

AGENDA

***Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers
350 Clover Island Drive, Suite 200, Kennewick, Washington***

Tuesday, February 26, 2019
2:00 p.m.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. APPROVAL OF AGENDA**
- IV. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- V. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments Dated February 4, 2019
 - B. Approval of Warrant Register Dated February 12, 2019
 - C. Approval of Direct Deposit and ePayments Dated February 15, 2019
 - D. Approval of Warrant Register Dated February 26, 2019
 - E. Approval of Regular Commission Business Meeting Minutes January 22, 2019
- VI. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Columbia Drive Update (**LARRY**)
 - B. Vista Field Update (**LARRY/TIM**)
 - C. Clover Island
 - 1. Benton County Disbursement Agreement for Shoreline Improvements; Resolution 2019-04 (**TANA**)
 - D. Opportunity Fund (**NICK/TIM**)
 - E. West Richland Land Sale (**AMBER**)
 - F. Water Rights (**LARRY/TIM**)
 - G. Commissioner Meetings (formal and informal meetings with groups or individuals)
 - H. Non-Scheduled Items
- VII. OLD BUSINESS**
 - A. Ivy Transaction (**LUCY/TIM**)
- VIII. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- IX. EXECUTIVE SESSION**
 - 1. Potential Litigation, per RCW 42.30.110(1)(i)
(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)
- X. ADJOURNMENT**

PLEASE SILENCE CELL PHONES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

JANUARY 22, 2019 MINUTES

Commission President Thomas Moak called the Regular Commission Meeting to order at 2:00 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

Board Members: Thomas Moak, President
Don Barnes, Vice-President
Skip Novakovich, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tana Bader Inglima, Deputy Chief Executive Officer
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, Chief Financial Officer
Larry Peterson, Director of Planning and Development
Lisa Schumacher, Special Projects Assistant
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Mr. Arntzen requested to add City of Kennewick to the Agenda and move Item 8D, Endorsement Request Procedure, to follow the Friend of the Port Presentation.

MOTION: Commissioner Novakovich moved to approve the Agenda as amended; Commissioner Barnes seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated January 17, 2019***
Direct Deposit and E-Payments totaling \$59,162.97
- B. Approval of Warrant Register and E-Payments Dated January 22, 2019***
Expense Fund Voucher Numbers 100768 through 100815 for a grand total of \$110,224.70
- C. Approval of Regular Commission Business Meeting Minutes January 8, 2019***

MOTION: Commissioner Barnes moved for approval of the Consent Agenda as presented; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

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PRESENTATION

A. *2018 Friend of the Port*

Ms. Bader Inglima introduced members of the Latino Heritage Mural Committee (LHMC) that are in the audience: Davin Diaz and family, Adan Suarez, Hector Cruz, Gracie Valle, and Jazmin Santacruz, unfortunately, Jon Lindeman was unable to attend and sends his regrets. Port of Kennewick staff choose the Latino Heritage Mural Committee as the 2018 Friend of the Port.

Mr. Arntzen stated the idea of a mural came from the community and was advanced by Jon Lindeman. Mr. Arntzen asked Mr. Lindeman to work with the Latino community to help explore the idea. Mr. Diaz got the concept off the ground and worked with several leaders in the community to set the project up for success. A committee was assembled and together, with assistance from Port Art Liaison Barb Carter, worked through the Call to Artist to the final product. Mr. Arntzen stated the award is presented to the Latino Heritage Mural Committee; however, Mr. Arntzen recognized that Mr. Diaz, elected chair of the LHMC and Mr. Lindeman were early and earnest supporters of the Latino Mural.

Commissioner Moak stated the fact that the LHMC is well represented today is a testament to the dedication of the committee. As a result of your hard work, the Port was recognized by the Governor and awarded the Washington State Arts Heritage Award. The LHMC spent a lot of time and effort on the project and saw the importance of the Mural and what it meant for the community. Commissioner Moak believes that the Mural has been a great community builder and pulled together a variety of community members, who worked closely with artist Andrew Reid to ensure that he told their story. Commissioner Moak stated the Commission and staff are grateful for the time and effort that each committee member put into this project voluntarily and through the Friend of the Port, we will always remember what you did for the community.

Commissioner Novakovich thanked the LHMC for the opportunity to get to know them better and stated the partnership means a lot to him personally and to the Port. Commissioner Novakovich expressed his gratitude for the LHMC and congratulated the committee on their accomplishments and hopes to be able to work together again in the future.

Commissioner Barnes concurs with Commissioners Moak and Novakovich's comments and stated the Mural was a fantastic opportunity and in the best interest of the constituents and the community. The Port has received feedback from the community and the State and Commissioner Barnes expressed his appreciation and deep feeling of gratitude for this relationship. The Mural is an ongoing symbol of the relationship between the Port and the community and the individual stories that shaped the mural are meaningful and woven into the fabric of our community. Commissioner Barnes is pleased that the LHMC is the recipient of the Friend of the Port and looks forward to a continued relationship.

Mr. Arntzen thanked Mr. Diaz for his leadership and presented a gift of appreciation and read the inscription:

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“With appreciation for serving as Chairman of the Latino Heritage Mural Committee: and for managing the complex endeavor of committee oversight, community involvement, and artist engagement in creating the Mid-Columbia Latino Heritage Mural.”

