

Section 11.5 Severability: If any term, covenant or condition of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to person or circumstances other than those in respect to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law. No provision of this Agreement will be construed against the drafter of the same.

Section 11.6 Survival of Obligations: NDSU expressly agrees that all provisions of this Agreement that contemplate performance by NDSU after the expiration of the Term or the earlier termination of this Agreement, shall survive the expiration or earlier termination of this Agreement.

Section 11.7 Recording: NDSU may record this Agreement, or any memorandum of this Agreement signed and approved by both NDSU and GDCD.

Section 11.8 Electronic Copy: This Agreement may be executed in any number of counterparts, all of which shall be considered one and the same Agreement, even though all parties hereto have not signed the same counterpart. A copy of this Agreement containing a facsimile, .pdf or other electronic copy of a party's signature shall be deemed such party's original, binding signature.

IN WITNESS WHEREOF, GDCD and NDSU have signed this Agreement as of the day and year first above written.

Garrison Diversion Conservancy District:

North Dakota State University:

By: _____

By: _____

Its: _____

Its: _____

Proposed budget adjustments for funding derived from GDCD's commitment to the OIRS.

Table 1. GDCD AG subcommittee's proposed phased budgets in support of OIRS in relation to NDSU fiscal year and ND Legislative sessions.

GDCD's Proposed Phased Payment Schedule			Payment aligned with CREC FY	NDSU CREC FY	OIRS funds based on GDCD support	Legislative session where NDSU CREC budget is acted upon.
**	GDCD FY	Payment	CREC FY		Amount	
2021	FY21	\$178,000	FY21-22	FY21	\$172,937	
Year 1	FY22	\$167,875	FY22-23	FY22	\$172,937	2021 Legislative Session-
Year 2	FY23	\$139,896	FY23-24	FY23	\$153,886	Impacts FY22 & FY23
Year 3	FY24	\$111,917	FY24-25	FY24	\$125,907	2023 Legislative Session-
Year 4	FY25	\$83,938	FY25-26	FY25	\$97,927	Impacts FY24 & FY25
Year 5	FY26	\$55,959	FY26-27	FY26	\$69,949	2025 Legislative Session-
Year 6	FY27	\$27,980	FY27-28	FY27	\$41,969	Impacts FY26 & FY27
	FY28	na	FY28-29	FY28	na	2027 Legislative Session
	FY29	na	FY29-30	FY29	na	

** Years 1 to 6 aligned with fiscal years based on GDCD reference to when six-year exit plan would be initiated.

The information in table 2 defines an alternative payment schedule that NDSU Agriculture is proposing regarding support from the GDCD for the OIRS. The alternative payment schedule is based on the the timelines of the SBARE process, corresponding ND Legislative sessions and subsequent NDSU fiscal years. The upcoming 2021 legislative session is anticipated to be a challenging one for the assembly based on the current economic environment due to the pandemic. Enhancements in funding are unlikely and additional funding for the OIRS is not among the current SBARE priorities defined for the upcoming session. As one looks ahead to future ND legislative sessions, the 2025 session is seen as having the best potential for securing additional general fund support to replace that currently received from the GDCD. Over the course of the next few years it will be important for the multiple constituency groups who believe in the importance of the research program at the OIRS to share their thoughts and concerns with SBARE and other decision makers.

Table 2. GDCD AG subcommittee's proposed budgets in support of OIRS versus alternate schedule from NDSU aligned with ND Legislative session opportunity.

GDCD's Proposed Phased Payment Schedule			Payment aligned with CREC FY	NDSU CREC FY	Alternative GDCD Payment Schedule	Legislative session where NDSU CREC budget is acted upon.
	GDCD FY	Payment	CREC FY		Amount	
Year 1	FY22	\$167,875	FY22-23	FY22	\$167,875	2021 Legislative Session-
Year 2	FY23	\$139,896	FY23-24	FY23	\$167,875	Impacts FY22 & FY23
Year 3	FY24	\$111,917	FY24-25	FY24	\$167,875	2023 Legislative Session-
Year 4	FY25	\$83,938	FY25-26	FY25	\$167,875	Impacts FY24 & FY25
Year 5	FY26	\$55,959	FY26-27	FY26	\$83,938	2025 Legislative Session-
Year 6	FY27	\$27,980	FY27-28	FY27	na	Impacts FY26 & FY27
	FY28	na	FY28-29	FY28	na	2027 Legislative Session
	FY29	na	FY29-30	FY29	na	
	Total	\$587,565			\$755,438	

	GDCD Proposal		NDSU Proposal	
2021 Committed	\$	178,000	\$	178,000
Fund Building?	\$	250,000	\$	250,000
Year 1	\$	167,875	\$	167,875
Year 2	\$	139,896	\$	167,875
Year 3	\$	111,917	\$	167,875
Year 4	\$	83,938	\$	167,875
Year 5	\$	55,959	\$	83,938
Year 6	\$	27,980		
subtotal	\$	<u>587,565</u>	subtotal	<u>\$ 755,438</u>
Total Value	\$	1,015,565	Total Value	\$ 1,183,438

Difference
\$ 167,873