel who will require authorized Unescorted Physical Access and/or Electronic Access to District High or Medium Impact BES Cyber Systems, and their associated EACMS and PACS.

Accordingly, we certify that:

1. A background check has been conducted on the following employee(s) that includes a seven year criminal history records check, a current residence check and a residence check at other locations where, during the seven years immediately prior to the date of the criminal history records check, the employee has resided for six consecutive months or more; and the assessment of the employee is consistent with the safe and efficient performance of the services and meets the minimum standard for criminal checks as set forth by the attached Evaluation Criteria.
2. Employment eligibility identity verification has been completed to ensure employee is legally permitted to work in the United States. (Citizenship, Federal I-9 form verification)

| Employee Name | Background Check Completion Date | Indicate Pass (P) or Fail (F) | Identity Verification Completion Date | PRA Completion Date (District use only) |
|---------------|----------------------------------|-------------------------------|---------------------------------------|---|
|               |                                  |                               |                                       |   |
|               |                                  |                               |                                       |   |
|               |                                  |                               |                                       |   |
|               |                                  |                               |                                       |   |
|               |                                  |                               |                                       |   |
|               |                                  |                               |                                       |   |

**(Do not send actual background check documents)**

Name of company where background check was performed: \_\_\_\_\_

Certified by: \_\_\_\_\_ Title: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Email: \_\_\_\_\_

Return this form to: [CIPDocuments@sp.gcpud.org](mailto:CIPDocuments@sp.gcpud.org)

**\*\*\*Access will not be granted until this Background Check has been completed and training taken\*\*\***

**These are sub-sections of the “Grant County PUD Personnel Risk Assessment Program” relevant to Vendor(s) and/or Contractor(s). For the complete program please contact [rcstaff@gcpud.org](mailto:rcstaff@gcpud.org)**

**Evaluation Criteria:**

Contractors with physical or electronic access to District High or Medium Impact BES Cyber Systems and their associated EACMS and PACS, shall certify a background check was met using the following criteria:

Whether the individual has ever been convicted of any of the following FELONIES:

- Murder
- Kidnapping
- Manslaughter
- Fraud, theft, and/or robbery
- Criminal sexual conduct
- Arson

Whether the individual has ever been convicted of the following MISDEMEANORS:

- Violence related
- Honesty related

Whether the individual has ever been convicted of a single misdemeanor, other than minor traffic offenses, which are generally defined as traffic offenses that did not involve property damage and/or personal injury.

Individual is not currently awaiting adjudication on any criminal charge other than minor traffic offenses, which, again, are generally defined as traffic offenses that did not involve property damage and/or personal injury.

In the event the individual has been convicted of a felony or misdemeanor, the Contractor shall not assign such individual to a District location without first discussing such conviction with the District and obtaining the approval of the District’s PRA Committee for such assignment in accordance with the District’s Personnel Risk Assessment Program. The District reserves the right to refuse the assignment of an individual who does not pass the above Evaluation Criteria after review and consideration of the extenuating circumstances by the District’s PRA Committee.

**FOR GRANT PUD USE ONLY**

If Background Check failed enter date of PRA Committee Review: \_\_\_\_\_ Pass \_\_\_ Fail \_\_\_  
(Check one)

Signature of PRA Committee member: \_\_\_\_\_

# **For Commission Review – 04/12/2022**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ authorizing the General Manager/CEO, on behalf of Grant PUD, to execute Change Order No. 5 to Contract 130-08756 with North Sky Communications, LLC (NSC) increasing the not-to-exceed contract amount by \$18,400,000.00 for a new contract total of \$70,700,000.00 and resetting the delegated authority levels to the authority granted to the General Manager/CEO per Resolution No. 8609 for charges incurred as a result of Change Order No. 5.

xxxx

## MEMORANDUM

3/30/2022

**TO:** Richard Wallen, General Manager/Chief Executive Officer

**VIA:** Terry McKenzie, Senior Manager Wholesale Fiber  
Julie Pyper, Senior Manager of Project Management Office  
Allen Chatriand, PMO Manager Power Delivery

**FROM:** Jeremy Conner, Project Manager

**SUBJECT:** Contract 130-08756 Change Order No. 5, Fiber Optic Design and Construction Services 2019-2023

**Purpose:**

To request Commission approval of Change Order No. 5 to Contract 130-08756 in the amount of \$18,400,000.00 for a new total contract Not to Exceed price of \$70,700,000.00. This is intended to provide funding to continue with North Sky Communications, LLC (NSC) for Fiber Optic Design and Construction.

**Discussion:**

The original contract was awarded on December 11, 2018. NSC continues to design and build out fiber in areas of the County that are designated for connectivity. The District is managing the activities and expenses of NSC.

Funding for this contract was originally set at \$10,000,000.00 for 2019 with the intent to add additional funding via change order on an approximately annual basis. At the beginning of 2020 an additional \$10,500,000.00 was added via Change Order 1. Change Order 2 was administrative in nature and did not change the terms or financial amounts. Also, in 2020 Change Order 3 was approved in the amount of an additional \$13,400,00.00. In 2021 Change Order 4 was approved in the amount of \$18,400,000.00.

**Justification:**

The District is committed to completing and maintaining a sustainable wholesale fiber optic network to all the people of Grant County per Strategic Plan Objective 7. Since the expansion is a major project that has a definable end, the District uses contract labor and equipment to accomplish the task rather than increase and decrease staff levels. This is a five-year contract that helps maintain a stable contract workforce and reduce overall procurement costs.

**Financial Considerations:**

**Summary of Total Contract Spend**

| <b>Item</b>                                 | <b>2019 Actuals</b>   | <b>2020 Actuals</b>    | <b>2021 Actuals</b>    |
|---|-----------------------|------------------------|------------------------|
| Completion of Prior Builds (ML5 and George) | \$1,052,653.50        | \$0.00                 | \$0.00                 |
| Maintenance Support                         | \$78,760.33           | \$0.00                 | \$53,218.11            |
| Work Orders                                 |                       | \$169,783.52           | \$432,656.15           |
| Fiber Drops                                 | \$1,738,663.21        | \$2,754,500.54         | \$3,786,606.41         |
| Fiber Buildout Project (40 Areas)           | \$7,045,870.26        | \$13,831,093.71        | \$13,482,633.81        |
| <b>Annual Total</b>                         | <b>\$9,915,947.30</b> | <b>\$16,755,377.77</b> | <b>\$17,755,114.48</b> |

1. Per the NSC contract a 3% increase went into effect January 1, 2022, for labor and equipment.
2. NSC continues to fulfil the high demand for Customer Connection requests while still maintaining full efforts towards the construction of the Fiber Expansion.
3. The project team made the decision in 2020 to accelerate NSC's engineering work. The engineering work drives the rest of the activity on the project. Getting the design work further out ahead of the construction will make construction more efficient. NSC has added engineering resources in 2020 that will remain onsite throughout 2022.

The Fiber Expansion buildout budget for 2022 is \$20.2M. Connect the Customer budget for 2022 is \$6.9M.

**Change Order History:** See included change order table.

**Legal Review:** See included email.

**Recommendation:**

Commission approval of Change Order No. 5 to Contract 130-08756 in the amount of \$18,400,000.00 with North Sky Communications, LLC for Fiber Optic Design and Construction.

**From:** [Allen Chatriand](#)  
**To:** [Patrick Bishop](#); [Terry Mckenzie](#); [Julie Pyper](#); [Jeremy Conner](#)  
**Cc:** [Vangie Crago](#)  
**Subject:** RE: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval  
**Date:** Thursday, March 17, 2022 11:06:43 AM

---

I approve

---

*Allen Chatriand, Manager PMO – Power Delivery  
Grant County PUD  
509-378-7720*

---

**From:** Patrick Bishop <Pbishop@gcpud.org>  
**Sent:** Thursday, March 17, 2022 10:00 AM  
**To:** Terry Mckenzie <Tmcken@gcpud.org>; Julie Pyper <Jpyper@gcpud.org>; Allen Chatriand <achatriand@gcpud.org>; Jeremy Conner <Jconner@gcpud.org>  
**Cc:** Vangie Crago <Vcrago@gcpud.org>  
**Subject:** FW: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval

Good morning,

We have approval to move Change Order No. 5 to Contract 130-08756 with North Sky Communications to the next Commission Packet. Can each of you please respond to this email as a sign off on the attached memo. Thank you.

**Regards,**

**Patrick Bishop**

*Procurement Officer*

OFFICE 509.793.1556

EMAIL [pbishop@gcpud.org](mailto:pbishop@gcpud.org)



[grantpud.org](http://grantpud.org)

-----Original Message-----

From: Carol Mayer <[Cmayer@gcpud.org](mailto:Cmayer@gcpud.org)>  
Sent: Thursday, March 17, 2022 9:06 AM  
To: Patrick Bishop <[Pbishop@gcpud.org](mailto:Pbishop@gcpud.org)>  
Subject: 130-08756 CO5 Fiber Optic Design and Construction

You have contract and legal approval to proceed with submitting this change order into the Commission packet.

**From:** [Julie Pyper](#)  
**To:** [Patrick Bishop](#); [Terry Mckenzie](#); [Allen Chatriand](#); [Jeremy Conner](#)  
**Cc:** [Vangie Crago](#)  
**Subject:** RE: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval  
**Date:** Thursday, March 17, 2022 11:42:28 AM

---

I approve.

Please let me know if you have any questions or comment. Thank you and take care, Jules

## **Julie E. Pyper**

*Senior Manager*

*Enterprise Project Management Office | Organizational Change Management | Operations Budgeting and Analysis*

[Learn more about Project Management](#)

[Learn more about Organizational Change Management](#)

DESK 509.754.5089

EXT. 4153

CELL 509.429.2420

EMAIL [jpyper@gcpud.org](mailto:jpyper@gcpud.org)



[grantpud.org](http://grantpud.org)

---

**From:** Patrick Bishop <[Pbishop@gcpud.org](mailto:Pbishop@gcpud.org)>  
**Sent:** Thursday, March 17, 2022 10:00 AM  
**To:** Terry Mckenzie <[Tmckenz@gcpud.org](mailto:Tmckenz@gcpud.org)>; Julie Pyper <[Jpyper@gcpud.org](mailto:Jpyper@gcpud.org)>; Allen Chatriand <[achatriand@gcpud.org](mailto:achatriand@gcpud.org)>; Jeremy Conner <[Jconner@gcpud.org](mailto:Jconner@gcpud.org)>  
**Cc:** Vangie Crago <[Vcrago@gcpud.org](mailto:Vcrago@gcpud.org)>  
**Subject:** FW: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval

Good morning,

We have approval to move Change Order No. 5 to Contract 130-08756 with North Sky Communications to the next Commission Packet. Can each of you please respond to this email as a sign off on the attached memo. Thank you.

**Regards,**

**Patrick Bishop**

*Procurement Officer*

**From:** [Terry Mckenzie](#)  
**To:** [Jeremy Conner](#); [Patrick Bishop](#); [Julie Pyper](#); [Allen Chatriand](#)  
**Cc:** [Vangie Crago](#)  
**Subject:** RE: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval  
**Date:** Thursday, March 17, 2022 10:33:20 AM

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I approve.

---

**From:** Jeremy Conner <[jconner@gcpud.org](mailto:jconner@gcpud.org)>  
**Sent:** Thursday, March 17, 2022 10:05 AM  
**To:** Patrick Bishop <[pbishop@gcpud.org](mailto:pbishop@gcpud.org)>; Terry Mckenzie <[tmckenz@gcpud.org](mailto:tmckenz@gcpud.org)>; Julie Pyper <[jpyper@gcpud.org](mailto:jpyper@gcpud.org)>; Allen Chatriand <[achatriand@gcpud.org](mailto:achatriand@gcpud.org)>  
**Cc:** Vangie Crago <[vcrago@gcpud.org](mailto:vcrago@gcpud.org)>  
**Subject:** RE: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval

Patrick,  
I approve this.

Thank You,

**Jeremy Conner**  
*Fiber Project Manager*

DESK 509.793.1551  
EXT. 4183  
CELL 509.398.2048  
EMAIL [jconner@gcpud.org](mailto:jconner@gcpud.org)



[grantpud.org](http://grantpud.org)

---

**From:** Patrick Bishop <[pbishop@gcpud.org](mailto:pbishop@gcpud.org)>  
**Sent:** Thursday, March 17, 2022 10:00 AM  
**To:** Terry Mckenzie <[tmckenz@gcpud.org](mailto:tmckenz@gcpud.org)>; Julie Pyper <[jpyper@gcpud.org](mailto:jpyper@gcpud.org)>; Allen Chatriand <[achatriand@gcpud.org](mailto:achatriand@gcpud.org)>; Jeremy Conner <[jconner@gcpud.org](mailto:jconner@gcpud.org)>  
**Cc:** Vangie Crago <[vcrago@gcpud.org](mailto:vcrago@gcpud.org)>  
**Subject:** FW: 130-08756 CO5 Fiber Optic Design and Construction - Memo approval

Good morning,

We have approval to move Change Order No. 5 to Contract 130-08756 with North Sky Communications to the next Commission Packet. Can each of you please respond to this email as a sign off on the attached memo. Thank you.

