

When recorded, please return to:

~~City of Pasco~~

~~Attn: Gary Crutchfield, City Manager~~

~~P.O. Box 293~~

~~Pasco, WA 99301~~

*Port of Walla Walla
310 A St.
Walla Walla, WA 99362*

**City of Pasco
and
Port of Walla Walla
Interlocal Agreement for Waste Water Treatment and Disposal Services**

THIS INTERLOCAL AGREEMENT (the “Agreement”) is entered into by and between the City of Pasco, Washington a municipal corporation, herein called the “City,” and the Port of Walla Walla, Washington, a municipal corporation, herein called the “Port,” for the purpose of providing waste water treatment and disposal services in the unincorporated Burbank area of Walla Walla County, Washington. The City and the Port are each a “Party” and are collectively the “Parties” to this Agreement.

WHEREAS, Walla Walla County in its Comprehensive Plan has designated the Burbank Urban Growth Area (“UGA”) and adopted policies and goals to encourage new growth to occur in the UGA; and

WHEREAS, the Burbank UGA contains a mixture of single-family residential, industrial, commercial, and public reserve uses, including the Burbank Industrial Park and Burbank Business Park which are owned and operated by the Port; and

WHEREAS, the Port owns and operates a public water system that serves the Burbank Industrial Park and Burbank Business Park and that is authorized, by the Western Walla Walla County Coordinated Water System Plan, to provide water service on a wholesale basis to the greater Burbank area (the Port’s “Wholesale Service Area”); and



WHEREAS, the Walla Walla County Comprehensive Plan states that the use of on-site septic systems is the sole means of sewage disposal in the Burbank area, which presents a risk of groundwater contamination, and the Comprehensive Plan identifies a long-term goal of sewer service provided by a single entity, with a policy of encouraging the Port to “establish core utilities where possible”; and

WHEREAS, the Port desires to establish waste water services in the Burbank area, and the Port has authority under RCW 53.08.043 establish and operate systems of sewerage; and

WHEREAS, the City owns and operates a wastewater treatment plant which has unused capacity, a portion of which is to be allocated by this Agreement to treat waste water delivered by the Port to the City’s system; and

WHEREAS, the Port and the City have reached agreement of the pricing, terms and conditions necessary for the City to accept waste water delivered by the Port, and the Parties agree to the joint exercise their powers to collect, convey, treat, and dispose of waste water; and

WHEREAS, the Parties conducted environmental review under the State Environmental Policy Act, with the Port acting as lead agency and issuing a determination of nonsignificance on February 23, 2012; and

WHEREAS, the Parties are authorized under the Interlocal Cooperation Act to enter into an agreement for the provision of waste water treatment and disposal service;

NOW THEREFORE, in consideration of the foregoing recitals which are incorporated herein, the City and the Port do hereby mutually consent and agree to the following:

Section 1: Treatment Capacity Purchase

- A. The City agrees to make available, and the Port agrees to purchase, two blocks of 100,000 gallon per day (gpd) (annual average flow) waste water treatment capacity in City’s waste water treatment plant.
- B. Port shall also have the option to purchase one additional block of 100,000 gpd (annual average flow) capacity.
- C. The purchase price for each block of capacity (100,000 gpd, annual average flow) shall be nine hundred thousand (\$900,000) dollars, provided, however, that the purchase price for the second and third blocks of capacity shall be automatically adjusted, effective on January 1, 2013 and thereafter, each year effective January 1, to reflect any increase in the Consumer Price Index (U.S. City Average, all items); and provided further, that the maximum increase for any year shall be five (5%) percent. As provided in Section 3(A), Port shall be allowed to make three yearly installment payments for each block of capacity. The price adjustments in this section shall not apply to yearly installments, once the first installment payment has been remitted.

