

The Governor's proclamation 20-28 regarding the Open Public Meetings Act and Public Records Act temporarily prohibits in-person public attendance at meetings subject to the OPMA.

A GoToMeeting will be arranged to enable the public to listen and make public comments remotely.

To participate remotely, please use the following call-in information:

Via GoToMeeting 1-866-899-4679, Access Code: 525-329-005

## **AGENDA**

### ***Port of Kennewick***

#### ***Regular Commission Business Meeting***

*Port of Kennewick Commission Chambers (via GoToMeeting)  
350 Clover Island Drive, Suite 200, Kennewick, Washington*

May 25, 2021

2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- VI. OLD BUSINESS**
  - A. Reimbursement of Legal Fees; Resolution 2021-08 (NICK/Steve DiJulio)
  - B. Kennewick Historic Waterfront District (LARRY)
- VII. CONSENT AGENDA A**
  - A. Approval of Direct Deposit and ePayments Dated May 18, 2021
  - B. Approval of Warrant Register Dated May 25, 2021
  - C. Approval of Regular Commission Meeting Minutes May 11, 2021
- VIII. CONSENT AGENDA B**
  - A. Approval of Warrant Register Dated May 25, 2021 (Reimbursement of Legal Fees)
- IX. EMERGENCY DELEGATION UPDATE** (TIM/AMBER)
- X. RECESS**

## AGENDA

*Port of Kennewick*  
*Regular Commission Business Meeting*  
May 25, 2021  
Page 2

### **XI. REPORTS, COMMENTS AND DISCUSSION ITEMS**

- A. Senator Cantwell Appropriations Request (TANA)
- B. Finley Twin Tracks (Pronghorn / JMAC) Property Update; Resolution 2021-09 (AMBER)
- C. Interlocal Agreement with City of Kennewick re: Washington Street; Resolution 2021-10 (NICK)
- D. East Kennewick/Verbena Auction (AMBER)
- E. Governance Audit Update (TIM)
- F. Commission Meetings (formal and informal meetings with groups or individuals)
- G. Non-Scheduled Items  
(LISA/BRIDGETTE/TANA/NICK/AMBER/LUCINDA/TIM/TOM/SKIP/DON)

### **XII. PUBLIC COMMENT** *(Please state your name and address for the public record)*

### **XIII. EXECUTIVE SESSION**

Real Estate, Minimum Price, per RCW 42.30.110(1)(c)

*(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)*

### **XIV. ADJOURNMENT**

***PLEASE SILENCE ALL NOISE MAKING DEVICES***





## AGENDA REPORT

**TO:** Port Commission

**FROM:** Nick Kooiker, CFO

**MEETING DATE:** May 25, 2021

**AGENDA ITEM:** Legal Fees Reimbursement (Don Barnes)

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- I. REFERENCE(S):** Resolution 2021-08  
3/22/2021 Stephen DiJulio Legal Memorandum (Exhibit A)  
4/12/2021 Stephen DiJulio Legal Memorandum (Exhibit B)  
4/28/2021 Stephen DiJulio Legal Memorandum (Exhibit C)  
5/12/2021 Stephen DiJulio Legal Memorandum (Exhibit D)  
Application/ Invoices? (Exhibit E)  
4/13/2021 Meeting Minutes (excerpt) (Exhibit F)
- II. FISCAL IMPACT:** \$48,815.25
- III. DISCUSSION:** On April 13, 2021, the Commission approved by motion to reimburse legal fees to Commissioner Don Barnes in the amount of \$49,282.75. The Port received the invoices and legal memorandum supporting payment from Steve DiJulio on April 28, 2021. As presented during the May 11, 2021 Commission Meeting, the invoices submitted to the Port CFO only supported an amount of \$47,990.25 due to redactions on invoices. At the direction of the Port Commission, the Port CFO sought advice and certification from the Port's legal counsel Stephen DiJulio on the issue. Mr. DiJulio spoke with Commissioner Barnes' personal attorney and certified a reduced amount based upon their discussions. The new modified amount is \$48,815.25, based on recommendation from the Port's legal counsel. The Port CFO has prepared a new check for approval by the Port Commission.
- IV. RECOMMENDATION:** Approve Resolution 2021-08 before releasing payment.
- V. ACTION REQUESTED OF COMMISSION:**  
**Motion:** *I move approval of Resolution 2021-08, authorizing the reimbursement of legal fees to Don Barnes in the amount of \$48,815.25.*



# ***PORT OF KENNEWICK***

## **RESOLUTION No. 2021-08**

### ***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK RELATING TO DEFENSE OF OFFICIALS IN ACTIONS ARISING FROM THE PERFORMANCE OF THEIR OFFICIAL DUTIES; AUTHORIZING THE REIMBURSEMENT OF LEGAL EXPENSES INCURRED BY COMMISSIONER DON BARNES***

**WHEREAS**, State law requires municipalities, including ports, to provide legal counsel at public expense to defend officials in suits arising from the performance of their official duties. RCW 4.96.041(1). The Port carries forward these directives through provisions of the Port Commission Rules of Policy and Procedure (“Rules”), at Section 18; and

**WHEREAS**, application to the Port was made by Commissioner Don Barnes for reimbursement of legal fees relating to defense of an action arising from his service as a Port Commissioner; and

**WHEREAS**, under State law and Port policy, the Board is vested with the discretionary authority to determine the reasonableness of the attorney fee application; and

**WHEREAS**, the Port sought review of the application by outside legal counsel; and

**WHEREAS**, the Port requested and received correspondence from outside counsel of March 22, 2021 (Exhibit A), April 12, 2021 (Exhibit B), April 28, 2021 (Exhibit C), and May 12, 2021 (Exhibit D), including review and analysis of detailed billing statements (Exhibit E) submitted in support of the application, relating to and in response to the Port’s review of the application for legal fees; and

**WHEREAS**, during the April 13, 2021 Commission meeting, the Board of Commissioners (“Board”) approved by motion the reimbursement of legal expenses to Don Barnes in the amount of \$49,282.75 (Exhibit F); and

**WHEREAS**, the Board of Commissioners understands the Port CFO/Auditor has reviewed the invoices presented, but can only account for \$47,990.25 of invoices that are unredacted (see Washington State BARS Manual section 3.1.4.10); and

**WHEREAS**, outside counsel has examined the redacted invoice entries and represented and recommended to the Board the reasonableness or rejection of such redacted invoice entries (see Exhibit D); and

**WHEREAS**, pursuant to Washington State BARS Manual section 3.8.5.30, “The certification by the auditing officer in no manner relieves members of the governing body from the responsibility and liability for each voucher approved; and

**WHEREAS**, the Board has reviewed and considered the materials referenced herein, and exercises its discretion consistent therewith.

**NOW, THEREFORE, BE IT RESOLVED** the Port of Kennewick Commissioners authorize the Port Chief Financial Officer to disburse funds in the amount of \$48,815.25, based upon recommendation by outside counsel and the Board's review of the application.

**BE IT FURTHER RESOLVED** that all action by Port officers and employees in furtherance hereof is ratified and approved; and further, the Port Chief Executive Officer and CFO/Auditor are authorized to take all action necessary in furtherance hereof.

**ADOPTED** by the Board of Commissioners of Port of Kennewick this 25th day of May 2021.

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

By: \_\_\_\_\_

DON BARNES, *President*

By: \_\_\_\_\_

SKIP NOVAKOVICH, *Vice President*

By: \_\_\_\_\_

THOMAS MOAK, *Secretary*



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Direct Phone: 206.447.8971  
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[steve.dijulio@foster.com](mailto:steve.dijulio@foster.com)

March 22, 2021

Lucinda Luke  
General Counsel  
Port of Kennewick  
350 Clover Island Drive  
Kennewick, WA 99336  
By email to: [luke@carneylaw.com](mailto:luke@carneylaw.com)

Re: Defense of Board Members in Investigative Proceedings

Dear Ms. Luke:

The Port of Kennewick ("Port") requested our analysis and comment on the Port's rights and responsibilities with respect to providing legal defense to a Port Commissioner, and the payment of attendant attorney fees. We address these issues in greater detail as follows.

## Background

The Port operates under Washington law, including Title 53 RCW. The Port is a municipal corporation with only those powers expressly granted by the legislature; those necessarily or fairly implied in or incident to the powers granted; and, those essential to the declared objects and purposes of a Washington port district. *1959-60 AGO No. 51*. The Board of Port Commissioners ("Board") is the Port's legislative authority. In addition to other authority, the Board may employ and delegate authority to a managing official. Under RCW 53.12.270

The commission may delegate to the managing official of a port district such administrative powers and duties of the commission as it may deem proper for the efficient and proper management of port district operations. Any such delegation shall be authorized by appropriate resolution of the commission, which resolution must also establish guidelines and procedures for the managing official to follow.

Consistent with this statutory authority, the Board adopted resolutions delegating powers and duties to the position of Port Executive Director. *See, e.g., Resolution 2018-26.*

March 22, 2021  
Page 2

Additionally, among the implied powers of Washington port districts is the authority to employ attorneys, whether as employees or outside counsel. That authority includes the expenditure of funds for necessary attorneys' fees. *1959-60 AGO No. 51* (1951).

### **Legal Defense of Port Officials**

State law requires municipalities, including ports, to provide legal counsel at public expense to defend officials in suits arising from the performance of their official duties. RCW 4.96.041 (1). And, in some circumstances, that obligation is mandatory. RCW 4.96.041 (2) states:

If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

The Port carries forward these directives through provisions of the Port Commission Rules of Policy and Procedure (“Rules”), at Section 18.

We understand that a Port commissioner filed a complaint against other commissioners under Port Rules at Section 5. We did not consult with the Port on these issues at the time. And, we have not consulted on the substance of the complaint or subsequent investigation (conducted by other legal counsel) and hearings. We subsequently provide separate counsel to the Port with respect to procedural aspects of the complaint and subsequent investigation, including Public Records Act issues and the Port’s production of records relating to the process.

Following a determination of commissioner wrongdoing (a violation of the Port’s Rules) by an independent investigator, one commissioner challenged that determination. Under the Port’s Rules, a hearing officer (a retired judge) was appointed, and a hearing conducted. The hearing officer concluded that the evidence did not show the commissioner committed sanctionable misconduct. That commissioner has now sought payment of his attorney fees incurred in the investigation and hearing process arising out of the complaint. The Board has not yet approved the payment of those fees. In the following we discuss the Port’s obligations and risks associated with these present issues.

### **Analysis**

In our evaluation of these issues, it appears the commissioner may have been subject to an “action or proceeding” as that phrase is used in RCW 4.96.041 (1). However, Rule 5.11 creates an ambiguity by stating:

March 22, 2021  
Page 3

The Port shall not indemnify or defend any commissioner charged with misconduct except as provided under Section 18.

The Port's Rules otherwise recognize the defense of claims against a Port officer or employee. The Rules at Section 18 state:

As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port.

Rules at Section 18.1.

We do not see an exception to the obligation to reimburse the commissioner's attorney fees (at the rate that would have been authorized by the Port's General Counsel under Rule 18). Note that an investigation of a complaint regarding a commissioner's conduct may arise internally or externally. There is no basis for a distinction arising because this matter arose internally at the Port.

As a result, the Port's Rules state that approval of defense services requires Board review and approval:

The determination whether an official or employee shall be afforded a defense by the Port under the terms of this chapter shall be made after a determination pursuant to **Section 18** as to whether the official or employee was acting within the scope of his or her duties. The CEO [Executive Director] and Port legal counsel shall prepare a recommendation to the Commission. The decision of the Commission shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter.

Rules, at Section 18.7. We are not aware of any suggestion that the conduct giving rise to the investigation did not relate to Port activities. The Hearing Officer stated: "substantial evidence does not overcome the presumption that Commissioner Barnes acted ethically and in the Port's best interests when he contacted both DPZ and the State Auditor's Office." As a result, it appears that Rules Section 18 applies and the commissioner's attorney fees may be recoverable upon approval by the Board.

## **Conclusion**

The Port's policies may be seen as ambiguous regarding the application of responsibility for assignment of legal counsel to officers and employees and for the payment of attorney fees. However, upon a finding by the Board of the commissioner acting in good faith and within the scope of his duties, the attorney fee claim may be recognized.

We have not considered and do not comment in this analysis on the reasonableness of the requested fees. We do note that the amount of fees sought, and the lack of detail provided, does not

March 22, 2021  
Page 4

provide the foundation that courts employ in approving attorney fee awards. For example, the actual narrative of work performed to support the fee claim is considered by courts in attorney fee applications.

Here, that would be a separate analysis (audit) that should be undertaken by the Port if the request for fees be approved by the Board.

We trust the foregoing is responsive to the Port's inquiry. Please advise if we may be of further assistance in this regard.

Sincerely,

FOSTER GARVEY PC

A handwritten signature in blue ink, appearing to read "P. Stephen DiJulio".

P. Stephen DiJulio  
Principal



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April 12, 2021

Board of Port Commissioners  
Port of Kennewick  
350 Clover Island Drive  
Kennewick, WA 99336  
By email to: [luke@carneylaw.com](mailto:luke@carneylaw.com)

Re: Defense of Board Members in Investigative Proceedings and Attorney Fees

Dear Commissioners:

The Port of Kennewick ("Port") earlier requested our analysis on the Port's responsibilities with respect to providing certain legal defense to a Port Commissioner, and the payment of attendant attorney fees. By correspondence dated March 22, 2021, we addressed the issue. We concluded that the Port may approve the reimbursement of reasonable attorney fees under the circumstances of that request. We did not evaluate or advise on the reasonableness of the requested attorney fee reimbursement. Subsequently, more detailed billings records for the legal services were submitted. The Port asks for our recommendation on the reasonableness of fees.

## Background

I have previously defended against and asserted claims for attorney fees in the state's courts, including for actions originating within Benton County (for Benton County and others). I have provided expert attorney fee declarations in support of and in opposition to fee claims. For example, I provided expert testimony for the Port of Friday Harbor that was relied upon by a superior court in approving a specific fee request against that Port.

## Standard

We have considered this matter under the standards applied by Washington state courts, the "lodestar" method, to determine the amount of attorney fee awards.

The lodestar method is the starting point for fee calculations. The lodestar fee is determined by multiplying the hours reasonably expended in the litigation by each lawyer's reasonable hourly rate of compensation. *Bowers v. Transamerica Title Ins. Co.*, 100 Wn.2d 581, 597 (1983). The burden of demonstrating that a fee is reasonable is on the fee applicant, who must provide documentation

sufficient “to inform the court, in addition to the number of hours worked, of the type of work performed and the category of attorney who performed the work.” *Scott Fetzer Co. v. Weeks*, 122 Wn.2d 141, 151 (1997) (“*Fetzer II*”) (internal citation and quotations omitted).

Here, the requesting Commissioner accordingly carries the initial burden of proof to demonstrate that the fees requested are reasonable and not excessive.

Also under Washington law, the reasonableness of rates depends on the prevailing market rates in the relevant community given the experience, skill, and reputation of the attorney. *Wilbur v. City of Mount Vernon*, Case No. 2:11-cv-01100-RSL (W.D. Wash. April 15, 2014). The “relevant community” is typically the forum in which the court sits. *Id.*; see also *Van Skike v. Dir., Office of Workers’ Comp. Programs*, 557 F.3d 1041, 1046 (2009). The Port therefor should evaluate this under Benton County (or, the Tri-Cities) standards.

## **Review**

Initially, we were provided the March 8, 2021 letter request for fees received by the Port from the firm of Miller Mertens and Comfort PLLC and attorney Joel Comfort (collectively, “Comfort”) providing a summary of billings and requesting reimbursement for fees of \$50,729.85. On March 26, 2021, we received detailed and redacted invoices from the firm Rettig Forgette Iller and Bowers LLP and attorney Francis Forgette (collectively, “Forgette”), and from Comfort. The Forgette billings covered the period May 2019 through August 14, 2019, and total \$2,986. The Comfort billings cover the period August 16, 2019 to March 2021, and total \$48,166.75.

There is no explanation for the discrepancy between the requested amount of \$50,729.85 and the total of the Forgette and Comfort billings of \$51,152.75.<sup>1</sup> But as discussed below, we do not find that difference to be material.

## **Analysis**

First we note that the hourly rates for the attorneys (Forgette at \$300; Comfort at \$275) do not appear inconsistent with local attorney fee standards. But in evaluating the hours reasonably expended, we find no explanation for the work of two firms, or the relationship or transition of work between the firms. Or, there was duplicated effort in addressing issues early in the process. Whether this is discounting of the Forgette billings, or the Comfort billings, we conclude the starting point of the analysis is the amount of \$48,166.75 – the total of the Comfort billings provided to us for review.

In our review of the Comfort invoices, there is substantial time shown as spent on requests under the Public Records Act, Chapter 42.56 RCW (“PRA”). Such attorney fees normally are not recoverable under the PRA, absent legal action to enforce the PRA. However, we recognize that PRA requests regularly substitute for the discovery process in contested proceedings involving public agencies. As a

<sup>1</sup> March 2021 total is identified as “work in progress” and is an estimated amount.



result, we have evaluated the Comfort invoices to determine whether the extent of that PRA process is consistent with discovery processes in civil litigation. That is, in relation to the proceeding, was the discovery effort reasonable to address the appeal hearing? Or, was such effort excessive and more related to multiple PRA requests? Our conclusion is that most of that work was directly related to the hearing process.

Additionally, we reviewed the details of the Comfort invoices that show time entries for issues that do not appear reasonably related to or material to the hearing. Those include entries on October 8 (1.4) and October 9 (1.3 of 2.6) relating to Arntzen litigation issues; October 14, 2019 regarding “Bostwick” (.6); October 28-29, 2019 relating to “Arntzen” correspondence (1.3); November 6, 2019 regarding “election results” (.2); February 10, 2020 regarding attorney Michael Love payments (.3); December 7-9, 2020 regarding “Incentive” pay (.8); and, the billings for February 2021 (after the decision on appeal but before the attorney fee request (.9). These combined entries total 6.8 hours, or \$1,870.

The preparation and hearing process corresponds roughly to the period March 2020 through the December 4, 2020 hearing (decision issued December 31, 2020), and the request for legal fees. Invoices for that period total approximately \$23,758, or slightly less than 50% of the total billings. For the time expended previously, which was essentially discovery and PRA interaction, we conclude that of the balance of \$24,408.75, an amount of \$20,000 should be recognized as reasonable for that preliminary work (without further discount for the above-identified, specific entries that do not appear warranted).

Our conclusion is that reasonable attorney fees in this matter should be \$41,888 (\$23,758 - \$1,870 + \$20,000). No Lodestar (extra) amount is requested and none appears warranted.

We trust the foregoing is responsive to the Board’s inquiry.

Very truly yours,

FOSTER GARVEY PC



P. Stephen DiJulio  
Principal

cc: Lucinda Luke, Port Counsel



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April 28, 2021

Nick J. Kooiker  
Chief Financial Officer/Auditor  
Port of Kennewick  
350 Clover Island Drive  
Kennewick, WA 99336  
By email to: [nick@portofkennewick.org](mailto:nick@portofkennewick.org)

Re: Defense of Board Members in Investigative Proceedings

Dear Mr. Kooiker:

The Port of Kennewick ("Port") earlier requested our analysis on the Port's responsibilities with respect to providing certain legal defense to Port Commissioner and current Board Chair Don Barnes, and the payment of attendant attorney fees. By correspondence dated March 22, 2021, we addressed the issue. We concluded that the Port may approve the reimbursement of reasonable attorney fees under the circumstances of that request.

Later, the Port Commissioners asked for our recommendation on the reasonableness of the requested attorney fee reimbursement. By correspondence dated April 12, 2021, we provided our written analysis to the Board. Each of our March 22 and April 12 correspondence is incorporated by this reference.

We briefed the Board in open session at its regular, open meetings of March 23 and April 13, 2021 on these issues, and responded to Board questions. The Board considered and then during the April 13 meeting acted on the request of Commissioner Barnes and approved an amount the Board determined to be reasonable. While the amount approved was higher than our recommendation, it was within the discretion of the Board to determine the reasonableness of the fees incurred.

