

INTERLOCAL AGREEMENT  
REGARDING  
COLUMBIA GARDENS WINE VILLAGE  
EFFLUENT TREATMENT FACILITY

**I. PARTIES**

This Interlocal Agreement is entered into this 27<sup>th</sup> day of February, 2018, between the PORT OF KENNEWICK, a Washington municipal corporation (“Port”), and the CITY OF KENNEWICK, a Washington municipal corporation, (“City”) referred to collectively as the “Parties.” The Parties agree as follows:

**II. RECITALS**

- 2.1 Economic Development Authority.** The Port and the City are authorized, including under Chapters 39.33 and 39.34 of the Revised Code of Washington, to contract with each other and other public agencies in order to effectively and efficiently operate, administer and carry out their programs and public projects.
- 2.2 Location of Facility in Project Area.** The Port owns approximately 14 acres of undeveloped land in the City which it intends to develop as an urban wine village (the “Project Area”). The Project Area is divided into Phase I, which includes three buildings housing two working wineries (production, tasting room, case goods storage and related administration/offices) and a wine effluent treatment system. Phase I is as shown on Exhibit “A.” Phase II will consist of two separate areas, the “Columbia Gardens Phase II” and the “Willows”, and each area shall be developed with utilities, streets and lots for sale or lease for winery and related purposes and to work in partnership with Columbia Basin College (the “College”) to build a Culinary Arts School, all of which will complement the wineries to be established in Phase I. Phase II, consisting of the two separate areas, is as shown on the site plan attached hereto as Exhibit “A.”
- 2.3 Opportunity for Collaborative Development.** The Parties recognize that successful economic development within the City benefits the economic and social welfare of the City and the surrounding area. The Parties also recognize that a wine effluent treatment system is an essential element necessary to support the development of the working wineries to be located in the Project Area. The Parties, cognizant of the unprecedented opportunity for collaborative development by investing in redevelopment of challenging properties, hereby choose to collaborate on the location, installation, and maintenance of a wine effluent treatment system located in the Port’s new building located at 421 E. Columbia Drive Suite A130, Kennewick, WA (the A Building). The location of the wine effluent treatment system is as shown on Exhibit “B.” Establishment of the wine effluent treatment system will dramatically enhance the development of the Project Area into a destination wine village, permitting the Parties to attract major private sector investment.

### III. OBLIGATIONS OF THE PARTIES

3.1 **General Provisions Related to Construction.** The City has permitted, designed, and engineered the wine effluent treatment system. The City has bid the construction and monitored/administered construction of the wine effluent treatment system. Construction of the wine effluent treatment system will be completed and the system will be operative on or before March 1, 2018.

3.2 **Operations and Maintenance.**

The City:

- (a) Shall be responsible for the Operations and Maintenance of the wine effluent treatment system.
- (b) Shall maintain the interior (from wall studs inward) of the wine effluent treatment room, all wine effluent treatment equipment, all associated equipment, materials, supplies of any kind whatsoever placed by the City into the wine effluent treatment room located in the Port's A building Suite A130, as shown on Exhibit "B" attached hereto. The room shall be used by the City to monitor its wine effluent treatment system. The City shall have access to the room at all times necessary to monitor the wine effluent treatment system and to maintain the room. The City's access to the room shall not disrupt the tenant's business operations. Should the City need access to the room or the immediately adjacent tenant breezeway area, the City shall provide tenant with reasonable notice of no less than 24 hours unless otherwise agreed by the tenant.
- (c) There shall be no rent due from the City to the Port for the treatment room. The City shall pay all separately metered electricity and water utility charges directly associated with the small effluent treatment room.

### IV. ADMINISTRATION

4.1 **Responsibilities.** This Agreement shall be administered by the City Manager or her designee and the Port Chief Executive Officer or his designee. Working in partnership and on behalf of their respective agencies these individuals shall be responsible for:

- (a) Establishing policies for implementing this Agreement;
- (b) Providing periodic progress reports;
- (c) Monitoring progress of the Parties and other agencies in the fulfillment of their respective responsibilities; and
- (d) Follow applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this project.