Section 2: Capacity Purchase Timing

- A. The Port agrees to purchase the first block of treatment capacity within one year of the effective date of this Agreement, but not later than June 30, 2013. Failure by the Port to make the initial purchase as specified shall act to terminate this Agreement.
- B. The Port agrees to purchase the second block of treatment capacity within 15 years of the first payment for the first block of treatment capacity. The City may, in its sole discretion, elect to terminate this Agreement if the Port does not initiate purchase of the second block within the 15-year period. The City must exercise such termination right within six months of the end of said 15-year period.
- C. The Port may purchase a third block of treatment capacity at any time after the purchase of the second block of capacity. If the Port fails to purchase the third block of capacity within 50 years of the effective date of this Agreement, then the Port's option to purchase same shall expire. The Parties may extend the option through mutual written agreement.
- D. As of the effective date of this Agreement, the City shall allocate and reserve for the Port three (3) blocks of waste water treatment capacity (100,000 gpd annual average flow). Until such time as the Port's right to purchase a capacity block expires, the City shall maintain said reservation of capacity for the Port and shall not otherwise use or allocate said reserved capacity. The City shall keep records and accounts of the waste water treatment system capacity that include and reflect the Port's reserved capacity.

Section 3: Capacity Purchase Payments

- A. As compensation for treatment capacity purchased, the Port agrees to pay to the City, installment payments for each block of capacity as follows: One-third of the total purchase price of each block of capacity shall be included with the Port's notice to the City to purchase a capacity block. Thereafter, Port shall pay one-third of the purchase price within one year of the initial installment payment and shall pay the final one-third of the purchase price within one year of the second installment payment. Any unpaid installments of the block of capacity total purchase price shall be considered late upon the first day after it is due.
- B. Late payments shall accrue interest at 12% per annum.

Section 4: Sewer Use Billing, PILT Surcharge

- A. Wastewater delivered by the Port shall be metered and billed by the City to the Port on a monthly basis using 100% of the published rate (Pasco Municipal Code, Chapter 3.07, and as hereafter amended) applicable to Pasco commercial/industrial sewer users; provided, however, there shall be a minimum monthly bill of \$300 for the first two years of this agreement or until the first user is connected to the Port system for delivery to the City; provided further, that after two years there shall be a minimum monthly bill of \$500. The Port shall install, own, and operate a flow meter located on Port-owned property in Burbank. The Parties may change the location of the flow meter and to allocate costs thereof by mutual agreement.

- B. Each monthly bill shall include a "Payment in Lieu of Taxes" (PILT) surcharge equal to 100% of the monthly sewer use bill described in subsection A above; provided, however, the PILT surcharge shall not be less than \$2,000 monthly. The PILT surcharge is intended to compensate the City for potential losses in revenue due to business located at Port's sites made more attractive by the extension of waste water services. The PILT surcharge minimum (\$2,000/month) shall be adjusted, effective on the sixth anniversary of the effective date of this Agreement to reflect any annual increase in the CPI (U.S. City Average, all items) and every year thereafter; and provided further, that the maximum increase for any year shall be five (5%) percent.

Section 5: Port Collection and Conveyance System

- A. The Port shall install, operate and maintain all collection lines, pump stations, force mains and other appurtenances necessary to collect and transport wastewater from its Burbank service area, across the Snake River, to the point of connection to the City's gravity sewer interceptor, located in Road 40 East. Specifically, the Port shall construct the following improvements:
- i) The "Pressure Sewer" line that originates on Port-owned property in Burbank, crosses the Snake River, and terminates at the access vault to be located in City right of way.
 - ii) The "Gravity Sewer" line that extends from the end of the Pressure Sewer to the point of connection.

The Pressure Sewer, Gravity Sewer, access vault, point of connection, and facilities to be constructed or installed are shown on the map attached as Exhibit 1 and incorporated herein.

- B. At the point of connection, which shall be determined by the City, the Port shall install a manhole for connection of the force main and such installations and appurtenances as may be required to provide a gravity line connection to the interceptor.
- C. At the end of the Pressure Sewer, the Port shall install an access vault to include a flow meter and sampling station. The access vault on the City side will include an open channel flow meter primary device (Parshall flume or equivalent) for accuracy checks against the Port's flow meter. At the access vault, the Port will deliver and the City will accept sewage flows such that control of and responsibility for the sewage flows passes from the Port to the City for conveyance, treatment, and disposal.
- D. The Port shall design its conveyance system, from the conveyance pump station, including the Pressure Sewer, Gravity Sewer, access vault, and manhole(s) at the point of connection, in accordance with City standards, which design shall be subject to review and approval by the City.
- E. The Port shall be responsible for all costs associated with design, construction, for obtaining any necessary rights-of-way, easements, State and Federal licensing, and

permits or approvals to complete construction of the systems and improvements as outlined in this section and to allow the operation thereof. The Port shall be responsible to act as the lead agency for SEPA/NEPA review of its construction plans.