CHANGE ORDER  
NO. 5

Pursuant to Section GC-11, the following changes are hereby incorporated into this Contract:

- A. Description of Change: Increase the Contract Price.
- B. Time of Completion: The completion date shall remain December 31, 2023.
- C. Contract Price Adjustment: As a result of this Change Order, the not to exceed Contract Price shall be increased by the sum of \$18,400,000.00 plus applicable sales tax. This Change Order shall not provide any basis for any other payments to or claims by the Contractor as a result of or arising out of the performance of the work described herein. The new total revised maximum Contract Price is \$70,700,000.00, including changes incorporated by this Change Order.
- D. Except as specifically provided herein, all other Contract terms and conditions shall remain unchanged.

Public Utility District No. 2  
of Grant County, Washington

North Sky Communications, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



Change Order Table

Contract Title Fiber optic Design and Construction Services 201-2023

|                                     |                            |                              |               |
|-------------------------------------|----------------------------|------------------------------|---------------|
| Contract #                          | 13000000                   | Award Date                   | 12/14/201     |
| Project Manager                     | Jeremy Conner              | Original Contract Amount     | 10,000,000.00 |
| District Representative / Different |                            | Original Contract Completion | 12/31/2023    |
| Contractor                          | Portway Communications LLC | Total Cost Change Amt        | 0,000,000.00  |

| CO #                                  | Change Description  | Approved By | Executed Date | Revised Completion Date | Cost Change Amount | Revised Contract Amount | Priority Level Tracking |
|---------------------------------------|---|-------------|---------------|-------------------------|--------------------|-------------------------|-------------------------|
| 1                                     | Increase the net to exceed Contract Price   | COO         | 12/11/1       | 0/0                     | 10,000,000.00      | 20,000,000.00           | 10,000,000.00           |
| 2                                     | Raise unit "R" Rate Schedule to add the labor classification and tree equipment classifications | Dept Mgr    | 03/30         | 0/0                     | 0.00               | 20,000,000.00           | 0.00                    |
| 3                                     | Increase the net to exceed Contract Price   | COO         | 02/20         | 0/0                     | 13,400,000.00      | 33,000,000.00           | 13,400,000.00           |
| 4                                     | Increase the net to exceed Contract Price   | COO         | 03/21         | 0/0                     | 1,400,000.00       | 2,300,000.00            | 1,400,000.00            |
|                                       | Increase the net to exceed Contract Price   | COO         |               | 0/0                     | 1,400,000.00       | 0,000,000.00            | 1,400,000.00            |
|                                       |   |             |               |                         |                    |                         |                         |
|                                       |   |             |               |                         |                    |                         |                         |
|                                       |   |             |               |                         |                    |                         |                         |
|                                       |   |             |               |                         |                    |                         |                         |
| Total Change Order Cost Change Amount |   |             |               |                         | 0,000,000.00       |                         |                         |

# **For Commission Review – 04/12/2022**

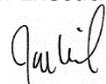
Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ authorizing payment to Harris Institute of Technical Training, for invoice #2021-1230-01 dated December 30, 2021 in the amount of \$86,348.00.

xxxx

**MEMORANDUM**

**March 11, 2022**

**TO:** Rich Wallen, General Manager/Chief Executive Officer

**VIA:** Jeff Grizzel, Chief Operating Officer   
Ron Alexander, Senior Manager of PD Construction and Maintenance

**FROM:** Jacob Johnson, Electronic Meter Relay Supervisor

**SUBJECT:** Harris Institute of Technical Training, Invoice Payment

**Purpose:** Request Commission approval to pay Harris Institute of Technical Training invoice dated December 30, 2021, in the amount of \$86,348.

**Discussion:** Harris Institute of Technical Training (HITT) has provided the District with a metering specific WA State approved apprenticeship program for our Meter/Relay Technicians. They have provided workbooks, materials, and 432 instructional hours of training for four students. The total cost of the training for the four students is \$86,348. Because the total cost exceeds the maximum amount allowable under a purchase order (\$50,000) and because a professional services contract wasn't issued for the services provided, the District is out of compliance with state procurement law. An explanation of how this occurred follows.

In late 2019, Power Delivery leadership decided to enroll two students in the HITT Meter/Relay training. In preparation for that training, the District requested a vendor profile form (for electronic payments) and a W9 (for tax purposes) from HITT on November 19, 2019. These documents were necessary to issue a Purchase Order (PO) and remit payment to the vendor for the two students to attend training. These same documents were requested again on November 26, 2019 yet HITT failed to provide them. The total cost of the training for the two students was \$43,174 which was planned to be paid via a PO.

The two students started their training in January 2020 and completed it in January 2022. In February 2021, the Senior Manager of Construction & Maintenance along with the Meter/Relay Technician Supervisor decided to enroll two additional students in the same course. At that point, since the cost of adding these students would exceed the \$50,000 allowable under a PO, a professional services contract should have been developed and signed by HITT and the District yet this didn't happen.

On December 30, 2021, the District received a phone call from Brad Harris stating that he had not received payment for the four students. After investigation it was determined that the District hadn't received the appropriate forms and invoices and therefore no PO was ever issued. The necessary forms were finally received including a full invoice of \$86,348 for all four students on December 30, 2021. It was at this point we realized we were out of compliance with state procurement law and that a PO should have been completed prior to the original training and a professional services contract should have been issued prior to adding the two additional students in the training.

As of today, we now have the correct forms filed with Accounts Payable and in the future no training will commence without the proper procurement document (PO or contract) in place.

Power Delivery leadership has been reminded about the importance of complying with state procurement law when soliciting professional services and a procurement training refresher will be required of all leaders and District representatives within the COO organization.

**Recommendation:** Commission approval to pay Harris Institute of Technical Training, invoice #2021-1230-01 in the amount of \$86,348.00.

See attached invoice and emails.

CC: Carol Mayer, Procurement and Warehouse Manager  
Tracy Holcomb, Accounts Payable Supervisor  
Dmitriy Turchik, Auditor



# Vendor Profile Form

**PLEASE FILL IN FORM**

**\* Indicates required information (if applicable)**

| VENDOR NAME AND ADDRESS                                  |         |   |                 |
|--|---------|---|-----------------|
| *Legal Name of Company:                                  |         | *DBA (if applicable):   |                 |
| *Name on Invoice:  |         | Ordering Address (if applicable):                                 |                 |
| *Remitting Mailing Address:                              |         |   |                 |
|  |         | *City:  | *State:         |
|  |         |   | *Zip:           |
| *City:   | *State: | *Zip:   | *Phone:         |
|  |         |   | *Fax:           |
| *Phone:  | *Fax:   | *Email:   |                 |
| *Email:  |         | *Contact Person:  |                 |
| *Contact Person:   |         |   |                 |
| Purchasing Address (if applicable):                      |         | ACH Payment Option (Direct Deposit) Within the United States Only |                 |
|  |         | Bank Name:  |                 |
| *City:   | *State: | *Zip:   | Routing #:      |
|  |         |   | Bank Account #: |
| *Phone:  | *Fax:   | Account Type:   | Country/Region: |
| *Email:  |         | WIRE Payment Information  |                 |
| *Contact Person:   |         | Swift Code:   | Account #:      |
|  |         | (Canadian Only) Transit #:  |                 |
| *GENERAL INFORMATION                                     |         |   |                 |
| *Are you a Taxable Business: Yes ___ No ___              |         | *Will there be Freight charges: Yes ___ No ___                    |                 |
| *Will you be charging sales tax: Yes ___ No ___          |         | *Will you require a 1099 form: Yes ___ No ___                     |                 |
| *Terms: _____  |         | *Please provide us with a copy of your W-9.                       |                 |
| Note that taxes charged should be destination tax based. |         |   |                 |

Additional Comments (if any):

# **For Commission Review – 04/12/2022**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ approving Employment Agreement with Richard Wallen, General Manager/CEO.

xxx

**Employment Agreement  
between  
Public Utility District No. 2 of Grant County, Washington  
and  
Richard Wallen**

THIS AGREEMENT is between Richard Wallen and the Public Utility District No. 2 of Grant County, Washington, hereinafter referred to as the "District."

WHEREAS, the Board of Commissioners of the District, hereinafter referred to as the "Commission," is interested in retaining Mr. Wallen in the position of General Manager/CEO according to the general terms and conditions outlined below; and

WHEREAS, the goals of this Agreement are:

- To recognize Mr. Wallen's considerable experience and proven performance in successfully managing a large public utility;
- To provide fair compensation as compared to similarly qualified professionals providing comparable services in a similar business environment;
- To express commitment between the Commission and Mr. Wallen, and to the community at large, that this employment relationship is intended to be lasting and durable; and
- To acknowledge and address the issue of job security insofar as Mr. Wallen shall report to a Commission where there is potential for membership to change every two (2) years and for the General Manager/CEO to be dismissed at any time without cause. For these reasons, the District wishes to provide Mr. Wallen with sufficient protection against dismissal without particular reason.

THE PARTIES AGREE AS FOLLOWS:

**1. EMPLOYMENT AND EMPLOYMENT TERM**

This Agreement will become effective upon approval and confirmation by the Commission in accordance with the terms and conditions of this Agreement. The General Manager/CEO's employment hereunder shall be effective as of \_\_\_\_\_ (the "Effective Date") and shall continue until the third anniversary thereof, unless terminated earlier pursuant to Section 6 of this Agreement; provided that, on such first anniversary of the Effective Date and each annual anniversary thereafter (such date and each annual anniversary thereof, a "Renewal Date"), the Agreement shall be deemed to be automatically extended, upon the same terms and conditions, for successive periods of one year, unless either party provides written notice of its intention not to extend the term of the Agreement at least 90 days' prior to the applicable Renewal Date. The period covered under this Agreement is hereinafter referred to as the "Employment Term."

For example, the initial term of this Agreement shall be \_\_\_\_\_ to \_\_\_\_\_.  
On the first Renewal Date, the term of this Agreement shall extend to \_\_\_\_\_. Each subsequent

annual Renewal Date shall cause the termination date this Agreement to be extended an additional year unless affirmative action is taken in writing against extending the Employment Term.

## **2. DUTIES**

As General Manager/CEO, Mr. Wallen shall faithfully perform all duties and functions of a General Manager/CEO for a public utility district organized under the laws of the State of Washington, as described in said laws and stated in the District's job description for such position; and shall perform all other such lawful and appropriate duties and functions assigned or directed from time to time by the Commission. Mr. Wallen shall maintain his residency within the District's service area in Grant County, Washington.

The General Manager/CEO shall report to the Commission as the governing body of the District and not to any individual Commissioner.

## **3. SALARY AND PERIODIC PERFORMANCE REVIEW**

As General Manager/CEO, Mr. Wallen shall be paid an initial annual base salary in the gross amount of \_\_\_\_\_ (\$ \_\_\_\_\_). During the term of this Agreement, the Commission shall periodically review General Manager/CEO's base, annual salary, and maintain or adjust it at the Commission's discretion. While all salary adjustments, whether increases or decreases, are determined at the Commission's discretion, the Commission expects that any future increases in General Manager/CEO's salary shall be at a percentage that is not less than the average percentage salary increase for all of the District's salaried employees, measured in the aggregate. Further compensation increases are at the discretion of the Commission and are not guaranteed either in frequency or in amount.

Mr. Wallen's performance shall be reviewed by the Commission and discussed with him no less than annually. This performance review shall be utilized by the Commission for the annual review of Mr. Wallen's compensation as well as the process to facilitate the discussion on the progress towards meetings the goals and objectives established by the Commission.

## **4. EXPENSES**

As an employee of the District, Mr. Wallen shall be reimbursed for normal and customary business expenses incurred in the performance of his duties as General Manager/CEO in accordance with the District's existing practice, policy and procedure, as currently in effect or hereafter amended at the District's discretion.

## **5. BENEFITS**

As a District employee, Mr. Wallen shall be eligible for benefits, as outlined below.