Mr. Diaz thanked the Commission and staff and stated when the LHMC mural met for the first time to discuss the project, everyone agreed that it was something that was not only needed, but we were going to make happen. Mr. Lindeman, the catalyst for this project said repeatedly, “this mural is a project of inclusion and if you’re not included, you’re excluded.” As such, the LHMC never had any walls or barriers to anyone who wanted to be involved in this project. Mr. Diaz stated the images of the field workers depicted in the Mural are the most important aspect of the work, in his opinion, because we are celebrating them. The LHMC distinguished individuals who are often overlooked and embraced the contributions to our stories, the story of the Tri-Cities, and the American story. This project has been a labor of love, and through the process, Mr. Diaz has learned a lot about himself and his community. Mr. Diaz thanked the Commission and staff for having the vision and the courage to invest in the Mural. Mr. Diaz thanked Columbia Center Rotary for their continued investment in public arts and Andrew Reid, the muralist, for listening to the community. Lastly, Mr. Diaz thanked the proud men and women depicted in the mural and every member of the committee for their tireless efforts. Mr. Diaz quoted Cesar Chavez, “Preservation of one's own culture does not require contempt or disrespect for other cultures.”

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *City of Kennewick Agreements*

Mr. Arntzen and Ms. Walsh have been working on two Vista Field documents regarding landscaping in the public right of way for Phase 1A and a vibrancy plan. The Port would install the trees and dedicate back to the City; however, the City has requested that the Port maintain the street trees located in the public right of way for the duration of the life span of the trees. Mr. Arntzen and Ms. Walsh are finalizing the last details and hope to present the agreement to the Commission at a future meeting.

Ms. Walsh expressed her appreciation to Port staff and stated they have been instrumental in working through the issues. Ms. Walsh stated additional park maintenance brings challenges to the City and thanked Mr. Arntzen for his willingness to bring the agreement to the Commission. The agreement will create some continuity and consistency to the development.

Mr. Arntzen stated the Port has the ability to maintain the trees and inquired if the Commission had any additional comments.

Commissioner Moak asked what the maintenance entails.

Mr. Arntzen stated maintenance will include watering, pruning, and basic maintenance and he believes the request is manageable from an operations perspective.

Commissioner Novakovich stated the City has done a lot of planning for Vista Field and believes maintenance of the trees is a reasonable request.

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Additionally, Mr. Arntzen and Ms. Walsh have been working on a policy for vibrancy for Columbia Gardens and Vista Field. It is imperative for the City and Port to create a plan for the developments that create vibrancy and help them become successful. Mr. Arntzen and Ms. Walsh have been discussing how the Port and City could collaborate to create vibrancy and will work on facilitating a plan for Columbia Gardens and then make any necessary revisions for implementing the plan at Vista Field. Mr. Arntzen stated the Port is an advertising sponsor for the Clover Island Inn Summer Concert Series and would like to emulate that process for Columbia Gardens. Mr. Arntzen would like to offer advertising assistance for Columbia Garden tenants in good standing and the City would provide logistical support for the events.

Ms. Walsh stated this is another example of our partnership and the City's economic development department can assist with graphic designs, work with downtown events to drive people to Columbia Gardens and coordinate events with the City's calendar system. By working together, the City and Port can expand our offerings for the Bridge to Bridge area and historic downtown area.

Commissioner Novakovich inquired if events at Columbia Gardens would be advertised on the City's website.

Ms. Walsh confirmed that the City would advertise events on the City website.

Commissioner Moak believes adding vibrancy to Columbia Gardens will set the development apart and it is important for the Port and City to continue our partnership and assist the tenants to encourage people to go to the development and believes this is a good course of action.

Commissioner Barnes agrees and stated the collaboration makes sense and is looking forward to seeing the end result.

Mr. Arntzen thanked Ms. Walsh for her willingness to assist the Port in this endeavor.

B. Endorsement Policy

Mr. Arntzen stated at the January 8, 2019 Commission Meeting, the Commission was updated on a request regarding a form letter from the group associated with RiverFest. The group drafted a joint community letter to Governor Inslee regarding the funding request for the Southern Resident Orca Task Force. The Commission voiced their concern of the timing of letter and potential unintended consequences and declined to sign the letter. Also, the Commission and staff discussed the usage of the Port logo and how it serves as an endorsement of the Port and Commission.

Mr. Arntzen presented a draft Community Endorsement Policy which outlines how the Port will consider requests from community members requesting the following: Port logo, name, signature or other branded materials. The policy summarizes how a person or entity will work with Mr. Arntzen or Ms. Bader Inglima or designated appointee on the request. The requestor will submit basic information, short and long term actions of the request and a statement explaining how the issue would affect the community and if the request meets the Port's mission. Mr. Arntzen asked for Commission comments regarding the draft Community Endorsement Policy.

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Commissioner Moak stated the Port previously drafted our own response regarding the shoreline reconveyance and would like to see that option reflected in the draft policy.

Commissioner Barnes agrees with Commissioner Moak and looks forward to reviewing the draft policy.

Commissioner Novakovich concurs and believes the Port should add review of a requestor's final draft letter after revision.

Mr. Arntzen stated if the Commission passes the policy and there will need to be some form of public notification that the Port is taking action. Mr. Arntzen proposed spending some time with our partners and explaining why this action is being considered, with transparency being the primary objective. Mr. Arntzen will place the Community Issues Endorsement Policy on a future Agenda and notify the public of possible action.