- 4.2 **Document Review.** The Parties shall cooperate by sharing all relevant information, including planning, financial and environmental documents, to the extent allowed by law.
- 4.3 **Expenses and Financial Contingency.** Except as otherwise provided, the obligations of each Party shall be performed at the sole expense of said Party.

## V. GENERAL

- 5.1 **Amendment.** This Agreement shall not be altered or varied except in writing signed by each Party.
- 5.2 **Governing Law.** Each of the Parties has independent authority to contract; and, this Agreement is pursuant to that authority and shall be governed by, construed and enforced in accordance with the substantive laws of the State of Washington.
- 5.3 **Venue.** The venue for any action arising out of this Agreement shall be the Superior Court for Benton County.
- 5.4 **Non Waiver.** Nothing in this Agreement and no actions taken pursuant to this Agreement shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or others under any provision of this Agreement or any provision of law.
- 5.5 **Agreement Term.** The term of Agreement shall commence on its execution by both Parties and end December 31, 2028 (“Agreement Term”). The Parties may elect to renew the Agreement for one successive five (5) year term commencing January 1, 2029, and ending December 31, 2033.
- 5.6 **Inspection of Records and Filing.** The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by the Parties during the term of this Agreement and for three years after its termination. This Agreement shall be filed or listed pursuant to RCW 39.34.040.
- 5.7 **No Separate Legal Entity.** It is not the intention that a separate legal entity be established to conduct the cooperative undertaking nor is the joint acquisition, holding or disposing of real or personal property anticipated.
- 5.8 **Severability.** In the event any term or condition of this Agreement or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.
- 5.9 **Defense and Indemnity.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims,

loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees and witness costs) arising from or in connection with or caused by any act, omission, or negligence of such indemnifying party.

**5.10 Integration.** With the exception of the Interlocal Agreement between the City of Kennewick and the Port of Kennewick for Columbia Gardens - Phase I executed on November 8, 2013, and amended on July 21, 2015, and the Interlocal Agreement between the City, Columbia Basin College, and the Port for Columbia Gardens Phase II executed on January 5, 2017, this Agreement supersedes all prior agreements and understandings (whether written or oral) between the Parties with respect to the subject matter hereof.

**5.11 Breach.** In the event of a breach of this Agreement, the non-breaching Party shall retain all legal and equitable remedies against the breaching Party.

## VI. EXECUTION AND APPROVAL

**6.1 Warranty of Authority.** Each Party to this Agreement warrants that it has the authority to enter into this Agreement.

**6.2 Execution.** The person executing for a respective Party has been duly authorized to and does execute the Agreement on behalf of that respective Party.

### PORT OF KENNEWICK

Date: 2-27-2018

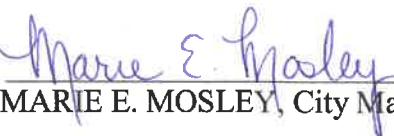
By:   
TIM ARNTZEN, Chief Executive Officer

Approved as to Form:

  
LUCINDA LUKE  
Attorney for Port of Kennewick

### CITY OF KENNEWICK

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

By:   
MARIE E. MOSLEY, City Manager

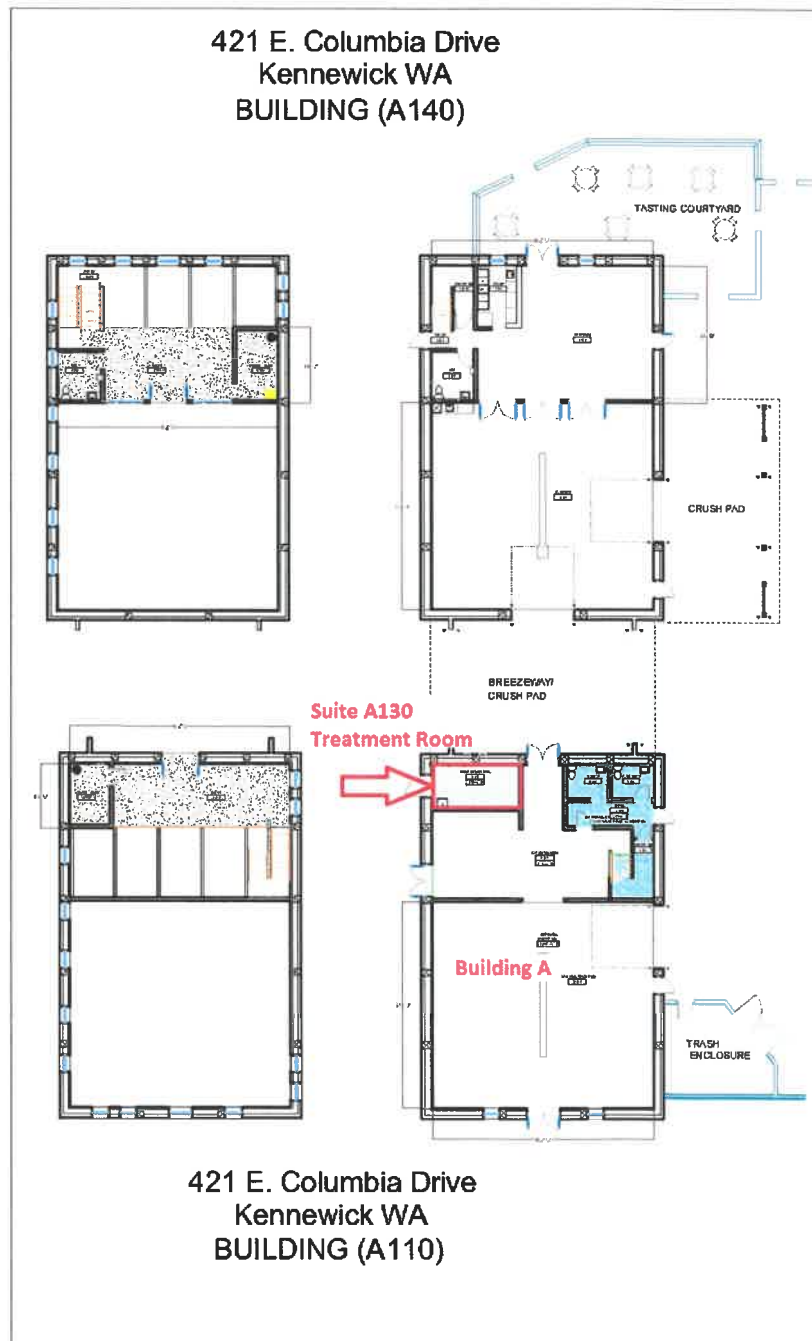
Approved as to Form:

  
LISA BEATON, City Attorney

**EXHIBIT A**  
**Project Area**



**EXHIBIT B**  
Effluent Treatment Room Location



**PORT OF KENNEWICK**

**Resolution No. 2018-02**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK APPROVING AN INTERLOCAL AGREEMENT WITH  
THE CITY OF KENNEWICK FOR COLUMBIA GARDENS WINE VILLAGE,  
EFFLUENT TREATMENT FACILITY**

**WHEREAS**, Resolution 2013-24 approves the Interlocal Agreement between the Port and the City of Kennewick (City) related to the Columbia Gardens Wine Village, Phase 1, located on Columbia Drive in downtown Kennewick; and

**WHEREAS**, the Port and City have agreed to collaborate on the wine effluent treatment system that is an essential element necessary to support the development of the working wineries within Columbia Gardens Wine & Artisan Village; and

**WHEREAS**, the Port and City have outlined the general provisions, operations and maintenance of the wine effluent treatment center in an Interlocal Agreement.

**NOW, THEREFORE; BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick approves the Interlocal Agreement and instructs the Port CEO to execute the Interlocal Agreement, and take all action necessary to implement the Interlocal Agreement.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 27th day of February, 2018.

**PORT OF KENNEWICK  
BOARD OF COMMISSIONERS**

By: 

THOMAS MOAK, President

By: 

DON BARNES, Vice President

By: 

SKIP NOVAKOVICH, Secretary