- (a) He is eligible for the District's employer-provided/subsidized benefits both core (mandatory) and elective in accordance with the District's existing programs, policies, and procedures.
- (b) Mr. Wallen is eligible for personal leave (PL). His annual accrual rate for PL shall be the maximum allowed under the District's Personal Leave policy. He shall receive the leaves and other benefits accorded the District's non-union employees. In addition, the Commission

adds a contribution to the personal leave (PL) bank of the General Manager / Chief Executive Officer as follows: \_\_\_\_\_ (xx) days at eight (8) hours per day.

- (c) He shall receive the sum of \$\_\_\_\_\_ annually to be paid by the District into a District Section 457(f) plan, to the extent permitted by law. For each year during the term of this Agreement, the annual compensation described in this Section 5(c) shall be earned immediately upon Agreement and subsequent Agreement execution anniversary dates. Payment of said compensation by District to General Manager/CEO shall occur as a lump sum 365 days after it is earned. All compensation paid to General Manager/CEO, under this Agreement Section 5(c), shall be released to General Manager/CEO upon Agreement expiry or involuntary separation, with or without cause. For any 457 compensation earned by General Manager/CEO in a year but not yet paid by District to General Manager/CEO such compensation shall be forfeited by General Manger/CEO if voluntary separation by the General Manager/CEO occurs within a year ahead of the compensation payment date.

## 6. TERMINATION AND SEVERANCE

The Commission may terminate General Manager/CEO's employment at any time, with or without cause. In the event of termination, General Manager/CEO's compensation and benefits shall be administered as set forth below.

- (a) **Without cause.** If General Manager/CEO's employment is terminated without cause, the District shall pay General Manager/CEO the greater of his then-current base salary or \$\_\_\_\_\_ from the effective date of his termination through the end of the Employment Term. In no event shall General Manager/CEO receive salary continuation payments beyond a period of the Employment Term. These salary continuation payments shall be computed and paid in equal installments consistent with the District's normal payroll procedures and subject to required and authorized deductions and withholdings. General Manager/CEO shall not be required to mitigate the amount of these payments by seeking other employment or otherwise, and no income and/or benefits to General Manager/CEO of any kind shall reduce these payments. General Manager/CEO understands and agrees that these salary continuation payments are provided by the District, and accepted by General Manager/CEO, in lieu of all other remedies, at law, in equity or otherwise, regarding any aspect of General Manager/CEO's employment with the District and/or the separation of that employment, and General Manager/CEO waives any right that General Manager/CEO might otherwise possess to recover damages as a result of any aspect of his employment with the District and/or the termination of that employment. To further effectuate this provision, as a condition to any salary continuation payment, General Manager/CEO shall execute a comprehensive release of claims, and no payment shall be made unless and until the corresponding revocation period expires and the release becomes effective.

The right to terminate the General Manager/CEO's employment shall not be exercised prior to \_\_\_\_\_ and the District shall give the General Manager/CEO not less than \_\_\_\_\_ months' notice prior to the effective date of termination.

- (b) **With cause.** If General Manager/CEO's employment is terminated by the District for cause, General Manager/CEO shall be paid General Manager/CEO's regular salary through the date of termination and General Manager/CEO shall not be entitled to any other compensation or benefits of any kind, including the above-referenced salary continuation payments, vested or

otherwise, under any District benefit plans, unless otherwise required by the specific terms of the governing plan documents.

- (c) **Cause defined.** For purposes of this Agreement, “cause” means, without limitation: resignation; death, conviction of any felony or any crime involving moral turpitude or dishonesty; fraud, theft or a material act of dishonesty against or otherwise involving or related to the District; material failure, inability or refusal to perform General Manager/CEO’s duties and/or responsibilities to the Commission’s satisfaction, including without limitation, material failure to achieve established performance goals and/or benchmarks; misconduct that causes or reasonably threatens to cause injury to the District, including its operations, reputation and/or goodwill; material breach of District policy, including without limitation policies prohibiting nepotism, discrimination, harassment and/or retaliation, as currently in effect or hereafter amended at the District’s discretion; other conduct that is inappropriate for, or unbecoming of, a senior manager or that compromises or reasonably threatens to compromise General Manager/CEO’s performance under this Agreement; and/or the unwillingness or inability, due to General Manager/CEO’s mental, physical and/or emotional impairment, to perform one or more essential functions of the position of General Manager/CEO for one hundred and twenty (120) consecutive calendar days, or one hundred and twenty (120) non-consecutive calendar days within any three hundred and sixty-five (365) day period. For purposes of leave under the federal Family and Medical Leave Act, General Manager/CEO acknowledges and agrees that he is a “key employee” as defined in 29 C.F.R. Section 825.217.
- (d) **Notice and opportunity to cure.** If the Commission wishes to terminate General Manager/CEO’s employment for cause, the Commission must first provide General Manager/CEO thirty (30) calendar days’ written notice of the circumstances constituting cause, and an opportunity to cure, unless the circumstances are not subject to being cured.
- (e) **Benefits.** General Manager/CEO’s participation in all District benefits plans and programs shall end on the date that General Manager/CEO’s employment ends, regardless of the reasons it ends (e.g., resignation, discharge without cause, discharge with cause, etc.). Thereafter, to the extent permitted under the federal law known as COBRA, General Manager/CEO shall be provided the opportunity to continue his and his dependents’ participation in the District’s group medical, dental and/or vision coverages for a period of time, at General Manager/CEO’s expense. General Manager/CEO’s rights under any retirement, stock purchase, or savings benefit plans in which General Manager/CEO may have participated during his employment with the District shall be determined in accordance with the law and/or written plan documents governing those plans.

## **7. POSSESSION/RETURN OF MATERIALS**

Upon separation of employment or request by the District, General Manager/CEO shall return to the District all documents, records, files, electronic data, office supplies, and any other material or work product, including all drafts, copies and derivatives thereof that are in General Manager/CEO’s possession, custody or control and/or were created pursuant to or derived from the discharge of General Manager/CEO’s duties while employed. Upon the District’s request, General Manager/CEO shall also provide the District signed certification of his compliance with this provision.

**8. NO RAIDING**

General Manager/CEO recognizes that the District's workforce is a vital part of its business. Therefore, General Manager/CEO agrees that for a period of twelve (12) consecutive months after General Manager/CEO's employment with the District ends, regardless of the reason, General Manager/CEO shall not directly or indirectly, alone or with others, solicit or otherwise influence any employee, independent contractor or other service provider to end or otherwise modify his or her employment, contractual or other relationship with the District and/or become employed by or otherwise associated with General Manager/CEO or any entity that employs or retains General Manager/CEO.

**9. ASSIGNMENT/SEVERABILITY/WAIVER**

This Agreement shall inure to the benefit of, and be binding upon, the District and its successors and assigns. This Agreement is personal to General Manager/CEO, and the General Manager/CEO shall not assign or delegate his rights or duties under this Agreement, and any such assignment or delegation shall be null and void. If any part of this Agreement is held to be unenforceable, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed by applicable law. No waiver of any provision of this Agreement is valid unless in writing, signed by the party against whom the waiver is sought to be enforced. The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

**10. GOVERNING LAW/VENUE/JURISDICTION**

This Agreement shall be governed by the laws of the State of Washington. Venue for any legal action hereunder shall be in the Superior Court of Grant County, Washington.

**11. ENTIRE AGREEMENT**

The parties have had the opportunity to consult with their respective, independent legal counsel before signing this Agreement, and the District previously specifically encouraged General Manager/CEO to secure such independent review and counsel. Both parties have participated in drafting this Agreement and agree that the rule that ambiguities are construed against the drafter does not apply. This Agreement is the final and complete expression of the parties' agreements relating to General Manager/CEO's employment and it supersedes any prior agreements, written or oral. It may be amended only by a writing signed by both parties, and not orally or by course of dealing. The parties enter this Agreement without relying on anything not set forth in it. This Agreement controls over inconsistent policies or procedures of the District, in effect now or later, but does not affect consistent policies and procedures, which shall apply to General Manager/CEO according to their terms, as currently in effect or hereafter amended by the District at its discretion. This Agreement may be executed via facsimile and/or PDF or TIF, and in one or more counterparts, each of which shall be deemed an original, and all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties executed this Agreement on \_\_\_\_\_.

Richard Wallen, General Manager/CEO

Public Utility District No. 2  
of Grant County, Washington

By: \_\_\_\_\_

By: \_\_\_\_\_

Judy Wilson, President  
Board of Commissioners

DRAFT

# **For Commission Review – 04/12/2022**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ authorizing Commission approval of Service Area Agreement 140-10993 with Douglas PUD, authorizing each party to provide electrical service to certain customers within the other party's service area with prior approval.

xxxx

MEMORANDUM

March 31, 2022

**TO:** Grant PUD Commissioners  
Rich Wallen, General Manager/Chief Executive Officer

**VIA:** Dave Churchman, Chief Customer Officer  
Cary West, Senior Manager Customer Solutions *cfw*

**FROM:** Richard Cole, Customer Solutions Program Supervisor *R. Cole*

**SUBJECT:** Approval of Service Area Agreement 140-10993 with Douglas PUD

**Purpose:** To request Commission approval of Service Area Agreement 140-10993 with Douglas PUD, authorizing each party to provide electrical service to certain customers within the other party's service area with prior approval.

**Discussion:** Chapter 54.48 RCW authorizes public utility districts serving consumers in adjoining service areas to enter into agreements with each other for the designation of boundaries and the establishment of procedures for extension of service in adjoining areas not currently served. It states, "...the duplication of the electric lines and service of public utilities and cooperatives is uneconomical, may create unnecessary hazards to the public safety, discourages investment in permanent underground facilities, and is unattractive, and thus is contrary to the public interest and ...it is in the public interest for public utilities and cooperatives to enter into agreements for the purpose of avoiding or eliminating such duplication."

In February 1986, Grant entered into Service Area Agreement 150-630 with Douglas, authorizing Grant to serve certain customers in Douglas County. This Agreement was extended for another 25 years in 2011. Douglas serves customers within Grant County; however, it has been determined there is no formal contract in place authorizing them to do so. This new Service Area Agreement will supersede the 1986 agreement and will authorize both parties to provide service within the other party's service area.

Currently, Grant PUD is serving 11 locations within Douglas County and Douglas PUD is serving 5 locations within Grant County.

**Recommendation:** Commission approval of Service Area Agreement 140-10993 with Douglas PUD.

**Legal Review:** See attached e-mail(s).

## Leah Mauceri

---

**From:** Mitchell Delabarre  
**Sent:** Wednesday, March 30, 2022 10:24 AM  
**To:** Leah Mauceri  
**Subject:** RE: Legal Review Requested by 3/30 - 140-10993 Service Area Agreement with Douglas PUD

I do not see any legal issues with the proposed agreement.  
Mitch

*Mitchell P. Delabarre*  
General Counsel/Chief Legal Officer  
Grant PUD  
[mdelaba@gcpud.org](mailto:mdelaba@gcpud.org)  
509 793-1565

The information contained in this e-mail message is privileged, confidential and protected from disclosure. If you are not the intended recipient, dissemination, distribution or copying of the information contained herein is strictly prohibited. If you think you have received this e-mail message in error, please reply to [mdelaba@gcpud.org](mailto:mdelaba@gcpud.org) or call (509) 793-1565.

---

**From:** Leah Mauceri <Lmaucer@gcpud.org>  
**Sent:** Tuesday, March 29, 2022 7:32 PM  
**To:** Mitchell Delabarre <Mdelaba@gcpud.org>  
**Subject:** Legal Review Requested by 3/30 - 140-10993 Service Area Agreement with Douglas PUD

|                        |  |
|------------------------|--|
| <b>Action Required</b> | Legal review of 140-10993, Service Area Agreement with Douglas PUD (link below)  |
| <b>By when:</b>        | COB 3/30, if possible, in order to make the Commission deadline on 3/31  |
| <b>Detailed Info:</b>  | <ul style="list-style-type: none"><li>• Supersedes 150-630</li><li>• Allows both parties to serve customers in the other party's service territory</li></ul> |
| <b>Links to docs:</b>  | <a href="#">C365 Link</a> – both the agreement and Commission memo are located on the dashboard  |

SERVICE AREA AGREEMENT

This Service Area Agreement (“Agreement”), effective upon full execution (“Effective Date”), is by and between Public Utility District No. 2 of Grant County, Washington (“Grant”) and Public Utility District No. 1 of Douglas County, Washington (“Douglas”). For purposes of this Agreement, Grant and Douglas may be referred to herein individually as a “Party” and collectively as “Parties.”

R e c i t a l s :

RCW 54.48.010 et seq, authorizes public utility districts serving consumers in adjoining Service Areas to enter into agreements with each other for the designation of boundaries and the establishment of procedures for extension of service.

The Parties entered into Service Area Agreement 150-630 on February 3, 1986, authorizing Grant to maintain and extend electrical facilities and provide electrical service to certain areas of Douglas County.