NEW BUSINESS

A. Release of Buyback Clause on a 2004 Land Sale; Resolution 2019-02

Ms. Hanchette received a request regarding approximately 5 acres near Vista Field, purchased by Jerry Ivy in 2004. Mr. Ivy is requesting that a restriction to the Statutory Warranty Deed allowing the Port to repurchase the property should the purchaser not develop the property within eighteen months of closing (May 18, 2004) be released. *"The grantee agrees to sell back the property to the grantor (Port) at an agreed upon appraised price to include any reasonable improvements to the property incurred by the grantee. However, in the event of unforeseeable circumstances that may cause delays passed the said eighteen month deadline to include, but not limited to delays in rezoning, financing and/or tenant negotiations, grantee shall have the option to negotiate terms. Any renegotiated terms shall be in writing."* Mr. Ivy is requesting the release of the restriction on the property so that he can move forward with a pending sale.

Mr. Arntzen stated the property was sold in 2004 and included the standard buyback clause. The Port has not exercised the buyback option and believes the value of the property is in excess of \$1,000,000.

Ms. Hanchette stated the assessed value of the property is \$1, 210,190 and is listed for sale at \$8.50 per square foot.

Mr. Arntzen stated there is no strategic value for the Port to repurchase this piece of property.

Commissioner Moak inquired if the Port is being asked to repurchase the property.

Mr. Arntzen stated the request is to remove the buyback clause so the owner can sell the parcel.

Ms. Luke stated this is standard language in the Port's purchase and sale agreements. Currently, a cloud exists on the title and needs to be cleared before the current transaction can proceed.

Commissioner Novakovich is in favor of removing the clause.

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Commissioner Barnes would like additional information on the details prior to approving Resolution 2019-02. Furthermore, because of the close proximity to Vista Field, he inquired if the potential property owner should work within the Port's Collaborative Design Agreement.

Commissioner Moak agrees with Commissioner Barnes' comments and stated it is important to look at the impacts on Vista Field and he is not ready to relinquish rights to the property without more consideration.

Commissioner Novakovich inquired if the Port does not agree to releasing the buyback clause, does the property owner have the ability to force the Port to purchase the property if we refuse to remove the clause.

Ms. Luke stated, from her perspective, the owner could not force the Port to purchase the property; however, he could start legal action to seek a declaration in court about whether given the number of years that have passed, is it still an enforceable agreement.

Commissioner Novakovich inquired if the property owner could bring legal action against the Port for a loss of income, if he were unable to sell the property.

Ms. Luke stated it is possible that the property owner could seek damages; however, given that he signed the contract to purchase under the specified conditions, it would be up to the court to award any kind of damages.

Commissioner Moak inquired if the buyback clause could transfer to the new owner.

Ms. Luke stated if the new owner wanted to accept the title with the cloud, they could.

Commissioner Barnes requested more time and information to understand the specific issue and look at potential alternatives. Commissioner Barnes stated the Port has a vested interest in what happens on this property.

Mr. Arntzen will provide additional information for the Commission.

REPORTS, COMMENTS AND DISCUSSION ITEMS

B. Columbia Drive Update

a. Phase 2A

Mr. Peterson stated Phase 2A is 99% complete and the remaining work that needs to be done includes: installation of lights and stucco on the block wall and installation of hand railings that connect the food truck plaza to trail. The contractor has requested a walk through with the City of Kennewick Public Works Department to review the water, sewer, and industrial sewer systems. The Port will then start the close out process and generate a punch list for substantial completion.

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b. Phase 2B

Mr. Peterson stated Phase 2B was advertised for bid on January 20, 2019 and bids are due on February 19, 2019 at 2:00 p.m. Approximately eight plan centers have signed up for the plans to share with members.

C. Vista Field

Mr. Peterson reported that Vista Field Infrastructure Phase 1A construction project was advertised for bid on January 20, 2019 and bids are due on February 21, 2019. Staff will bring the final results to the Commission at the February 26, 2019 Regular Commission Meeting. The project will include: roadway, utilities, pavement, lighting, landscaping, water feature, and parking lot improvements. Mr. Peterson emailed the Vista Field stakeholder list, to let them know that the project is out for bid, the basic timing of the project, and graphics. Mr. Peterson stated the project is estimated at \$5,400,000 excluding sales tax.

D. City of Richland Update

Mr. Arntzen recently met with Cindy Reents, City Manager for the City of Richland to discuss any issues of mutual concern. Additionally, Mr. Arntzen conveyed to Ms. Reents that the Commission, as part of Mr. Arntzen's established goals, was to create partnering plans with all of the jurisdictional partners. The discussion centered on what the partnership would look like over the next ten years. Mr. Arntzen outlined the process for identifying joint projects which would include public participation and defining a matrix for projects. Mr. Arntzen and Ms. Reents will discuss potential projects with staff, then meet again to narrow down the list. Then, staff will meet with elected officials to discuss potential projects and the process of moving forward. Mr. Arntzen conveyed to Ms. Reents that the Port is currently working on two major redevelopment projects and would rather look at smaller scaled projects that would not take ten years to develop, such as Spaulding Business Park. Mr. Arntzen inquired if the Commission is comfortable with the direction staff is proceeding with Richland.

Commissioner Moak stated at the Commission retreat in 2016, the Commission discussed Island View and he would like to see that added to the list of potential projects.

E. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

F. Non-Scheduled Items

1. Commissioner Novakovich welcomed Chuck Torelli, newest member of the Kennewick City Council and stated the Port looks forward to working with him.
2. Commissioner Moak thanked Mr. Torelli for attending today in his new capacity as Council Member.
3. Ms. Scott reported that the Congress for New Urbanism will be held this June in Louisville Kentucky and registration is open.

