

**WHEN RECORDED RETURN TO:**

City of Pasco, Washington  
525 North 3rd  
Pasco WA 99301

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**INTERLOCAL AGREEMENT**

**Between**

**CITY OF PASCO and PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN COUNTY**

**THIS AGREEMENT** is made and entered into this 26<sup>th</sup> day of June, 2014, by and between the City of Pasco, Washington, a Municipal Corporation, hereinafter referred to as "City" and Public Utility District No. 1 of Franklin County, hereinafter referred to as "PUD."

**RECITALS**

**WHEREAS**, RCW 39.34 et seq. authorizes City and PUD to enter into Interlocal Agreements for the purpose of providing municipal services; and

**WHEREAS**, PUD owns and maintains the streetlights in City for the benefit of the public, through charges to City for electricity, maintenance and replacement; and

**WHEREAS**, both City and PUD are vitally interested in energy efficiency and saving public funds; and

**WHEREAS**, it is in the public interest that City and PUD cooperate to provide for the replacement of approximately 1,725 high pressure sodium streetlights (the "HPS Streetlights") with more energy efficient fixtures, lamps, drivers, and photocells (the "LED Streetlights"); and

**WHEREAS**, the Washington State Department of Commerce is offering 2013-2015 Energy Efficiency Grants which affords City and PUD the opportunity to replace existing HPS Streetlights with more energy efficient LED Streetlights; and

**WHEREAS**, PUD, with assistance of City, prepared and submitted an Energy Efficiency-Streetlight Replacement grant application to the Department of Commerce, and the grant application identified energy savings projected through replacement of existing HPS Streetlights with LED Streetlights; and

**WHEREAS**, PUD was awarded Grant No.14-93209-033 (the "Grant") in the amount of \$264,413.00 from the Washington State Department of Commerce on 5/15/14, and as such City and PUD will cooperate in replacing the HPS Streetlights with LED Streetlights (the "Streetlight Replacement Project"); and

**WHEREAS**, PUD has determined that replacement of the HPS Streetlights with LED Streetlights will provide a conservation incentive payment of up to \$192,350 (the "Incentive") toward the cost of the Streetlight Replacement Project.

**NOW, THEREFORE**, the Parties agree as follows:

**1. Responsibilities of PUD**

- 1.1 PUD will obtain bids/quotes to determine the estimated cost for labor and materials to replace existing HPS Streetlights with LED Streetlights. Once such costs are obtained, PUD will assist the City in estimating the number of HPS Streetlights which can be replaced with LED Streetlights by utilizing Grant funds, the Incentive, and City's required matching funds.
- 1.2 PUD will utilize the Washington State Department of Enterprise Services' Contract No. 07510 titled Lamps and Ballasts with Consolidated Electrical Distributors to acquire the LED Streetlights. PUD will also obtain quotes for the labor to replace the HPS Streetlights with LED Streetlights.
- 1.3 PUD will provide City with a proposed energy usage rate and a maintenance, repair, and replacement cost schedule for all streetlights, including the LED Streetlights and the parties shall negotiate in good faith to reach an agreement regarding those items. PUD shall agree to maintain the new energy usage rate for the LED Streetlights for a period of at least three (3) years.
- 1.4 Upon determination by City of the number of LED Streetlights to be purchased and associated costs determined under sections 1.1, 1.2, and 1.3 above, PUD shall be responsible for purchase and installation of the LED Streetlights. PUD shall apply the Grant funds and Incentive funds toward the costs of the Streetlight Replacement Project.
- 1.5 PUD shall be subject to all applicable conditions of the Department of Commerce Grant agreement, including verification of energy savings.
- 1.6 PUD shall fulfill all responsibilities for decontamination or decommissioning associated with the Streetlight Replacement Project.