Grant has been serving and desires to continue service within Douglas County, Washington, and Douglas has been serving and desires to continue service within Grant County, Washington.

It is the intent of the Parties that this Agreement supersede and replace Service Area Agreement 150-630 to authorize Grant to continue service within Douglas County, Washington and to authorize Douglas to maintain and extend electrical facilities and provide electrical service to certain areas of Grant County, Washington.

NOW, THEREFORE, pursuant to RCW Chapter 54.48 and in consideration of the mutual covenants herein, the Parties hereto agree as follows:

1. Definitions

When capitalized and used in this Agreement, the following terms are defined as follows:

“Delivery Service” – the provision of electrical distribution functions by a Party, through poles, lines, facilities, and system operations, allowing the end use customer to be connected to a source of energy supply.

“Distribution Lines” – overhead and underground wires, poles, and equipment for the primary purpose of providing electrical service connection to the end use customer.

“Existing Customer” – an end use customer who is connected to the electrical Distribution Lines of either Party to this Agreement at a particular location and any successor to the customer at the same location.

“New Customer” – a prospective new end use customer that does not have Delivery Service at a new location.

“Point of Use” – the location where electric power is used by an end use customer.

“Service Area” – the geographic areas where each Party to this Agreement has the exclusive right to provide Delivery Service to Existing or New Customers, regardless of distance from Distribution Lines of the utility. Grant’s Service Area is Grant County, Washington. Douglas’s Service Area is Douglas County, Washington.

2. Delivery Service

- A. Delivery Service to Existing Customers. As of the Effective Date, each Party will continue to service its Existing Customers in the other Party's Service Area. Neither Party will extend its Delivery Service facilities within the Service Area of the other Party unless in accordance with Sections 2.B and/or 2.C below. All existing lines which cross the boundary into the Service Area of the other Party, shall remain the property of the serving Party. Neither Party shall solicit requests for Delivery Service from an Existing Customer for the delivery of power to a Point of Use that is being served by the other Party.
- B. Expansion of Delivery Service to Customers. Any proposal to extend the existing Distribution Lines of either Party to serve an Existing Customer in the Service Area of the other Party shall be deemed a new request to extend facilities and shall be subject to the terms of Section 2.C.
- C. Service Area Exceptions and New Requests. Service Area exceptions that exist as of the effective date of this Agreement are specified in Exhibit A. Upon receipt of any new request for service in the Service Area of the other Party, the receiving Party will forward all pertinent information relative to such request (e.g., New Customer information, load, and map) to the serving Party, who shall determine whether it will furnish such service. The serving Party shall provide written notice of its decision to the other Party within 60 days. Should the serving Party allow the service exception, the receiving Party may extend service upon mutual agreement between the Parties. Any new Service Area exception will be added to a revised Exhibit A.

3. No Duplication of Facilities

The Parties agree not to construct any electrical distribution facilities which duplicate any such facilities in the other Party's Service Area other than pursuant to the terms of this Agreement.

4. Term

This Agreement shall continue in full force and effect for 25 years following the Effective Date unless terminated earlier by mutual agreement of the Parties.

Upon the expiration or termination of this Agreement for any reason, Douglas may elect to purchase all of Grant's electrical distribution facilities in Douglas's Service Area and Grant may elect to purchase all of Douglas's electrical distribution facilities in Grant's Service Area. The purchase price shall be the fair market value of said facilities, as defined in Section 5 below, and payment in full shall be made within 120 days of said expiration or termination. At time of purchase, the Party selling the facilities shall furnish the other Party with staking sheets showing the as-constructed portions of the line built in the applicable Service Area.

5. Option to Purchase

During the term of this Agreement, and upon one year's advance written notice and payment of the fair market value of said facilities, Grant shall have the option to purchase all or any portion of Douglas's electrical distribution facilities within Grant's Service Area and Douglas shall have the option to purchase all or any portion of Grant's electrical distribution facilities within Douglas's Service Area.

For purposes of this Agreement, fair market value shall be equal to the estimated cost of replacement at the time of said purchase, less 3% per year for each year or fraction thereof from the date of actual installation to the date of purchase; however, in no event shall the fair market value be less than \$7,000.00 per mile of line.

6. Impact on Prior Agreements

This Agreement supersedes all previous agreements with respect to the subject matter covered by this Agreement, whether written or oral, between Grant and Douglas, including Service Area Agreement 150-630.

7. Governing Law

This Agreement shall be interpreted, governed by, and construed under the laws of the State of Washington.

8. Indemnification

- A. Grant shall defend, indemnify, and hold Douglas harmless from all claims, damages, losses, liability, and expenses arising from the negligent or other tortious acts or omissions of Grant, its employees, agents, or contractors arising under this Agreement.
- B. Douglas shall defend, indemnify, and hold Grant harmless from all claims, damages, losses, liability, and expenses arising from the negligent or other tortious acts or omissions of Douglas, its employees, agents, or contractors arising under this Agreement.

9. Notices

Any notice or other communication under this Agreement given by either Party shall be sent via email to the email address listed below, or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address and to the attention of the person specified below and shall be deemed served when received and not mailed. Either Party may from time to time change such address by giving the other Party notice of such change.

| Grant  | Douglas  |
|--|--|
| Public Utility District No. 2<br>of Grant County, Washington<br>Attn: Senior Manager, Customer Solutions<br>PO Box 878<br>Ephrata, WA 98823<br>Cwest@gcpud.org<br><br>With a copy to Legal@gcpud.org | Public Utility District No. 1<br>of Douglas County, Washington<br>Attn: Dennis Baker<br>1151 Valley Mall Parkway<br>East Wenatchee, WA 98802<br>dennisba@dcpud.org |

10. Modification of Agreement

No modification of this Agreement will be binding upon either Party unless approved in writing by both Parties.

11. Assignment

Neither Party may assign this Agreement, in whole or in part, voluntarily or by operation of law, without prior written approval of the other Party.

12. 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.

13. Counterpart and Electronic Signatures

The Parties may execute this Agreement, and any modification to this Agreement that is required to be executed, in any number of counterparts and through electronic signature. Each counterpart and electronic signature will be deemed an original and all counterparts will constitute one agreement binding on both Parties.

IN WITNESS WHEREOF, Grant and Douglas have executed this Agreement each by its proper respective officers and officials thereunto duly authorized the day and year first above written.

Public Utility District No. 2  
of Grant County, Washington

Public Utility District No. 1  
of Douglas County, Washington

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**SERVICE AREA EXCEPTIONS**

Existing locations served by Grant within Douglas’s Service Area:

| <b>Location</b>                  |
|----------------------------------|
| 1195 Road G SE, Ephrata          |
| 126 Pixlee Rd, Ephrata           |
| 150 Pixlee Rd, Ephrata           |
| 181 Rd 12 SE, Ephrata            |
| 161 Rd 12 SE, Ephrata            |
| 1120 Lenore Overlook Rd, Ephrata |
| 9593 SR 17 N, Coulee City        |
| 9595 SR 17 N, Coulee City        |
| 9516 SR 17 N, Coulee City        |
| 9601 SR 17 N, Coulee City        |
| 9607 SR 17 N, Coulee City        |

Existing locations served by Douglas within Grant’s Service Area:

| <b>Location</b>                  |
|----------------------------------|
| 23201 Road 12 NW, Quincy         |
| 12343 Road W NW, Quincy          |
| 21954 Baird Springs Road, Quincy |
| 23855 NW Road 12, Quincy         |
| 23253 Road 12 NW, Quincy         |

# **For Commission Review – 04/12/2022**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ authorizing payment to VAR Technology Finance for invoice dated January 9, 2022 in the amount of \$18,613.94.

xxxx

**MEMORANDUM**

**March 25, 2022**

**TO:** Rich Wallen, General Manager/Chief Executive Officer

**VIA:** Bonnie Overfield, Chief Financial Officer  
Charles Meyer, Acting Senior Manager of IT

*Bonnie Overfield*  
*Charles Meyer*

**FROM:** Patrick Prazer, Service Desk Supervisor

**SUBJECT:** VAR Technology Finance, Invoice Payment

**Purpose:** Request Commission approval to pay VAR Technology Finance invoice dated January 9, 2022, in the amount of \$16,921.76 plus late fees of \$1,692.18 for a total of \$18,613.94.

**Discussion:** VAR Technology Finance (VAR) has provided the District with a three year lease agreement with VAR for the purchase of Flexera licenses to operate the AdminStudio software. This software is a packaging/deployment software needed to prepare and deploy a lot of the District's software due to the personalized modifications that are needed to be made for the software for it to be fit for District use. It is our recollection that a lease option was chosen over purchase of the software and licensing due to the fact that the lease was less expensive than a purchase and due to the fact that once the migration of software into the District's new management tool is completed, it is unlikely that the District will need to continue using the AdminStudio software. The District owned previous licenses for the AdminStudio software, but had not kept up with support and maintenance for the product. Therefore, it was necessary to purchase new licensing and support.

The total cost of the licensing is \$42,225.00 plus tax, annualized over three years. Because the total cost is over \$15,000, the purchaser (Sam Lamb, former IT Manager) did not have authority to enter into this agreement without a Purchase Order (PO). By doing so, this agreement also did not follow the procurement process (details referenced below). Therefore, this purchase is out of compliance with the District's delegated authority and procurement requirements. An explanation of how this occurred follows.

In September 2021, the Service Desk at the District requested a pricing proposal from CDW for AdminStudio and the Package Feed Module for the District's transition from SCCM to Intune.

Over the next several weeks, Flexera and CDW followed up with the District requesting status on moving forward with the licensing. On November 3, 2021, Patrick Prazer requested the quote be sent directly to him so that he could review the quote and make a decision on how to proceed.

On November 4, 2021, Patrick sent an email to Sonny Lee at Flexera requesting whether the 3 year cost was up front or if it could be annualized. Haleigh with CDW responded back that the cost would be upfront, but could be annualized via a finance/lease option, which would be through VAR Technology. Patrick responded back requesting the quote for the finance/lease option and a quote for one year as well.

On November 4, 2021, Sonny responded back that he would need to get approval from his management team for a one year subscription and asked why the District would opt for one year over three. Patrick

responded back that the District was evaluating the long term value of this tooling and did not want to commit to a term longer than one year.

On November 19, 2021, Patrick responded back to Haleigh at CDW that we would proceed with the 3 year lease.

On December 20, 2021, Sam Lamb, former IT Manager for Service Desk, signed the Master Lease Agreement with VAR Technology Finance. At the time the lease was signed, no request for a PO had been submitted to Procurement. Sam Lamb is no longer with the District so we are unable to determine why this was handled outside of the procurement process.

On March 10, 2022, Accounts Payable reached out to Michele Mesaros, the IT Administrative Assistant, for any information surrounding the invoice received from VAR for the first year's payment. After doing some research, it was determined that this did not go through the procurement process as required. If it had, IT would have been informed that:

- (1) This lease option was outside of the delegation of authority - Sam Lamb did not have authority to execute an agreement for a \$45k+ purchase;
- (2) The Finance Proposal and Master Lease Agreement did not have a legal review. Per the procurement process, all agreements that the District enters into that are outside of our standard Terms & Conditions require a legal review even if they are within someone's delegated authority;
- (3) It does not appear that a cyber security review was conducted; and
- (4) Pursuant to the terms of the Master Lease Agreement, this is a non-cancelable, legally binding contract and may not be terminated early.

It is unknown as to why this did not go through the proper procurement process, but IT is now aware that any purchase to be made with a PO must first have the quote and a PO checksheet submitted to procurement, with the proper authorizations from Cyber and the Acting Senior Manager of IT, before any documentation is signed with a vendor or third party reseller. Patrick Prazer and Michele Mesaros will be working with procurement to have a PO issued for the second and third year payments under the lease agreement.

IT leadership has been reminded about the importance of complying with the District's procurement requirements.

**Recommendation:** Commission approval to pay VAR Technology Finance, invoice #12755005 in the amount of \$18,613.94.

See attached invoice and emails.