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4. Ms. Bader Inglima reported that the Port and City will have a booth at the Washington Winegrowers Convention and Tradeshow on February 12-14, 2019 and will be advertising the Columbia Garden parcels that will soon be available for sale or lease.
5. Mr. Arntzen welcomed Mr. Torelli and believes he will be a very valuable councilman. Mr. Arntzen stated previously Mr. Torelli sat on the Planning Commission and became very familiar with Vista Field and the Port's goals for redeveloping that area.

Mr. Arntzen reported that the Commission may have received a lunch invitation from Dr. Rebekah Woods, President of Columbia Basin College. Mr. Arntzen stated that sometimes the Commission is called upon to attend an event and simply because all three Commissioners are at the same function, does not mean it falls under the Open Public Meetings Act. Mr. Arntzen suggested the Commission attend the February 20, 2019 luncheon to receive information only.

Ms. Luke confirmed that attending an event is not considered a Public Meeting and recommended that they do not sit near each other or offer too much commentary on behalf of the Port.

6. Mr. Peterson reported that the City of Pasco recently went out for bid on roadway infrastructure and will open bids on February 5, 2019. This bid opening will serve as good review of prices for Vista Field Phase 1A.
7. Ms. Hanchette reported that the protective coating has been removed from the Latino Heritage Mural and that it looks great.

PUBLIC COMMENTS

Chuck Torelli, 3314 South Dennis Court, Kennewick. Mr. Torelli thanked the Commission and staff for their welcoming remarks and stated that he has been engaged in community activities for several years. Mr. Torelli stated the Port and City partnership has been great to watch, particularly with Columbia Gardens and Vista Field. The attitude between Port and City staff has been institutionalized and executed so well.

Terry Walsh, 2362 West 49th Avenue, Kennewick. Ms. Walsh stated that Barbara Carter has resigned from the Kennewick Arts Commission; however, Mr. Arntzen requested that Ms. Carter act as the art liaison between the Kennewick Arts Commission and the Port. Ms. Walsh stated anytime something comes up related to Port property, or the visual area connected to the Port, City staff will notify Ms. Carter.

Richard Reuther, 4302 Desert Street, Pasco. Mr. Reuther recently read the minutes from the January 8, 2019 Commission Meeting and expressed his dismay that the Port would not be selling lots at Vista Field until 2020. Mr. Reuther and his family had hoped they would be able to move into Vista Field this year.

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick believes staff needs to coordinate with the property owner and future purchaser regarding the buyback clause for the property at Vista Field. Because of the close proximity to Vista Field, some assurances should be made to the Port.

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On Sunday, February 3, 2019 at 3:00 p.m. at the Richland High School Auditorium, the Mid-Columbia Symphony will feature final works from Britten, Boulanger, and Haydn. The guest conductor is Justin Raffa and joining the symphony is soprano Molly Holleran and the Mid-Columbia Mastersingers Youth Choirs.

COMMISSIONER COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:47 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Thomas Moak, President

Don Barnes, Vice President

Skip Novakovich, Secretary



AGENDA REPORT

TO: Port Commission

FROM: Tana Bader Inglima, Deputy CEO

MTG. DATE: February 26, 2019

AGENDA ITEM NO.: Resolution 2019-04 Interlocal (Disbursement) Agreement with the City of Kennewick and Benton County Related to use of City's allocated Rural County Capital Funds as matching funds to the USACE's Clover Island 1135 Shoreline Transformation Project

I. REFERENCE(S): Port of Kennewick Resolutions 2017-32, 2017-23, 2016-10; and Regular Commission meeting minutes dated December 11, 2018 attached.

II. FISCAL IMPACT: N/A.

III. DISCUSSION: The Commission directed staff to seek funding partners to help make additional Clover Island improvements. To that end, on July 22, 2014 the Port Commission authorized port staff to contract with the US Army Corps of Engineers (USACE) on a Federal Cost Share Agreement (first phase) for an 1135 Program Feasibility Analysis. Then, on November 28, 2017, Commissioners indicated support for USACE's preferred Alternative 1 and authorized port staff to contract with the USACE for the Design and Construction (second phase) of the Clover Island project.

The 1135 program is a federal eco-system restoration and recreation partnership program which requires a 25% local match to the 75% federal dollars (50/50 for recreational elements). The Clover Island project is anticipated to be \$5 million in total with the federal share at \$3.5 million and local project sponsor at \$1.5 million.

Port staff secured a WA State Recreation & Conservation Office Aquatic Lands Enhancement Account Grant for \$500,000 toward the local match. And while the Port had initially budgeted for the remaining match, those monies were reprogrammed to Vista Field due to 1) the uncertainty regarding timing of the 1135 project; 2) a need to ensure adequate funding for Vista Field phase one; and 3) an Interlocal Agreement with City of Kennewick secured their commitment to support Clover Island shoreline restoration with \$1,000,000 from a portion of their rural county capital funds. Both the ALEA grant and the Rural County Capital Fund are reimbursement monies provided upon documentation of allowable project expenditures.

In December 2018, Port and City staff submitted a joint application to Benton County asking that \$1 million of the City of Kennewick's rural county capital funds be allocated to the Port of Kennewick to use for the Clover Island 1135 Shoreline Transformation Project. The Benton County Rural County Capital Funds grant committee is recommending that the County fully fund that request. The Disbursement Agreement before you today is considered an Interlocal

Agreement, which must be brought to Commissioners. Benton County staff asked that the City and Port sign the document first so it is ready to present at their March 5, 2019 Commission Meeting. The City has already signed the document indicating their commitment.

IV. STAFF RECOMMENDATION: Approve Resolution 2019-04, adopting the Interlocal (Disbursement) Agreement with Benton County and City of Kennewick related to use of rural county capital funds for the Clover Island 1135 Shoreline Transformation Project.