The Port has subsequently sought our summary analysis for inclusion with its records.

## Background

We do not repeat in this letter the extensive discussion in our prior correspondence to the Port on these issues. These issues arose out of "citizen's complaint" filed in March 2019 by Commissioner Skip Novakovich. The complaint implicated the other Commissioners, Thomas Moak and Don Barnes while

April 28, 2021  
Page 2

acting in their Port Commissioner capacities. An investigator was appointed, and an investigation into the complaint ensued. The investigator concluded that each of Commissioner Moak and Barnes had violated Port policy.

Commissioner Moak determined to not contest the conclusion of the investigator. Commissioner Barnes appealed from the investigators conclusions, triggering the procedures provided by Port policy. Following a hearing before a retired Washington Superior Court judge, Commissioner Barnes conduct was found not to have violated Port policy. Commissioner Barnes then sought reimbursement for the legal fees associated with his defense against the complaint throughout the investigation and appeal process.

### **Municipal Defense of Public Officials**

State law requires that municipalities, including ports, provide legal counsel at public expense to defend officials in suits arising from the performance of their official duties. RCW 4.96.041 (1). And, in some circumstances, that obligation is mandatory. RCW 4.96.041 (2) states:

If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

The Port carries forward these directives through provisions of the Port Commission Rules of Policy and Procedure (“Rules”). As stated in our March 22, 2021 correspondence, this statutory obligation together with the Port’s Rules, and the review and approval by the Board of Port Commissioners, provides the authority for reimbursement of Commissioner Barnes legal fees arising out of this matter.

### **Subsequent Analysis**

A question arose relating to an assertion by Commissioner Novakovich for reimbursement of certain of his attorney fees. The Port did not deny requested fees to the complaining Commissioner. Commissioner Novakovich withdrew the request before the issue reached the Board. However, the issues relating to Commissioner Novakovich and those relating to Commissioner Barnes are distinct under both state law and Port Rules. Complaining about alleged misconduct is different from defending against such allegations. Commissioner Barnes was defending against an “action, claim, or proceeding ... instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district.” RCW 53.08.208. Commissioner Novakovich was not subject to an “action, claim, or proceeding,” but the initiator of the complaint.

April 28, 2021  
Page 3

We also note that the referenced statute does not limit defense to tort claims. The statute does not use the term “tort” claims, or actions for “damages,” only. For example, a port would not deny defense in a case filed under 42 USC Section 1983 against a port commissioner for conduct within the scope and course of port activities - even if that case did not sound in tort (a common cause of action against local government officials).

### **Conclusion**

Based on our prior correspondence and the foregoing, we find no basis to conclude the Port without legal authority to recognize Commissioner Barnes request for reimbursement of legal fees incurred in defense of the Port’s complaint.

We trust the foregoing is responsive to your inquiry.

Sincerely,

FOSTER GARVEY PC

A handwritten signature in blue ink, appearing to read "P. Stephen DiJulio".

P. Stephen DiJulio  
Principal

cc: Lucinda Luke, Port Counsel



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May 12, 2021

Nick J. Kooiker  
Chief Financial Officer/Auditor  
Port of Kennewick  
350 Clover Island Drive  
Kennewick, WA 99336  
By email to: [nick@portofkennewick.org](mailto:nick@portofkennewick.org)

Re: Further Analysis of Attorney Fee Claim

Dear Mr. Kooiker:

The Port of Kennewick ("Port") Board of Commissioners ("Board") met on May 11, 2021. We understand one of the Board's agenda items was further review and potential approval of the reimbursement of attorney fees incurred by Commissioner Barnes relating to Port matters. This issue has been subject to our prior analysis.

We understand that you advised the Board that you did not believe you had the ability to certify \$1,292.50 of invoices on the billings from Joel Comfort due to redactions on the face of the submitted invoices. You reported that the Board instructed you to reach out to me in an attempt to resolve this issue with Mr. Comfort, the attorney for Commissioner Barnes. As requested, I interviewed Mr. Comfort by telephone calls this date. The invoices that contained certain redactions and for which you sought guidance are as follows: Invoice 148855: \$357.50, Invoice 151947: \$687.50 and Invoice 159056: \$247.50. Based on my interviews of Mr. Comfort and review of the invoices (and an additional redaction), we find and certify the following invoice entries to be supported, or appropriate for modification, as follows

- The invoice entries on September 11 and 12, 2019 are supported. The discussion is reported to be with a Seattle attorney to consider the potential candidate for the Hearing Officer to hear the appeal from the investigations conclusions.
- The invoice entry on March 2, 2020 is unrelated (thereby reduce by \$110.00).
- The invoice entry on March 5, 2020 is partially unrelated (redacted portion of .3 - thereby reduce by \$82.50).

FG:54298520.1

May 12, 2021  
Page 2

- The invoice entry on March 6, 2020 is partially unrelated (redacted portion of .2 – thereby reduce by \$55.00).
- The invoice entry on February 10, 2020 (Invoice 158524) is unrelated (thereby reduce by \$110.00).
- The invoice entry on March 19, 2021 is partially unrelated (redacted portion of .4 – thereby reduce by \$110.00).

Based on the foregoing, the additional amount of \$467.50 should be reduced from the attorney fee award. Mr. Comfort has confirmed the above analysis. This reduction is in addition to the amount of reductions previously approved by the Board (\$1,870).

We trust the foregoing is responsive to your inquiry.

Sincerely,

FOSTER GARVEY PC



P. Stephen DiJulio  
Principal

cc: Lucinda Luke, Port Counsel

# RETTIG FORGETTE ILLER BOWERS, LLP

Resolution 2021-08

Exhibit E

6725 W. CLEARWATER AVE.  
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS  
DIEHL R. RETTIG 1943-2010  
FRANCOIS X. FORGETTE  
BRIAN J. ILLER  
G. CHARLEY BOWERS

Don Barnes

Statement Date: June 4, 2019  
Statement No. 1  
Account No. 4819.0000  
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

			HOURS	
05/07/2019	FXF		1.00	
05/21/2019	FXF		0.30	
05/22/2019	FXF		0.10	
05/28/2019	FXF		1.50	
05/29/2019	FXF		0.50	
	FXF		0.25	
	FXF		2.00	
05/30/2019	FXF		0.40	
		FOR CURRENT SERVICES RENDERED	6.05	1,815.00

TIMEKEEPER	RECAPITULATION	HOURS	HOURLY RATE	TOTAL
Francois X. Forgette		6.05	\$300.00	\$1,815.00

Photocopy charges	1.00
TOTAL EXPENSES THRU 05/31/2019	1.00
TOTAL CURRENT WORK	1,816.00
BALANCE DUE	<u>\$1,816.00</u>

Don Barnes

Port of Kennewick / Vista Field

Statement Date: 06/04/2019

Statement No. 1

Account No. 4819.0000

We now accept *Visa, Mastercard, Discover and American Express*. Please call for additional information.

Credit card payments are not reflected until they clear our bank account.

Payments received after 05/31/19 may appear on your next statement.

**Please reference account number on checks to ensure proper credit.**



# RETTIG FORGETTE ILLER BOWERS, LLP

Resolution 2021-08

Exhibit E

6725 W. CLEARWATER AVE.  
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS  
DIEHL R. RETTIG 1943-2010  
FRANCOIS X. FORGETTE  
BRIAN J. ILLER  
G. CHARLEY BOWERS

Don Barnes

Statement Date: July 3, 2019  
Statement No. 2  
Account No. 4819.0000  
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

		HOURS	
06/25/2019	FXF		
		0.50	
	FXF		
		0.10	
	FOR CURRENT SERVICES RENDERED	0.60	180.00

	RECAPITULATION	HOURS	HOURLY RATE	TOTAL
TIMEKEEPER				
Francois X. Forgette		0.60	\$300.00	\$180.00

PREVIOUS BALANCE \$1,816.00

TOTAL CURRENT WORK 180.00

06/12/2019 Payment on account. Thank you. -1,816.00

BALANCE DUE \$180.00

We now accept *Visa, Mastercard, Discover and American Express*. Please call for additional information.

Credit card payments are not reflected until they clear our bank account.  
Payments received after 6/30/19 may appear on your next statement.

**Please reference account number on checks to ensure proper credit.**

Resolution 2021-08  
Exhibit E

# RETTIG FORGETTE ILLER BOWERS, LLP

6725 W. CLEARWATER AVE.  
KENNEWICK, WA 99336-1788

509-783-6154

Federal ID No. 91-0988012

ATTORNEYS  
DIEHL R. RETTIG 1943-2010  
FRANCOIS X. FORGETTE  
BRIAN J. ILLER  
G. CHARLEY BOWERS

Don Barnes

Statement Date: September 5, 2019  
Statement No. 4  
Account No. 4819.0000  
Page: 1

ACCOUNT - 30 DAYS OVERDUE SHALL BEAR INTEREST OF 1% PER MONTH ON THE UNPAID BALANCE

RE: Port of Kennewick / Vista Field

**Effective approximately October 14, 2019, the Law Firm of Rettig Forgette Iller Bowers, LLP, will be moving to 8836 Gage Blvd., Ste #201A, Kennewick, Washington 99336.**

**Phones, email and office hours will be intermittent from October 1st through October 14th while everything is getting transferred over. Thank you for your patience.**

			HOURS	
08/12/2019	FXF	[REDACTED]	0.50	150.00
	FXF	[REDACTED]	1.50	450.00
	FXF	[REDACTED]	1.00	300.00
08/13/2019	FXF	[REDACTED]	0.30	90.00
08/14/2019	FXF	[REDACTED]	0.30	n/c
		FOR CURRENT SERVICES RENDERED	3.30	990.00

RECAPITULATION			
TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
Francois X. Forgette	3.30	\$300.00	\$990.00

TOTAL CURRENT WORK 990.00

BALANCE DUE \$990.00

Don Barnes

Port of Kennewick / Vista Field

Statement Date: 09/05/2019

Statement No. 4

Account No. 4819.0000

**PLEASE SEE THE NOTE ABOVE REGARDING OUR UPCOMING MOVE!**

Credit card payments are not reflected until they clear our bank account.

Payments received after 8/31/19 may appear on your next statement.

**Please reference account number on checks to ensure proper credit.**

MILLER MERTENS & COMFORT PLLC  
1020 N CENTER PKWY STE B  
KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
August 30, 2019  
Account No: J19304BARNESM  
Statement No: 147980

PORT OF KENNEWICK; OUR #J19304

Fees

			Rate	Hours	
08/16/2019	JRC		275.00	0.30	82.50
08/20/2019	JRC				
			275.00	4.50	1,237.50
		For Current Services Rendered		4.80	1,320.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort	4.80	\$275.00	\$1,320.00

Total Current Work 1,320.00

Balance Due \$1,320.00

Please Remit \$1,320.00

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Payments received after the 20th are not reflected on this statement. We accept VISA, MasterCard, American Express and Discover.**

MILLER MERTENS & COMFORT PLLC  
1020 N CENTER PKWY STE B  
KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
September 30, 2019  
Account No: J19304BARNESM  
Statement No: 148855

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
08/22/2019	JRC	[REDACTED]	275.00	0.90	247.50
08/23/2019	JRC	[REDACTED]	275.00	2.50	687.50
08/24/2019	JRC	[REDACTED]	275.00	0.20	55.00
08/25/2019	JRC	[REDACTED]	275.00	0.20	55.00
08/26/2019	JRC	[REDACTED]	275.00	2.50	687.50
08/27/2019	JRC	[REDACTED]	275.00	2.40	660.00
08/28/2019	JRC	[REDACTED]	275.00	1.90	522.50
08/29/2019	JRC	[REDACTED]	275.00	0.80	220.00
08/30/2019	JRC	[REDACTED]	275.00	0.30	82.50
09/02/2019	JRC	[REDACTED]	275.00	0.40	110.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
09/03/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
09/04/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
09/11/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
09/12/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
09/18/2019	JRC	[REDACTED]			
			275.00	0.40	110.00
09/20/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
		For Current Services Rendered		15.60	4,290.00

Timekeeper	Recapitulation	Hours	Rate	Total
Joel R. Comfort		15.60	\$275.00	\$4,290.00

Expenses

08/28/2019	Photocopies	0.60
08/28/2019	Postage	0.50
	Total Expenses	1.10
	Total Current Work	4,291.10
	Previous Balance Due	\$1,320.00

Payments

09/10/2019	Payment received - Check #4428 - thank you	-1,320.00
	Balance Due	<u>\$4,291.10</u>
	Please Remit	<u>\$4,291.10</u>

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Payments received after the 20th are not reflected on this statement. We accept VISA, MasterCard, American Express and Discover.**

MILLER MERTENS & COMFORT PLLC  
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PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
October 31, 2019  
Account No: J19304BARNESM  
Statement No: 149348

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
09/21/2019	JRC	[REDACTED]	275.00	0.40	110.00
09/23/2019	JRC	[REDACTED]	275.00	0.60	165.00
09/24/2019	JRC	[REDACTED]	275.00	0.10	27.50
09/26/2019	JRC	[REDACTED]	275.00	0.20	55.00
09/27/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/02/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/04/2019	JRC	[REDACTED]	275.00	1.10	302.50
10/08/2019	JRC	[REDACTED]	275.00	1.40	385.00
10/09/2019	JRC	[REDACTED]	275.00	2.60	715.00
10/10/2019	JRC	[REDACTED]	275.00	0.20	55.00
10/11/2019	JRC	[REDACTED]			

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00	4.70	1,292.50
10/14/2019	JRC		275.00	1.20	330.00
10/17/2019	JRC		275.00	0.30	82.50
10/18/2019	JRC		275.00	1.10	302.50
		For Current Services Rendered		14.30	3,932.50

Recapitulation				
<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>	
Joel R. Comfort	14.30	\$275.00	\$3,932.50	

Total Current Work 3,932.50

Previous Balance Due \$4,291.10

Payments

10/09/2019 Payment received - Check #4433 - thank you -4,291.10

Balance Due \$3,932.50

Please Remit \$3,932.50

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TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
November 27, 2019  
Account No: J19304BARNESM  
Statement No: 149835

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
10/21/2019	JRC	[REDACTED]			
			275.00	2.20	605.00
10/23/2019	JRC	[REDACTED]			
			275.00	1.00	275.00
10/24/2019	JRC	[REDACTED]			
			275.00	1.30	357.50
10/25/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
10/28/2019	JRC	[REDACTED]			
			275.00	1.10	302.50
10/29/2019	JRC	[REDACTED]			
			275.00	0.20	55.00
10/30/2019	JRC	[REDACTED]			
			275.00	0.50	137.50
10/31/2019	JRC	[REDACTED]			
			275.00	0.60	165.00
11/01/2019	JRC	[REDACTED]			

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00	0.70	192.50
11/06/2019	JRC		275.00	0.20	55.00
11/07/2019	JRC		275.00	0.10	27.50
11/08/2019	JRC		275.00	0.50	137.50
11/11/2019	JRC		275.00	0.50	137.50
	JRC		275.00	0.50	137.50
11/12/2019	JRC		275.00	0.40	110.00
11/13/2019	JRC		275.00	0.30	82.50
11/15/2019	JRC		275.00	2.80	770.00
		For Current Services Rendered		13.40	3,685.00

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		13.40	\$275.00	\$3,685.00

Total Current Work 3,685.00

Previous Balance Due \$3,932.50

Payments

11/12/2019 Payment received - Check #4449 - thank you -3,932.50

Balance Due \$3,685.00

Please Remit \$3,685.00

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KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
December 24, 2019  
Account No: J19304BARNESM  
Statement No: 150500

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
11/26/2019	JRC	[REDACTED]	275.00	1.00	275.00
12/02/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/03/2019	JRC	[REDACTED]	275.00	2.50	687.50
12/04/2019	JRC	[REDACTED]	275.00	0.80	220.00
12/06/2019	JRC	[REDACTED]	275.00	0.20	55.00
12/09/2019	JRC	[REDACTED]	275.00	0.80	220.00
12/11/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/12/2019	JRC	[REDACTED]	275.00	0.50	137.50
12/13/2019	JRC	[REDACTED]	275.00	0.20	55.00
	JRC	[REDACTED]	275.00	2.30	632.50
	JRC	[REDACTED]	275.00	0.40	110.00
12/20/2019	JRC	[REDACTED]	275.00	2.50	687.50
For Current Services Rendered				12.20	3,355.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

		Recapitulation		
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		12.20	\$275.00	\$3,355.00
Total Current Work				3,355.00
Previous Balance Due				\$3,685.00
		<u>Payments</u>		
12/06/2019	Payment received - Check #4457 - thank you			-3,685.00
Balance Due				<u>\$3,355.00</u>
Please Remit				<u>\$3,355.00</u>

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KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
January 29, 2020  
Account No: J19304BARNESM  
Statement No: 150972

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
12/30/2019	JRC	<div><div></div></div>	275.00	0.30	82.50
01/07/2020	JRC	<div><div></div></div>	275.00	0.10	27.50
01/10/2020	JRC	<div><div></div></div>	275.00	1.50	412.50
01/13/2020	JRC	<div><div></div></div>	275.00	0.90	247.50
01/14/2020	JRC	<div><div></div></div>	275.00	0.40	110.00
01/15/2020	JRC	<div><div></div></div>	275.00	0.70	192.50
01/16/2020	JRC	<div><div></div></div>	275.00	2.10	577.50
01/17/2020	JRC	<div><div></div></div>	275.00	0.30	82.50
01/20/2020	JRC	<div><div></div></div>	275.00	0.30	82.50
For Current Services Rendered				6.60	1,815.00

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		6.60	\$275.00	\$1,815.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Expenses

10/14/2019	Photocopies [REDACTED]	42.75
	Total Expenses	42.75
	Total Current Work	1,857.75
	Previous Balance Due	\$3,355.00

Payments

12/30/2019	Payment received - Check #4467 - thank you	-3,355.00
	Balance Due	<u>\$1,857.75</u>
	Please Remit	<u>\$1,857.75</u>

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.**

MILLER MERTENS & COMFORT PLLC  
1020 N CENTER PKWY STE B  
KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
February 28, 2020  
Account No: J19304BARNESM  
Statement No: 151445

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
01/21/2020	JRC	[REDACTED]	275.00	0.10	27.50
01/22/2020	JRC	[REDACTED]	275.00	0.10	27.50
01/24/2020	JRC	[REDACTED]	275.00	0.20	55.00
01/27/2020	JRC	[REDACTED]	275.00	3.60	990.00
01/28/2020	JRC	[REDACTED]	275.00	0.70	192.50
01/29/2020	JRC	[REDACTED]	275.00	1.00	275.00
01/30/2020	JRC	[REDACTED]	275.00	0.20	55.00
01/31/2020	JRC	[REDACTED]	275.00	1.40	385.00
02/05/2020	JRC	[REDACTED]	275.00	0.20	55.00
02/10/2020	JRC	[REDACTED]	275.00	1.90	522.50
	JRC	[REDACTED]	275.00	0.30	82.50
02/11/2020	JRC	[REDACTED]	275.00	0.80	220.00
02/19/2020	JRC	[REDACTED]	275.00	0.10	27.50

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

	Rate	Hours	
For Current Services Rendered		10.60	2,915.00
Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>
Joel R. Comfort		10.60	\$275.00
			\$2,915.00
Total Current Work			2,915.00
Previous Balance Due			\$1,857.75
<u>Payments</u>			
02/06/2020	Payment received - Check #4478 - thank you		-1,815.00
02/12/2020	Payment received - Check #4479 - thank you		-42.75
	Total Payments		-1,857.75
	Balance Due		<u>\$2,915.00</u>
	Please Remit		<u>\$2,915.00</u>

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.**



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TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
March 23, 2020  
Account No: J19304BARNESM  
Statement No: 151507

PORT OF KENNEWICK; OUR #J19304

Interim Statement

Fees

			Rate	Hours	
02/21/2020	JRC	[REDACTED]	275.00	0.10	27.50
02/24/2020	JRC	[REDACTED]	275.00	0.70	192.50
02/26/2020	JRC	[REDACTED]	275.00	0.20	55.00
02/28/2020	JRC	[REDACTED]	275.00	1.80	495.00
	JRC	[REDACTED]	275.00	1.50	412.50
03/02/2020	JRC	[REDACTED]	275.00	0.40	110.00
03/04/2020	JRC	[REDACTED]	275.00	0.30	82.50
03/05/2020	JRC	[REDACTED]	275.00	0.60	165.00
03/06/2020	JRC	[REDACTED]	275.00	1.50	412.50
03/09/2020	JRC	[REDACTED]	275.00	0.20	55.00
03/20/2020	JRC	[REDACTED]	275.00	1.50	412.50
For Current Services Rendered				8.80	2,420.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

		Recapitulation		
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		8.80	\$275.00	\$2,420.00
Total Current Work				2,420.00
Previous Balance Due				\$2,915.00
		<u>Payments</u>		
03/13/2020	Payment received - Check #4483 - thank you			-2,915.00
Balance Due				<u>\$2,420.00</u>
Please Remit				<u>\$2,420.00</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

MILLER MERTENS & COMFORT PLLC  
1020 N CENTER PKWY STE B  
KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
April 29, 2020  
Account No: J19304BARNESM  
Statement No: 152872

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
03/23/2020	JRC	[REDACTED]	275.00	0.20	55.00
03/24/2020	JRC	[REDACTED]	275.00	0.40	110.00
03/26/2020	JRC	[REDACTED]	275.00	0.60	165.00
	JRC	[REDACTED]	275.00	0.50	137.50
	JRC	[REDACTED]	275.00	0.10	27.50
03/27/2020	JRC	[REDACTED]	275.00	0.10	27.50
03/30/2020	JRC	[REDACTED]	275.00	0.80	220.00
03/31/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/01/2020	JRC	[REDACTED]	275.00	0.20	55.00
04/02/2020	JRC	[REDACTED]	275.00	0.20	55.00
	JRC	[REDACTED]	275.00	0.50	137.50
04/03/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/07/2020	JRC	[REDACTED]	275.00	0.40	110.00
04/13/2020	JRC	[REDACTED]	275.00	0.20	55.00
04/16/2020	JRC	[REDACTED]	275.00	0.10	27.50

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
04/17/2020	JRC	[REDACTED]	275.00	1.20	330.00
04/20/2020	JRC	[REDACTED]	275.00	0.50	137.50
		For Current Services Rendered		6.80	1,870.00
Recapitulation					
	<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
	Joel R. Comfort		6.80	\$275.00	\$1,870.00
	Total Current Work				1,870.00
	Previous Balance Due				\$3,052.50
<u>Payments</u>					
04/03/2020	Payment received - Check #4489 - thank you				-3,052.50
	Balance Due				<u>\$1,870.00</u>
	Please Remit				<u>\$1,870.00</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.