CC: Carol Mayer, Procurement and Warehouse Manager  
Tracy Holcomb, Accounts Payable Supervisor  
Dmitriy Turchik, Auditor



all risks of damage and loss ("Property Insurance") in an amount equal to its replacement cost, with Us named as sole "loss payee" (with a lender's loss payable endorsement if required by Lessor or its Assignee), and (iii) carry public liability insurance covering bodily injury and property damage ("Liability Insurance") in an amount acceptable to Us, with Us named as an additional insured thereunder. With respect to each Lease, You have the choice of satisfying these insurance requirements for a given Lease by providing Us with satisfactory evidence of Property and Liability Insurance ("Insurance Proof"), within 30 days of the Commencement Date of such Lease. Such Insurance Proof must provide for at least 30 days prior written notice to Us before it may be cancelled or terminated and must contain other terms satisfactory to Us. If you do not provide Us with Insurance Proof within 30 days of the Commencement Date of a Lease, or if such insurance terminates for any reason, then (a) You agree that We have the right, but not the obligation, to obtain such Property Insurance and/or Liability Insurance in such forms and amounts from an insurer of Our choosing in order to protect Our interests ("Other Insurance"), and (b) You agree that We may charge you a periodic charge for such Other Insurance. This periodic charge will include reimbursement for premiums advanced by Us to purchase Other Insurance, billing and tracking fees, charges for Our processing and related fees associated with the Other Insurance, and a finance charge of up to 18% per annum (or the maximum rate allowed by law if less) on any advances We make for premiums (collectively, the "Insurance Charge"). We and/or one or more of our affiliates and/or agents may receive a portion of the Insurance Charge, which may include a profit. We are not obligated to obtain, and may cancel, Other Insurance at any time without notice to You. Any Other Insurance need not name You as an insured or protect Your interests. The Insurance Charge may be higher than if You obtained Property and Liability Insurance on Your own.

**9. ASSIGNMENT.** You shall not sell, transfer, assign or otherwise encumber (collectively, "Transfer") this Agreement or any Lease, or Transfer or sublease any Equipment, in whole or in part, without Our prior written consent. We may, without notice to You, Transfer Our interests in the Equipment, this Agreement and/or any Lease, in whole or in part, to a third party (an "Assignee"), in which case the Assignee will, to the extent of such Transfer, have all of Our rights and benefits but will not have to perform Our obligations (if any). Any Transfer by Us will not relieve Us of Our obligations under this Agreement or any Lease. You agree not to assert against the Assignee any claim, defense or offset You may have against Us. You acknowledge that neither We nor the Supplier are agents of any Assignee.

**10. TAXES AND OTHER FEES.** You are responsible for all taxes (including, without limitation, sales, use and personal property taxes, excluding only taxes based on Our income), assessments, license and registration fees and other governmental charges relating to this Agreement, each Lease and/or the Equipment (collectively "Governmental Charges"). Sales or use taxes due upfront will be payable over the Initial Term of each Lease, with a finance charge. You authorize Us to pay any Governmental Charges as they become due, and You agree to reimburse Us promptly upon demand for the full amount. You agree to pay Us a fee for Our administration of taxes related to the Equipment leased under each Lease. With respect to each Lease, You also agree to pay Us upon demand (i) for all costs of filing, amending and releasing UCC financing statements, and (ii) a documentation/processing fee in the amount set forth in the related Schedule (or as otherwise agreed to). If You so request, and We permit the early termination of a Lease, You acknowledge that there may be a cost or charge to You for such privilege. In connection with the expiration or earlier termination of a Lease, You agree to pay Us any Governmental Charges accrued or assessed but not yet due and payable, or Our estimate of such amounts. You agree that the fees and other amounts payable under this Agreement and each Lease may include a profit to Us and/or the Supplier.

**11. DEFAULT; REMEDIES.** With respect to each Lease, You will be in default if (1) You fail to pay any amount due under any Lease within 15 days of the due date, (2) You breach or attempt to breach any other term, representation or covenant in this Agreement, any Lease or in any other agreement now existing or hereafter entered into with Us or any Assignee, (3) an event of default occurs under any obligation You may now or hereafter owe to any affiliate of Us or any Assignee, and/or (4) You and/or any guarantors or sureties of Your obligations under any Lease (i) go out of business, (ii) commence dissolution proceedings, (iii) merge or consolidate into another entity, (iv) sell all or substantially all of Your or their assets, or there is a change of control with respect to Your or their ownership, (v) become insolvent, admit Your or their inability to pay Your or their debts, (vi) make an assignment for the benefit of Your or their creditors (or enter into a similar arrangement), or (vii) file, or there is filed against You or them, a bankruptcy, reorganization or similar proceeding or a proceeding for the appointment of a receiver, trustee or liquidator. If You default under a Lease, We may do any or all of the following: (A) cancel such Lease, (B) require You to promptly return the Equipment pursuant to Section 12, (C) take possession of and/or render the Equipment (including any software) unusable (and for such purposes You hereby authorize Us and Our designees to enter Your premises, with or without prior notice or other process of law), and sell, lease or otherwise dispose of the Equipment on such terms and in such manner as We may in Our sole discretion determine, (D) require You to pay to Us, on demand, liquidated damages in an amount equal to the sum of (i) all Payments and other amounts then due and past due under such Lease, (ii) all remaining Payments for the remainder of the Term of such Lease discounted at a rate of 6% per annum, (iii) the residual value of the Equipment estimated by Us at the inception of such Lease (as shown in Our books and records), discounted at a rate of 6% per annum, (iv) interest on the amounts specified in clauses "i", "ii" and "iii" above from the date of demand to the date paid at the rate of 1.5% per month (or the maximum amount permitted by law if less), and (v) all other amounts that may thereafter become due under such Lease to the extent that We will be obligated to collect and pay such amounts to a third party (such amounts specified in sub-clauses "i" through "v" referred to below as the "Balance Due"), and/or (E) exercise any other remedy available to Us under law. You also agree to reimburse Us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs) and reasonable expenses of repossessing, holding, preparing for disposition, and disposition ("Remarketing") of the Equipment, plus interest at the rate in sub-clause (iv) on the foregoing amounts from the date of demand to the date paid. In the event We are successful in Remarketing the Equipment, We shall give You a credit against the Balance Due in an amount equal to the present value of the proceeds received and to be received from Remarketing minus the above-mentioned costs (the "Net Proceeds"). If the Net Proceeds are less than the Balance Due, You shall be liable for such deficiency. Any delay or failure to enforce Our rights hereunder shall not constitute a waiver thereof. The remedies set forth herein are cumulative and may be exercised concurrently or separately.

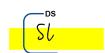
**12. RETURN OF EQUIPMENT.** If You are required to return the Equipment under any Lease, You shall, at Your expense, send the Equipment to any location(s) that We may designate and pay Us a handling fee of \$250.00. The Equipment must be properly packed

for shipment, freight prepaid and fully insured, and must be received in Good Condition (defined in Section 7). All terms of the applicable Lease, including Your obligation to make Payments and pay all other amounts due thereunder shall continue to apply until the Equipment is received by Us in accordance with the terms of this Agreement. You are solely responsible for removing all data from any digital storage device, hard drive or other electronic medium prior to returning the Equipment or otherwise removing or allowing the removal of the Equipment from Your premises for any reason (and You are solely responsible for selecting an appropriate removal standard that meets Your business needs and complies with applicable laws). We shall not be liable for any losses, directly or indirectly arising out of, or by reason of the presence and/or use of any information, images or content retained by or resident in any Equipment returned to Us or repossessed by Us.

**13. APPLICABLE LAW; VENUE; JURISDICTION; SEVERABILITY.** This Agreement and each Lease shall be governed by, enforced and construed in accordance with the laws of the state of Our principal place of business, or, if We assign this Agreement or a Lease, the laws of the state of the Assignee's principal place of business, and any dispute concerning this Agreement or a Lease shall be adjudicated in a federal or state court in such state, or in any other court or courts having jurisdiction over You or Your assets, all at the sole election of Lessor or its Assignee. You hereby irrevocably submit generally and unconditionally to the jurisdiction of any such court so elected by Lessor or its Assignee in relation to such matters and irrevocably waive any defense of an inconvenient forum to the maintenance of any such action or proceeding. **YOU AND WE HEREBY WAIVE YOUR AND OUR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION.** If any amount charged or collected under this Agreement or any Lease is greater than the amount allowed by law (an "Excess Amount"), then (i) any Excess Amount charged but not yet paid will be waived by Us and (ii) any Excess Amount collected will be refunded to You or applied to any other amount then due hereunder or thereunder. Each provision of this Agreement and each Lease shall be interpreted to the maximum extent possible to be enforceable under applicable law. If any provision of this Agreement or any Lease is construed to be unenforceable, such provision shall be ineffective only to the extent of such unenforceability without invalidating the remainder hereof or thereof.

**14. DOLLAR PURCHASE.** This Section only applies to Leases under which You have been granted a \$1.00 Purchase Option, as indicated on the related Schedule. With respect to any such Lease, at the end of the Initial Term, You shall purchase the Equipment "AS IS, WHERE IS" for one dollar (\$1.00); provided, however, We shall not be required to transfer Our interest in the Equipment to You until You have paid to Us all amounts then owing under such Lease, if any. You agree that prior to entering into any such Lease, You could have purchased the Equipment from the Supplier for a specific cash amount (the "Cash Price"), but instead You hereby choose and agree to purchase the Equipment by paying the Time Price (as defined herein) over the applicable Initial Term. The Time Price equals the sum of the Payments shown in the related Schedule, plus \$1.00. If the Time Price should be determined or adjudicated to include an interest component or finance charge, then you agree that (i) each Payment shall be deemed to include an amount of pre-computed interest, (ii) the total pre-computed interest scheduled to be paid over the Initial Term is to be calculated by subtracting the Cash Price from the Time Price, (iii) the annual interest rate deemed applicable to such Lease is the rate that will amortize Our Investment down to \$1.00 by applying all periodic Payments as payments, assuming that each periodic Payment is received by Us on the due date, and (iv) none of the other fees or costs We may charge You pursuant to such Lease (including but not limited to UCC filing fees, late fees, documentation or processing fees) shall be considered interest or a finance charge.

**15. MISCELLANEOUS.** You authorize Us or an Assignee to (a) obtain credit reports or make credit inquiries in connection with this Agreement or any Lease, and (b) provide Your credit application and information regarding Your account to credit reporting agencies, potential Assignees, the Supplier and parties having an economic interest in this Agreement, a Lease and/or the Equipment. This Agreement and any Schedules, exhibits and other related documents (each a "document") may be executed in counterparts manually or by electronic means, by either party and, when transmitted to Us by fax, electronic or other means, shall be binding on You for all purposes as if manually signed. No document requiring Our signature is binding on Us until We sign it. For purposes of perfection of a security interest in chattel paper under the UCC, only the counterpart of a document that bears Our manually-applied signature and is marked "Original" or with a similar designation by Us or by Our assignee shall constitute "chattel paper" for purposes of perfection by possession, provided that if any document is stored in an electronic medium qualifying as "electronic chattel paper", then the counterpart identified by Us as the single "Authoritative Copy" shall be chattel paper for purposes of perfection by control, and any paper counterpart shall be deemed a copy, except to the extent that a process has occurred by which the electronic record of the chattel paper has been permanently destroyed or identified as being the non-authoritative version and a tangible printed version produced that indicates that it is the sole authoritative version, in which case such tangible version shall constitute the "Original" for purposes of perfection. No security interest in a document can be perfected by possession of any counterpart that is not the "Original", if in tangible form, or by control of the "Authoritative Copy" if in electronic form. For purposes of removing doubt as to the intention of this paragraph, any counterpart marked "Duplicate" or with any other designation identifying it as not being the chattel paper original shall be deemed a copy and possession of such copy shall not perfect any security interest claimed by the person in possession. You waive notice of Our acceptance of the document and receipt of a copy of the originally signed document. Notwithstanding anything herein to the contrary, if You sign or transmit any document to Us electronically, We reserve the right to require You to sign any document manually and to deliver to Us an original of such document containing Your manual signature. Effective on the date that You enter into this Agreement and each Schedule, You hereby represent and warrant to Us that (a) this Agreement and each such Schedule is legally binding and enforceable against You in accordance with its terms and You acknowledge that this representation and warranty is a material inducement to Us to acquire the Equipment to be leased under this Agreement and each Schedule, and (b) You and any other person who You control, own a controlling interest in, or who owns a controlling interest in or otherwise controls You in any manner ("Customer Representatives") are and will remain in full compliance with all laws, regulations and government guidance concerning foreign asset control, trade sanctions, embargoes, and the prevention and detection of money laundering, bribery, corruption, and terrorism, and neither You nor any Customer Representative is or will be listed in any Sanctions-related list of designated persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control or successor or the U.S. Department of State.

Lessee has reviewed this page.  
Lessee Initials 



## GOVERNMENT ADDENDUM AGREEMENT #

Addendum to Agreement # , between Public Utility District No. 2 of Grant County, WA, as Customer and VAR Technology Finance, as Lessor. The words "you" and "your" refer to Customer. The words we," "us" and "our" refer to Lessor.

