

FILED FOR RECORD AT REQUEST OF:
City of Pasco, Washington

WHEN RECORDED RETURN TO:
City of Pasco
525 North 3rd
Pasco WA 99301

**MULTI-JURISDICTIONAL AGREEMENT
BETWEEN
CITY OF PASCO, WASHINGTON
AND
PORT OF PASCO**

**Pretreatment Program Implementation
Enforcement Agreement**

THIS AGREEMENT is entered into this 21st day of September 2014, by and between the City of Pasco, Washington, as the "*Control Authority*", hereinafter referred to as "City"; and the Port of Pasco, as the "*Contributing Jurisdiction*", hereinafter referred to as "Port", and jointly referred to as the "Parties."

WHEREAS, the City owns and operates Publicly Owned Treatment Works (POTW) with the capacity for treatment of industrial, commercial and residential wastewater; and

WHEREAS, the Port leases buildings and properties within the Tri-Cities Airport, Big Pasco Industrial Center, the Pasco Processing Center, and other properties within the City of Pasco, hereinafter referred to as "Port Properties", and in addition, offsite commercial, public, and residential users may likewise contribute wastewater through connections to the Port's wastewater facility which will be processed by the City's POTW, collectively referred to herein as "users"; and

WHEREAS, the City has pursuant to RCW 90.48.165, been delegated authority from the Department of Ecology for the issuance of permits for the discharge of wastes, including the implementation and enforcement of regulations for the protection of its POTW; and

WHEREAS, the City is authorized by RCW 43.21B.300 to assess penalties for the violation of its regulations under its industrial discharge into its POTW for the protection of the public and its POTW; and

WHEREAS, as a condition under 40 CFR Part 403 and Chapter 90.48 RCW, the City and the Port must enter into a Multi-Jurisdictional Agreement whereby the City's Wastewater Standards Ordinance is adopted and subjects the users upon the Port property for compliance with the necessary pretreatment controls for discharge into the City's POTW.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the parties agree as follows:

1. Adoption of Standards.

A) The Port will adopt, directly or by reference, the City's Wastewater Standards Ordinance codified as Chapter 13.62 "Wastewater Pretreatment Requirements" of the Pasco Municipal Code which shall be applicable to and binding upon users within the Port Properties, including any offsite users contributing to the wastewater facility treated by the City's POTW. The Port will adopt its Wastewater Standards Ordinance on or before December 31, 2014.

B) Whenever the City revises its Wastewater Standards Ordinance, it will forward a copy of the revisions to the Port. The Port will adopt revisions to its Wastewater Standards Ordinance that are at least as stringent as those adopted by the City. The Port will forward to the City for review its proposed revisions within 90 days of receipt of the City's revisions. The Port will adopt its revisions within 180 days of receiving approval from the City of the content thereof.

C) The Port, by adoption by reference of the City's Wastewater Standards Ordinance, adopts the City's pollutant specific local limits. If the City makes any revisions or additions to its local limits, the City will forward to the Port a copy of such revisions or additions within 30 days of enactment thereof. The Port will adopt such revisions or additions within 180 days of receipt thereof.

2. Designation for Enforcement and Implementation.

A) The Port designates the City as the agent of the Port for the purpose of implementation and enforcement of the Port's Wastewater Standards Ordinance upon the Port's Properties, as well as any user contributing to the

wastewater facilities subject to this Agreement. The City may take any action under the Port's Wastewater Standards Ordinance that could have been taken by the Port, including the enforcement of the ordinance in courts of law. Jurisdiction and venue for the enforcement of the Wastewater Standards Ordinance shall be placed in Franklin County, Washington.

B) The Port shall provide, on or before October 1, 2014, a listing of all tenants within the Ports Properties and those users contributing to the wastewater facilities subject to this Agreement; and, thereafter, provide a current listing of such tenants on April 1 and October 1 of each year; thereby, providing a current listing of all users contributing to the wastewater facilities.

C) The City, on behalf of and as agent for the Port will perform all technical and administrative duties necessary to implement and enforce the Port's Wastewater Standards Ordinance. The City will:

- 1) Update the industrial waste survey.
- 2) Issue permits to all users required to obtain a permit.
- 3) Conduct inspection, sampling, and analysis.
- 4) Perform enforcement activities.
- 5) Perform any other technical or administrative duties the parties deem appropriate.

In addition, the City may take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination, or other damage to the City's POTW.

D) If the City takes enforcement actions against any Port tenant or user contributing wastewater to the facility, the City will also notify the Port of said pending action.

3. Offsite User. Before an offsite user located outside the Ports Properties, but connecting to a Port facility or a line subject to this Agreement is allowed to discharge any wastewater into the lines which flow into the City's POTW, the Port and City will enter into an agreement, or secure a binding user agreement for such discharge. Such agreement will be substantially equivalent to this Agreement and must be entered into prior to a discharge from any such user.

4. General Terms.

A) If any term of this Agreement is held to be invalid in any judicial action, the remaining terms will be unaffected.

B) The parties will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C § 1251 et seq.) and rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but at least once every six years on a date to be determined by the parties.

C) The City may terminate this Agreement by providing 120 days written notice to the Port. All benefits and obligations under this Agreement will cease following 180 days from receipt of such notice.