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KENNEWICK WA 99336-7161  
PHONE (509) 374-4200 FAX (509) 374-4229  
TAX ID#91-1875775

DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
May 29, 2020  
Account No: J19304BARNESM  
Statement No: 153516

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
04/24/2020	JRC	[REDACTED]	275.00	0.30	82.50
	JRC	[REDACTED]	275.00	0.80	220.00
05/05/2020	JRC	[REDACTED]	275.00	0.20	55.00
05/06/2020	JRC	[REDACTED]	275.00	0.30	82.50
05/07/2020	JRC	[REDACTED]	275.00	1.00	275.00
05/11/2020	JRC	[REDACTED]	275.00	2.20	605.00
05/12/2020	JRC	[REDACTED]	275.00	0.30	82.50
05/14/2020	JRC	[REDACTED]	275.00	1.20	330.00
05/15/2020	JRC	[REDACTED]	275.00	0.40	110.00
05/19/2020	JRC	[REDACTED]	275.00	0.10	27.50
05/20/2020	JRC	[REDACTED]	275.00	0.20	55.00
For Current Services Rendered				7.00	1,925.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		7.00	\$275.00	\$1,925.00

Total Current Work	1,925.00
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Previous Balance Due	\$1,870.00
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Payments

05/11/2020	Payment received - Check #4496 - thank you	-1,870.00
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Balance Due	<u>\$1,925.00</u>
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Please Remit	<u>\$1,925.00</u>
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**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express and Discover.**

MILLER MERTENS & COMFORT PLLC  
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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
June 25, 2020  
Account No: J19304BARNESM  
Statement No: 154005

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
05/26/2020	JRC	[REDACTED]	275.00	0.20
	JRC	[REDACTED]	275.00	0.10
05/27/2020	JRC	[REDACTED]	275.00	0.60
05/28/2020	JRC	[REDACTED]	275.00	0.10
05/29/2020	JRC	[REDACTED]	275.00	0.70
06/01/2020	JRC	[REDACTED]	275.00	0.30
06/05/2020	JRC	[REDACTED]	275.00	3.20
06/11/2020	JRC	[REDACTED]	275.00	0.20
06/18/2020	JRC	[REDACTED]	275.00	0.20
06/19/2020	JRC	[REDACTED]	275.00	0.50
For Current Services Rendered				6.10
				1,677.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		6.10	\$275.00	\$1,677.50

Total Current Work 1,677.50  
Previous Balance Due \$1,925.00

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Payments

06/08/2020	Payment received - Check #4503 - thank you	-1,925.00
	Balance Due	<u>\$1,677.50</u>
	Please Remit	<u>\$1,677.50</u>

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

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July 29, 2020  
Account No: J19304BARNESM  
Statement No: 154497

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>					
			Rate	Hours	
06/24/2020	JRC		275.00	0.10	27.50
06/25/2020	JRC		275.00	0.50	137.50
07/09/2020	JRC		275.00	0.20	55.00
07/16/2020	JRC		275.00	0.90	247.50
For Current Services Rendered				1.70	467.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		1.70	\$275.00	\$467.50

Total Current Work 467.50

Previous Balance Due \$1,677.50

<u>Payments</u>		
07/06/2020	Payment received - Check #4510 - thank you	-1,677.50
	Balance Due	<u>\$467.50</u>
	Please Remit	<u>\$467.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
August 28, 2020  
Account No: J19304BARNESM  
Statement No: 155005

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
07/24/2020	JRC		275.00	0.10
08/04/2020	JRC		275.00	0.30
08/05/2020	JRC		275.00	0.70
08/11/2020	JRC		275.00	0.10
08/13/2020	JRC		275.00	0.80
08/14/2020	JRC		275.00	1.00
08/17/2020	JRC		275.00	0.40
08/19/2020	JRC		275.00	0.60
For Current Services Rendered				4.00
				1,100.00

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		4.00	\$275.00	\$1,100.00

Total Current Work	1,100.00
Previous Balance Due	\$467.50

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Payments

08/17/2020	Payment received - Check #4519 - thank you	-467.50
	Balance Due	<u>\$1,100.00</u>
	Please Remit	<u>\$1,100.00</u>

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.**

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

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September 30, 2020  
Account No: J19304BARNESM  
Statement No: 155497

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
08/21/2020	JRC		275.00	0.20
08/25/2020	JRC		275.00	0.20
08/28/2020	JRC		275.00	0.20
09/01/2020	JRC		275.00	0.20
09/03/2020	JRC		275.00	1.50
				2.30
		For Current Services Rendered		
				632.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		2.30	\$275.00	\$632.50

Total Current Work	632.50
Previous Balance Due	\$1,100.00

<u>Payments</u>		
09/03/2020	Payment received - Check #4522 - thank you	-1,100.00
	Balance Due	<u>\$632.50</u>
	Please Remit	<u>\$632.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
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October 29, 2020  
Account No: J19304BARNESM  
Statement No: 155955

PORT OF KENNEWICK; OUR #J19304

		<u>Fees</u>	Rate	Hours	
09/29/2020	JRC	[REDACTED]			
			275.00	2.50	687.50
10/02/2020	JRC	[REDACTED]	275.00	0.30	82.50
10/13/2020	JRC	[REDACTED]	275.00	0.40	110.00
10/16/2020	JRC	[REDACTED]	275.00	0.20	55.00
		For Current Services Rendered		3.40	935.00

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		3.40	\$275.00	\$935.00

Total Current Work	935.00
Previous Balance Due	\$632.50

		<u>Payments</u>
10/14/2020	Payment received - Check #4529 - thank you	-632.50
	Balance Due	<u>\$935.00</u>
	Please Remit	<u>\$935.00</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
December 03, 2020  
Account No: J19304BARNESM  
Statement No: 156405

PORT OF KENNEWICK; OUR #J19304

Interim Statement

			<u>Fees</u>		
			Rate	Hours	
10/27/2020	JRC	[REDACTED]	275.00	0.30	82.50
10/28/2020	JRC	[REDACTED]	275.00	0.70	192.50
11/02/2020	JRC	[REDACTED]	275.00	0.20	55.00
11/03/2020	JRC	[REDACTED]	275.00	2.50	687.50
11/04/2020	JRC	[REDACTED]	275.00	0.10	27.50
11/05/2020	JRC	[REDACTED]	275.00	6.50	1,787.50
11/06/2020	JRC	[REDACTED]	275.00	1.50	412.50
11/08/2020	JRC	[REDACTED]	275.00		
11/09/2020	JRC	[REDACTED]	275.00		
11/10/2020	JRC	[REDACTED]	275.00		
11/11/2020	JRC	[REDACTED]	275.00	0.50	137.50
	JRC	[REDACTED]	275.00		
11/12/2020	JRC	[REDACTED]			



DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

			Rate	Hours	
			275.00		
11/16/2020	JRC		275.00	2.00	550.00
11/17/2020	JRC		275.00	2.80	770.00
11/18/2020	JRC		275.00	0.80	220.00
11/19/2020	JRC		275.00	5.00	1,375.00
11/20/2020	JRC		275.00	7.00	1,925.00
		For Current Services Rendered		29.90	8,222.50

Recapitulation				
<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>	
Joel R. Comfort	29.90	\$275.00	\$8,222.50	

Total Current Work	8,222.50
Previous Balance Due	\$935.00

Payments

11/04/2020	Payment received - Check #5003 - thank you	-935.00
	Balance Due	<u>\$8,222.50</u>
	Please Remit	<u>\$8,222.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
December 23, 2020  
Account No: J19304BARNESM  
Statement No: 157124

PORT OF KENNEWICK; OUR #J19304

			<u>Fees</u>		
			Rate	Hours	
11/23/2020	JRC	[REDACTED]	275.00	1.00	275.00
11/30/2020	JRC	[REDACTED]	275.00	0.20	55.00
12/01/2020	JRC	[REDACTED]	275.00	0.50	137.50
12/03/2020	JRC	[REDACTED]	275.00	8.50	2,337.50
12/04/2020	JRC	[REDACTED]	275.00	5.30	1,457.50
12/07/2020	JRC	[REDACTED]	275.00	0.50	137.50
12/09/2020	JRC	[REDACTED]	275.00	0.30	82.50
For Current Services Rendered				16.30	4,482.50

<u>Timekeeper</u>	Recapitulation	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		16.30	\$275.00	\$4,482.50



DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

	Total Current Work	4,482.50
	Previous Balance Due	\$7,947.50
	<u>Payments</u>	
12/10/2020	Payment received - Check #5017 - thank you	-7,947.50
	Balance Due	<u>\$4,482.50</u>
	Please Remit	<u>\$4,482.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
January 28, 2021  
Account No: J19304BARNESM  
Statement No: 157993

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
12/22/2020	JRC	[REDACTED]	275.00	0.20
12/24/2020	JRC	[REDACTED]	275.00	0.30
12/31/2020	JRC	[REDACTED]	275.00	1.40
01/05/2021	JRC	[REDACTED]	275.00	0.70
01/06/2021	JRC	[REDACTED]	275.00	0.30
01/12/2021	JRC	[REDACTED]	275.00	0.40
For Current Services Rendered				3.30
				907.50

<u>Recapitulation</u>				
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		3.30	\$275.00	\$907.50

Total Current Work	907.50
Previous Balance Due	\$4,482.50

<u>Payments</u>		
12/31/2020	Payment received - Check #5021 - thank you	-4,482.50
	Balance Due	<u>\$907.50</u>
	Please Remit	<u>\$907.50</u>

DON & CHRISTINE BARNES

PORT OF KENNEWICK; OUR #J19304

Resolution 2021-08 Page: 2  
Exhibit E January 28, 2021  
Account No: J19304BARNESM  
Statement No: 157993

**Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.**

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DON & CHRISTINE BARNES  
2616 S KELLOGG ST  
KENNEWICK WA 99338-1930

Page: 1  
March 02, 2021  
Account No: J19304BARNESM  
Statement No: 158524

PORT OF KENNEWICK; OUR #J19304

<u>Fees</u>				
			Rate	Hours
02/03/2021	JRC		275.00	0.20
02/09/2021	JRC		275.00	0.30
02/10/2021	JRC		275.00	0.40
		For Current Services Rendered		0.90
				110.00
				247.50

<u>Timekeeper</u>	<u>Recapitulation</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel R. Comfort		0.90	\$275.00	\$247.50

Total Current Work	247.50
Previous Balance Due	\$907.50

<u>Payments</u>		
02/03/2021	Payment received - Check #5053 - thank you	-907.50
	Balance Due	<u>\$247.50</u>
	Please Remit	<u>\$247.50</u>

Due and payable upon receipt. Balances over 30 days past due are subject to a finance charge of 1.0% per month. Please call (509) 374-4200 to pay by VISA, MasterCard, American Express or Discover.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

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## ***G. Citizen Complaint – Request for Reimbursement of Legal Fees***

Ms. Luke introduced Port Special Counsel, Steve DiJulio who provided his legal analysis regarding the Port reimbursing Commissioner Barnes for his legal fees for the citizen complaint process. Since that Meeting, Commissioner Barnes' counsel provided the Port with the unredacted copies of the legal invoices for review.

Mr. DiJulio provided the Commission with his analysis and recommendation of the invoices (EXHIBIT B). Mr. DiJulio evaluated the reasonableness of the attorney fees and takes no exception to the hourly rates charged by Francis Forgette and Joel Comfort. However, the services provided by Mr. Forgette are unclear and show little indication of what representation Mr. Forgette contributed to the defense of Commissioner Barnes. Therefore, the amount of \$2,986 was discounted.

In further evaluation of the detailed billings, Mr. DiJulio stated there were billings that did not appear to be related to investigation or hearing or findings, rather than, related to ancillary issues that had nothing to do with the citizen complaint. Therefore, the amount of \$1,870 was discounted.

In preparation of the hearing process corresponds roughly to the period of March 2020 through the December 4, 2020 Public Hearing, and the request for legal fees. Invoices for the period total approximately \$23,758. For the time expended previously, which was essentially discovery and Public Records Act interaction, it was concluded that of the balance of \$24,408.75, an amount of \$20,000 should be recognized as reasonable for that preliminary work.

Our conclusion is that reasonable attorney fees in the matter should be \$41,888 (\$23,758-\$1,870+\$20,000).

Commissioner Barnes stated the actual unredacted invoices were submitted via email by Mr. Comfort. The email included invoices from Mr. Forgette, when he provided legal counsel from May 2019 through August 2019 for the investigation process. Commissioner Barnes stated the last invoice from Mr. Forgette was dated August 14, 2019, where it states client changed representation. Commissioner Barnes stated he retained Mr. Comfort's counsel beginning August 16, 2019, therefore there was no overlap. Additionally, Commissioner Barnes disagrees with Mr. DiJulio's analysis that the work commenced March 2020. In September 2019, Mr. Comfort prepared for the hearing and selection of a neutral. Lastly, Commissioner Barnes does not understand why Mr. DiJulio took a \$4,000 discount for the discovery and public records act. Commissioner Barnes appreciates Mr. DiJulio's analysis and the counsel he has provided to the Port; however, he respectfully requested that the charges to Mr. Forgette be added and the discovery discount reversed, to total \$49,282.75.

Mr. DiJulio stated with respect to Mr. Forgette's charges, the Commission could reimburse \$2,986 since it was part of the investigation. Mr. DiJulio stated a distinction may be made, with respect to the participation in an investigation with respect to the actual prosecution of the appeal. As discussed previously, the ambiguity of the Port's policies in this regard, the Port could determine the \$2,986 is an appropriate charge and part of the defense process.

# PORT OF KENNEWICK

## REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

Mr. DiJulio stated this is his evaluation, but certainly it is the Commission's decision, under the Port's policies determinant of these issues. Our recommendation is \$41,888, the \$2,986 may be appropriate for recognition if the Commission recognizes that legal counsel during an investigation is appropriate. With respect to the discount of \$4,008 for the discovery, that is simply an amount that we determined was higher than what would be normally justified for the period of substantial discovery. There was substantial time taken to get ready for this proceeding and we know in certain circumstances, delays do cost additional time and effort. Mr. DiJulio reiterated the recommendation, but stated it is the Commission's decision to award \$41,888; or \$44,874 to include Mr. Forgette's invoices; or \$49,282.75 as requested by Commissioner Barnes.

Commissioner Novakovich would like to put this behind us by a making motion to reimburse Commissioner Barnes legal fees when we can be assured we are abiding by all the laws detailed in RCW 53 which governs ports, abiding by the Port's own policies and procedures, and assurance that we will not receive an audit finding for taking this action. Commissioner Novakovich stated the Port has received 24 years of clean audits and he would like assurance from Mr. DiJulio or someone else that the Port of Kennewick will not receive an audit finding for reimbursing Commissioner Barnes legal fees. Commissioner Novakovich expressed his concerns based on the language in RCW 53, Section 18 of the Port's Rules Policies and Procedures, and prior precedence regarding the payment of legal fees set by this Commission.

Commissioner Novakovich reiterated his concern over a potential finding by the State Auditor's Office (SAO) and asked if someone can provide notice in writing that Port of Kennewick will not receive any adverse consequences including the issuing of an SAO finding for taking action to approve the reimbursement. Furthermore, the person or entity providing notice agrees to assume all consequences if the notice they provide is incorrect. And further that we receive assurance that the Port of Kennewick, staff, as well as all three Commissioners, will not be subject to any negative consequences by a decision of this Commission to reimburse Commissioner Barnes legal fees.

Mr. DiJulio stated he addressed section 18 of the Port's Rules of Policy and Procedure in his prior correspondence and analysis, and it was discussed it at the March 23, 2021 Commission Meeting. Mr. DiJulio is prepared to put in writing for Mr. Kooiker's benefit and file, in the event an audit issue would ever arise.

Mr. Arntzen understands the reimbursement of legal fees is a policy matter solely within the discretion of the Commission; however, he advised the Commission to be 100% certain they are following the correct process and abiding by RCW 53 and the Port's Rules of Policy and Procedure, because the Port has 24 years of clean audits. Mr. Arntzen stated if there is additional scrutiny that the Commission would like to engage in to make sure it is following all proper procedures, he would recommend that.

Commissioner Moak inquired if staff wants to take another look at this from a legal standpoint to protect the Commission and if there are other legal issues that need to be addressed. Commissioner Moak was under the impression that Mr. DiJulio's recommendation was the due diligence that needed to be done.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

Mr. DiJulio stated the Port can reach out directly to SAO to get its reaction to this issue or seek either the auditor or state representative's request for an Attorney General's opinion on the subject. There are ways to have the State weigh in on this issue if there is any disagreement with respect to the conclusions that we have set out in our previous analysis for the Port.

Commissioner Barnes stated Mr. DiJulio is special counsel to the Port and is offering to write a letter and document, so that it is permissible and allowable to reimburse the legal fees if the Commission chooses to do so.

Commissioner Novakovich reiterated his concerns and asked if Mr. DiJulio could guarantee that the Port would not receive a finding from the SAO.

Mr. DiJulio stated he cannot guarantee the action of the SAO. Mr. DiJulio stated, as indicated in his previous correspondence, that the Port has the authority to recognize and reimburse reasonable attorney's fees under state statute and the Port's policies.

## PUBLIC COMMENTS

No comments were made.