The parties wish to amend the above-referenced Agreement by adding the following language:

**REPRESENTATIONS AND WARRANTIES OF CUSTOMER:** You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

**NON-APPROPRIATION OR RENEWAL:** If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

**TITLE TO THE EQUIPMENT:** If the selected purchase option for this Agreement is \$1.00 or \$101.00, unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

The parties wish to amend the above-referenced Agreement by restating the following language:

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, at the end of the initial term, this Agreement shall renew on a month-to-month basis under the same terms hereof unless you send us written notice at least 30 days before the end of any term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security

interest in the Equipment to secure all amounts you owe us under this Agreement and any supplements hereto. You authorize and ratify our filing of any financing statement(s) and the naming of us on any vehicle title(s) to show our interest.”

Any provision in the Agreement stating that you shall indemnify and hold us harmless is hereby amended and restated as follows: “You shall not be required to indemnify or hold us harmless against liabilities arising from this Agreement. However, as between you and us, and to the extent permitted by law and legally available funds, you are responsible for and shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that you shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after you have surrendered possession of the Equipment in accordance with the terms of this Agreement to us or that arise directly from our gross negligence or willful misconduct.”

Any provision in the Agreement stating that a default by you under any agreement with our affiliates or other lenders shall be an event of default under the Agreement is hereby amended and restated as follows: “You will be in default if: (i) you do not pay any Payment or other sum due to us under this Agreement when due or you fail to perform in accordance with the covenants, terms and conditions of this Agreement; (ii) you make or have made any false statement or misrepresentation to us; or (iii) you dissolve, liquidate, terminate your existence or are in bankruptcy.”

Any provision in the Agreement stating that you shall pay our attorneys’ fees is hereby amended and restated as follows: “In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay, to the extent permitted by law and to the extent of legally available funds, our reasonable attorneys’ fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee.”

Any provision in the Agreement requiring you to pay amounts due under the Agreement upon the occurrence of a default, failure to appropriate funds or failure to renew the Agreement is hereby amended to limit such requirement to the extent permitted by law and legally available funds.

Any provision in the Agreement stating that the Agreement is governed by a particular state’s laws and you consent to such jurisdiction and venue is hereby amended and restated as follows: “This Agreement will be governed by and construed in accordance with the laws of the state where you are located. You consent to jurisdiction and venue of any state or federal court in such state and waive the defense of inconvenient forum.”

By signing this Addendum, Customer acknowledges the above changes to the Agreement and authorizes Lessor to make such changes. In the event of any conflict between this Addendum and the Agreement, this Addendum shall prevail. In all other respects, the terms and conditions of the Agreement remain in full force and effect and remain binding on Customer.

VAR Technology Finance

\_\_\_\_\_  
Lessor

*Tawnya Walters*  
\_\_\_\_\_  
Signature

Funding Specialist                      01/03/2022  
\_\_\_\_\_  
Title    Date

**Public Utility District No. 2 of Grant County,  
WA**

\_\_\_\_\_  
Customer

**X** DocuSigned by:  
*Sam Lamb*  
\_\_\_\_\_  
**Signature**

Service Desk Manager                      12/20/2021  
\_\_\_\_\_  
**Title**    **Date**

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.

VAR Technology Finance  
2330 Interstate 30  
Mesquite, TX 75150

Phone (972) 755 8200  
Fax (972) 755 8210  
www.varnow.com



**Exhibit A**

**Equipment Lease Schedule No. 1**

This Equipment Lease Schedule (this "Schedule") is made and entered into as this day 12/20/2021 (Date Required) by and between **VAR Technology Finance** (hereinafter "We," "Us" or "Our") and **Public Utility District No. 2 of Grant County, WA** (hereinafter "You" or "Your"). This Schedule is entered into subject to that certain Master Lease Agreement No. \_\_\_\_\_, dated on or about 12/20/2021 between You and Us (the "Master Agreement"). All of the terms and conditions set forth in the Master Agreement are hereby reaffirmed and incorporated in and made part of this Schedule, as if fully set forth herein. In the event of a conflict between the terms of this Schedule and the terms of the Master Agreement, the terms of this Schedule shall govern. The Master Agreement together with this Schedule constitute a Lease (as defined in the Master Agreement) and represent the complete and exclusive agreement between You and Us regarding the leasing of the Equipment identified below. Any amendment to the Master Agreement subsequent to the date of this Schedule shall be ineffective as to this Schedule unless otherwise expressly stated in such amendment.

We hereby agree to lease to You, and You hereby agree to lease from Us, the following-described Equipment upon the terms and conditions set forth in this Schedule and in the Master Agreement:

Description of Equipment – **INCLUDE MAKE, MODEL AND SERIAL NUMBERS (ATTACH ADDITIONAL PAGE IF NECESSARY)**

See attached Schedule A

Equipment Supplier: VAR Technology Finance

Equipment Location Address:

Initial Term: 37 Months, 3 Annual payments, 30 days deferred

Commencement Date of this Lease: \_\_\_\_\_ (completed by Us following Our acceptance of this Schedule)

Payment\*: \$15,409.62 (\*Plus Applicable Taxes)

Payment Period:     Month     Quarter  
                           Year     Other:

\$0.00 Payment(s) is(are) due at the time this Schedule is signed, which shall be applied to the:

First Lease Payment     First and Last Lease Payments     Other: Zero advance payments

Security Deposit: \$ \_\_\_\_\_

Documentation/Processing Fee: \$95.00

Returned Check / Non-sufficient Funds Charge: \$35.00

Purchase Option at end of Original Term:     None     Fair Market Value as of end of Original Term  
   One Dollar (\$1.00)     Other:

The above equipment purchase options may be exercised by You **only** at the end of the Initial Term. If You are in default under the Master Agreement or this Schedule at the time You desire to exercise a purchase option, You must cure such default to Our satisfaction before having the right to exercise such option.

**This Schedule is non-cancelable and may not be terminated early.**

**VAR Technology Finance**

**You: Public Utility District No. 2 of Grant County, WA**

By: x Tawnya Walters  
Date: 01/03/2022

By: X DocuSigned by:  
Sam Lamb  
0740E0388921433...  
Name (Print): Sam Lamb  
Title: Service Desk Manager  
Date Signed: 12/20/2021

VAR Technology Finance  
2330 Interstate 30  
Mesquite, TX 75150

Phone (972) 755 8200  
Fax (972) 755 8210  
www.varnow.com



**Schedule A**

**Public Utility District No. 2 of Grant County, WA**

| Quantity | Manufacturer | Description                          |
|----------|--------------|--------------------------------------|
| 1        | Flexera      | FLEXERA ADMINSTUDIO PRO SIL SUB 3Y   |
| 1        | Flexera      | FLEXERA ADMINSTUDIO PKG FEED MOD SUB |

Lessee: Public Utility District No. 2 of Grant County,  
WA

**Signature:** DocuSigned by:  
*Sam Lamb*

**Title:** Service Desk Manager

VAR Technology Finance  
2330 Interstate 30  
Mesquite, TX 75150

Phone (972) 755 8200  
Fax (972) 755 8210  
www.varnow.com



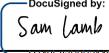
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## Addendum to Lease

The Lessee understands that the Equipment being leased includes software which is supplied by Flexera (“the Supplier”). The Lessor intends to assign the lease for financing purposes. Assignee will not be responsible for the satisfactory operation or support of the software, and the Lessee must continue to make payments to the Lessor or its Assigns regardless of any claims the lessee may have against the Supplier regarding the software.

**Dated:** 12/20/2021 \_\_\_\_\_

**Lessee:** Public Utility District No. 2 of Grant County, WA \_\_\_\_\_

**By:**  \_\_\_\_\_  
0740E83B9B21453

**Title:** Service Desk Manager \_\_\_\_\_

**From:** [Kyle Swanson](#)  
**To:** [Michele Mesaros](#)  
**Cc:** [Patrick Prazer](#)  
**Subject:** FW: Flexera Quote  
**Date:** Tuesday, March 29, 2022 4:04:12 PM  
**Attachments:** [image001.png](#)  
[Grant PUD AdminStudio Executive Summary - CDW Pricing.pdf](#)  
[MJPS678.pdf](#)

---

**From:** Haleigh Byrnes <halebry@cdw.com>  
**Sent:** Wednesday, September 15, 2021 7:33 AM  
**To:** Kyle Swanson <Bswanso@gcpud.org>; Amanda Hall <Ahall@gcpud.org>  
**Cc:** Sonny Lee <SLee@flexera.com>  
**Subject:** RE: Flexera Quote

Quote on CDW-G paper attached!

Best,

**Haleigh Byrnes**  
Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



---

**From:** Haleigh Byrnes  
**Sent:** Tuesday, September 14, 2021 4:50 PM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
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**Subject:** Flexera Quote

Hi Kyle & Amanda –

Please see the attached proposal with CDW-G pricing! I will also be able to follow up with a formal quote on CDW-G paper referencing the WA NASPO software contract, but I'm just waiting for these parts to be added to our system and didn't want to delay on providing pricing and information.

Let Sonny or I know if you have any questions at all!

Best,

**Haleigh Byrnes**

Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



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# QUOTE CONFIRMATION



**DEAR KYLE SWANSON,**

Thank you for considering CDW•G LLC for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

| QUOTE # | QUOTE DATE | QUOTE REFERENCE | CUSTOMER # | GRAND TOTAL        |
|---------|------------|-----------------|------------|--------------------|
| MJPS678 | 9/15/2021  | FLEXERA 3YR     | 1538067    | <b>\$45,771.90</b> |

| QUOTE DETAILS   |     |         |             |             |
|---|-----|---------|-------------|-------------|
| ITEM  | QTY | CDW#    | UNIT PRICE  | EXT. PRICE  |
| <a href="#">FLEXERA ADMINSTUDIO PRO SIL SUB 3Y</a><br>Mfg. Part#: AS-PRO-S-XXX3<br>Electronic distribution - NO MEDIA<br>Contract: Washington NVP Software (ADSP016-130652 06016)     | 1   | 6698837 | \$25,130.00 | \$25,130.00 |
| <a href="#">FLEXERA ADMINSTUDIO PKG FEED MOD SUB</a><br>Mfg. Part#: AS-PFMPD-S-XXX3<br>Electronic distribution - NO MEDIA<br>Contract: Washington NVP Software (ADSP016-130652 06016) | 1   | 6698838 | \$17,095.00 | \$17,095.00 |

| PURCHASER BILLING INFO   | SUBTOTAL   | AMOUNT             |
|--|--|--------------------|
| <b>Billing Address:</b><br>PUD NO. 2 OF GRANT COUNTY, WA<br>ACCOUNTS PAYABLE<br>PO BOX 878<br>EPHRATA, WA 98823-0878<br>Phone: (509) 754-3541<br>Payment Terms: Net 30 Days-Govt State/Local | SHIPPING   | \$0.00             |
|  | SALES TAX  | \$3,546.90         |
|  | <b>GRAND TOTAL</b>   | <b>\$45,771.90</b> |
|  | <b>DELIVER TO</b><br><b>Shipping Address:</b><br>PUD NO. 2 OF GRANT COUNTY, WA<br>KYLE SWANSON<br>154 A ST SE<br>EPHRATA, WA 98823-0878<br><b>Shipping Method:</b> ELECTRONIC DISTRIBUTION |                    |
| <b>Please remit payments to:</b><br>CDW Government<br>75 Remittance Drive<br>Suite 1515<br>Chicago, IL 60675-1515  |  |                    |

Need Assistance? CDW•G LLC SALES CONTACT INFORMATION

|  |                |  |                |  |                 |
|--|----------------|--|----------------|--|-----------------|
|  | Haleigh Byrnes |  | (866) 405-6213 |  | halebry@cdw.com |
|--|----------------|--|----------------|--|-----------------|

| LEASE OPTIONS      |                         |                    |                         |
|--------------------|-------------------------|--------------------|-------------------------|
| FMV TOTAL          | FMV LEASE OPTION        | BO TOTAL           | BO LEASE OPTION         |
| <b>\$42,225.00</b> | <b>\$1,142.19/Month</b> | <b>\$42,225.00</b> | <b>\$1,316.15/Month</b> |

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

Why finance?

- Lower Upfront Costs. Get the products you need without impacting cash flow. Preserve your working capital and existing credit line.

- Flexible Payment Terms. 100% financing with no money down, payment deferrals and payment schedules that match your company's business cycles.
- Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.
- Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term and choose to return or purchase the equipment at end of lease.
- Bundle Costs. You can combine hardware, software, and services into a single transaction and pay for your software licenses over time! We know your challenges and understand the need for flexibility.