**2. Responsibilities of City**

- 2.1 City will pay to PUD all Streetlight Replacement Project costs net of Grant funds and Incentive funds.
- 2.2 City will pay to PUD such other payments for energy usage rates and, maintenance, repair, and replacement costs as shall be agreed upon by the Parties in a subsequent written agreement. City agrees to pay PUD its reasonable costs associated with grant preparation and project administration.
- 2.3 City shall reimburse PUD for PUD's costs incurred for decontamination, decommissioning, and disposal associated with the HPS Streetlights.

- 2.4 City will pay to PUD all matching funds and costs within twenty (20) days after receiving an invoice for purchase and installation work completed.
- 2.5 City and PUD shall negotiate in good faith any subsequent agreements as required herein.

**3. Termination**

In the event the grant contract between PUD and Department of Commerce is not executed, this agreement will be terminated.

**4. Indemnification**

PUD shall defend, indemnify, and hold harmless City, its officers, employees, and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from the negligent acts or omissions of PUD, or its agents, employees or officers in the performance of this Agreement.

City shall defend, indemnify, and hold harmless PUD, its officers, employees, and agents from any and all costs, claims, judgments or awards of damages arising out of or in any way resulting from the negligent acts or omissions of City, or its agents, employees or officers in the performance of this Agreement.

**5. Amendment**

This Agreement may only be amended by mutual, written agreement of the signatories to this Agreement.

**6. Interlocal Cooperation Act Provision**

Each party shall be solely responsible for all costs, materials, supplies and services necessary for their 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; as an example, LED Streetlights will remain the sole property of PUD. All funding incident to the fulfillment of this Interlocal Agreement, shall be borne by each party necessary for the fulfillment of their responsibilities under the terms of this Agreement. No special budgets or funds are anticipated, nor shall be created incident to this Interlocal 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 Engineering Manager of the PUD and the Deputy City Manager of the City shall be designated as the administrators of this agreement.

This Agreement shall be filed with the Franklin County Auditor, or alternatively, posted on the parties' respective websites as required by RCW 39.34.



**7. Entire Agreement**

The Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are hereby expressly excluded.

**8. Nonwaiver**

Waiver of any default or breach under this Agreement shall not be deemed to be a waiver of any other prior or subsequent default or breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written agreement of the Parties hereto.

**9. Invalid Provisions**

If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected if such remainder would then continue to serve the purposes and objectives of the Parties.

**10. Applicable Law**

Should any dispute arise concerning the enforcement, breach, or interpretation of this Agreement, resolution shall be by presentation to the City Manager and the District General Manager. In the event the dispute is not resolved, it shall be resolved by binding arbitration pursuant to RCW 7.04A, as amended, and the Mandatory Rules of Arbitration (MAR); and venue shall be placed in Franklin County, Washington, the laws of the State of Washington shall apply, and the prevailing party shall be entitled to its reasonable attorney fees and costs.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement by their duly authorized officers and/or agents on the day and year first written above.

**CITY OF PASCO, WASHINGTON**



Matt Watkins  
Mayor

**PUBLIC UTILITY DISTRICT NO. 1 OF  
FRANKLIN COUNTY**



Edward J. Brost  
General Manager

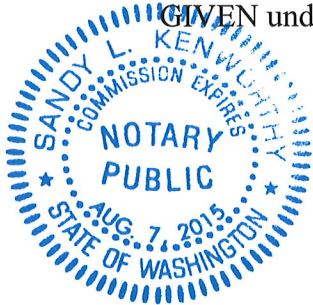
STATE OF WASHINGTON )

: ss.

County of Franklin )

On this day personally appeared before me Matt Watkins, Mayor of the City of Pasco, Washington, 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 19 day of May, 2014.



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 Franklin )

On this day personally appeared before me Edward J. Brost, General Manager of the Public Utility District No. 1 of Franklin County, 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 26th day of June, 2014.

Eda Brost  
NOTARY PUBLIC in and for the State of Washington

Residing at: Pasco WA

My Commission Expires: July 1 2015