Commissioner Barnes appreciates Commissioner Novakovich's comments; however, the Port is receiving sound advice from Mr. DiJulio. Commissioner Barnes stated his fees are fair and reasonable and the allegations were unsubstantiated in its entirety. Commissioner Barnes was doing his job as a Commissioner and was not given an opportunity to address the complaint which triggered the investigation and then hearing.

**MOTION:** *Commissioner Moak moved that the Port of Kennewick reimburse Commissioner Barnes in the amount of \$50,729.35 for his legal work associated with his defense; Commissioner Barnes seconded.*

## ***Discussion:***

*Commissioner Novakovich stated that he would like some assurances that the Port will not receive a finding and unfortunately, he cannot support this motion.*

*Commissioner Moak believes Mr. DiJulio said that no one can provide a guarantee, he would like a guarantee that a bunch of things might happen, but those things are not guaranteed in life. Commissioner Moak would have been prepared to hope for a different motion that was less than he stated. He agrees with Mr. DiJulio's perspective, but the more Commissioner Moak heard, and the more objections, it seemed to put stumbling blocks in the way of getting to the end of this. This made Commissioner Moak believe we need to pay the question price, there is no question that Mr. Barnes expended that money. Was it all appropriate, in some way or manner it was. Commissioner Moak just thinks it is about time that we finish this and it is justified. Mr. DiJulio has offered to write a letter and he has provided great counsel to the Commission and previous Commissions over the years. Mr. DiJulio thinks his way through his analysis, and we could spend time between Mr. Comfort and Mr. DiJulio going over invoices, but Commissioner Moak thinks*



# PORT OF KENNEWICK REGULAR COMMISSION MEETING

APRIL 13, 2021 MINUTES

*what needs to happen is to move on and move on to a different plain and that is why he made the motion.*

**MOTION:** *Commissioner Barnes moved to amend the main motion in the amount of \$49,282.75; Commissioner Moak seconded. With no further discussion, Motion to amend carried. All in favor: 2 Ayes (Commissioners Moak and Barnes), 1 Abstain (Commissioner Novakovich). 2:0:1.*

***Commissioner Barnes restated the Amended Main Motion:***

***the Port of Kennewick reimburse Commissioner Barnes in the amount of \$49,282.75 for his legal work associated with his defense.***

***Further Discussion:***

*Commissioner Novakovich believes we are subjecting ourselves to a finding, depending on who the auditor is. Additionally, the Commission is saying our policies and procedures do not mean anything and they do not need to be followed in any manner, to arrive at a settlement. Commissioner Novakovich thinks that is something the Commission needs to consider seriously and take a close look at ourselves for doing this. Commissioner Novakovich does not mind paying the legal fees if the Rules of Policy and Procedure are followed the way that they are supposed to be, but he sees this Commission not following our own policies and procedures, and it is really disappointing. Commissioner Novakovich wanted to be on the record that he made those statements.*

***With no further discussion, Motion carried. All in favor: 2 Ayes (Commissioners Moak and Barnes), 1 Abstain (Commissioner Novakovich). 2:0:1.***

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

*Commissioners reported on their respective committee meetings.*

***I. Non-Scheduled Items***

*Commissioner Barnes hopes we are getting closer to the conclusion of the anonymous citizen complaint as there were several discussions today about allocation of staff resources and time. Commissioner Barnes believes the Port of Kennewick has some work to do to restore our credibility with our jurisdictional partners, tenants, and constituents. We discussed not having time for important projects when the Port spent over two years and over \$400,000 on this issue. We are looking to prioritize and looking for an order of preference to apply our resources. Commissioner Barnes thinks we need to go to work and restore the credibility we lost and finally put an end to this and work to see that it never happens again.*

## PUBLIC COMMENTS

Ken Hohenberg, 3900 South Green Street, Kennewick. Mr. Hohenberg encouraged everyone to stay focused on the good work that the Port has done in the past. Mr. Hohenberg knows all three Commissioners and understands the passion each of them have when it comes to the important work that the Commission and Port has done. Mr. Hohenberg is encouraged that this will be put behind the Port,







## AGENDA REPORT

**TO:** Port Commission

**FROM:** Larry Peterson, Director of Planning & Development

**MEETING DATE:** May 25, 2021

### AGENDA ITEMS Kennewick Historic Waterfront District (KHWD) Master Plan

---

- I. REFERENCE(S):** Kennewick Historic Waterfront District (KHWD) Master Plan, May 11, 2021 Agenda Report
- II. FISCAL IMPACT:** N/A
- III. DISCUSSION:** The draft Kennewick Historic Waterfront District (KHWD) master plan for the Port's Clover Island and Columbia Drive properties is intended to identify a vision and direction for the next 10-15 years. Master plan documents are designed to provide a general direction for a given area over the near, mid and/or long term. This 'direction' helps the citizens, business owners, potential developers and investors understand in general terms what can be expected when and where. Equally and possibly more important is the master plan functioning as a decision assistance tool for the Commission when site specific proposals are contemplated.

As currently crafted this master plan can be thought of as a road map for the area at the 30,000-foot level which would be used by the Commission to adjudicate the specifics of a particular use and layout at the ground level. The distinction between the general 30,000-foot view and the ground level is important to remember. The renderings contained within, such as the Columbia Gardens, depict a conceptual layout and should not be confused for a site plan ready for building permit approval.

The current "scale" of the plan, which is very similar to both the existing Clover Island and the Vista Field master plans could be "brought down" a bit to the 20,000-foot level. Such a change would involve the MAKERS team augmenting the current design principles and renderings to include greater specificity to both the text and graphics. Focusing closer to the ground level would require significant decisions made today {present time} based upon imagined scenarios that may or may not be relevant or reasonable in 2, 5 or 10 years. The policy questions regarding scale seems to be a decision between the Commission utilizing 30,000-foot level policies and principles established today to evaluate future detailed proposals when those proposals are presented versus making those detailed decisions today.

The text above about "scale" arises out of prior and ongoing discussions involving The Willows Infrastructure project for a \$2.4M grant from the pending federal Build Back Better bill and/or a direct allocation from Senator Murray's office. The year long KHWD master planning efforts was drawing to

conclusion just as the discussions for the “ground level” Willows Infrastructure project began. Rather than explaining to all that the “plan” and the “project” are at different scales and then simply move forward with the KHWD master plan; the potential to acknowledge and address policy matters raised during discussions involving the Willows Infrastructure project exists.

#### **IV. POLICY IMPLICATIONS**

Several policy implications are contained in the draft master plan. Although these policy matters need not be resolved prior to plan adoption it seems important to highlight these items which might appear to be buried in the document. Below is a listing of six (6) policy items the Commission may wish to discuss and provide direction. The May 11<sup>th</sup> agenda report contained additional information on these policy questions and is attached as a reference.

- a) Plan recommends the Port “evaluate acquiring additional land as opportunities arise” (*page #17 District-Wide Recommendations, 3<sup>rd</sup> bullet*)**
- b) Visions for the NW corner of Clover Island has implications to the informal seasonal boat trailer parking use (*page #20*)**
- c) Competition with Port of Pasco for Artisan Market (*page #29*)**
- d) Dog Park Interim Use at Cable Greens (*page #30*)**
- e) Building Partnerships (*page #34*)**
- f) Plan Recommends Clover Island Properties be Leased Rather than Sold (*Page #33 Aligned Property Strategy*)**

#### **V. ACTION REQUESTED OF COMMISSION:**

- #1) Discuss “scale” issue between the draft KHWD master plan and site-specific Willows Infrastructure project, if changes/additions to the draft master plan are warranted, and if so, what are those changes.**
- #2) Discuss policy questions identified in the May 11<sup>th</sup> agenda report and provide direction as appropriate.**
- #3) Discuss path forward regarding public input and adoption consideration of the draft KHWD master plan.**



## AGENDA REPORT

**TO:** Port Commission

**FROM:** Larry Peterson, Director of Planning & Development

**MEETING DATE:** May 11, 2021

**AGENDA ITEMS** Kennewick Historic Waterfront District (KHWD) Master Plan

---

- I. REFERENCE(S):** Kennewick Historic Waterfront District (KHWD) Master Plan – Summary Presentation
- II. FISCAL IMPACT:** N/A
- III. DISCUSSION:** In March 2020 the Port, with the assistance of MAKERS Architecture & urban design, LLP (MAKERS) undertook a master planning process for the current holdings on Clover Island and Columbia Drive, which through this process was referred to as the Kennewick Historic Waterfront District (KHWD). Only a few days into this effort COVID-19 was deemed to be a worldwide pandemic which required a quick restructuring of the public out-reach process. The public input process moved exclusively to an email, internet, newspaper, and telephone format, which resulted in far more participants than the community's previous high-water mark in public participation, the Vista Field charrette.

Over 40 stakeholders were contacted directly via telephone with several of those contacts resulting from the suggestions from a prior contact. Those directly contacted included Clover Island and Columbia Drive property and business owners, representatives from the City of Kennewick, Historic Downtown Kennewick Partnership (HDKP), Columbia Basin College (CBC), Confederated Tribes of the Umatilla Indian Reservation (CTUIR), United States Army Corps of Engineers (USACE), numerous quasi-government agencies, local realtors, developers, and design professionals and several “engaged” citizens.

Citizen input was broadly captured during a series of three online open-house events conducted in August and October 2020; and February 2021. These open houses included an interactive Idea Wall where citizens could post an idea or concept and others could comment, expound and/or contradict those ideas. Additionally, citizens could add their comments to a mapping tool which also shared the ability for others to build upon those initial comments. Finally, the more traditional tool of a survey was included in these open houses. In total these three open houses were visited/viewed/utilized by 2,365 unique visitors.

The first open house was intended to capture all the citizen's ideas and vision for this area with the second open house grouping those ideas into two differing scenarios; and the third open house presenting a

working vision filtered from the prior open houses. It must be acknowledged that not all ideas shared are contained within the draft plan because in some cases multiple suggestions were made for one site and/or some of the suggestions contradicted one another.

During the plan development and refinement process MAKERS attempted to establish a plan focused on vibrancy and activity while delicately balancing all citizens requests against the market and budget realities. This whole process involved presenting the citizen's input as choices with the intention of establishing the community's shared vision for the Kennewick Historic Waterfront District.

Columbia Basin College being a potential key partner was contacted directly by the MAKERS team to ascertain CBC's intentions to pursue developing a Culinary Institute in the KHWD. Unfortunately, a CBC representative informed MAKERS that due to several factors, the idea of a Culinary Institute was no longer being contemplated. This answer was necessary so land could either be reserved for such a use, or in this case released and contemplated for other uses.

Through this process the citizens asked for many uses and/or activities beyond the uses or scale typically undertaken by port districts. This could be attributed to several factors including the community's growing appreciation of their waterfront, desires for transformative change, and possibly prior successful Port of Kennewick efforts to stretch the bounds of what a port district can accomplish. This seems to result in some tough decisions as balancing the citizens wants with the Port's realities presents a major decision for the Port Commission.

#### **IV. POLICY IMPLICATIONS**

Several policy implications are contained in the draft master plan. These policy matters need not be resolved prior to plan adoption yet it seems important to highlight these items which might appear to be buried in the document. Additionally, the Commission is reminded that once adopted, the master plan is intended to serve a 5 to 10-year period, although there is no prohibition of revisiting the master plan these and other district-wide implications are weighed against each another.

##### **Plan recommends the Port "evaluate acquiring additional land as opportunities arise" (*page #17 District-Wide Recommendations, 3<sup>rd</sup> bullet*)**

This recommendation if retained would seem to indicate the Commission would strongly consider allocating future Port expenses and effort for land acquisitions. Does the Commission have interest in acquisition of additional land in and around Columbia Drive? Considering all the Port's current commitments is this a realistic policy, and if so, what other projects might the Port no longer pursue to afford such expenditures?

##### **Visions for the NW corner of Clover Island has implications to the informal seasonal boat trailer parking use. (*page #18*)**

The plan mentions the corner is currently used for overflow boat trailer parking and suggests future interim use of the corner for open-air public events and gatherings, and the eventual development of a boutique hotel or other uses that both activate the site and generate revenues.

Is Clover Island too unique and valuable to retain and preserve the crucial corner parcel for the infrequent free usage for haphazardly parked tow vehicles & boat trailers? The draft master plan is based upon that conclusion. The concept to maximize year-round use of the corner was identified in the 2005 master plan and at the time of adoption the Port's 2001 investment of \$150,000 in the City's project to expand the Columbia Park boat launch to 4-lanes and add a sea of parking was the answer provided when concern arose.

A decision between adopting a plan for reuse of the corner as envisioned by the citizens who provided input over the last year and committing to the boat ramp users, who will likely become vocal at some point regarding the conversion of the beloved free parking area will be required.

The answer considered might be BOTH, so the boutique hotel footprint and covered event space are reduced to allow a portion of the site, allowing the remainder to coexist as a seasonal boat trailer parking area. However, this may or may not be the right answer as a mini parking lot, regardless the size would not be big enough and removing a segment of a relatively small parcel further impedes the development potential for a hotel. This may be a situation where it is all or nothing for both of the uses and a 50/50 split is acceptable to neither.

#### **Competition with Port of Pasco for Artisan Market (page #27)**

Plan recommends marketing a portion of Columbia Gardens for an Artisan Market. Although much smaller in scale than the market proposed at the Port of Pasco's (POP) Osprey Point, it seems to raise the policy question about pursuing uses deemed best for on POK site versus leaving a "lane open" for the POP project. Would these two markets compete for the same vendors and/or customers or is there enough difference in scale and/or location to avoid concern? If the two markets are deemed to be in direct competition ... is that a bad thing? Should the Port wait a certain amount of time before marketing/pursuing this idea to allow the POP project to blossom and if so, what is that amount of time?

#### **Dog Park Interim Use at Cable Greens (page #28)**

The plan suggests a dog park be established at the Cable Greens as an interim use. Is this an undertaking the Port is willing to pursue and fund? Is the Commission concerned that the eventual conversion to the permanent uses would be resisted due to the public's fondness for the interim dog park?

#### **Building Partnerships (page #32)**

Plan suggests the Port expand current partnerships and enhance programming activities to help cultivate a thriving district. This policy decision seems to be a fairly straight forward budget-based decision. Should the Port undertake this additional task, possibly through adding additional staff, and if so what other current and future efforts would be forgone?

#### **Plan Recommends Clover Island Properties be Leased Rather than Sold. (Page #33 Aligned Property Strategy)**

This recommendation is a continuation of both the decades long Port practice and the recommendations contained within the most recent (2005) Clover Island Master Plan. General thought conveyed over the last 17 years has been land leasing allows the Port to retain underlying control as buildings and uses evolve over the decades and allows the private sector to put a larger share of their monies into their buildings and operational efforts.

At present, the land lease revenues are utilized to help offset the annual maintenance costs for the numerous public improvements on the island. Upkeeping extensive and well-groomed landscape areas, unique hard surface areas and numerous works of art require significant amounts of labor. Additionally, expenditures for lighting, litter control and special touches such as holiday lighting require additional funds. Clover Island's "special feeling" is not obtained solely by the existing of unique elements along the waterfront but together with the diligent and constant maintenance of these areas.

It would seem if land sales we contemplated the decision whether a mechanism needs to be established to help assure all (non-federal) island property owners contributed to this perpetual maintenance expense is needed OR whether these maintenance costs would be fully borne by the Port would be required.

Would/could land sale revenues buy enough to fund the pro-rata share of the maintenance costs for the foreseeable future? {since interest rates are at historic lows, banking the principle from land sales and the utilizing the interest to fund the maintenance seems unrealistic}

**V. ACTION REQUESTED OF COMMISSION:**

- #1) Receive the presentation from the MAKERS team as they walk through the process and product and ask questions of MAKERS, staff, and fellow Commissioners. Any comments, feedback or direction would be helpful as staff and the MAKERS team refine the plan.
- #2) Discuss path to adoption.

PORT OF KENNEWICK

# HISTORIC WATERFRONT DISTRICT

MASTER PLAN

DRAFT 05.24.2021





# ACKNOWLEDGMENTS

## PORT OF KENNEWICK

### COMMISSION

Don Barnes, President

Skip Novakovich, Vice President

Thomas Moak, Secretary

### STAFF

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Tana Bader Inglima, Deputy Chief Executive Officer

Larry Peterson, Director of Planning & Development

Amber Hanchette, Director of Real Estate & Operations

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### PARAMETRIX

Sam Nielson



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Figure 1. Clover Island Yacht Club marina



# INTRODUCTION



Figure 2. Restored shoreline and walkway leading to the Clover Island lighthouse

## OVERVIEW & PURPOSE

The Port of Kennewick (Port) developed the Clover Island Master Plan in 2005, which intended to guide transformation of the area into a showcase river-shore development. With the plan as their guide, the Port:

- Improved the marina and boat launch
- Developed two small mixed-use office, retail, and community buildings with the Clover Island Yacht Club and Port as anchor tenants
- Completed western shoreline restoration and with Army Corps of Engineers support, is in the process of restoring the northern shoreline
- Added a signature gateway, completed public space enhancements (utilities, sidewalks, lighting) to the central roadway to enhance non-motorized usage, and installed much of the waterfront esplanade
- Added the iconic lighthouse attraction and plaza
- Installed art and landscaping highlighting local history and culture throughout the island

Though many improvements have been made, it has yet to yield the private mixed-use investment envisioned by the 2005 master plan. As a result, the Port recognized that integrating the surrounding area into a cohesive district will be critical to leverage their investments on Clover Island, improve the vitality and economic performance of the surrounding area, and better connect this unique waterfront district to downtown Kennewick. In response, the Port purchased and began improving properties along Columbia Drive, and initiated this new master plan which intends to:

- Unify the area between Columbia Drive and Clover Island as the historic waterfront district
- Convey a community-driven vision and desired amenities, connections, and development
- Develop a strategy to create a thriving area for residents and visitors
- Prioritize the next 15-20 years of investments to help realize the greater district vision



## PLAN ORGANIZATION

This plan begins by introducing the project and reviewing the planning context. It then summarizes key findings and analysis, including community feedback, noting how this insight drove plan development. The recommendations section summarizes investments by location and includes a plan for phased implementation. The plan concludes with design guidelines that intend to create a cohesive district-wide look and feel.

## PROCESS

A consultant team led by MAKERS prepared this plan in partnership with the Port of Kennewick and the community. ECONorthwest provided economic analysis and Parametrix provided transportation context.

It should be noted that this plan was developed during an unprecedented world-wide pandemic. As public engagement was crucial to development plan recommendations, the team responded to the COVID context by leading innovative virtual outreach activities. This process and its outcomes are covered in the Key Findings & Analysis chapter as well as Appendix B - Public Engagement Feedback.

The team developed the plan in three phases:

### ASSESS NEEDS

The project team reviewed existing information, interviewed key stakeholders, held discussions with groups of key community members (see Project Stakeholders on page 11), and conducted a virtual open house with the public to understand district conditions and opportunities.

### EVALUATE OPPORTUNITIES

Working with Port staff, the team created and evaluated development concepts that addressed priority areas. The team shared two alternative concepts in an interactive virtual open house, and then incorporated feedback into draft recommendations.

### PRIORITIZE INVESTMENTS

The draft concept was presented in a final virtual open house and the public provided feedback through an online survey. The project team worked with the Port to respond to suggestions, developed a phasing and implementation schedule, and highlighted partnership opportunities and strategies for near-term activation.

# REGIONAL CONTEXT

Kennewick Washington's historic waterfront district has an opportunity to play a significant role in meeting the needs for increased public services and amenities in the region. Historically an agricultural area situated at the confluence of the Yakima, Snake, and Columbia rivers, the region is home to a growing high-tech industry largely related to Pacific Northwest National Labs and clean-up efforts of the decommissioned Hanford nuclear production complex.

The Tri-Cities (Richland, Kennewick, and Pasco) anticipates continued growth in population tied to a rising number of retirees and services associated with that population. If trends continue, nearly one-fifth of the Tri-Cities population would be older adults by 2030<sup>1</sup>.

