

**LOWER COLORADO RIVER AUTHORITY
HB 1437 AGRICULTURE WATER CONSERVATION PROGRAM
COST SHARING AGREEMENT**

1. Eligibility

- (a) Producer, by signing this Agreement, certifies control of the land (“Land”) that is the subject of the application (“Application”) through the term proposed in the Application for this Cost Sharing Agreement (“Agreement”). A copy of the Application is attached and is incorporated into this Agreement for all purposes. Upon demand, Producer must provide LCRA evidence (e.g., deed, lease) demonstrating that Producer will control the Land through the term of the Agreement. The Land will not be eligible if it is subject to a deed or other restriction that prohibits conservation programs on the land. By signing this Agreement, Producer certifies that there are no restrictions of this type on the Land.

- (b) Producer, by signing this Agreement, certifies that:
 - (1) The field for which the application is being made has been irrigated by an LCRA rice irrigation contract at least once during the past 10 years;
 - (2) Producer will complete the project within 18 months of the Agreement’s effective date, unless an extension is granted by NRCS or the SWCD that extends beyond the date 18 months from this Agreement’s effective date, in which event Producer will complete the project by the deadline provided in the NRCS or SWCD extension;
 - (3) Producer will place the field that is the subject of this Agreement in rice production within three years of the Agreement’s effective date;
 - (4) Proposed projects are for NRCS-approved practices only and provide for the conservation of surface water;
 - (5) If the proposed projects are related to existing contracts with the United States Department of Agriculture, Commodity Credit Corporation (“CCC”), for participation in the Environmental Quality Incentives Program (EQIP), the EQIP field has not been placed in production prior to the year in which this Agreement becomes effective.
 - (6) If Producer previously received funding for a conservation practice from LCRA, Producer has maintained the conservation practice for the term specified in the previous funding contract.
 - (7) Producer must have a SWCD – District Cooperative Agreement or EQIP contract.

2. Obligations of Producer and LCRA

a. Producer agrees:

- i.** To place the Land into the LCRA Program for the duration of the service life (“Service Life”) that is specified in this Agreement; in the event of a conflict between the estimated Service Life provided in the Application and the Service Life specified on the signature page of this Agreement, the terms of this Agreement shall control;
- ii.** To complete the approved practice or conservation measure (“Approved Practice”), as described in the Application, within 18 months from the date this Agreement is executed by LCRA, unless an extension is granted by NRCS or the SWCD that extends beyond the date 18 months from this Agreement’s effective date, in which event Producer will complete the project by the deadline provided in the NRCS or SWCD extension;
- iii.** To discontinue work in the general area of the site of the practice or conservation measure and immediately notify LCRA in writing if an archeological or historical site is found;
- iv.** When the practices are completed and certified by NRCS or the local SWCD, to submit a HB1437 Payment Request to LCRA. The producer must include in the request a copy of the approved NRCS Practice Certification and Payment Application form (Form CCC-1245) or comparable SWCD certification.
- v.** To maintain documents regarding design for the Approved Practice and receipts or other proof of payments for the Approved Practice for three (3) years after the end of the fiscal year in which the Approved Practice was completed, and to present this documentation to LCRA within thirty (30) days of request by LCRA; Producer shall make available to LCRA field production records within thirty (30) days of request by LCRA;
- vi.** To place the field that is the subject of this Agreement in rice production within three years of the Agreement’s effective date; or, if Producer fails to do so, to refund any payments made by LCRA to Producer, plus interest as provided in this Agreement for refunds, not later than August 31 of the year three years after the Agreement’s effective date;

LCRA will pay the Producer the Estimated Cost presented in the Producer's Application.

3. Termination or Modification of Agreement

- a.** LCRA unilaterally may terminate this Agreement by providing written notice of termination to Producer when:
 - i.** Producer has not completed work on the Approved Practice, as described in the Application, within 18 months from the date this Agreement is executed by LCRA, or, if applicable, any subsequent deadline established by an extension awarded by NRCS or SWCD;
 - ii.** Producer is landlord of Land that is operated by a tenant, and Producer requires its tenant to bear costs for the Approved Practice but does not allow its tenant to participate in the benefits of this Agreement; or,
 - iii.** The Approved Practice, as described in the Application, would cause adverse impacts to significant cultural and/or environmental resources discovered prior to or in the course of installation.
- b.** Producer and LCRA otherwise may modify this Agreement in writing executed by both parties.

