

## **INTERLOCAL AGREEMENT FOR WATER SYSTEM PLAN UPDATE**

This **INTERLOCAL AGREEMENT FOR WATER SYSTEM PLAN UPDATE** (the "Agreement") is made and entered effective as of the last authorized signature below, by and between the **PORT OF WHITMAN COUNTY**, a Washington municipal corporation (the "Port"), and the **CITY OF TEKOA, WASHINGTON** (the "City"), pursuant to the authority granted under Chapter 39.34 RCW, the Interlocal Cooperation Act (the "Act"). The Port and the City may be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

### **I. RECITALS**

**WHEREAS**, the Port and the City are public agencies and authorized to enter into interlocal agreements pursuant to the Act;

**WHEREAS**, the Port owns real property commonly referred to as Whitman County Parcel No. 2-0000-45-20-10-8900 (the "Port Parcel");

**WHEREAS**, the Port Parcel is located outside the City's limits;

**WHEREAS**, the Port desires to receive water utility service at the Port Parcel from the City;

**WHEREAS**, the City can only provide water utility service to the Port Parcel if the City's water source and the Port Parcel are in the same aquifer;

**WHEREAS**, a hydrogeological study must be conducted to determine if the City's water source and the Port Parcel are in the same aquifer (the "Study");

**WHEREAS**, assuming the City's water source and the Port Parcel are in the same aquifer, before the City can provide water utility service to the Port Parcel, the City's water system plan (the "Water Plan") must be updated to include the Port Parcel;

**WHEREAS**, the City is willing to provide water utility service to the Port Parcel; however, the City has no current need to update its Water Plan independent of the Port's desire to receive water utility service at the Port Parcel;

**WHEREAS**, the City received a proposal from Century West Engineering Corporation ("Century West") to (i) conduct the Study to determine if the City's water source are in the same aquifer and, if they are, to (ii) update the City's Water Plan to include the Port Parcel (the "Plan Update") on a time and materials basis with an opinion of probable cost totaling Ninety-Eight Thousand Four Hundred Dollars (\$98,400.00) for both the Study and Plan Update;

**WHEREAS**, the City is willing to have Century West (i) conduct the Study to determine if the City's water source are in the same aquifer and, if they are, to (ii) perform the Plan Update pursuant to Century West's proposal, but only if the Port agrees to reimburse the City for Century West's invoices; and

**WHEREAS**, the Port is willing to reimburse the City for Century West's invoices on the terms and conditions set forth herein.

## **II. TERMS AND CONDITIONS**

**NOW, THEREFORE**, in consideration of the mutual promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and under the authority granted by Chapter 39.34 RCW, the Parties hereby agree as follows:

1. **CITY CONTRACT WITH CENTURY WEST.** The City will contract with Century West to perform the following work (the "Work") (i) conduct a hydrogeological study to determine if the City's water source are in the same aquifer and, if they are, to (ii) update the City's Water Plan to include the Port Parcel so that the City can provide water utility services to the Port Parcel. The City shall be solely responsible for managing its contract with Century West and the Work. The Port shall direct all communications, requests, or instructions related to the Work to the City's designated representative. Any direct communication between the Port and Century West that results in changes to the scope, cost, or schedule of the Work shall not bind the City unless approved in writing by the City.

2. **REIMBURSEMENT OF CENTURY WEST INVOICES.** The City shall forward copies to the Port of all invoices received from Century West for the Work, along with any supporting documentation received from Century West for the same (collectively the "Invoices"). The Port shall reimburse the City for all such Invoices no later than thirty (30) days after receipt of the same; however, in no case shall the Port be responsible to reimburse the City for more than Ninety-Eight Thousand Four Hundred Dollars (\$98,400.00) (the "Reimbursement Cap") without a prior written amendment to this Agreement increasing the Reimbursement Cap. Payments not received within this period shall accrue interest at a rate of 1% per month until paid. If the Port disputes any Invoice, it shall notify the City in writing within twenty (20) days of receipt, specifying the basis for the dispute, and the Parties shall resolve the dispute in good faith. Undisputed portions of the Invoice shall be paid within the original thirty (30) day period. If the cost of the Work exceeds the Reimbursement Cap due to actions, delays, or additional requirements initiated by the Port, the Port shall reimburse the City for such additional costs. If Century West notifies the City that costs are projected to exceed the Reimbursement Cap, the City shall promptly notify the Port, and the Parties shall negotiate in good faith to amend the Reimbursement Cap or adjust the scope of the Work. If no amendment is agreed upon, the City shall not be obligated to continue the Work beyond the Reimbursement Cap unless otherwise agreed in writing. The Work shall proceed, and costs be incurred, subject to the process set forth below:

2.1. The City shall direct Century West to commence work only on the hydrogeological study to determine if the City's water source are in the same aquifer (the "Study") and the Port will reimburse the City for all such Invoices pursuant to the process set forth above; however, in no case shall the Port be responsible to the City for more than Twenty-Five Thousand Dollars (\$25,000.00) (the "Study Cap") for the Study without a prior written amendment to this Agreement increasing the Study Cap.

2.2. The City shall not direct Century West to commence work on updating the City's Water Plan (the "Plan Update") without the Port's prior written consent, which the Port shall be entitled to withhold at its sole and absolute discretion. If the Port consents to Century West performing the Plan Update, then the Port will reimburse the City for all such Invoices pursuant to the process set forth above for any remaining unreimbursed portion of the Reimbursement Cap.

3. **COOPERATION TO COMPLETE WORK.** The City and the Port shall reasonably cooperate and take such actions reasonably necessary to complete the Work such that the Port can receive water utility services from the City.

4. **TERM OF AGREEMENT.** The "Term" of this Agreement shall commence upon mutual execution of this Agreement, and shall terminate upon completion of the Work and the Port's reimbursement of the final Invoice. Either Party shall be entitled to terminate this Agreement for the other Party's uncured breach after providing thirty (30) days' prior written notice of breach and opportunity to cure; however, the Port shall be obligated to reimburse the City for any Invoices related to Work completed prior to such termination date. In the event of termination by either Party, the Port shall reimburse the City for all invoices related to Work completed prior to the termination date. In the event the City terminates for the Port's default or the Port terminates for its convenience, then in addition to payment for Work performed the Port shall reimburse the City for administrative, legal, or wind-down costs incurred by the City as a result of the termination (the "Termination Costs").

5. **ADMINISTRATION.** The following individuals are designated as representatives of the respective Parties. The representatives shall be responsible for administration of this Agreement, and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the Party making the change shall notify the other Party.

Port: Kara Riebold  
302 N. Mill St.  
Colfax, WA 99111  
E: [kara@portwhitman.com](mailto:kara@portwhitman.com)

City: Roy Schultz - mayor  
419 N. Washington St.  
Tukoa, WA 99033  
E: tukoa.mayor@gmail.com

Any notice required by this Agreement shall be sent attention to the above-identified representatives via first class mail and electronic mail.

6. **INDEMNIFICATION.** To the extent permitted by law, each Party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions, or those of their officials, officers, agents, or employees, and further agrees to save, indemnify, defend, and hold the other Party harmless from any such liability.

7. **CHANGES, MODIFICATIONS, AMENDMENTS, AND WAIVERS.** This Agreement may be changed, modified, amended, or waived only by written agreement executed by the Parties

hereto. Waiver of a breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

8. **TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and all of the terms, provisions, covenants, and conditions thereof.

9. **SEVERABILITY.** In the event any term or condition of this Agreement, or application thereof to any person or circumstances, is held invalid, illegal, or unenforceable, such invalidity, illegality, and unenforceability shall not affect other terms, conditions, or applications of this Agreement, which can be given effect without the invalid, illegal, or unenforceable term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

10. **HEADINGS AND TITLES.** The captions of the Paragraphs of this Agreement are only to assist the Parties in reading and understanding this Agreement, and shall have no effect upon the construction or interpretation of any part of this Agreement.


11. **SUCCESSORS AND ASSIGNS.** This Agreement shall benefit and bind the Parties and their respective successors and assigns. No assignment of this Agreement shall be done except upon prior written authorization of the Parties.

12. **COUNTERPARTS.** This Agreement may be signed in any number of counterparts, each of which shall be an original, and all of which shall constitute one (1) and the same Agreement.


13. **ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

**IN WITNESS THEREOF,** the Parties have caused this Agreement to be executed in their names and to be attested by their duly authorized representatives identified below, as of the date of the last authorizing signature below.

**CITY OF TEKOA**

  
By: Roy Schultz  
Its: Mayor  
Date: 4/17/2025

**PORT OF WHITMAN COUNTY**

  
By: Kara Riebold  
Its: Executive Director  
Date: 04/18/2025