## HISTORIC WATERFRONT DISTRICT<sup>2</sup>

Originally part of a natural sedimentary island system used by Native American tribes and early settlers, early commercial use of Clover Island included a barge building site. Subsequently, a portion of the originally 53-acre island was used as fill material to create a smaller footprint remaining above the slack water created by completion of McNary Dam in 1954. Additional fill was added to the island's east end in the 1960s. Today, Clover Island is 16 acres in size.

A constructed levee enclosed part of the original shoreline adjacent to Clover Island and created the retention basin known as Duffy's Pond.

Today, greater Kennewick has transitioned from an industrial focus to a residential community. Just one mile south of Clover Island, historic downtown Kennewick is a center for retail activities, with the auto-oriented commercial and industrial Columbia Drive corridor and the railroad in between.

This plan seeks to unite Clover Island and the adjacent inland area as the historic waterfront district and support the region's unique history, character, and evolution.

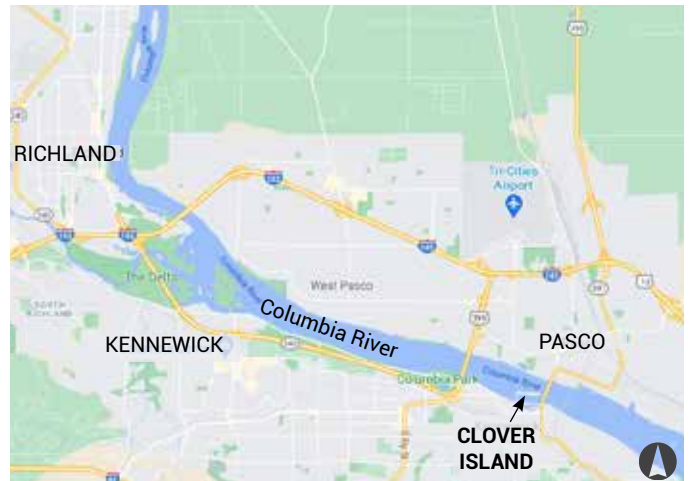


Figure 3. Regional context map (Source: Google Map)



Figure 4. Former footprint of Clover Island and east Kennewick, ca 1942 (Source: Port of Kennewick)



Figure 5. East Kennewick (Source: Google Map)

<sup>1</sup> "The Tri-Cities' Graying Population Will Grow Over Next Decade", Tri-Cities Area Journal of Business, February 2021

<sup>2</sup> Port of Kennewick



# PROJECT ORIENTATION

This plan is intended to convey a community-driven vision and guide development for Clover Island and Port-owned properties within the historic waterfront district. The graphic below indicates the properties owned by the Port included within this plan<sup>1</sup>.

## CLOVER ISLAND

The Port owns most of Clover Island aside from the U.S. Coast Guard's Aids to Navigation Team Kennewick station (Coast Guard Station). The three sections of Clover Island are currently used in the following manner:

- **Clover Island West** includes the Clover Island Yacht Club and marina, the lighthouse plaza, a boat launch and open gravel parking area, and the Clover Island Riverwalk
- **Clover Island Central** includes the Port offices, Ice Harbor Brewery and Cedars restaurants, and a pocket park known as The Gathering Place
- **Clover Island East** includes the Coast Guard station, Clover Island Inn, and a temporary event space used to host a summer concert series

## COLUMBIA DRIVE

The Port-owned parcels along Columbia Drive are grouped into three properties:

- **The Willows** is primarily undeveloped open space that includes the Veterans Memorial Christmas Tree
- **Columbia Gardens Urban Wine & Artisan Village** includes wineries, tasting rooms, and a food truck plaza
- **Cable Greens** consists primarily of undeveloped open space

<sup>1</sup> Note, this plan focuses on the Port's "upland" assets due to the significant technical, environmental, and financial complexities of in-water development.



Figure 6. Port-owned property in Kennewick's historic waterfront district





Figure 7. Lighthouse Plaza (Source: Port of Kennewick)



Figure 8. Building with Port offices and Ice Harbor Brewing Company



Figure 9. Clover Island Inn



Figure 10. Undeveloped land at The Willows (Source: Port of Kennewick)



Figure 11. Food truck plaza at Columbia Gardens (Source: Port of Kennewick)



Figure 12. Trail around Duffy's Pond





Figure 13. Food Truck Plaza at Columbia Gardens (Source: Kim Fetrow Photography)

# KEY FINDINGS & ANALYSIS

Community feedback, economic analysis, and urban design principles were the three main drivers that shaped this master plan.

Findings from the community engagement process described on page 12 informed this plan's vision and recommendations. Though traditional in-person outreach was curtailed by the COVID-19 pandemic, the team leveraged virtual tools to connect to hundreds of stakeholders and were inspired by thoughtful suggestions and ideas contributed by the community.

During the needs assessment phase, MAKERS held virtual discussions with over 50 stakeholders and focused on topics ranging from local culture, desired amenities, and hopes for this changing district.

An analysis of the market demand for different types of development further guided the recommendations.

## PROJECT STAKEHOLDERS

Port Commissioners and Staff  
City of Kennewick Staff and Elected Officials  
Benton County  
Ben-Franklin Transit  
Historic Downtown Kennewick Association  
Tri-City Regional Chamber of Commerce  
Hispanic Chamber of Commerce  
Columbia Basin College  
U.S. Coast Guard  
U.S. Army Corps of Engineers  
Local Businesses, Developers, and Architects  
Tourism and Historical Organizations  
Community Recreation Groups  
Engaged Community Members

## COMMUNITY PRIORITIES

The community values this area's connection to nature and water and desires more amenities and activities that focus on the area's rich history and culture.

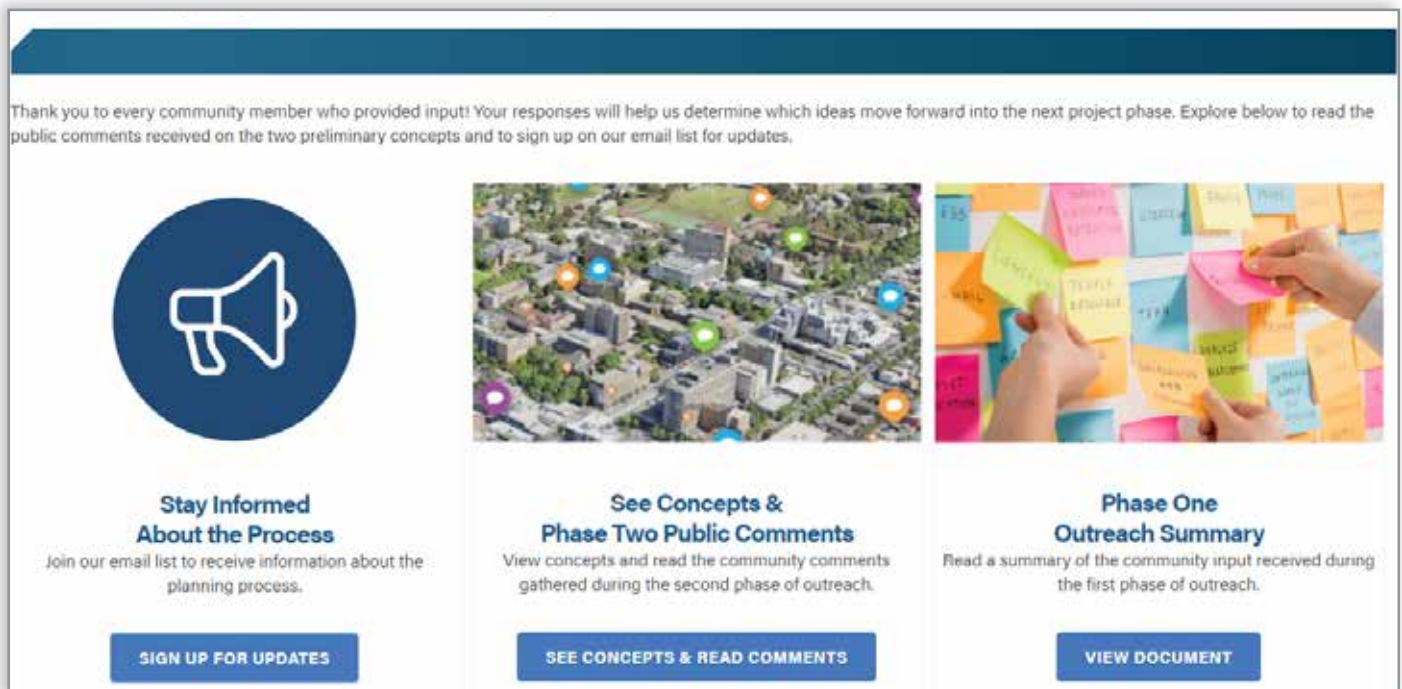


Figure 14. Example community engagement tools used in project outreach (Source: Port of Kennewick)



## FAST FACTS

2,365 unique website visitors

168 comments

137 survey responses



Figure 15. Open house #1 map activity showing location-based feedback

## OPEN HOUSES

MAKERS hosted three virtual open houses to support plan development. The first asked the community about the area's strengths, weaknesses, and potential. Results showed the community wants an activated district with a variety of amenities for people to recreate, gather, and celebrate and support local culture. The community also expressed concern about the aesthetics of some existing development, such as the Clover Island Inn and nearby residences, limiting development potential. Findings helped to develop preliminary plan concepts for further consideration.

In the second open house, the community provided feedback on two alternative concepts for the district. The first concept focused on creating a new district-wide residential community and the second concept created a local tourism destination rich with amenities and activities.

The community prioritized:

- **Activation:** lively public spaces with amenities
- **Access:** improved boardwalk at Duffy's Pond and trails throughout the district
- **Amenities:** formal performance area and artisan market
- **Residential:** small scale and attractive



Figure 16. Concept B featured in the second open house focused on creating an amenity-rich destination

The community showed interest in Duffy's Pond as a local oasis, waterfowl habitat, and aesthetically defining feature of the district, though it requires ecological improvements to fully integrate as a community amenity.

The community also expressed concerns about residential development that would block views, lack vitality, and be too dense for the area. The planning team incorporated this feedback into plan revisions.

The third open house presented the draft plan to the public. Feedback indicated the public remains concerned about residential development and a potential lack of parking in the district. Responses also showed overwhelming support for the plan, noting proposed amenities would benefit the area. Maintaining access to the water and viewpoints and preserving this area's natural habitat remained top community priorities.



Figure 17. Excerpted draft recommendations as summarized for the final open house





Figure 18. Highlighting the area's unique walkable waterfront will be key to the district's success (Source: Kim Fetrow Photography)

### HORIZONTAL VS. VERTICAL MIXED-USE

Vertical mixed-use development typically has apartments or condominiums stacked on top commercial development. Horizontal mixed-use development places the two alongside each other, as seen in the picture below.



Figure 19. Example of horizontal mixed use with retail next to medium density residential

## ECONOMIC ANALYSIS

Much of the envisioned district development will rely on private sector investment. An economic analysis helped ensure plan recommendations are likely to be economically feasible for private sector partners. This section summarizes major findings from the analysis.

### FINDINGS

- Emphasize a **balance of uses, activated public spaces, and strong circulation network** throughout, especially to connect the Willows to Columbia Gardens.
- Consider **medium density residential** as the most economically viable use in the near term, a potential key source of revenue generation, and an activity anchor for the district. **Higher density residential** is more costly to construct and potentially slower to sell or lease.
- Highlight the **unique, walkable, dynamic waterfront location** and consider demographic trends to guide marketing efforts.
- Begin by pursuing **"horizontal" mixed use with medium density residential** near retail development. "Vertical" mixed use is more expensive, complex, and harder to finance.
- Consider the development of a **boutique hotel** as not likely viable in the near term (2022- 2026).

## URBAN DESIGN PRINCIPLES

Plan recommendations consider the Port of Kennewick's 2015 Vista Field Project Pattern Language study and incorporate the following urban design principles:

- Provide multiple points of access and egress.
- Create distinct character in each "node" (see page 17) to help people locate where they are within the district.
- Add smaller articulated points of interest on trails to encourage awareness and heighten expectation.
- Cluster a variety of attractions to increase walkability and encourage visitors to spend more time in the district.
- Incorporate design elements inspired by regional qualities and contexts.



Figure 20. Community input showed interest in more variety of activities for all ages and abilities

## FEEDBACK IN ACTION

The team considered community feedback, economic analysis findings, and the urban design principles summarized above to develop the vision for the district and plan recommendations. Recommendations fall into the following three areas of focus.

### AN ACTIVE DISTRICT

The community desires increased activities and amenities. The plan fosters development of a variety of dining, shopping, and equipment rentals, provides several event spaces, and encourages programming diverse, welcoming, and year-round activities throughout the district.

### RECREATION

Plan recommendations reflect the demand for increased recreation opportunities in the area. Completed trails, open spaces, and play areas will connect the district and provide space for users to enjoy the river and rich natural environment.

### A PLACE TO CALL HOME

The plan includes residential development as a key revenue generator that can help the Port fund the desired amenities and public spaces. Residential development will also support the district's commercial business activity and increase the feeling of vibrancy and safety. At the same time, the plan reflects community feedback by limiting the scale of residential development and ensuring it is included in a context that welcomes visitors and retains public access to waterfront trails, views, and amenities.

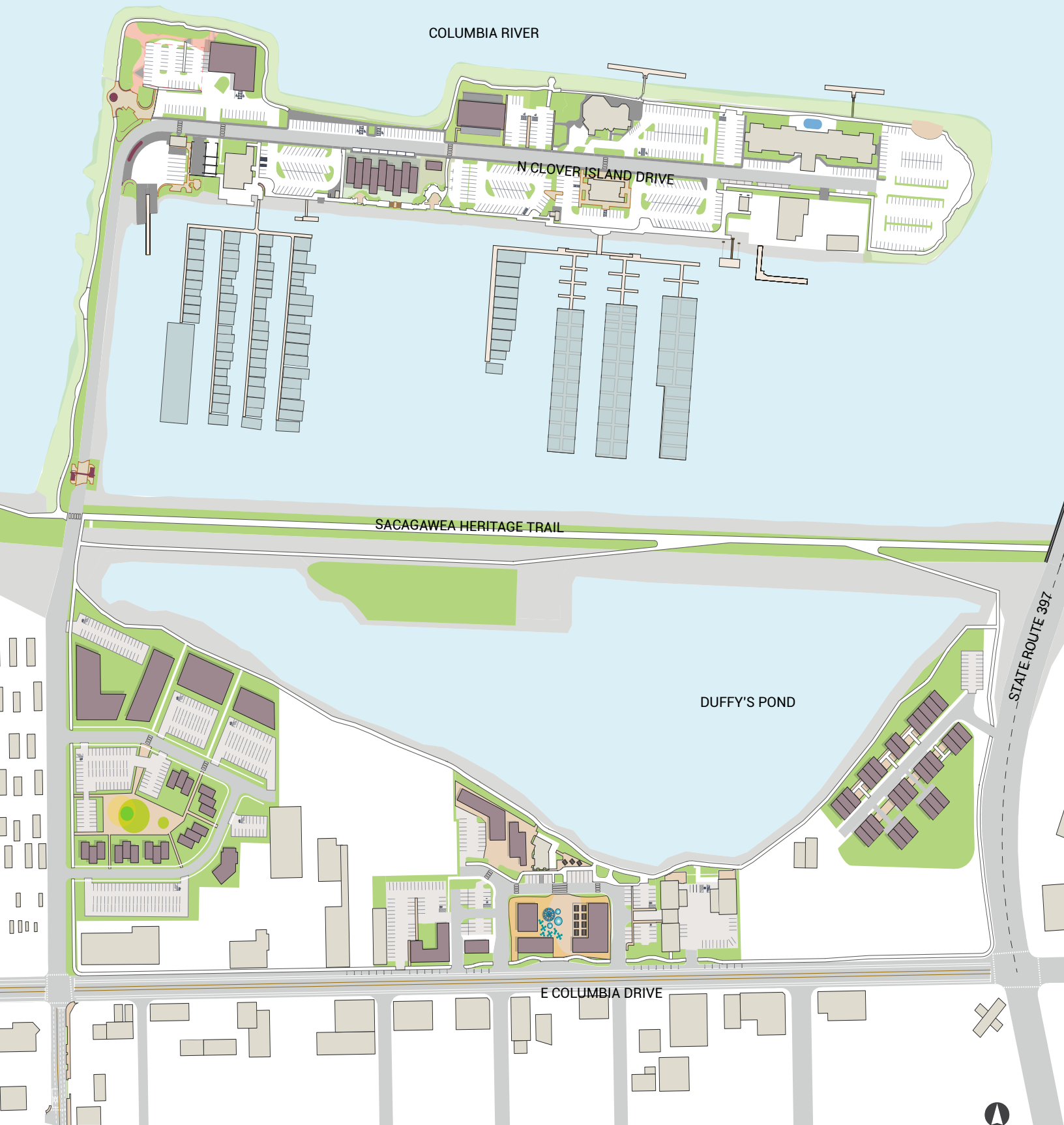


Figure 21. Preferred concept illustration



# PLAN OVERVIEW



Figure 22. District nodes

This section outlines recommended actions that will help achieve the community's vision for the historic waterfront district and attract complementary investments from district property owners, business owners, tenants, and developers. It first presents a checklist designed to assist the Port staff and commission in using the master plan to guide district development. It then summarizes the vision for each district node across the following three categories:

- An Active District
- Recreation
- A Place to Call Home

Site plans and sketches in each section summarize and illustrate recommendations to achieve the vision. Together, these recommendations will create a unified and attractive district that is an enjoyable destination for visitors, safe and comfortable place for residents, and support economic recovery, growth, and vitality.

Please note, though specific private development types are described and illustrated, economic conditions and partnership opportunities are evolving and difficult to predict with certainty. Recommendations described in this section are intended to clarify the vision for each node but provide the Port flexibility to evolve with market conditions and respond to opportunities that arise.

## DISTRICT-WIDE RECOMMENDATIONS

In addition to the node-specific recommendations that follow, the Port should implement the district-wide actions listed below.

- Use design guidelines to create a cohesive district identity (see "Design Guidelines" on page 41).
- Support the City's efforts to improve the pedestrian and bicycle experience on Washington Street and Columbia Drive. Work with the City to enhance connections to historic downtown Kennewick.
- Evaluate acquiring additional land as opportunities arise.
- Increase the ability for the community to connect with water on site.
- Improve and protect Duffy's Pond ecology and function as a key district amenity.
- Retain ownership of Clover Island as a distinct environment and special community asset.
- Complete Clover Island shoreline enhancements in partnership with the United States Army Corps of Engineers (USACE).
- Pursue private development that contributes to achieving the community's vision and generates revenue to support amenities, economic recovery activities, and year-round event programming.



# HOW TO USE THIS PLAN

This master plan is intended as a tool to guide development of the district according to the community-driven vision. To that end, recommendations have been translated into a checklist to help the Port employ master plan principles to weigh options and make decisions around district development.

The following questions are intended to guide Port review of development proposals, improvement design, parcel marketing, and event programming selection. They can function to evaluate a single action or as a framework to rank competing ideas. The checklist is divided into overall and site-specific considerations.

## OVERALL

How well does the proposal:

- ☐ Bring people to the district to activate spaces, patronize businesses, and increase the feeling of safety, vibrancy, and comfort?
- ☐ Support economic development and local businesses, post-COVID economic recovery, and long-term economic vitality?
- ☐ Generate revenue to support Port installation, maintenance, and operation of district amenities?

- ☐ Comply with district design standards and embody development of a scale and type consistent with the master plan vision?
- ☐ Increase access to district trails, viewpoints, amenities, and recreation opportunities?
- ☐ Protect or enhance publicly accessible riverfront and Duffy's pond views?
- ☐ Showcase local art and culture to build a unique sense of place
- ☐ Provide adequate parking for the proposed use?



Figure 23. Supporting local businesses is critical to the district's vitality



Figure 24. The district's natural beauty is a vital community asset (Source: Kim Fetrow Photography)

## SITE-SPECIFIC

If located on **Clover Island West**, how well does the proposal:

- ☐ Relate to and enhance the iconic lighthouse and civic space?
- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?