4. Refunding of Payments in Certain Events

- a.** If Producer fails to place the field that is the subject of this Agreement in rice production within three years of the Agreement's effective date, or if Producer fails to maintain the Approved Practice for the Service Life provided in this Agreement, or if Producer fails to irrigate field with LCRA water during the Service Life, Producer must refund to LCRA all or any part of the payments made under this Agreement, as determined by LCRA, with interest and other costs as provided in this Agreement and no further payments shall be made.
- b.** If Producer is landlord of Land that is operated by a tenant, and Producer requires its tenant to bear costs for the Approved Practice, Producer must allow its tenant to recover its costs (up to the limits of this Agreement) from the benefits provided by this Agreement. If LCRA determines that Producer has failed to do so after payments have been made under this Agreement, all or any part of the payments made under this Agreement, as determined by LCRA, must be refunded by Producer with interest and other costs as provided in this Agreement and no further payments shall be made.

- c. Interest for any refunds owed by Participant to LCRA in accordance with the terms of this Agreement shall be calculated from the date the funds were originally disbursed by LCRA and at the same rate of interest that was obtained by LCRA for its issuance of bonds that was closest in time prior to the refund.
- d. In the event Producer owes refunds to LCRA according to this Agreement, and LCRA incurs costs such as litigation costs or attorney fees in recovering those refunds, Producer shall be obligated to pay LCRA for its costs of enforcing this Agreement and recovering the refunds in accordance with section 271.159 of the Texas Local Government Code.
- e. LCRA's rights to seek refunds, including interest and other costs as provided in this Agreement, from Producer in accordance with the terms of this Agreement shall survive any termination of this Agreement.

5. Effective Date

This Agreement is effective on the date it is signed by the latter to sign of Producer and an authorized representative of LCRA.

6. Miscellaneous

- a. Any notices provided under this Agreement shall be provided to the address provided below the signature block for the respective parties.
- b. Neither party may assign this Agreement without the prior written approval of the other party.
- c. Each of the undersigned parties, by signing this Agreement, represents and warrants to the other party that he or she has authority to sign for and bind to this Agreement the party that he or she purports to represent. In the event Producer is a partnership, this Agreement must be signed by a general partner; in the event Producer is a corporate entity, this Agreement must be signed by an authorized representative.
- d. This Agreement may apply to more than one Application by Producer. In this event, words referring to the singular number shall be construed to apply to Producer's multiple Applications.
- e. A waiver by either party related to a default of the other party under this Agreement shall not be construed to constitute a waiver to any subsequent default of the other party.

- f.** The following defined terms shall have the following meanings:
- i.** “NRCS” shall mean the Natural Resources Conservation Service of the United States Department of Agriculture;
 - ii.** “EQIP” shall mean the Environmental Quality Incentives Program of the NRCS;
 - iii.** “SWCD” shall mean the Soil and Water Conservation District within the Producer’s county; and,
 - iv.** “Approved Practice” shall mean Producer’s proposed practice or measure for the conservation of surface water that is approved by the NRCS pursuant to the EQIP contract or SWCD – District Cooperative Agreement.

[remainder of this page intentionally left blank]

7. Service Life and Term. The Service Life for the Approved Practice is _____ years from the year in which the Approved Practice is completed. Except as expressly provided otherwise in this Agreement, this Agreement shall expire upon the expiration of the Service Life.

This Agreement is signed by the parties below to be effective in accordance with the terms of this Agreement.

LOWER COLORADO RIVER AUTHORITY

By: _____ Date: _____
Kyle Jensen
Manager, River Operations
P.O. Box 220, mail stop H 300
Austin, TX 78767-0220

PRODUCER

By: _____ Date: _____
Name: _____

Title: _____
Address: _____

ATTACHMENT: APPLICATION