General Terms and Conditions:

This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a collection of industry data from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdw.com/content/terms-conditions/product-sales.aspx>  
For more information, contact a CDW account manager

© 2021 CDW•G LLC 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239



## EXECUTIVE SUMMARY

### Business Justification:

Grant PUD is transitioning from SCCM to Intune. Therefore, the team would like more efficient process in ensuring that Grant PUD's applications are in the right format and to have more success automating the deployment of applications through Intune.

### Opportunity:

AdminStudio's Professional edition with the Package Feed Module would allow Grant PUD to have one solution to help meet the continuous need for new and updated software across the enterprise. This solution powers Grant PUD's daily application readiness process for packaging, compatibility testing, and automated distribution. Using AdminStudio, users can rapidly prepare error-free applications to deploy into their enterprise environment through a standardized process built on application management best practices. These features will significantly make this process more efficient:

- Optional- Package Feed Module- one source to download the latest versions, silent command line parameters, and detection criteria for thousands of vendor setups. Here is the real time list of [applications](#) available
- Wrap packages with PowerShell- to perform actions like modify the install and uninstall parameters
- WiseScript- wrap EXE/MSI packages to WiseScript wrapped EXE
- SCCM- supports applications containing EXE, App-V, Apple iOS, Google Android, Microsoft UWP app packages, MSI, MSIX
- Intune- publish MSI/MSIX packages and convert EXE/MSI to the Intunewin format
- InstallShield Professional edition- customization of Windows installer packages by directly editing them
- Repackager- repackage EXE to MSI, perform basic ISO tagging including creation of tag files
- Tuner- customize Windows Installer packages by creating transforms
- Publish Applications: Jamf Casper, Workspace One, Symantec Altiris, Citrix XenApp
- Automated Application Converter- automatically test for compatibility and then repackage EXE into MSI/MSIX/AppV/ThinApp
- Operating System Application Compatibility- test packages for all Windows operating systems
- Application Catalog- manage apps in a database
- MSIX Testing- check the compatibility of packages to be converted to MSIX
- MSIX Conversion- spin up virtual machines to convert a package into MSIX
- MSIX Editor- edit MSIX packages
- Virtual Package Editor- edit App-V packages
- Mobile App & macOS- import macOS and mobile apps and then test and customize



**Proposed Solution (valid until 10/13/2021 direct with Flexera):**

|  |                    |
|--|--------------------|
| AdminStudio Professional 3 year subscription for 2 admins:                       | \$25,130.00        |
| AdminStudio Package Feed Module 3 year subscription for 5,000 devices (minimum): | \$17,095.00        |
| <b>Total:</b>  | <b>\$42,225.00</b> |

**About the Solution:**

The AdminStudio Package Feed Module (optional add-on module) provides built-in support vendor setups: download the latest versions and get validated silent command line parameters and detection criteria for thousands of vendor setups.

With Flexera's AdminStudio Package Feed Module, you can:

- Avoid the need to repackage a majority of your application portfolio
- Select an application and download the latest release directly in AdminStudio
- Access command line information and detection criteria for thousands of vendor setups

Together AdminStudio & the Package Feed Module will help you manage the huge influx of new applications and updates. You not only keep your applications up to date, you also keep them at the ready for deployment in your specific environment and with your required customizations. Most importantly, you minimize risk, save time, effort, and money in the process.

**From:** [Kyle Swanson](#)  
**To:** [Michele Mesaros](#)  
**Subject:** FW: Flexera Quote  
**Date:** Tuesday, March 29, 2022 4:06:37 PM  
**Attachments:** [image001.png](#)

---

**From:** Haleigh Byrnes <halebry@cdw.com>  
**Sent:** Wednesday, September 22, 2021 12:29 PM  
**To:** Kyle Swanson <Bswanso@gcpud.org>; Amanda Hall <Ahall@gcpud.org>  
**Cc:** Sonny Lee <SLee@flexera.com>  
**Subject:** RE: Flexera Quote

Hi Team –

Wanted to follow up here and see if there were any other questions for Sonny or myself?

Best,

**Haleigh Byrnes**  
Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



---

**From:** Haleigh Byrnes  
**Sent:** Wednesday, September 15, 2021 9:33 AM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
**Cc:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
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Quote on CDW-G paper attached!

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625 W. Adams | Chicago, IL 60661  
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---

**From:** Haleigh Byrnes  
**Sent:** Tuesday, September 14, 2021 4:50 PM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
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**From:** [Kyle Swanson](#)  
**To:** [Michele Mesaros](#)  
**Subject:** FW: Flexera Quote  
**Date:** Tuesday, March 29, 2022 4:06:54 PM  
**Attachments:** [image001.png](#)

---

**From:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Sent:** Wednesday, September 29, 2021 7:41 AM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; Amanda Hall <[Ahall@gcpud.org](mailto:Ahall@gcpud.org)>  
**Cc:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
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Hi Kyle & Amanda,

What did your Supervisor & IT Manager say about the Proposal we provided you?

Thank you,  
Sonny

**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Sent:** Wednesday, September 22, 2021 2:29 PM  
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**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
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625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



**From:** Haleigh Byrnes

**Sent:** Tuesday, September 14, 2021 4:50 PM

**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)

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**Subject:** Flexera Quote

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**Haleigh Byrnes**

Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



\*\*\*Please take care when opening links, attachments, or responding to this email as it originated outside of Grant.\*\*\*

**From:** [Patrick Prazer](#)  
**To:** [Michele Mesaros](#)  
**Subject:** FW: Flexera Quote  
**Date:** Tuesday, March 29, 2022 4:10:11 PM  
**Attachments:** [image001.png](#)  
[image004.png](#)  
[Grant PUD AdminStudio Executive Summary - CDW Pricing.pdf](#)  
[MJPS678.pdf](#)

---

Thanks,

## Patrick Prazer

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



[grantpud.org](http://grantpud.org)

---

**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Sent:** Wednesday, November 3, 2021 3:11 PM  
**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>  
**Cc:** [slee@flexera.com](mailto:slee@flexera.com)  
**Subject:** RE: Flexera Quote

Hi Patrick –

Happy to help! Please see both attached and let us know if it'd be helpful to set up a call with Sonny to review the solution with you.

Best,

### Haleigh Byrnes

Account Manager | **CDW-G**

625 W. Adams | Chicago, IL 60661

Direct: 312.705.6246 Fax: 312.705.7962



---

**From:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>  
**Sent:** Wednesday, November 3, 2021 5:04 PM

**To:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>

**Cc:** [slee@flexera.com](mailto:slee@flexera.com)

**Subject:** FW: Flexera Quote

**Importance:** High

**EXTERNAL EMAIL**

Hello Sonny/Haleigh,

Apologies for the inconvenience, can you please send that quote directly to me? We almost certainly want to move forward with it.

**Patrick Prazer**

*Service Desk Supervisor*

**OFFICE**

**EXT.** x2346

**EMAIL** [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



---

**From:** Amanda Hall <[ahall@gcpud.org](mailto:ahall@gcpud.org)>

**Sent:** Monday, October 25, 2021 8:20 AM

**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>

**Cc:** Kyle Swanson <[bswanso@gcpud.org](mailto:bswanso@gcpud.org)>

**Subject:** FW: Flexera Quote

**Importance:** High

Per Kyle, sending this to Patrick

We have not had time to test this. However, Kyle has used this before. We need to make a decision and get back to Sonny.

Thank you,

**Amanda Hall**

*Service Desk Specialist II*

**OFFICE** 509.754-7018

**EXT.** 4124

**EMAIL** [ahall@gcpud.org](mailto:ahall@gcpud.org)



[grantpud.org](http://grantpud.org)

---

**From:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Sent:** Friday, October 22, 2021 8:05 AM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; Amanda Hall <[Ahall@gcpud.org](mailto:Ahall@gcpud.org)>  
**Cc:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Subject:** RE: Flexera Quote  
**Importance:** High

Good morning Kyle & Amanda,

We haven't heard back from you two in about a month. Has your team lost interest in AdminStudio & the Package Feed Module for your transition from SCCM to Intune?

Thank you,  
Sonny

**From:** Sonny Lee  
**Sent:** Wednesday, September 29, 2021 9:41 AM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
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Sonny

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**Cc:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Subject:** RE: Flexera Quote

Hi Team –

Wanted to follow up here and see if there were any other questions for Sonny or myself?

Best,

**Haleigh Byrnes**  
Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661

Direct: 312.705.6246 Fax: 312.705.7962



**From:** Haleigh Byrnes  
**Sent:** Wednesday, September 15, 2021 9:33 AM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
**Cc:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Subject:** RE: Flexera Quote

Quote on CDW-G paper attached!

Best,

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Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
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**From:** Haleigh Byrnes  
**Sent:** Tuesday, September 14, 2021 4:50 PM  
**To:** Kyle Swanson <[Bswanso@gcpud.org](mailto:Bswanso@gcpud.org)>; [ahall@gcpud.org](mailto:ahall@gcpud.org)  
**Cc:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Subject:** Flexera Quote

Hi Kyle & Amanda –

Please see the attached proposal with CDW-G pricing! I will also be able to follow up with a formal quote on CDW-G paper referencing the WA NASPO software contract, but I'm just waiting for these parts to be added to our system and didn't want to delay on providing pricing and information.

Let Sonny or I know if you have any questions at all!

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**From:** [Patrick Prazer](#)  
**To:** [Michele Mesaros](#)  
**Subject:** FW: Flexera Quote  
**Date:** Tuesday, March 29, 2022 4:12:37 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

Thanks,

## Patrick Prazer

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [ppraizer@gcpud.org](mailto:ppraizer@gcpud.org)



---

**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Sent:** Thursday, November 4, 2021 9:19 AM  
**To:** Patrick Prazer <[ppraizer@gcpud.org](mailto:ppraizer@gcpud.org)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
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**Sent:** Thursday, November 4, 2021 10:35 AM  
**To:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
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Good Morning!

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**Patrick Prazer**

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



[grantpud.org](http://grantpud.org)

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**Sent:** Thursday, November 4, 2021 7:04 AM  
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Direct: 312.705.6246 Fax: 312.705.7962

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Hello Sonny/Haleigh,

Apologies for the inconvenience, can you please send that quote directly to me? We almost certainly want to move forward with it.

**Patrick Prazer***Service Desk Supervisor***OFFICE****EXT.** x2346**EMAIL** [pprazer@gcpud.org](mailto:pprazer@gcpud.org)[grantpud.org](http://grantpud.org)**From:** Amanda Hall <[Ahall@gcpud.org](mailto:Ahall@gcpud.org)>**Sent:** Monday, October 25, 2021 8:20 AM**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>**Cc:** Kyle Swanson <[BSwanso@gcpud.org](mailto:BSwanso@gcpud.org)>**Subject:** FW: Flexera Quote**Importance:** High

Per Kyle, sending this to Patrick

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Thank you,

## Amanda Hall

*Service Desk Specialist II*

OFFICE 509.754-7018

EXT. 4124

EMAIL [ahall@gcpud.org](mailto:ahall@gcpud.org)



[grantpud.org](http://grantpud.org)

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Good morning Kyle & Amanda,

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Thank you,  
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**Subject:** RE: Flexera Quote

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Account Manager | **CDW-G**

625 W. Adams | Chicago, IL 60661

Direct: 312.705.6246 Fax: 312.705.7962



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Account Manager | **CDW-G**

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**From:** [Patrick Prazer](#)  
**To:** [Michele Mesaros](#)  
**Subject:** FW: Flexera Quote  
**Date:** Monday, December 27, 2021 3:08:09 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[1028-971992-637717169611628260.pdf](#)

---

---

**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Sent:** Monday, November 22, 2021 5:37 AM  
**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>; Frank Nemeth <[fnemeth@varnow.com](mailto:fnemeth@varnow.com)>  
**Subject:** RE: Flexera Quote

Hi Patrick –

Adding [@Frank Nemeth](#) from VAR who created this leasing proposal.

Frank – Grant County PUD would like to move forward with the attached lease option. Can you help outline next steps for Patrick?

Best,

**Haleigh Byrnes**  
Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



---

**From:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>  
**Sent:** Friday, November 19, 2021 11:59 AM  
**To:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Subject:** RE: Flexera Quote

**EXTERNAL EMAIL**

Hello Haleigh,

It looks like we want to go with the 3 year lease.

Is the previous quote a finalized version of what we'd normally get from CDW? If so, I'll get it pushed through to our PO department today.

My only concern there is its valid *through* today, and almost certainly wont get processed until Monday. If that's an issue, can you forward a fresh quote over and I'll run with it instead?

**Patrick Prazer**

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



---

**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Sent:** Friday, November 5, 2021 12:05 PM  
**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Subject:** RE: Flexera Quote

Hi Patrick –

Here's the lease option. You'd be locked into 3 years but payments would be annualized.