F. Following completion of construction and testing, the Port shall convey ownership of the Gravity Sewer to the City by bill of sale and the Gravity Sewer shall then be part of the City's sewerage system; provided, however, that the capacity rights of the Gravity Sewer shall be reserved by and for the Port. The capacity of the Gravity Sewer shall be first allocated to the Port for conveyance of the waste water from the Burbank service area; the excess capacity of the Gravity Sewer may become available to the City for general system usage after reimbursement to the Port for a pro rata share of the Gravity Sewer costs on such terms as the Parties may agree. The City shall not make or allow any other connections or contributions to the Gravity Sewer before such cost reimbursement to the Port occurs.

G. The Port shall retain ownership and operation of the Pressure Sewer.

Section 6: City System

- A. The Port shall deliver wastewater to the access vault at the end of the Pressure Sewer , and the City shall install, operate and maintain all lines and appurtenances necessary to transport wastewater delivered to its system to the wastewater treatment facility.
- B. The City shall be responsible for all costs associated with the operation, maintenance, repair, replacement, and ownership of its sewage and waste water collection and conveyance system and treatment facility.

Section 7: Operational Considerations

- A. Port agrees that City shall have unrestricted access, for inspection and monitoring purposes, to the Ports' pumping and conveyance systems, up to the point of connection with the City's system, which are installed and operated by the Port for the purpose of delivering wastewater to the City's system. Notwithstanding this right of access, the City shall have no duty to so inspect and monitor beyond that required by applicable law.
- B. City shall have the right to sample, at its discretion, wastewater delivered by the Port in order to determine if such wastewater is within City standards; is of unusual strength or if constituents incompatible with the treatment process are being delivered by Port to City's system. Notwithstanding the right to sample, the City shall have no new duty to do so beyond that required by applicable law.
- C. Port agrees that City wastewater standards as specified in Pasco Municipal Code, Chapter 13A.52, as such standards currently exist, or may be hereafter amended, shall apply to the Port's sewer customers and to its entire wastewater collection and conveyance system. The City shall not adopt or amend its wastewater standards that discriminate against the Port's sewer customers or that otherwise treat Burbank sewer customers differently than Pasco sewer customers of like characteristics.



- D. City shall have the right to require Port to take corrective actions to assure compliance with its standards. Failure to comply with established standards within ninety (90) days of notice of noncompliance from the City may result in the City taking corrective action reasonably necessary to maintain the safety, integrity, and proper functioning of the wastewater system. The cost of corrective action shall be the sole responsibility and liability of the Port. In the event of an emergency situation, the City may take corrective action immediately to maintain the health and safety of its residents and avoid environmental damage. Corrective action shall be the sole responsibility and liability of the Port.
- E. Port shall provide at least 60 days advance written notice to City of all new sewer customer applicants in its service area so that City may review for compliance with wastewater standards. The City does not have the right to block or reject any new sewer user or to condition the acceptance of any new sewer user except on grounds directly relating to compliance with City wastewater standards adopted in its municipal code or any applicable state or federal regulations.
- F. Port agrees to comply with all State and Federal laws pertaining to the use and maintenance of its wastewater system including, but not limited to, environmental standards and regulations and required permitting conditions.

Section 8: Service Area

- A. It is the agreement of the Port and the City that the area for which the Port may collect wastewater for delivery to the City's system, pursuant to this Agreement, be limited to the area identified in the attached Exhibit "2" incorporated herein, and identified as the Port's "Wholesale Service Area." Provided, however, that the Parties intend to comply with the state Growth Management Act, as it may be amended. Accordingly, the Port will only collect and deliver waste water from the UGA until such time as other areas in the Port's Wholesale Service Area may be served consistent with law.
- B. Port shall not, without the express written consent of the City, accept wastewater into its system which originates from any property outside of the identified Wholesale Service Area.
- C. Except for actions relating to compliance with City wastewater standards provided in Section 7 above, the City shall have no authority regarding the Port's sewer customers. The Port has full authority to control and regulate rates and charges, terms and conditions of connection and use of the Port's sewer system.
- D. The City agrees that it is not able to provide sewer service in the Burbank area and that construction of additional facilities are necessary for such service. Accordingly, the City consents to the Port's provision of sewer service in the Port's Wholesale Service Area. Except through this Agreement with the Port, the City further agrees not to provide sewer



service directly or indirectly within the Port's Wholesale Service Area during the time that this Agreement is in effect.