If located on **Clover Island Central**, how well does the proposal:

- ☐ Expand island dining options and complement existing businesses?
- ☐ Offer boating, recreational, event-oriented, or general supplies to district boaters, visitors, and residents?
- ☐ Relate to and enhance the central island small park, trails, and civic spaces?

If located on **Clover Island East**, how well does the proposal:

- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?
- ☐ Improve the aesthetic appeal of the Clover Island Inn?
- ☐ Improve connections to the perimeter trail and viewpoints on the east end of the island?



Figure 25. Development around Duffy's Pond should be oriented to appreciate and enhance its natural beauty

If located on **Columbia Drive West: The Willows**, how well does the proposal:

- ☐ Serve as a district gateway by setting a welcoming tone and emphasizing quality public spaces?
- ☐ Connect to and support the wineries, food purveyors, and other businesses in Columbia Gardens?
- ☐ Relate to and enhance the Veterans Memorial Christmas Tree plaza, Duffy's pond trail, and connections to Columbia Gardens and Clover Island Drive?

If located on **Columbia Drive Central: Columbia Gardens**, how well does the proposal:

- ☐ Contribute to creation of a vibrant, welcoming activity hub?
- ☐ Relate to and enhance the Duffy's pond trail, civic space, and connections to The Willows and Cable Greens?
- ☐ Utilize City and Port investments in the wine effluent treatment system?
- ☐ Support event programming to increase district visibility, economic activity, and build interest and momentum around plan implementation?

If located on **Columbia Drive East: Cable Greens**, how well does the proposal:

- ☐ Connect to and support the wineries, food purveyors, and other businesses in Columbia Gardens?
- ☐ Relate to and enhance the Duffy's pond trail and connections to Columbia Gardens?



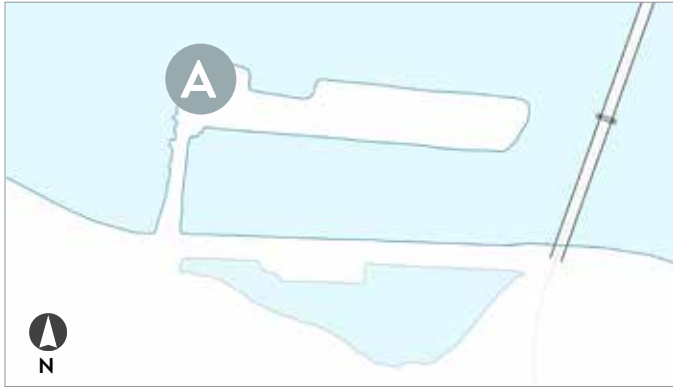
Figure 26. New development should help create a vibrant, welcoming activity hub around the wineries at Columbia Gardens



Figure 27. Completing the Duffy's Pond trail is critical to connect the district and regional trail network



# CLOVER ISLAND WEST



Located in the district's northwest corner, Clover Island West is the most visible of the district's nodes. The island's iconic lighthouse anchors this node and gives visitors a place to enjoy sweeping water views. It currently contains the Clover Island Yacht Club, public boat launch, and has a gravel lot used for overflow and boat trailer parking during peak boating and event season.

## VISION

### AN ACTIVE DISTRICT

Already well-loved, this node continues to grow in popularity as a community meeting space. Prior to securing a permanent signature development, a new covered open-air event space will host public events, community celebrations, and private gatherings.

Partners will recognize the site's unique advantages and the benefits of locating adjacent to well designed and maintained public amenities. Future development may include a permanent event space, boutique hotel, or other signature development that activates the space and generates revenues to support investments in community amenities.



Figure 28. Example of covered rentable space for events and celebrations in New Orleans



Figure 29. New covered rentable event space and enhanced lighthouse plaza with a boutique hotel

## RECREATION

An enhanced gathering space and extended perimeter trail showcase the shoreline restoration and expand opportunities to congregate and recreate. The trail wraps around the new event space and future development, connects to the district's circulation network, and provides opportunities to enjoy the area's riverfront location and spectacular views.

## RECOMMENDATIONS SUMMARY

- Build a temporary rentable, covered, open-air event space.
- Expand this area's civic space and optimize connectivity between the expanded perimeter trail and future development; design space to accommodate food trucks or other pop-up vendors to support events.
- Market site for private development of a boutique hotel or other compatible use that includes indoor event space, respects and responds to the lighthouse icon and community gathering area, activates the island, and generates revenues to support Port investments.



Figure 30. View from lighthouse looking west to the Blue Bridge

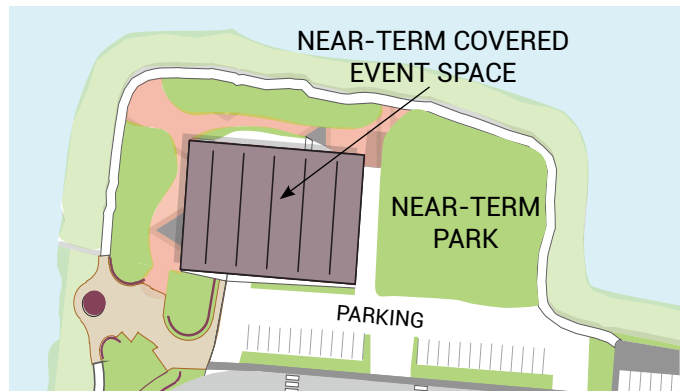


Figure 32. Recommended interim event space

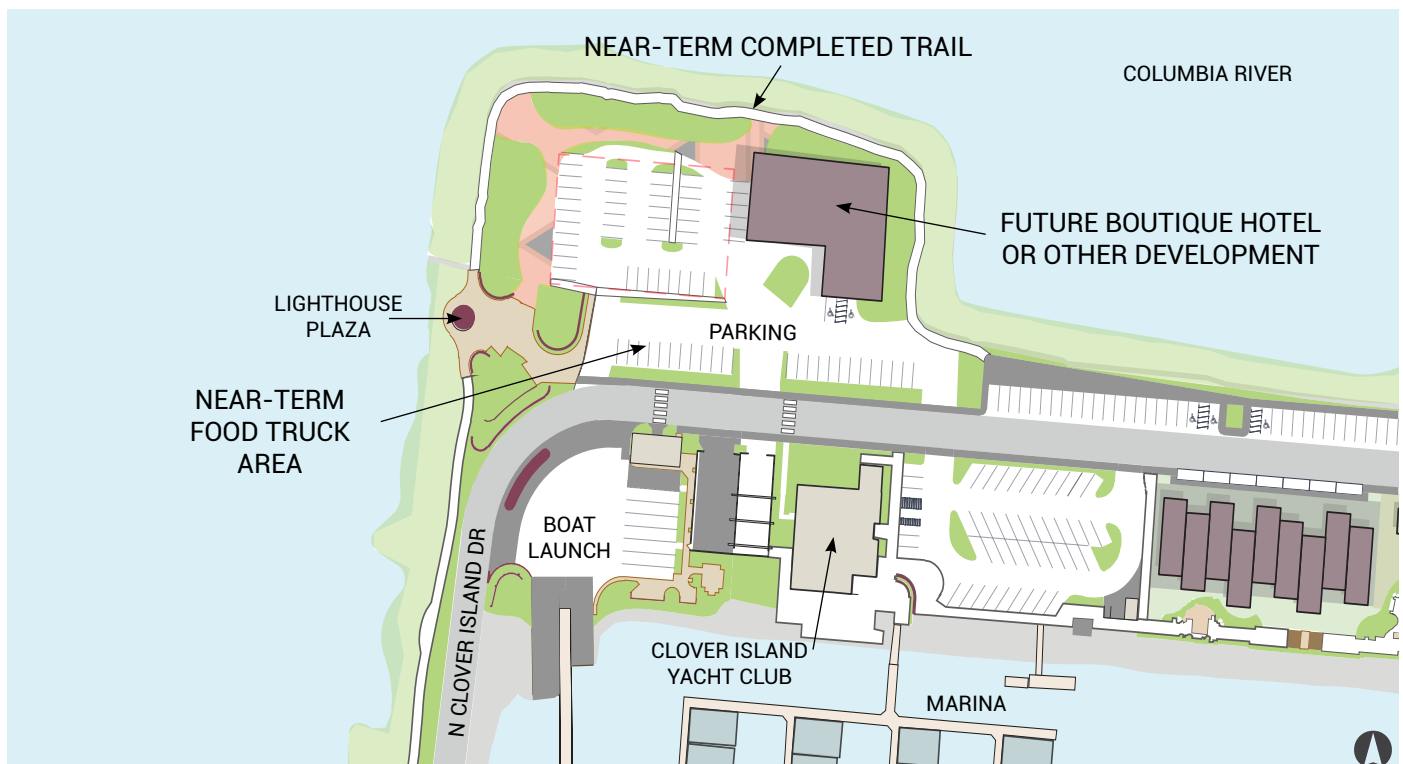
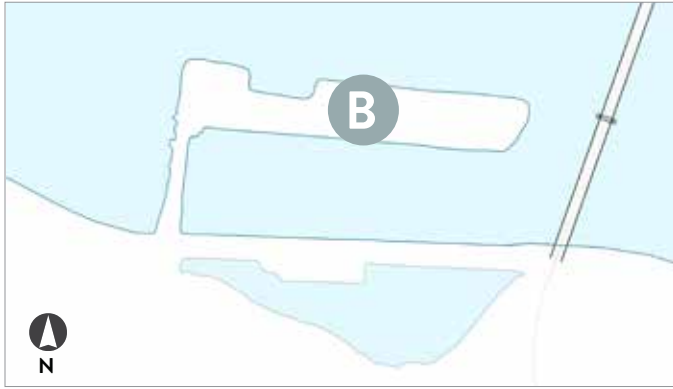


Figure 31. Clover Island West recommendations, private development may vary

# CLOVER ISLAND CENTRAL



Clover Island Central includes Cedars, an iconic Tri-Cities waterfront restaurant, the Port offices, Ice Harbor Brewery, and parking, loading, and access for the Port's marina.

## VISION

### AN ACTIVE DISTRICT

Clover Island Central offers a range of eating options and supplies for the boater, biker, walker, or district resident, and is well-suited for additional food and retail that will help the island draw more customers and become a hub of activity. Clustered around a central open space and linked to island trails, this area hosts year-round activities and highlights local art and culture.

### RECREATION

Visitors and trail users can stop in the central node to grab a snack, enjoy views of the river, and relax at picnic tables under covered shade structures. In later phases, the addition of a small play space would be an even greater draw for families.



Figure 33. Casual dining opportunities geared towards river views



Figure 34. New amenities and a small unique cluster of housing enhances the existing attractions and brings customers to the core of Clover Island



## A PLACE TO CALL HOME

A new residential community offers a unique "island lifestyle" to boaters, water enthusiasts, and others drawn to this special place.

## RECOMMENDATIONS SUMMARY

- Market the site for private development of casual grab-and-go dining, small recreational supply shop, and/or other compatible uses that support on-the-go or seasonal needs. Attract permanent year-round amenities as demand grows.
- Build a small park, connect to trail, and tie the north and south sides of the island together through a linked series of amenities and connections.
- Orient new commercial development around existing publicly accessible plazas and walkways showcasing local art and culture.
- Market the site for private development of a residential townhouse community or other compatible use.



Figure 35. Grab-and-go casual dining lets visitors enjoy food while they are on the move

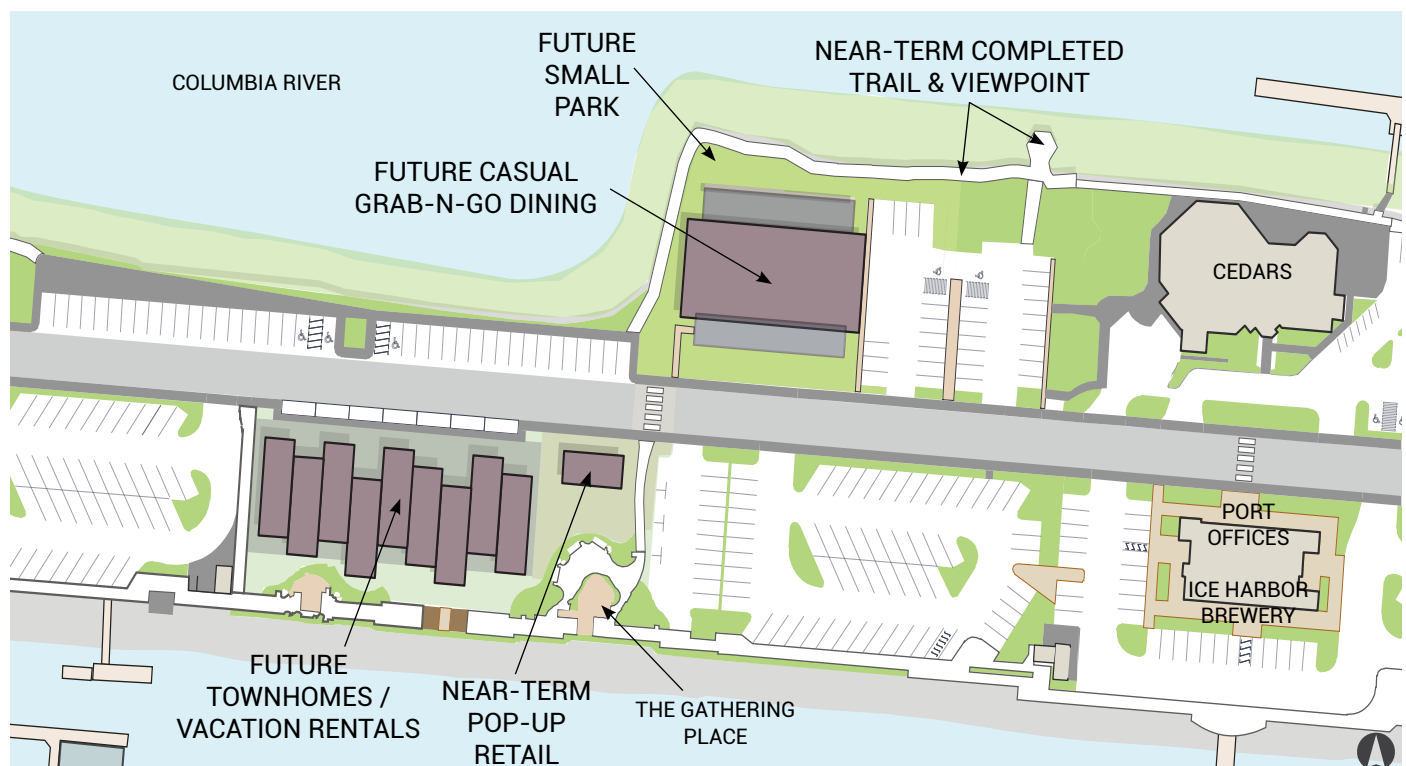
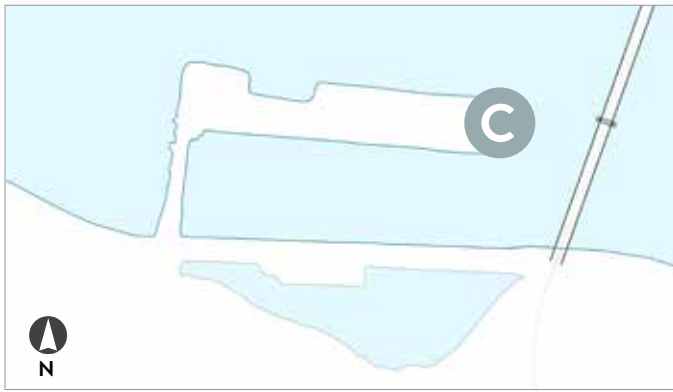


Figure 36. Clover Island Central recommendations, private development may vary

# CLOVER ISLAND EAST



Clover Island East contains the Clover Island Inn and parking area, which doubles as concert space with a temporary stage used for seasonal programming. The U.S. Coast Guard Station is also located on this end of the island.

## VISION

### AN ACTIVE DISTRICT

The non-coast guard Clover Island East graces the district as an entertainment destination with features such as an improved music pavilion, the refurbished Clover Island Inn, and a landscaped vantage point that boasts unparalleled views up river and to the Ed Hendler Columbia River Bridge (commonly referred to as the Cable Bridge). In partnership with the hotel, visitors will enjoy live performances, artisan fairs, cultural events, weddings, corporate retreats, and other events on Clover Island East.

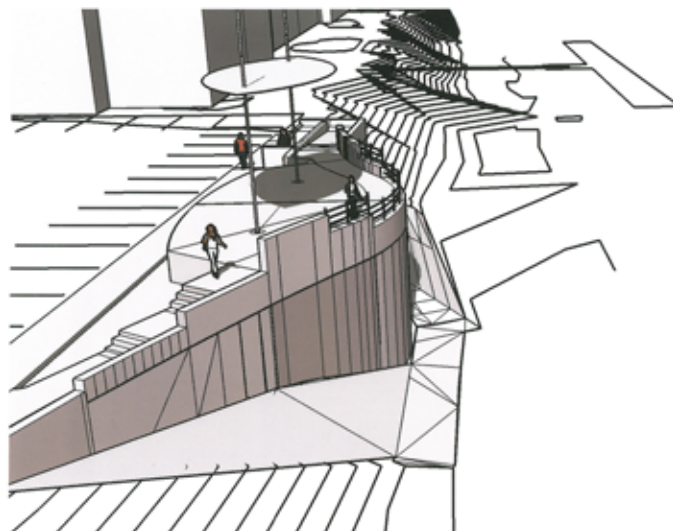


Figure 37. Design for enhanced entertainment space next to Clover Island Inn  
(Source: HDJ Design Group, 2009)



Figure 38. A permanent event space, viewpoint, and trail improvements bring people to enjoy great views of the Cable Bridge

## RECREATION

The new loop trail along the shoreline will provide active users with continuous connectivity that extends up the river. Physical fitness activity stations or other features add interest along the trail, creating a workout opportunity for Clover Island's U.S. Coast Guard staff and district residents and visitors.

## RECOMMENDATIONS SUMMARY

- Create an enhanced event space near the Clover Island Inn and partner to host events.
- Extend the perimeter trail to create a contiguous loop.
- Add a vantage point similar to others around the island, that is oriented toward the Ed Hendler Bridge.
- Install trail-side physical activity stations or other focal points to add interest throughout the district.
- Prioritize exterior upgrades, modernization, and/or redevelopment to improve the aesthetic appeal of the Clover Island Inn and grounds as future leases are negotiated. Partner to expand walkways near the building to better connect with the island trail.