V. ACTION REQUESTED OF COMMISSION: *Motion: I move approval of Resolution 2019-04, adopting the Interlocal (Disbursement) Agreement with Benton County and City of Kennewick related to the Clover Island 1135 Shoreline Transformation Project and authorize the Port's Chief Executive Officer to execute this Interlocal Agreement; and all documents necessary to implement the federal cost share agreement with the US Army Corps of Engineers.*

PORT OF KENNEWICK

RESOLUTION 2019-04

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK APPROVING AN INTER-LOCAL (DISBURSEMENT) AGREEMENT WITH BENTON COUNTY AND CITY OF KENNEWICK RELATED TO SECURING RURAL COUNTY CAPITAL FUNDS FOR THE USACE 1135 CLOVER ISLAND SHORELINE TRANSFORMATION

WHEREAS, the Port is working with the Army Corps of Engineers to move the Clover Island 1135 Shoreline project forward; and

WHEREAS, City of Kennewick has determined they would like to partner on the project and realizes the benefit the project will have to the entire City; and

WHEREAS, Benton County and City of Kennewick have agreed to utilize \$1,000,000 from the City of Kennewick's allocation of Rural County Capital Funds to support the shoreline improvements; and

WHEREAS, this collaboration serves the public interest by leveraging county, city, state and federal funds for significant economic benefit; and

WHEREAS, the attached disbursement agreement has been reviewed by Port legal counsel.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Port of Kennewick hereby adopts the attached Disbursement Agreement between the Port of Kennewick, City of Kennewick and Benton County related to Rural County Capital Funds for Clover Island Shoreline Transformation, and authorizes the Port's Chief Executive Officer to execute the agreement and instructs the CEO to take all action necessary to implement such agreement.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 26th day of February, 2019.

***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***

By:

THOMAS MOAK, *President*

By:

DON BARNES, *Vice President*

By:

SKIP NOVAKOVICH, *Secretary*

DISBURSEMENT AGREEMENT FOR USE OF RURAL COUNTY CAPITAL FUNDS

This Agreement, among and between Benton County (hereinafter “County”), the City of Kennewick (hereinafter “City”), and the Port of Kennewick (hereinafter “Port”), shall be effective upon execution by all parties.

WHEREAS, the County has previously agreed to distribute certain funds received from the State of Washington that it has deposited in its Rural County Capital Fund (hereinafter “Fund”) after April 1, 2016 for the financing of certain “public facilities [projects] serving economic development purposes” as contemplated by State statute (RCW 82.14.370) and in conformance with County policy (Resolution 2017-103, adopted January 31, 2017); and

WHEREAS, 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; and

WHEREAS, the Port owns property in the City that it desires to develop for economic development purposes; and the City agrees to the use by the Port of a portion of the Fund that would otherwise be available for a City project for construction related to the development of the Port property in return for the expected business, tourism, and job creation that will be stimulated by the project and its benefits to the City; and

WHEREAS, the Port’s economic development project referenced above is known as “Clover Island Shoreline Transformation”, and consists of the Port’s improvement of public infrastructure and preparation of commercial building sites in the form of shoreline stabilization, extension of certain utilities, construction of trails, installation of drainage infrastructure, and landscaping to support the shovel-ready preparation of three parcels totaling 3.24 developable and marketable acres shown in the aerial photograph in Exhibit A (the “Project”), for food service, lodging, tourism, and other related businesses; and

WHEREAS, the Project will develop underused but high-value riverfront property on Clover Island and near the upgraded Columbia Gardens area and downtown Kennewick for use by new businesses, and is expected to result in over 140 permanent jobs and positively impact sales, B&O, and property tax revenues; and

WHEREAS, the subject properties referenced herein are currently unbuildable because they are encumbered by the degraded and unstable shoreline in certain areas of Clover Island that needs to be remedied through the Project before the Port will be allowed to develop the properties; and

WHEREAS, the City has agreed to assign \$1,000,000.00 from its allocation of the Fund to the Port for this Project; and

NOW THEREFORE, in consideration of the mutual covenants, conditions, and terms contained herein, the County, the City, and the Port mutually agree to the following:

1. The City agrees to assign up to \$1,000,000.00 of its allocation from the Fund to the Port so that the Port may be reimbursed for expenses the Port incurs for expenses related to the Project.
2. Based on the above assignment and the Port's request for reimbursement from its allocation, the County agrees to reimburse the Port for up to \$1,000,000.00 of qualified direct costs incurred by the Port for the Project *after* the execution of this Agreement; contingent upon funds being available in the City's allocation, and that each reimbursement is consistent with the County's Rural County Capital Fund Disbursement Policy.
3. The Port and City represent that the use of said Fund for the Project is consistent with RCW 82.14.370.
4. The Port agrees to use all funds allocated by this Agreement solely for the purpose of financing the Project and warrants that all expenditures by the Port for which it seeks reimbursement will comply with RCW 82.14.370.
5. The anticipated disbursement schedule is attached hereto as Exhibit B. The parties agree that funds will be disbursed only as reimbursement for actual, direct costs incurred by the Port in connection with the Project. The Port will keep the County informed of any changes to the schedule as the Project progresses.
6. The Port shall invoice the County at the end of each calendar month for all Project costs incurred by the Port in the prior month that are eligible for and for which reimbursement is sought. All invoices shall be mailed to the County at the following address:

Benton County Commissioners Office
ATTN: Sustainable Development Manager
7122 West Okanogan Place
Kennewick, Washington 99336
7. All approved reimbursement payments will be made via check mailed directly to the Port at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.
8. The Port and the City shall not hold the County liable for any delay in disbursements, but the County agrees to use its best efforts to make appropriate disbursement payments to the Port in a reasonably timely fashion.
9. The Port shall be responsible for establishing policies for implementing this Agreement, monitoring progress of the Project, and monitoring the fulfillment of the Parties' responsibilities under the Agreement. In addition to other responsibilities set forth in this Agreement, the Port and the City are responsible for following applicable bid and prevailing wage law policies and procedures when awarding bids for the Project contemplated by this Agreement.
10. The Port agrees to provide the County and the City with a monthly report along with each invoice outlining the status of the Project, including a spreadsheet detailing all costs being reimbursed by the County.
11. If Rural County Capital Funds are applied toward non-eligible expenditures, the County may cease all disbursements until the Port has repaid to the Fund all monies inappropriately expended.

12. 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 by the Port with the Benton County Auditor.
13. It is not the intention that a separate legal entity be established with respect to the Project, nor is the joint acquisition, holding, or disposing of real or personal property anticipated.
14. The Port and City agree to indemnify the County from and against any claims, actions, losses, costs, penalties, damages, attorneys' fees, and all other liabilities and costs of defense of any nature arising out of the County's agreement to disburse Funds under this Agreement.
15. The Port shall not have the right to assign the rights under this Agreement nor to terminate its obligations hereunder without first securing the written consent of the County and the City.

Remainder of page left blank.

16. This Agreement shall terminate and the County's obligation to disburse funds under this Agreement shall cease at any time that any aspect of the Project falls twelve (12) months or more behind the schedule set forth in Exhibit B. In such case, the County's rights under this Agreement shall continue, but the County may use the funds previously allocated under this Agreement for any purpose allowable under state law. The County will make a good faith effort to notify the Port whenever it believes any aspect of the Project is six (6) months or more behind schedule; provided that maintaining the Project on schedule is the Port's responsibility and the Port shall have no recourse against the County if such notice is not provided.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date signed below.

BENTON COUNTY

Shon Small, Chairman
Board of Commissioners

Date: _____

ATTEST:

Clerk to the Board

APPROVED AS TO FORM:



Deputy Prosecuting Attorney

PORT OF KENNEWICK

Tim Arntzen, Chief Executive Officer

Date: _____

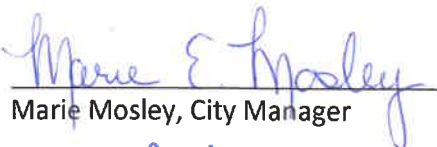
ATTEST:

Chief Financial Officer & Auditor

APPROVED AS TO FORM:

Lucinda J. Luke, Port Counsel


CITY OF KENNEWICK



Marie Mosley, City Manager

Date: 2-21-2019

ATTEST:



Terri L. Wright, City Clerk
Christina Palmer, Deputy City Clerk

EXHIBIT A

PROJECT AREA

The Project work will be completed in and upon the three shaded areas totaling 3.24 acres on the west end (left side) of the map below labeled “NW Corner 1.62 acres”, “Notch 0.92 acres”, and “Gathering Place 0.70 acres”, respectively; and not including the fourth shaded area on the east end (right side) titled “Clover Island Inn 2.38 acres”.