Section 9: Effective Date and Terms, Termination

- A. This Agreement shall become effective on the first date that all of the following events have occurred, but in no case later than June 30, 2013: i) the Agreement has been duly authorized and executed by the City and the Port; ii) the Agreement has been filed with the Walla Walla and Franklin County Auditors and/or posted on the internet consistent with RCW 39.34.040; and iii) approved by the state agency or agencies with jurisdiction under RCW 39.34.050. Not later than 30 days after the foregoing events have occurred, the City and Port shall confirm the effective date of the Agreement by letter or memorandum signed by both Parties, which shall become an appendix hereto.
- B. This Agreement shall continue in full force and effect for a period of seventy-five (75) years from its effective date, unless terminated for cause or convenience as provided herein.
- C. Before the Port makes the initial payment for purchase of the first capacity block, the Port may terminate this Agreement for convenience after providing 30 days written notice to the City, and in such event the Port shall pay a termination fee of ten thousand (\$10,000) dollars to the City for its administrative and legal expenses and thereafter, neither Party shall have any remaining obligations to the other Party. After making said initial payment, however, the Port may terminate this Agreement for convenience after providing written notice to the City of not less than five years. In such event, the Port shall not be entitled to refund of any payments made or forbearance on any payments due for capacity under this Agreement in the event of its termination pursuant to this subsection. During the five-year termination notice period, all provisions of this Agreement shall be in full force and effect, and the usage fee and PILT surcharge fee provided in Section 4 shall continue to accrue and be due and payable.
- D. The City may terminate this Agreement after failure by the Port to pay any purchase price, usage fee, or PILT surcharge upon ninety (90) days notice of intent to terminate and opportunity to cure. Provided additionally, that upon termination of this agreement for failure to pay, Port and its sewer customers shall have an additional one (1) year period for the purpose of making alternative plans and preparation for wastewater treatment. Any late payment required herein shall accrue interest at 12% per annum. The City may also terminate this Agreement for any continuing uncorrected violation of wastewater standards, applicable State and Federal environmental standards, or other such conditions reasonably deemed within the discretion of the City to cause a substantial risk to the health and welfare of its citizens upon ninety (90) days of notice of intent to terminate and opportunity to cure and one (1) year for making alternative plans as stated hereinabove.
- E. This Agreement may be renewed only upon written agreement between the parties.



Section 10: Indemnification / Hold Harmless

Each Party shall defend, indemnify and hold the other Party, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, resulting from or arising out of negligent acts or omissions relating to or in connection with the performance of this Agreement.

Section 11: Insurance

Port shall for the duration of the Agreement, procure and maintain insurance, or similar coverage, subject to the approval of City, against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work or the activities contemplated hereunder by the Port, its agents, representatives, employees or subcontractors.

No Limitation

Port's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Port to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance

Port shall obtain insurance of the types described below.

Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01, or other such form as may be utilized in the future acceptable to the City and providing for substantially equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability Insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Port's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

B. Minimum Amounts of Insurance

Port shall maintain the following insurance limits:

Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit and contractual liability.



C. Other Insurance Provisions

The Port's Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Port's insurance and shall not contribute with it.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

E. Verification of Coverage

Port shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Port before commencement of any work pursuant to this Agreement.

F. Subcontractors

The Port shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

G. Notice of Cancellation

The Port shall provide the City with written notice of any policy cancellation, within ten business days of their receipt of such notice.

H. Failure to Maintain Insurance

Failure on the part of the Port to maintain the insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving thirty (30) business days' notice to the Port to correct the breach, immediately terminate the Agreement.

Section 12: Notice

All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To the City: City of Pasco
 City Manager
 P. O. Box 293
 Pasco, WA 99301
 Email: citymanager@pasco-wa.gov

To the Port: Port of Walla Walla
 Executive Director
 310 A Street
 Walla Walla, WA 99366-2269
 Email: jk@portwallawalla.com



or to such other respective addresses as the Parties hereafter from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the third business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing. Notices may also be given by confirmed electronic delivery at the email addresses above.

Section 13: Interlocal Cooperation Act Provision.