D) This Agreement allows the City and its employees, agents and contractors to come upon the Ports Properties and take such actions as reasonably necessary for the implementation and enforcement of the Wastewater Standard Ordinance and this Agreement. During such events, each party agrees to indemnify and hold harmless the other party, its employees, agents and contractors from any and all claims that may arise from such actions due to the negligent acts or omissions of its own employees, agents, and contractors.

E) If the authority of the City to act as agent for the Port under this Agreement is challenged by a user in an administrative proceeding or court of law, or otherwise, the Port will take whatever action is necessary to ensure the implementation and enforcement of its Wastewater Standards Ordinance against its users, including, but not limited to, implementing and enforcing its Wastewater Standards Ordinance on its own behalf and/or amending this Agreement to clarify the City's authority.

F) The Port hereby authorizes the City to seek reimbursement for implementing and enforcing this sewer pretreatment program by directly charging those participating Port Properties tenants for said costs and/or recovering said costs through the user permits.

G) For the purpose of this Agreement, time is of the essence.

H) Should any dispute arise concerning the enforcement, breach or interpretation of this Agreement, the parties shall first meet in a good faith attempt to resolve the dispute. Any unresolved dispute shall be submitted to 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, with both parties waiving the right to jury trial in the event of a de novo appeal. 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.

DATED this 26 day of September, 2014.

CITY OF PASCO

By: [Signature]
Title: City Manager

PORT OF PASCO

By: [Signature]
Title: EXEC DIR

ATTEST:

[Signature]
Debra L. Clark, City Clerk

APPROVED AS TO FORM:

[Signature]
Leland B. Kerr, City Attorney

STATE OF WASHINGTON)

County of Franklin) : ss.

On this 7th day of October, 2014, personally appeared before me DAVE ZABELL, City Manager for the City of Pasco, Washington, described in and who executed the within and foregoing instrument, and acknowledged 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 7th day of October, 2014.



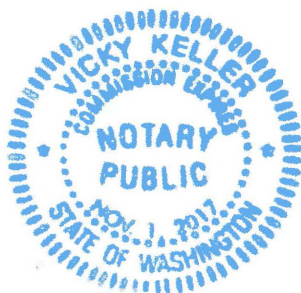
Toni L. Zunker
NOTARY PUBLIC in and for the State of Washington
Residing at Kennewick
My Commission Expires 3/3/16

STATE OF WASHINGTON)

County of Franklin) : ss.

On this 26 day of September, 2014, personally appeared before me Randy Haydes Ex. Director for the Port of Pasco, described in and who executed the within and foregoing instrument, and acknowledged he/she signed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned

GIVEN under my hand and official seal this 26 day of September, 2014.



Vicki Keller
NOTARY PUBLIC in and for the State of Washington
Residing at Franklin
My Commission Expires November 1, 2017

RESOLUTION NO 1390

A **RESOLUTION** of the Port Commission of the Port of Pasco adopting by reference the Pretreatment Regulations for discharges into the City of Pasco's domestic and industrial publically owned wastewater treatment works.

Whereas the City of Pasco has adopted Ordinance No 4169, adopting a new Chapter of the Pasco Municipal Code, entitled "Pretreatment Regulations," which pertains to discharges into the City of Pasco's domestic and industrial publically owned treatment works (the "Ordinance"); and

Whereas the Ordinance requires all persons connected to the sanitary sewer or industrial sewer collection systems to produce information, and to otherwise comply with the requirements of the Ordinance; and

Whereas the Port of Pasco owns and leases properties within the City of Pasco located at Big Pasco Industrial Center, the Marine Terminal, and the Tri Cities Airport (the "Port Properties") subject to the provisions of the Ordinance, and has entered into an multi jurisdictional agreement with the City of Pasco in which the Port agrees to adopt the City of Pasco's wastewater standards ordinance; and

Whereas RCW 53.08.220 provides that a port district may formulate and adopt regulations for the use of Port properties and facilities by tenants and others, after a hearing as provided by statute; and

Whereas the Port Commission on September 25, 2014 conducted a hearing on the regulations hereinafter set forth after publication of the hearing in a legal newspaper of general circulation in the ports district ten days prior thereto; now therefore

IT IS HEREBY RESOLVED that the Port of Pasco hereby adopts by reference as hereafter amended the City of Pasco's Wastewater Treatment Requirements and all provisions thereof as set forth in Chapter 13.62 of the Pasco Municipal Code (the "Wastewater Standards Ordinance"), which shall be binding upon and applicable to users of Port Properties; and

IT IS FURTHER RESOLVED that the Port of Pasco hereby adopts by reference the City's pollutant specific local limits as set forth in the City of Pasco's Wastewater Standards Ordinance; and

IT IS FURTHER RESOLVED that the Port of Pasco designates the City of Pasco as the agent of the Port for the purpose of implementation and enforcement of this resolution upon the Port's Properties, as well as any use contributing to the wastewater facilities subject to this resolution.

ADOPTED by the Board of Commissioners of the Port of Pasco on this 25th day of September, 2014 and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof.

PORT OF PASCO COMMISSION


James T. Klindworth, President

ABSENT
Ronald P. Reimann, Vice-President


Jean Ryckman, Secretary