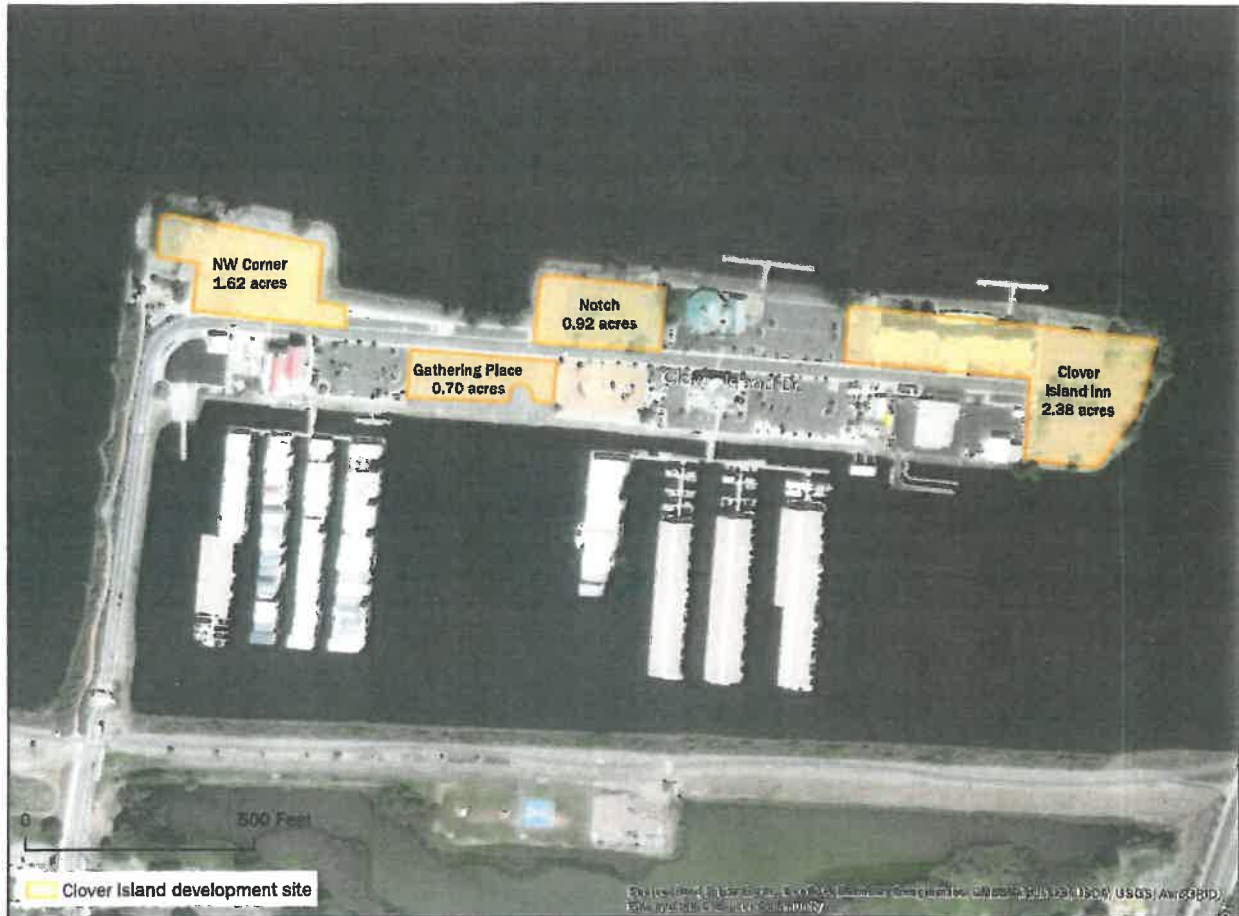


EXHIBIT B

ESTIMATED PROJECT COMPLETION AND FUND DISBURSEMENT SCHEDULE

Projected schedule and expenses, in dollars. Disbursement schedule is depicted quarterly through the middle of 2021.

CLOVER ISLAND SHORELINE TRANSFORMATION CONSTRUCTION & DISBURSEMENT SCHEDULE					
PROJECT PHASES	DISBURSEMENT				
	2020		2021		TOTAL
	06/01 - 09/30	10/01 – 12/31	01/01 – 03/31	04/01 – 06/30	
Construction (Shoreline Stabilization & Restoration)	\$250,000	\$400,000			\$650,000
Extension of Utilities		\$100,000			\$100,000
Drainage, Site Preparation, & Landscaping			\$150,000		\$150,000
Construction (Trail)				\$100,000	\$100,000
RCCF Contribution	\$250,000	\$500,000	\$150,000	\$100,000	\$1,000,000

PORT OF KENNEWICK

Resolution No. 2016-10

A RESOLUTION OF THE PORT OF KENNEWICK BOARD OF COMMISSIONERS AUTHORIZING APPLICATION FOR FUNDING ASSISTANCE FOR AN AQUATIC LANDS ENHANCEMENT ACCOUNT (ALEA) PROJECT FOR THE CLOVER ISLAND SHORELINE TO THE RECREATION AND CONSERVATION OFFICE (RCO) AS PROVIDED IN RCW 79.90.245 AND SUBSEQUENT LEGISLATIVE ACTION

WHEREAS, the Port of Kennewick has approved a comprehensive plan that includes this project area; and

WHEREAS, under the provisions of ALEA, state funding assistance is requested to aid in financing the cost of facility development; and

WHEREAS, the Port of Kennewick considers it in the public's best interest to complete the facility development project described in the application.

NOW, THEREFORE, BE IT RESOLVED that:

- *The Chief Executive Officer of the Port of Kennewick be authorized to make formal application to the Recreation and Conservation Office for funding assistance for habitat restoration, erosion control, riparian plantings, and shoreland and recreational improvements on Clover Island's North Shoreline;*
- *Any fund assistance received be used for implementation of the project referenced above;*
- *Our organization hereby certifies that its share of project funding will be derived from the Port of Kennewick construction funds and/or any other grant funding Port Staff are able to leverage;*
- *We acknowledge that we are responsible for supporting all non-cash commitments to the sponsor share should they not materialize;*
- *We are aware that the grant, if approved, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid and remitted to our vendors, and that the Recreation and Conservation Office will hold retainage until the project is deemed complete;*
- *We acknowledge that any property acquired or facility developed with financial aid from the Recreation and Conservation Funding Board (RCFB) must be placed in use for the funded purpose, and be retained in such use in perpetuity unless otherwise provided and agreed to by our organization and RCFB;*

PORT OF KENNEWICK

Resolution No. 2016-10

Page 2

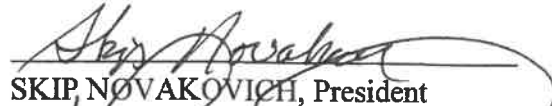
- *This resolution becomes part of a formal application to the Recreation and Conservation Office; and*
- *We provided appropriate opportunity for public comment on this application.*

This resolution shall be effective immediately upon passage and signature by the Port of Kennewick Commissioners.

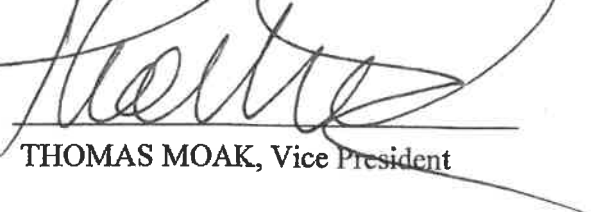
ADOPTED by the Board of Commissioners of Port of Kennewick this 8th day of March, 2016 located at Clover Island in Kennewick.