Each Party shall be solely responsible for all costs, materials, supplies and services necessary for its performance under the terms of this Agreement. All property and materials secured by each Party in the performance of this Agreement shall remain the sole property of that Party, except that upon termination of this Agreement all pipes and material located within the corporate limits of the City, except for the "pressure sewer" as referenced in Section 5A(i) of this Agreement, shall become City property. All funding incident to the fulfillment of this Agreement, shall be borne by each Party necessary for the fulfillment of their responsibilities under the terms of this agreement. No special budgets of funds are anticipated, nor shall be created incident to this Interlocal Cooperation Agreement. It is not the intention that a separate legal entity be established to conduct the cooperative undertakings, nor is the acquisition, holding, or disposing of any real or personal property anticipated under the terms of this Agreement. The City Manager of the City of Pasco, Washington, shall be designated as the Administrator of this Interlocal Cooperative Agreement.

This agreement shall be filed with the Franklin County Auditor and the Walla Walla County Auditor, or alternatively, posted on the Parties' respective websites as required by RCW 39.34.

Section 14: Miscellaneous

- A. All of the terms in this Agreement shall extend to and bind the legal successors and assigns of the Parties. This Agreement may not be assigned by either Party without the consent of the other Party; provided, however, that the Port may assign this Agreement without City consent to a local government entity that i) is formed in the Burbank area, ii) has the legal authority and capability to own and operate the sewer collection and conveyance system, and iii) and agrees to perform this Agreement and to assume all rights and obligations herein.
- B. This Agreement is made and shall be construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in Franklin County Washington.
- C. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone, other than the Parties and their successors and assigns, to rely upon the terms herein contained, nor to give any such third party a cause of action on account of any nonperformance hereunder.

- D. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless either Party determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time the Parties shall substitute a provision that most closely approximates that which was invalidated without being invalid itself.
- E. This Agreement constitutes the final and completely integrated agreement between the Parties on its subject matter.
- F. Each Party has had the opportunity to consult with counsel in connection with this Agreement. Each of the provisions of this Agreement represents the combined work product of all Parties. Therefore, no presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Agreement.
- G. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

Section 15: Dispute Resolution

Should any dispute arise between the Parties concerning the breach, interpretation, or enforcement of this Agreement, the Parties shall first meet in a good faith attempt to resolve such dispute. Any unresolved dispute shall be submitted to binding arbitration. The dispute shall be submitted to a single arbitrator mutually agreed by the Parties. If the Parties are unable to agree, the arbitrator shall be determined by the Franklin County Superior Court, and arbitration shall be conducted pursuant to RCW 7.04A, and the Rules of Mandatory Arbitration. Arbitration shall be conducted in Pasco, Franklin County, Washington, and the costs of the arbitration shall be equally borne by the Parties, and the arbitrator shall award, as additional judgment against the other, attorney's fees and costs to the prevailing Party.




IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year stated below.

CITY OF PASCO


Matt Watkins, Mayor

Dated: 5/7/12

PORT OF WALLA WALLA


Paul Schneidmiller,
Port Commission President

Dated: 5/3/12

STATE OF WASHINGTON)

: ss

County of Franklin)

On This day personally appeared before me MATT WATKINS, Mayor of the City of Pasco, Washington, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.



GIVEN under my hand and official seal this 7 day of May, 2012.

Sandy Kenworthy
NOTARY PUBLIC in and for the State of Washington

Residing at Pasco

My Commission Expires: 8/7/15

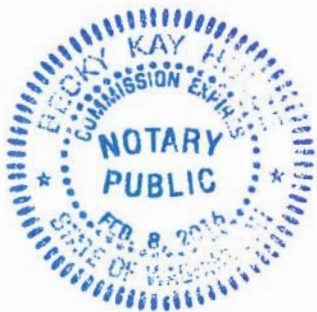
STATE OF WASHINGTON)

: ss

County of Walla Walla)

On This day personally appeared before me PAUL SCHNEIDMILLER, Port Commission President of the Port of Walla Walla, Washington, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 3rd day of May, 2012.