Figure 39. Workout stations could be placed along the pedestrian trail

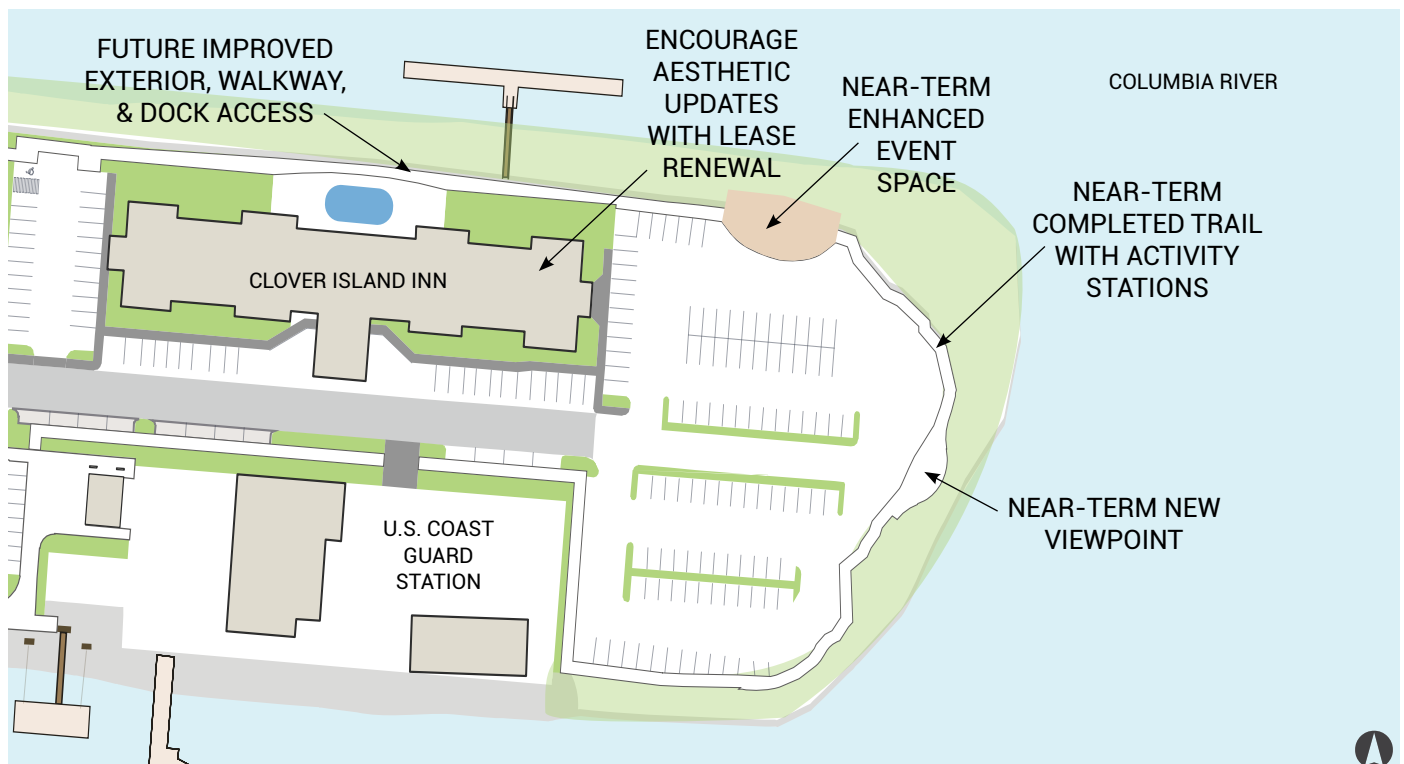
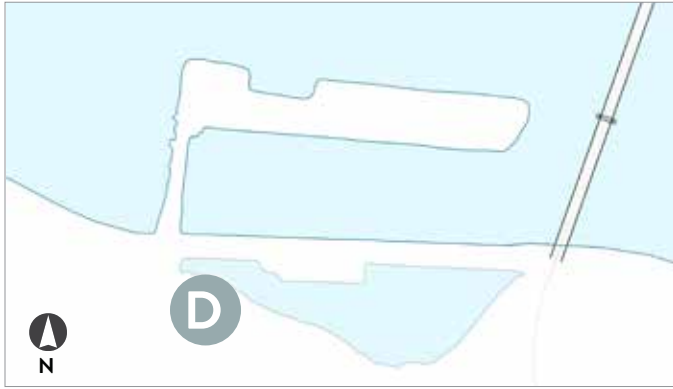


Figure 40. Clover Island East recommendations, private development may vary



# COLUMBIA DRIVE WEST: THE WILLOWS



The Willows is the land-based gateway to the historic waterfront district. It is primarily undeveloped land with trees, including one designated as a veterans memorial.

## VISION

### AN ACTIVE DISTRICT

Future residents will have prime access to the activity centers at Clover Island, Columbia Gardens, and downtown Kennewick. Residents will delight in the festive holiday lighting of the Veterans Memorial Christmas Tree and enjoy the plaza as a quiet space for reflection.

### RECREATION

The district and regional trail system will converge at The Willows. Improved trails with lighting and wayfinding will encourage use, and parking for regional trail users will be provided.



Figure 41. A community garden could be integrated into the residential development.



Figure 42. New small scale residential will bring activity to the area

## A PLACE TO CALL HOME

Striking a balance between active uses and natural beauty, this is the district's prime location for new residential development.

The Willows residential community is nestled into a serene tree-lined setting and offers access to nature, local food and beverage options, views of the water, and an easy walk to Clover Island and historic downtown Kennewick. Just off Columbia Drive, The Willows offers easy access to arterials and regional employment centers.

## RECOMMENDATIONS SUMMARY

- Market the site for private development of a residential community that supports wineries, food purveyors, breweries, local artisans, and boutique retail and generates revenues for wider area improvements.
- Create a plaza around the Veterans Memorial Christmas Tree.
- Enhance regional trail connections and add a parking lot near the levee for all ages and abilities trail users.
- Retain mature trees as feasible and replace failing trees as needed.



Figure 43. A surrounding plaza would complement the Veterans Memorial Christmas Tree

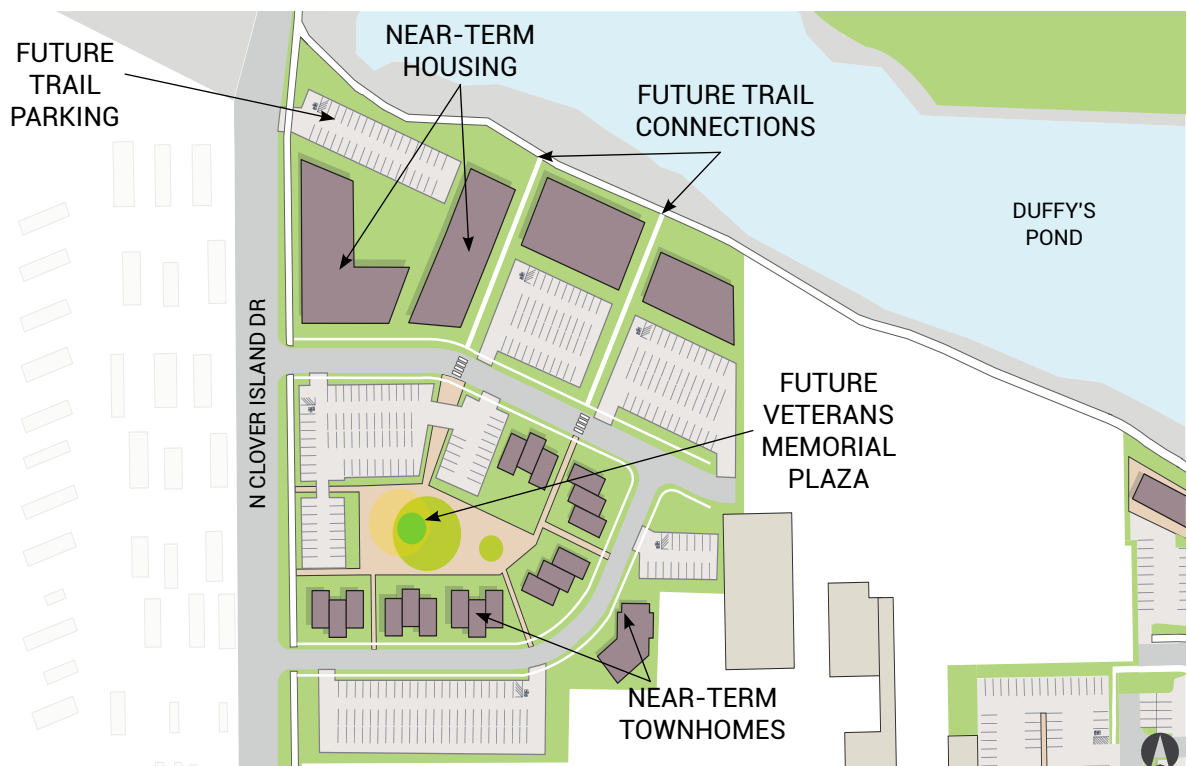
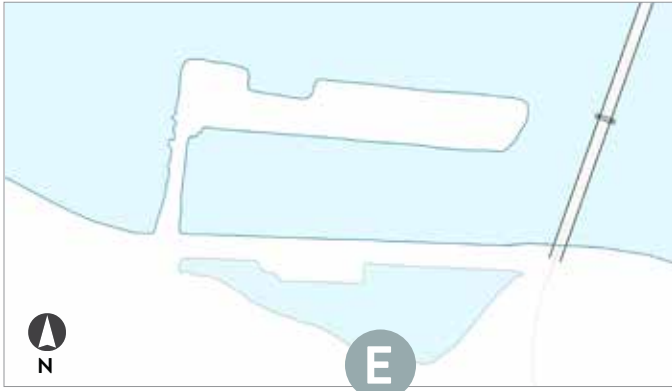


Figure 44. Willows recommendations, private development may vary



# COLUMBIA DRIVE CENTRAL: COLUMBIA GARDENS



Columbia Gardens is a thriving center of visitor activity within the waterfront district. This property sits between private property and alongside the center of Duffy's Pond. Existing wineries with ample space for expansion serve as the catalyst for increased economic and social activities. A large mural by Andrew Reid creates a warm, welcoming tone for the area that celebrates the local culture. This portion of the district will benefit from the City of Kennewick's plans for traffic calming and safety improvements along both Washington Street and Columbia Drive.



Figure 45. Mid-Columbia Heritage Mural honoring the area's Latino history on display at the wineries (Artist: Andrew Reid)

## VISION

### AN ACTIVE DISTRICT

This node is a critical area for investment with potential to become a true district hub by adding amenities that support existing wineries, local artisans, and area farms.



Figure 46. Recommendations enhance the thriving winery setting with an artisan market, brewery, and play space

Columbia Garden's informal indoor/outdoor artisan market and new restaurants, winery tasting rooms, shops, brewery and taphouse, and farmers market create a bustling food district. A well-connected and high-quality pedestrian circulation network encourages afternoons and evenings exploring the district, visiting local businesses, and enjoying time with friends and family.

## RECREATION

The Duffy's Pond trail connects users of all ages and abilities to the district-wide trail system. A local sports equipment rental and bicycle repair shop serves district visitors and regional and local trail riders.

## RECOMMENDATIONS SUMMARY

- Market the site for private development of an indoor/outdoor artisan market and food and beverage-oriented establishments or other compatible use that builds out an activity hub. Distinguish project design and offerings from other similar planned development in the region.
- Continue to coordinate with USACE and the City to improve and protect Duffy's Pond ecology and function as a key district amenity.
- Increase event programming and art installations.
- Support surrounding roadway improvements and work with the City to enhance the connection to historic downtown Kennewick.
- Invest in a quality trail system that integrates the node with other district areas, includes wayfinding and lighting to encourage use, and provides buffers where needed between private properties and public trail users.
- Partner with community organizations to create a play space.



Figure 47. Artisan markets, such as San Francisco's Ferry Building provide space for local artists and vendors to sell their goods

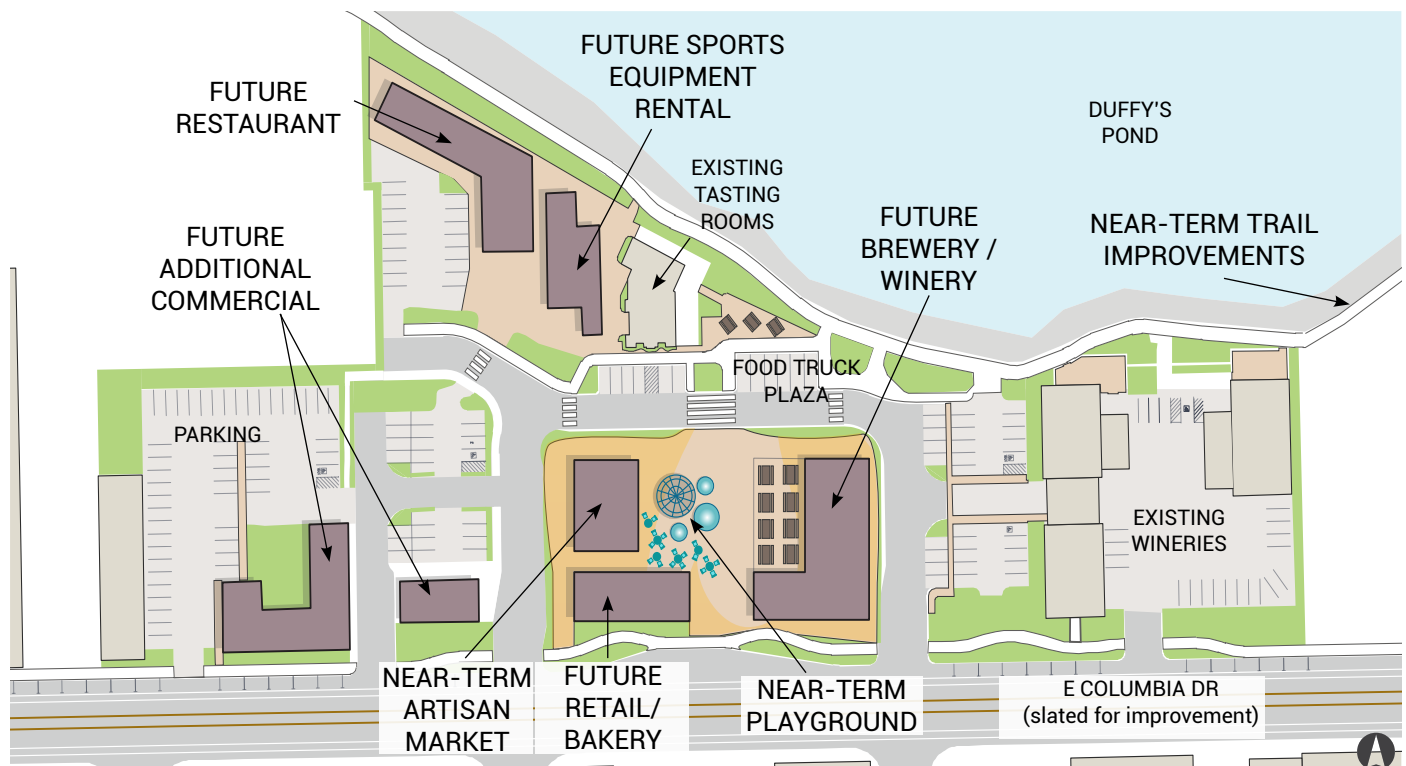
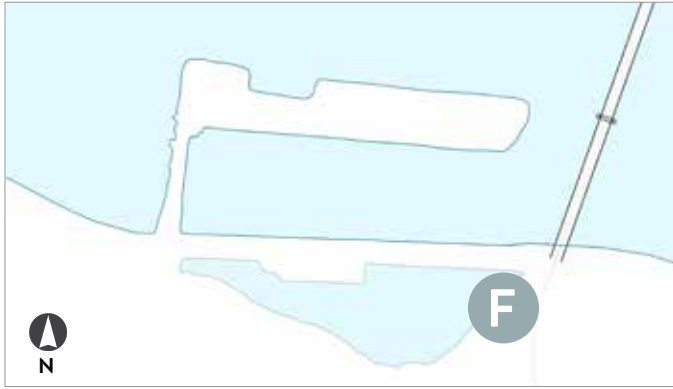


Figure 48. Columbia Gardens recommendations, private development may vary



# COLUMBIA DRIVE EAST: CABLE GREENS



Cable Greens is a flexible-use area in the southeast section of the district that is currently undeveloped. The City is strongly considering reconfiguring the free right-turn from State Route (SR) 397 onto Columbia Drive which will slow traffic and improve safety in the area.

## VISION

### AN ACTIVE DISTRICT

As Columbia Gardens evolves, development in this area has the potential to bring more customers and generate revenues to help support trail improvements and amenities throughout the district.

### RECREATION

Cable Greens will support pedestrians and bikers with an extensive trail network that connects the regional Sacagawea Heritage Trail to the Duffy's Pond trail and other district pathways. Parking for trail access will be provided. Interim use of the site could build upon the park-like setting with the addition of viewpoints into Duffy's Pond, a community dog park, and/or other interim activities or recreational uses.



Figure 49. Small townhomes next to the pedestrian trail would provide unique views of Duffy's Pond and the river



Figure 50. Recommendations include opportunities for residential or commercial development adjacent to Duffy's Pond at Cable Greens

## A PLACE TO CALL HOME

A future residential community will benefit from this unique setting and convenient location near regional highways and trails, Kennewick's historic downtown, and the Columbia River and the waterfront district's many amenities.

## RECOMMENDATIONS SUMMARY

- Market the site for private development of a residential community or other use compatible with the district vision.
  - In the interim, consider installing a dog park, bicycle course, or other amenity to increase district visibility, use and vibrancy. Weigh maintenance, liability, and expectations set by interim use proposals against potential benefits before moving forward.
  - Secure easements along Duffy's Pond and complete the trail.
  - Develop Duffy's Pond trail to connect with the Sacagawea Heritage Trail.
- Incorporate mature trees and other vegetation as a permanent buffer to SR 397.
  - Support completion of the SR 397 traffic calming improvements.



Figure 51. Interim amenities, like art installations, could draw customers, showcase local artists, and add shade to a community plaza