Once [@Sonny Lee](#) is able to get a quote together for the 1yr option, I can send it your way as well!

Best,

**Haleigh Byrnes**  
Account Manager | **CDW-G**  
625 W. Adams | Chicago, IL 60661  
Direct: 312.705.6246 Fax: 312.705.7962



---

**From:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>  
**Sent:** Friday, November 5, 2021 10:28 AM  
**To:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>; Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Subject:** RE: Flexera Quote

**EXTERNAL EMAIL**

Good Morning!

- What is the reason that Grant PUD would like a 1 year subscription as opposed to a 3 year?  
*We are evaluating the long term value of this tooling and we do not want to commit to a term*

longer than 1 year.

- When can a possible purchase order be sent to CDW? Typical turnaround time is 5 days.

## Patrick Prazer

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



---

**From:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>

**Sent:** Thursday, November 4, 2021 1:36 PM

**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>; Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>

**Subject:** RE: Flexera Quote

Hi Patrick,

I would need to get the approvals from my management team to get you a 1 year subscription quote of 2 admins of AdminStudio Professional and the Package Feed Module. Can you help me answer the following so I can try?

- What is the reason that Grant PUD would like a 1 year subscription as opposed to a 3 year?
- When can a possible purchase order be sent to CDW?

Thank you,

Sonny

**From:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>

**Sent:** Thursday, November 4, 2021 12:28 PM

**To:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>

**Subject:** RE: Flexera Quote

If I could see a quote for the finance/lease option, as well as a 1 year if available that would be great!

## Patrick Prazer

*Service Desk Supervisor*

OFFICE

EXT. x2346

EMAIL [pprazer@gcpud.org](mailto:pprazer@gcpud.org)



**From:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
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**To:** Patrick Prazer <[pprazer@gcpud.org](mailto:pprazer@gcpud.org)>; Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
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**Sent:** Thursday, November 4, 2021 10:35 AM  
**To:** Sonny Lee <[SLee@flexera.com](mailto:SLee@flexera.com)>  
**Cc:** Haleigh Byrnes <[halebry@cdw.com](mailto:halebry@cdw.com)>  
**Subject:** RE: Flexera Quote

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Good Morning!

Is the total cost upfront, or can it be annualized?

**Patrick Prazer**

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OFFICE

EXT. x2346

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[grantpud.org](http://grantpud.org)

**From:** Amanda Hall <[Ahall@gcpud.org](mailto:Ahall@gcpud.org)>

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## VAR Technology Finance Proposal

(This is not a contract; executable contracts to follow)

VAR Technology Finance is pleased to offer this proposal for the technology solution that Public Utility District No. 2 of Grant County, WA wishes to acquire from CDW. For over 25 years, we have provided simple, fast and cost-effective acquisition options to more than 50,000 customers ranging from small entrepreneurial organizations to large Fortune 500 corporations. We hope to be your high performance partner in acquiring your technology.

**Equipment/Software Cost** \$42,225.00 (Not including tax)

### Equipment/Software Description

### Flexera Licenses

| Term                               | Period   | Type          | End-of-Term Option | Payment     |
|------------------------------------|----------|---------------|--------------------|-------------|
| <input type="checkbox"/> 36 Months | Annually | Finance Lease | Own                | \$15,409.62 |

### Structure

First payment due one month after contract commencement.

### Asset Assumptions

The payment options above assume 100.0% of software. If this assumption changes, the payment may be adjusted up or down.

### Equipment Location

Please provide the address where the equipment will be located.

Address: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

Is this a hosting site, data center or co-location facility?  YES  NO

### Proposal Expiration Date

This proposal and payment options within are valid through 11/19/21

### Required Documentation

Please provide the documentation below in order to begin the credit approval process:

This proposal is based on certain underwriting and pricing assumptions and the execution of mutually acceptable documentation. Rates provided herein are subject to change based on any increase in published swap rates. If the configuration changes at any time prior to commencement, the payment may be adjusted up or down. The information herein is confidential, valid through 11/19/21, and may be withdrawn or amended at any time prior to contract commencement. The payments quoted do not include sales use, rental or property tax.

Please email this page along with required documentation (if any) by 11/19/21 to indicate your desire to enter into an agreement with VAR Technology Finance.

Regards,

Frank Nemeth  
Direct Line: 972-755-8259  
fnemeth@varnow.com

# April 2022

| April 2022 |    |    |    |    |    |    | May 2022 |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|----------|----|----|----|----|----|----|
| Su         | Mo | Tu | We | Th | Fr | Sa | Su       | Mo | Tu | We | Th | Fr | Sa |
|            |    |    |    |    | 1  | 2  | 1        | 2  | 3  | 4  | 5  | 6  | 7  |
| 3          | 4  | 5  | 6  | 7  | 8  | 9  | 8        | 9  | 10 | 11 | 12 | 13 | 14 |
| 10         | 11 | 12 | 13 | 14 | 15 | 16 | 15       | 16 | 17 | 18 | 19 | 20 | 21 |
| 17         | 18 | 19 | 20 | 21 | 22 | 23 | 22       | 23 | 24 | 25 | 26 | 27 | 28 |
| 24         | 25 | 26 | 27 | 28 | 29 | 30 | 29       | 30 | 31 |    |    |    |    |

| SUNDAY | MONDAY   | TUESDAY   | WEDNESDAY   | THURSDAY   | FRIDAY   | SATURDAY |
|--------|--|---|---|--|--|----------|
| Mar 27 | 28   | 29  | 30  | 31   | <b>Apr 1</b><br>8:30am 1:1 Rich/Tom (Rich's Office) - Randalynn Hovland<br>10:30am 1:1 Rich/Terry P. (Rich's Office) - Randalynn Hovland | 2        |
| 3      | 4  | 5   | 6   | 7  | <b>8</b><br>1:00pm Beverly Bridge Dedication Ceremony (Nelson and Terry) (Huntzinger Trailhead, Kittitas County WA) - Commission         | 9        |
| 10     | 1:30pm 1:1 Kevin/Judy (Microsoft Teams) - Melissa Leonard          | 9:00am Voucher Review (EHQ Commission Room) - Commission<br>9:30am Commission Meeting (HQ-Commission; | 8:00am WPUDA Meetings (Terry) (tbd) - Commission Meetings       | 8:00am WPUDA Meetings (Terry) (tbd) - Commission Meetings  | <b>15</b><br>8:00am WPUDA Meetings (Terry) (tbd)<br>8:00am 1:1 Rich/Larry (Microsoft Teams)<br>3:30pm Randalynn Hovland 1:1              | 16       |
| 17     | 18   | 8:30am Melissa Leonard Commission Workshop (EHQ Commission Room (see note below regarding presenter   | 20  | 21   | <b>22</b><br>8:30am SAO Exit Conference (Microsoft Teams Meeting) - Randalynn Hovland  | 23       |
| 24     | 1:00pm Larry/Kevin 1:1 (Microsoft Teams Meeting) - Melissa Leonard | 9:00am Voucher Review (HQ-Commission) - Melissa Leonard<br>9:30am Commission Meeting (HQ-Commission;  | 10:30am 1:1 Rich/Nelson (Rich's EHQ Office) - Randalynn Hovland | <b>28</b><br>12:00pm Quincy Rotary Presentation ( Jack's at the Market, 1004 F Street SW, Quincy, WA) - Richard Wallen | 29   | 30       |

# May 2022

| May 2022 |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| Su       | Mo | Tu | We | Th | Fr | Sa |
| 1        | 2  | 3  | 4  | 5  | 6  | 7  |
| 8        | 9  | 10 | 11 | 12 | 13 | 14 |
| 15       | 16 | 17 | 18 | 19 | 20 | 21 |
| 22       | 23 | 24 | 25 | 26 | 27 | 28 |
| 29       | 30 | 31 |    |    |    |    |

| June 2022 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| Su        | Mo | Tu | We | Th | Fr | Sa |
|           |    |    | 1  | 2  | 3  | 4  |
| 5         | 6  | 7  | 8  | 9  | 10 | 11 |
| 12        | 13 | 14 | 15 | 16 | 17 | 18 |
| 19        | 20 | 21 | 22 | 23 | 24 | 25 |
| 26        | 27 | 28 | 29 | 30 |    |    |

| SUNDAY   | MONDAY   | TUESDAY   | WEDNESDAY   | THURSDAY  | FRIDAY | SATURDAY |
|--|--|---|---|---|--------|----------|
| May 1  | 2<br>1:00pm Nelson/Kevin 1:1 (Microsoft Teams Meeting) - Melissa Leonard | 3<br>12:00pm Rotary Presentation (Pillar Rock Grill (1373 Road F. 2 NE, Moses Lake, WA 98837)) - Melissa Leonard                      | 4   | 5<br>9:00am Tom/Kevin 1:1 (Microsoft Teams Meeting) - Melissa Leonard | 6      | 7        |
| 8  | 9  | 10<br>9:00am Voucher Review (EHQ Commission Room) - Commission<br>9:30am Commission Meeting (HQ-Commission);                          | 11  | 12  | 13     | 14       |
| 15   | 16   | 17<br>8:30am Commission Workshop/Tour (Microsoft Teams Meeting; EHQ Commission Room ; HQ-Commission) -                                | 18<br>3:00pm FAC Meeting (Microsoft Teams Meeting; HQ-Conf E) - Melissa Leonard | 19  | 20     | 21       |
| 22<br>8:00am NWPPA Annual Conference - Commission Meetings | 23<br>8:00am NWPPA Annual Conference - Commission Meetings               | 24<br>8:00am NWPPA Annual Conference -<br>9:00am Voucher Review (HQ-Commission) -<br>9:30am Melissa Leonard<br>12:00pm Grant County / | 25<br>8:00am NWPPA Annual Conference - Commission Meetings                      | 26  | 27     | 28       |
| 29   | 30<br>8:00am HOLIDAY   | 31  | Jun 1   | 2   | 3      | 4        |

# June 2022

| June 2022 |    |    |    |    |    |    | July 2022 |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|-----------|----|----|----|----|----|----|
| Su        | Mo | Tu | We | Th | Fr | Sa | Su        | Mo | Tu | We | Th | Fr | Sa |
|           |    |    | 1  | 2  | 3  | 4  |           |    |    |    |    | 1  | 2  |
| 5         | 6  | 7  | 8  | 9  | 10 | 11 | 3         | 4  | 5  | 6  | 7  | 8  | 9  |
| 12        | 13 | 14 | 15 | 16 | 17 | 18 | 10        | 11 | 12 | 13 | 14 | 15 | 16 |
| 19        | 20 | 21 | 22 | 23 | 24 | 25 | 17        | 18 | 19 | 20 | 21 | 22 | 23 |
| 26        | 27 | 28 | 29 | 30 |    |    | 24        | 25 | 26 | 27 | 28 | 29 | 30 |
|           |    |    |    |    |    |    | 31        |    |    |    |    |    |    |

| SUNDAY  | MONDAY   | TUESDAY  | WEDNESDAY  | THURSDAY   | FRIDAY  | SATURDAY  |
|---|--|--|--|--|---|---|
| May 29  | 30   | 31   | Jun 1<br>10:00am 1:1 Rich/Tom<br>(Microsoft Teams Meeting) - Randalynn Hovland | 2  | 3<br>10:30am 1:1 Rich/Terry P.<br>(Microsoft Teams Meeting) - Randalynn Hovland | 4   |
| 5   | 6  | 7  | 8<br>10:00am 1:1 Rich/Judy<br>(Microsoft Teams Meeting) - Randalynn Hovland    | 9  | 10<br>8:00am APPA National Conference - Commission Meetings                     | 11<br>8:00am APPA National Conference - Commission Meetings |
| 12<br>8:00am APPA National Conference - Commission Meetings | 13<br>8:00am APPA National Conference - Commission<br>8:00am 1:1 Rich/Larry<br>(Microsoft Teams Meeting) - Randalynn | 14<br>8:00am APPA National Conference -<br>9:00am Voucher Review (EHQ Commission)<br>9:30am Commission Meeting             | 15<br>8:00am APPA National Conference - Commission Meetings                    | 16   | 17  | 18  |
| 19  | 20   | 21<br>8:30am Commission Workshop/Tour<br>(Microsoft Teams Meeting; EHQ Commission Room ) - Melissa Leonard                 | 22   | 23<br>10:30am 1:1 Rich/Nelson<br>(Microsoft Teams Meeting) - Randalynn Hovland | 24  | 25  |
| 26  | 27   | 28<br>9:00am Voucher Review (HQ-Commission) - Melissa Leonard<br>9:30am Melissa Leonard Commission Meeting (HQ-Commission; | 29   | 30   | Jul 1   | 2   |