Becky Kay Hulso
NOTARY PUBLIC in and for the State of Washington

Residing at Walla Walla

My Commission Expires: 2-8-16

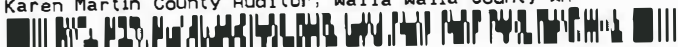


Exhibit 1
Map of City of Pasco-Port of Walla Walla Sewer Connection

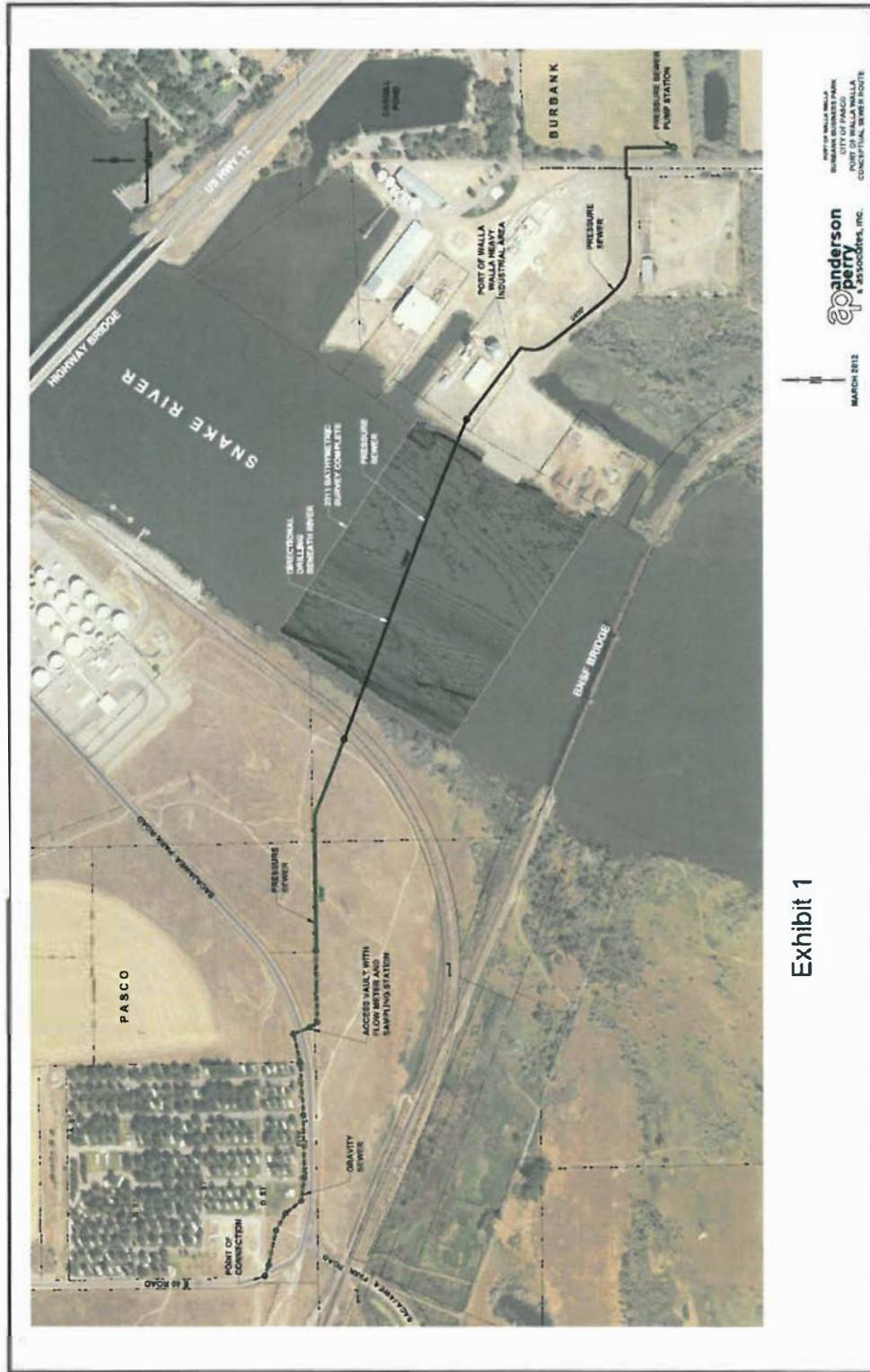
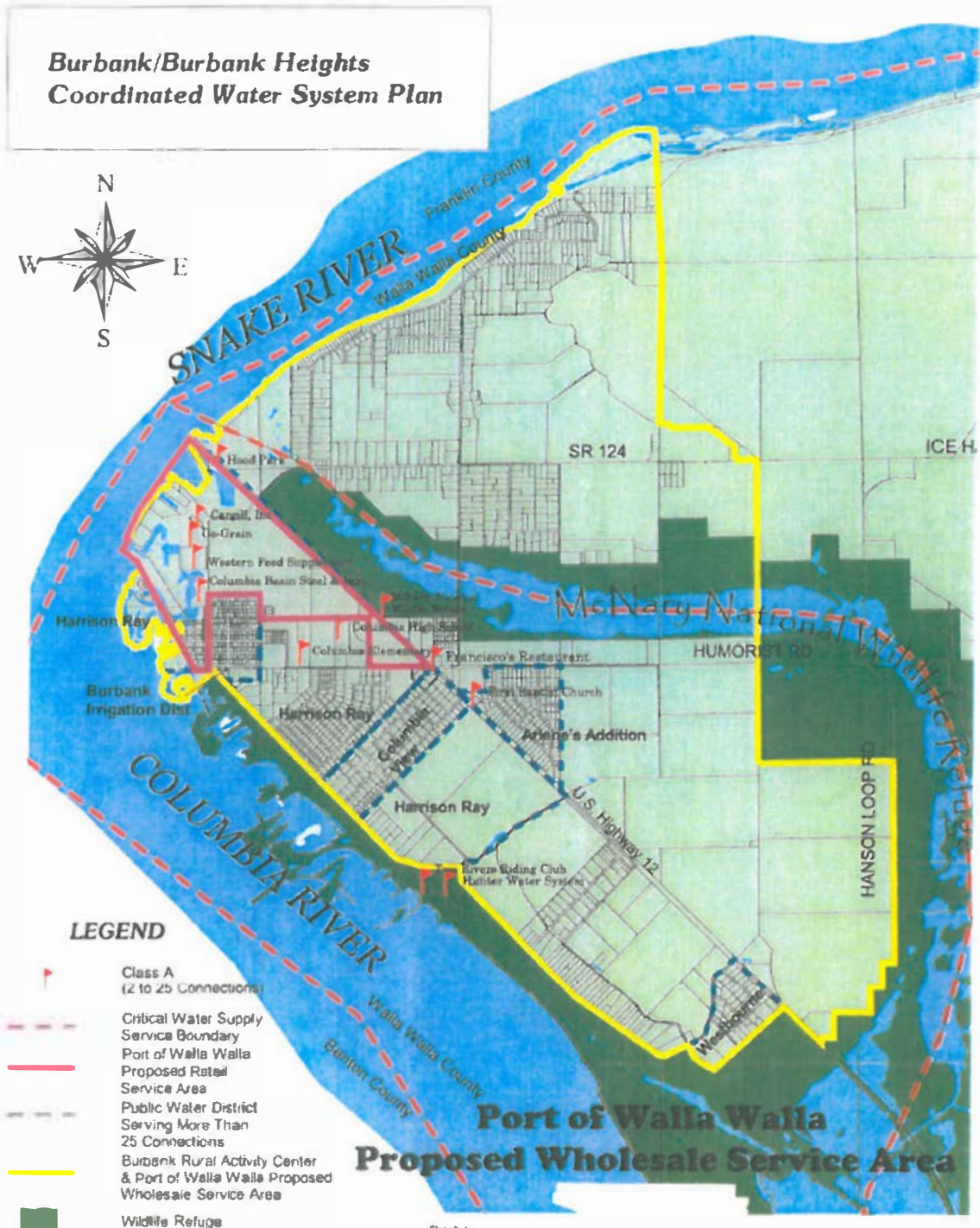