PORT OF KENNEWICK
BOARD OF COMMISSIONERS

By:


SKIP NOVAKOVICH, President

By:


THOMAS MOAK, Vice President

By:


DON BARNES, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2017-23

A RESOLUTION OF THE PORT OF KENNEWICK BOARD OF COMMISSIONERS SUPPORTING THE U.S. ARMY CORPS OF ENGINEERS 1135 PROGRAM *CONSTRUCTION PLAN* FOR CLOVER ISLAND SHORELINE IMPROVEMENTS

WHEREAS, the Port Commission desires to leverage Port funds with partners on additional Clover Island improvements; and to that end on July 22, 2014 the Port Commission authorized port staff to contract with the U S Army Corps of Engineers (USACE) on a Federal Cost Share Agreement for an 1135 Program Feasibility Analysis; and

WHEREAS, the USACE deemed the Clover Island's Ecosystem Restoration Project to have a Federal Determination of Significance; prepared a report of alternatives; completed public review and comment sessions; and identified their recommended plan (Alternative 1); and

WHEREAS, Port of Kennewick must indicate formal support before the USACE will begin detailed Design & Construction planning, including the pre-design survey work (Hydrology, bathymetry, and Geotech engineering).

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick do hereby indicate support for Alternative 1.

BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners does hereby authorize the Port's Chief Executive Officer to execute all documents necessary to implement the Federal Cost Share Agreement with the Department of Army for *Design and Construction* of the Clover Island Section 1135 Project; with the understanding that following evaluation of the pre-design survey data, should Alternative 1 be determined to not be in the best interest of the Port District, the Port's CEO will return the project to the Port Commission for further direction.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 28th day of November, 2017.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By:


SKIP NOVAKOVICH, President

By:


THOMAS MOAK, Vice President

By:


DON BARNES, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2017-32

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK AUTHORIZING CEO TO SIGN AN INTERLOCAL AGREEMENT WITH THE CITY OF KENNEWICK REGARDING COLUMBIA GARDENS WINE VILLAGE PHASE II-B DEVELOPMENT; CLOVER ISLAND AND PHASE I VISTA FIELD DEVELOPMENT

WHEREAS, the Port of Kennewick and City of Kennewick are working to advance progress related to the Port of Kennewick's Columbia Gardens, Clover Island, and Vista Field, all located in City of Kennewick; and

WHEREAS, the City of Kennewick has approved an Interlocal Agreement whereby they would provide \$200,000 in funding for Columbia Gardens Phase II-B, and \$1M to support Clover Island Shoreline Improvements to leverage Port funding for Vista Field Phase I development; and

WHEREAS, this partnership will redevelop an economically distressed area of Columbia Drive, revitalize Clover Island; ensure a meaningful initial infrastructure investment at Vista Field; and

WHEREAS, the port and city recognize that successful and timely redevelopment of Columbia Gardens, Clover Island, and Vista Field benefits the economic and social welfare of the city, county, and the surrounding region; and represents an opportunity for the citizens of Kennewick and Port District; and

WHEREAS, this agreement serves the public interest by leveraging the port and city's previous investments and collaborative efforts at Clover Island, Columbia Gardens, and Vista Field.

NOW, THEREFORE; BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves the attached Interlocal Agreement between Port of Kennewick and City of Kennewick; and authorizes the Port's Chief Executive Officer to execute the Agreement and instructs the CEO to take all action necessary to implement such Agreement including amending the 2017-2018 capital budget to reflect this change.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 12th day of December, 2017.

PORT OF KENNEWICK BOARD OF COMMISSIONERS

By: 
SKIP NOVAKOVICH, President

By: 
THOMAS MOAK, Vice President

By: 
DON BARNES, Secretary

PORT OF KENNEWICK REGULAR COMMISSION MEETING

DECEMBER 11, 2018 MINUTES

County Fire District #4 and to take all other action necessary to close this transaction; Commissioner Barnes seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Clover Island Update*

Ms. Bader Inglima updated the Commission on the 1135 US Army Corps of Engineers project. The Port recently completed the bathymetry review on the shoreline, to answer the question of which alternative to pursue. The report points to alternative #1, which would install more armory along the shoreline, additionally, the report is considered as in-kind and will be credited towards the Port's match. The USACE has evaluated the report and it does not look like the material costs have changed. John Fetterolf evaluated the report as well and concluded that alternative #1 is the best option to pursue. Based on that information, staff and the City submitted a joint application to Benton County, for Rural Capital County Funds (RCCF) to pursue a partnership with the USACE and leverage federal dollars. Ms. Bader Inglima reported that the application has been submitted and Benton County anticipates reviewing it in January.

Commissioner Novakovich inquired if the USACE has a timeline for construction.

Ms. Bader Inglima stated that the Port and City need to work through RCCF application to determine whether we have our match in place, in addition to the State RCO grant funds. Those factors will determine when USACE moves forward.

B. *Columbia Drive Update*

Mr. Peterson reported on the construction of Columbia Gardens Phase 2A and the future development.

Commissioner Moak inquired when the joint use parking lot will be constructed.

Mr. Peterson stated the wine tasting building and parking lot will be bid and constructed together. The area for the parking lot will be used as lay down yard and then paved once the building is completed.

Commissioner Moak inquired when the vacant parcels will be marketed for sale.

Mr. Peterson stated because of the sequencing of the project and construction on the site, the properties can be marketed after the wine tasting building is complete.

Ms. Hanchette stated staff plans to work through the construction process and once lots are identified, staff can start marketing the parcels. Ms. Hanchette has had several conversations with people who have expressed interest in the property and continues to update them. Once construction is completed and the boundaries lines and price have been established, the Port can market the parcels for sale.

Mr. Peterson stated there will be nine parcels available and those should be recorded by mid-February.