Exhibit 2
Port of Walla Walla Burbank Sewer Service Area Map



Disclaimer
The data contained in Walla Walla County's Geographic Information System (GIS) is subject to constant change. Walla Walla County does not guarantee that the information presented is accurate, precise, current or complete. All data contained in the County's GIS is provided by the County AS IS without warranty of any kind, implied or expressed. By proceeding to use the County's GIS, each user agrees to waive, it released and indemnify Walla Walla County, its agents, consultants, contractors or employees from any and all claims, liability, actions or causes of action for damages or injury to persons or property arising from the use or inability to use Walla Walla County's GIS data.



Return Address

(Please print or type information)

Port of Walla Walla
310 A. Street
Walla Walla, WA 99362

Document Title(s): Amendment No. 1 to the Interlocal
Agreement

Auditor File Number of document being assigned or released: 2012-04026

Additional Numbers on page ____ of document.

Grantor:

1. Port of Walla Walla
2. City of Pasco

Additional Names on page ____ of document.

Grantee:

1. Port of Walla Walla
2. City of Pasco

Additional Names on page ____ of document.

Legal Description (i.e.: lot & block or section, township & range):

Additional legal description is on page ____ of document.

Assessor's Property Tax Parcel Number: _____

Additional Parcel Numbers on page ____ of document.

The Auditor or Recording Officer will rely on the information provided on this form. The staff will not read the document to verify the accuracy or the completeness of the indexing information provided herein. This page becomes part of the recorded document.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party



When recorded, please return to:

City of Pasco

Attn: Gary Crutchfield, City Manager

P. O. Box 293

Pasco, WA 99301

Port of Walla Walla
310 A. Street
Walla Walla, WA 99362

**Amendment No. 1 to
City of Pasco
and
Port of Walla Walla
Interlocal Agreement for Waste Water Treatment and Disposal Services**

THIS AMENDMENT TO THE INTERLOCAL AGREEMENT (the “Amendment”) is entered into by and between the City of Pasco, Washington a municipal corporation, herein called the “City,” and the Port of Walla Walla, Washington, a municipal corporation, herein called the “Port,” for the purpose of amending that certain Interlocal Agreement (the “Agreement”), dated May 7, 2012 regarding wastewater treatment and disposal services in the unincorporated Burbank area of Walla Walla County, Washington. The City and the Port are each a “Party” and are collectively the “Parties” to this Amendment.

WHEREAS, the Parties entered into an Interlocal Agreement for wastewater and disposal services on May 7, 2013; and

WHEREAS, the Parties desire to amend a section of the Agreement, extending the deadline for the Port to make payment for the first block of wastewater treatment and disposal capacity; and

NOW THEREFORE, in consideration of the foregoing recitals which are incorporated herein, the City and the Port do hereby mutually consent and agree as follows:

SECTION 1. That Section 2 “Capacity Purchase Timing,” of the Agreement shall be amended to read as follows:

Section 2: Capacity Purchase Timing

- A. The Port agrees to purchase the first block of treatment capacity ~~within one year of the effective date of this Agreement, but by not later than June 30~~ September 1, 2013. Failure by the Port to make the initial purchase as specified shall act to terminate this Agreement.



- B. The Port agrees to purchase the second block of treatment capacity within 15 years of the first payment for the first block of treatment capacity. The City may, in its sole discretion, elect to terminate this Agreement if the Port does not initiate purchase of the second block within the 15-year period. The City must exercise such termination right within six months of the end of said 15-year period.
- C. The Port may purchase a third block of treatment capacity at any time after the purchase of the second block of capacity. If the Port fails to purchase the third block of capacity within 50 years of the effective date of this Agreement, then the Port's option to purchase same shall expire. The Parties may extend the option through mutual written agreement.
- D. As of the effective date of this Agreement, the City shall allocate and reserve for the Port three (3) blocks of waste water treatment capacity (100,000 gpd annual average flow). Until such time as the Port's right to purchase a capacity block expires, the City shall maintain said reservation of capacity for the Port and shall not otherwise use or allocate said reserved capacity. The City shall keep records and accounts of the waste water treatment system capacity that include and reflect the Port's reserved capacity.

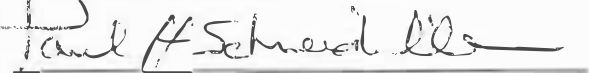
SECTION 2. That all other terms and provisions of the Agreement shall remain as currently written.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year stated below.

CITY OF PASCO

PORT OF WALLA WALLA


Matt Watkins, Mayor


Paul Schneidmiller,
Port Commission President

Dated: 5/20/13

Dated: 5/28/13



STATE OF WASHINGTON)

: SS

County of Franklin)

Rebecca Francis pro-tem

On This day personally appeared before me ~~MATT WATKINS~~, Mayor of the City of Pasco, Washington, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 20 day of May, 2013.



Sandy Kenworthy
NOTARY PUBLIC in and for the State of Washington
Residing at Pasco
My Commission Expires: 8/7/15

STATE OF WASHINGTON)

: SS

County of Walla Walla)

On This day personally appeared before me PAUL SCHNEIDMILLER, Port Commission President of the Port of Walla Walla, Washington, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 20th day of May, 2013.



Becky Kay Hulse
NOTARY PUBLIC in and for the State of Washington
Residing at Walla Walla
My Commission Expires: 2-8-16