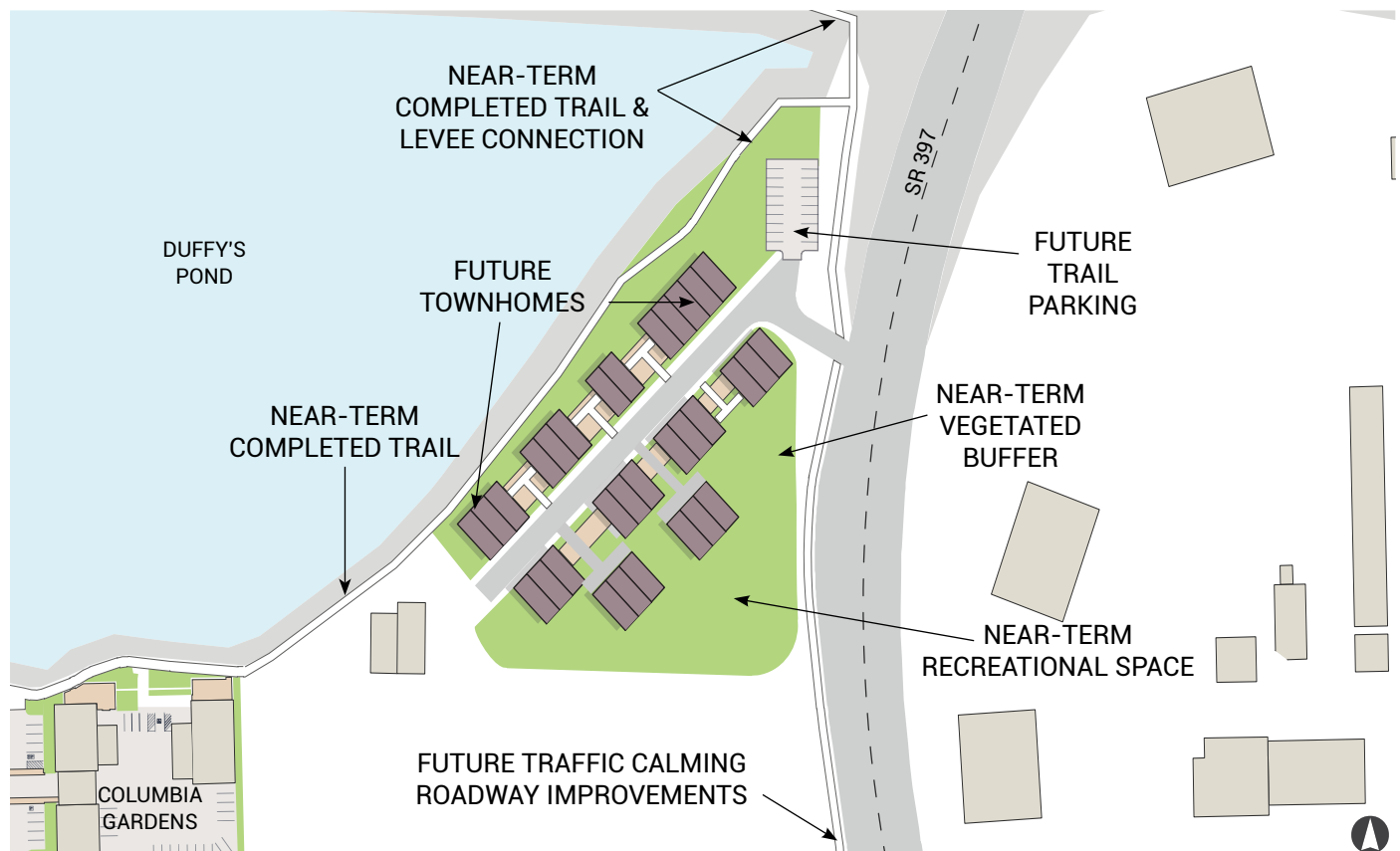


Figure 52. Cable Greens recommendations, private development may vary



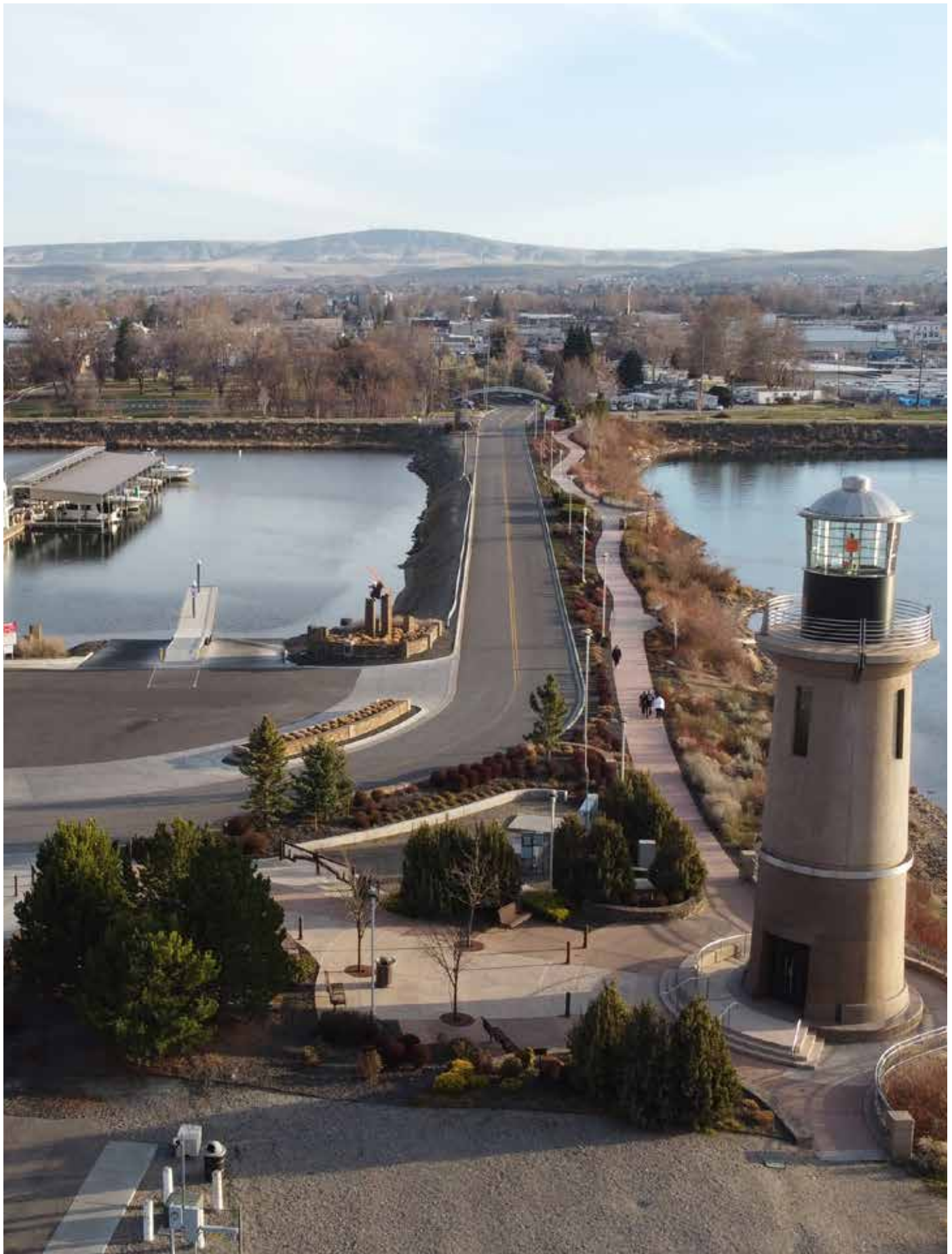


Figure 53. Lighthouse Plaza and restored shoreline

# PLAN IMPLEMENTATION



Figure 54. Wiyákuktpa (a.k.a. The Gathering Place) on Clover Island, artists Rodd Ambrosion (bronze statues), Tim Park (casting), and Tim Norman (patina)

## OVERVIEW

The historic waterfront district is off to a great start, but it will take some key investments and event programming; commitment to building partnerships, interim activations, and marketing; an aligned property strategy; and adequately resourcing staff to achieve the community's vision. Design guidelines to help unify the district as recommendations are implemented over time are provided starting on page 41.

## KEY INVESTMENTS

The Port can generate momentum by making relatively low cost key investments that demonstrate its commitment to achieving the community's vision for the district and supporting post-COVID economic recovery.

There are three critical sites to focus investments in the near term: the northwest corner of Clover Island, The Willows, and Columbia Gardens. Investments in these sites will act as catalysts for development of the surrounding parcels and attract greater numbers of users, support businesses, and activate the space.

Interim activations are another low cost recommendation in the near term. They are a critical means of increasing awareness and generating excitement for the historic waterfront district. These "activations" can range from supporting pop-up seasonal retail, attracting various food trucks, hosting summer concerts, and programming a variety of events around Columbia Gardens new artisan market or Clover Island's new events pavilion. The activations can be replaced with more permanent options as demand increases. These activities will build the district's reputation as a unique destination and attract developer and business interest in investing.





Figure 55. Partnering with community organizations to host events in the district will raise awareness and support businesses, such as this event where volunteers built trikes for tots in historic downtown Kennewick

## BUILDING PARTNERSHIPS

Coordinating with other governmental, business, and community partners will be critical to realizing the vision. The Port should continue to develop relationships with partners who will bring fun short-term activations to the space. For example, local businesses, like the Columbia Gardens wineries, Clover Island restaurants, or Clover Island Inn, can help with event programming and recreational groups can help with trail improvements.

The Port should also create a district-wide art plan and partner with local artists to add art installations to new and existing development highlighting local history and culture. Cultivating these partnerships will be critical to increase visibility and build a sense of community ownership of the district.

## CITY OF KENNEWICK

The historic waterfront district and downtown Kennewick offer distinct experiences that complement each other, but the sites could be better linked. The Port should support the City's efforts to improve Washington Street and Columbia Drive to reduce traffic speed, improve comfort and safety for pedestrians and bicyclists, and further create a unique district identity. Further, the plan recommends the Port and City identify additional ways to partner to better connect the two areas and increase the economic vitality of both. These could include adopting design standards for the greater area, improving wayfinding, and adding safe and comfortable pedestrian and bicycle connections.



Figure 56. Partnering with the City to improve the safety, walkability, and aesthetics of Washington Street and Columbia Drive will increase the area's economic vitality and improve its link to downtown Kennewick.

## ALIGNED PROPERTY STRATEGY

This plan recommends the Port retain ownership of current Clover Island property in recognition of the island's distinct environment and function as a community amenity. In addition, the Port should continue to evaluate acquiring additional property in the district as opportunities arise and develop disparate parcels according to the community's vision as conveyed within this plan.

## RESOURCING PORT STAFF

Finally, it will be important to adequately resource Port staff during the 15-year implementation time period so they can:

- Market available development parcels and ensure proposals achieve the plan's vision.
- Manage Port investments in the district.
- Develop partnerships and activate the space with expanded year-round programming.

The Port commission should consider this additional workload as they consider annual budgets and work plan priorities. They could potentially augment staff resources (e.g., add a part time position to coordinate event programming) or clarify priorities within existing resources to accomplish master plan recommendations.



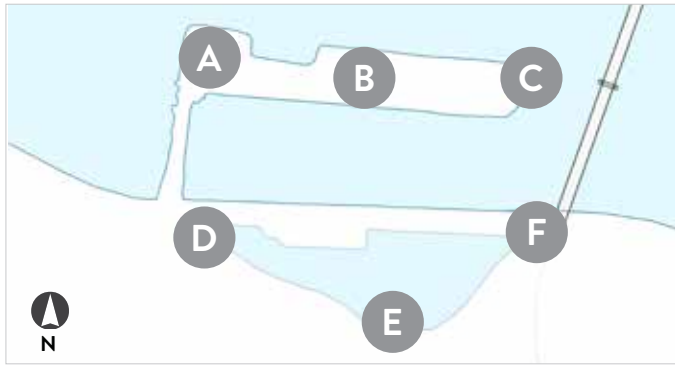
Figure 57. Event programming by local businesses can draw more patrons to support the thriving new development (Source: Columbia Gardens Wine and Artisan Village on Facebook)



Figure 58. Increased staffing will better support marketing efforts that attract revenue-generating development, such as the Port's efforts for properties such as Columbia Gardens (Source: Port of Kennewick)



# RECOMMENDED TASK PHASING



To achieve the community's vision, this plan identifies near-, medium-, and long-term tasks to be accomplished. Each task notes the district location and task lead, whether Port, City, or other party. Recommendations are further classified as marketing, physical improvements, or opportunities for partnership and coordination. Rough order-of-magnitude (ROM) estimate of costs for Port-led physical improvement investments are also included with key assumptions on page 37. Tasks are further described in the Plan Overview chapter on page 17.

PROJECT LOCATION	PROJECT LEAD	PROJECT TYPE	PROJECT CATEGORY
<b>A</b> Clover Island West	<b>D</b> Willows	<b>P</b> Port lead	Recreation
<b>B</b> Clover Island Central	<b>E</b> Columbia Gardens	<b>C</b> City lead	Amenities/Activation
<b>C</b> Clover Island East	<b>F</b> Cable Greens	<b>O</b> Other party lead	Residential
			General

NEAR TERM PROJECTS (2022-2026)			LEAD	COST (000)*			
1	Create a marketing plan to attract near term private investment; assess resources needed and budget accordingly	All	P				
2	Coordinate with City on plans for Washington St and Hwy 397	D/E/F	P/C				
3	Work with City on applicable design guidelines along Washington St and Columbia Dr	D/E/F	P/C				
4	Improve Duffy's Pond ecology to alleviate odor and stagnation	D/E/F	P/C				
5	Replace existing fixtures to meet design standards	All	P				
6	Complete shoreline enhancements around Clover Island in partnership with the United States Army Corps of Engineers (USACE)	A/B/C	P				
7	Improve Trails	All	P				
	Continue pathway lighting around district pathways	All	P	\$200			
	Install additional orientation signage and include district trail map	All	P	\$20			
	Design remaining trail sections in coordination shoreline restoration	All	P	\$120			
	Coordinate with interested parties to locate fitness stations, art, or other improvements along pedestrian pathways	All	P/O	\$45			
	Work with USCG to reroute street-side walkway in front of the station so that its adjacent to the street	B/C	P/O				
	Shield private properties with fencing around Duffy's Pond	D/E/F	P	\$120			
	Obtain easement through athletic retail property	E/F	P/C/O				
	Complete trail around Duffy's Pond	E/F	P/C	\$20			
	Work with USACE on trail connection to levee	F	P/O				
8	Develop a playground in partnership with interested parties	E	P/O	\$45			
9	Create picnic area, dog park, or other shared open space	F	P	\$45			
10	Design and install an open-air covered event space and integrate with lighthouse plaza	A	P	\$1,125			
11	Develop space for food trucks	A	P				
12	Market for and support development of a pop-up retail/tackle shop on Clover Island	B	P/O				
13	Design and develop permanent event space adjacent to Inn	C	P	\$45			

Figure 59. District-wide task phasing

## NEAR TERM PROJECTS (CONTINUED)



LEAD

COST  
(000)\*



14	Market for retail, brewery, and food development that fosters community partnerships and aligns with economic recovery strategies	A/B/ C/E	P				
15	Develop modular open-air artisan market and market to local artists; distinguish from similar projects in the area through design, offerings, and marketing	E	P				
16	Design and develop river viewpoint to Cable Bridge	C	P	\$120			
17	Market for residential development on Clover Island	B	P				
18	Develop roadway and utilities, market for, and support private development of residential at The Willows	D	P/O	\$875			

## MEDIUM TERM PROJECTS (2027-2031)

19	Develop central gathering space with spray park	B	P	\$675			
20	Work with Inn and Cedars to continue waterfront walkway	B/C	P/O	\$40			
21	Develop pedestrian trail parking	D/F	P/O	\$40			
22	Support private development of a casual dining restaurant at Columbia Gardens	E	O				
23	Market for additional Columbia Gardens retail and Cable Greens development	E/F	P				
24	Plant new trees to replace existing trees	D	P				
25	Develop celebratory plaza around Veterans Memorial Christmas Tree	D	P	\$55			
26	Support private residential development on Clover Island	B	O				
27	Market for and support additional residential development at The Willows	D	P/O				
28	Market for residential development opportunities at Cable Greens	F	P				

## LONG TERM PROJECTS (2032-2041)

29	Work with Inn to incorporate requirements for improvements to exterior and dock access in lease renewal	C	O				
30	Market for and support private development of a boutique hotel or other development that accomplishes objectives	A	P/O				
31	Support private development of a casual dining restaurant at Clover Island	B	O				
32	Enhance Columbia Gardens artisan market	E	P/O				
33	Support private development of Columbia Gardens retail	E	O				
34	Support additional residential development at The Willows	D	O				
35	Support private residential or commercial development at Cable Greens	F	O				

## ONGOING PROJECTS

36	Work with Inn to upgrade exterior in alignment with design guidance	C	O				
37	Look for opportunities to acquire adjacent property	D/E/F	P				
38	Market available parcels to attract development that achieves community vision	All	P				
39	Market lighthouse event space for rentals	A	P				
40	Coordinate with Inn, wineries, and community organizations to increase district-wide event planning	C	P				
41	Develop a district art plan and work with local artists on installations	All	P/O				

\*Costs are planning level ROM estimates, in 2021 dollars, rounded, and provided to the nearest thousand. Please note, estimates were provided in May 2021, in the context of an extremely volatile pricing environment. All estimates should be verified when projects are selected for implementation. Construction estimates include a 50% mark up for soft costs, sales tax, and contingencies appropriate at the planning level. Estimates do not account for increased unit prices for small projects; packaging smaller projects together would likely be beneficial.

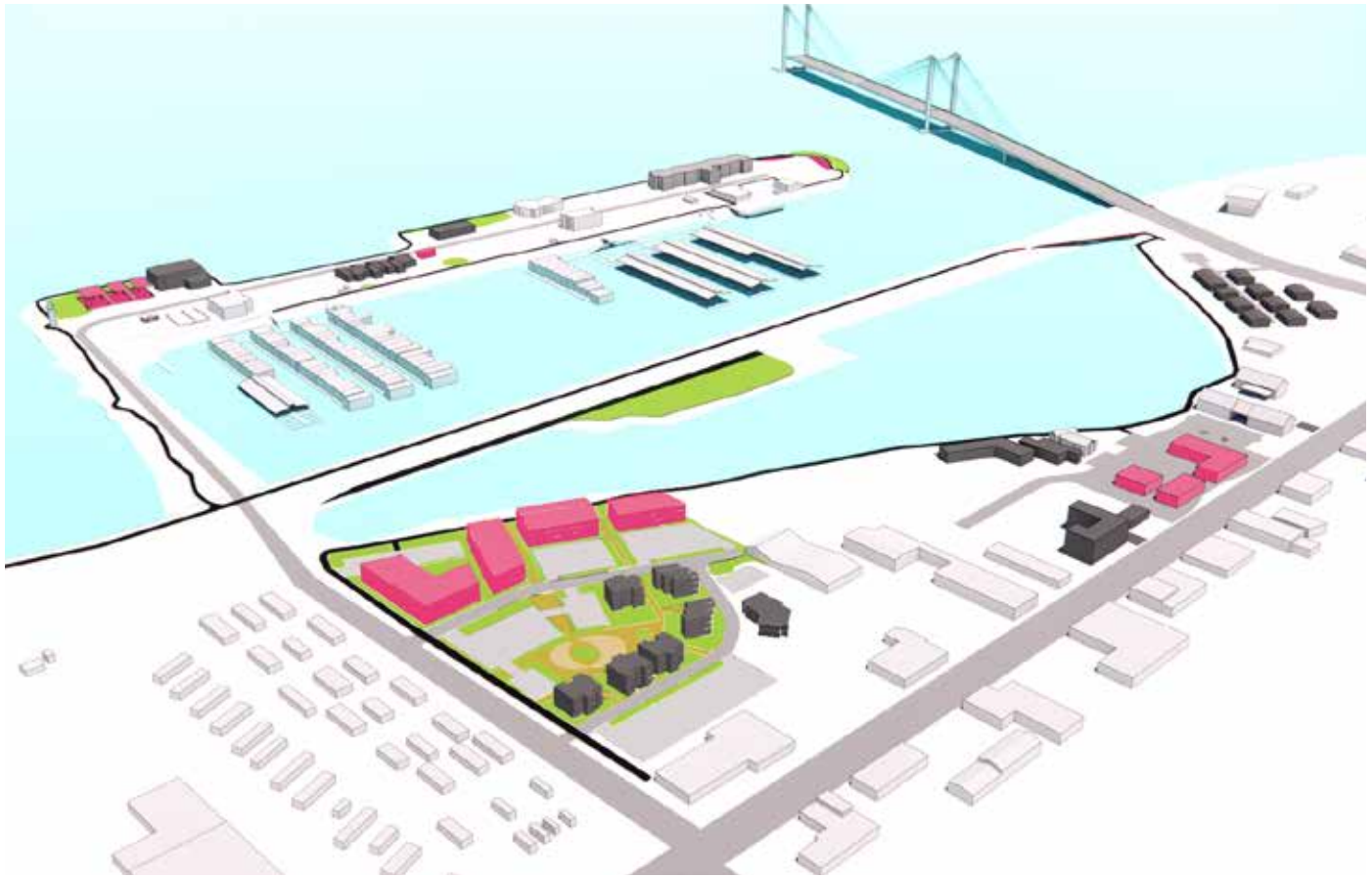


Figure 60. Near-term areas of focus identified in pink

## NEAR TERM PROJECTS (2022-2026)

The short term focus for the district is to raise awareness and create energy and excitement around all this area can become. Investments that attract people to the site should be prioritized. Near-term priorities are highlighted in Figure 60 and summarized below.

- Create an activation plan for the district that focuses on developing key partnerships and jointly programming events in the district.
- Increase pedestrian scale lighting, wayfinding, and private property shielding on trails.
- Design and create river viewpoint on Clover Island to Cable Bridge, add workout stops or other focal points along the pedestrian pathway, and complete missing trail connections.
- Develop flexible retail spaces in Columbia Gardens around a community plaza and play area and lease to a variety of artisans, makers, and local craftspeople.
- Develop park and recreation spaces including the viewpoint at the east end of Clover Island, activating the Cable Green site, and integrating the lighthouse plaza with the new covered event space.
- Market to attract a pop-up retail/tackle shop on Clover Island.
- Create entertainment spaces and event venues including the covered area at northwest corner and performance area at the east end of Clover Island.
- Market development parcels with a focus on The Willows and Columbia Gardens; evaluate proposals to ensure development achieves goals and vision.
- Support private development of housing or other compatible residential at The Willows.
- Continue to support roadway safety improvements in partnership with the City of Kennewick.

## MEDIUM TERM PROJECTS (2027-2031)

Once momentum has been built, it will be time to market additional areas of the site for private development with coordinated community amenities.

- Develop park and trail parking at The Willows and Cable Greens.
- Create a plaza around the Veterans Memorial Christmas Tree for holiday celebrations.
- Develop residential on Clover Island and at The Willows and a casual dining restaurant at Columbia Gardens.
- Market remaining development parcels with a focus on The Willows, Clover Island Central, and Columbia Gardens; ensure development achieves goal and vision.

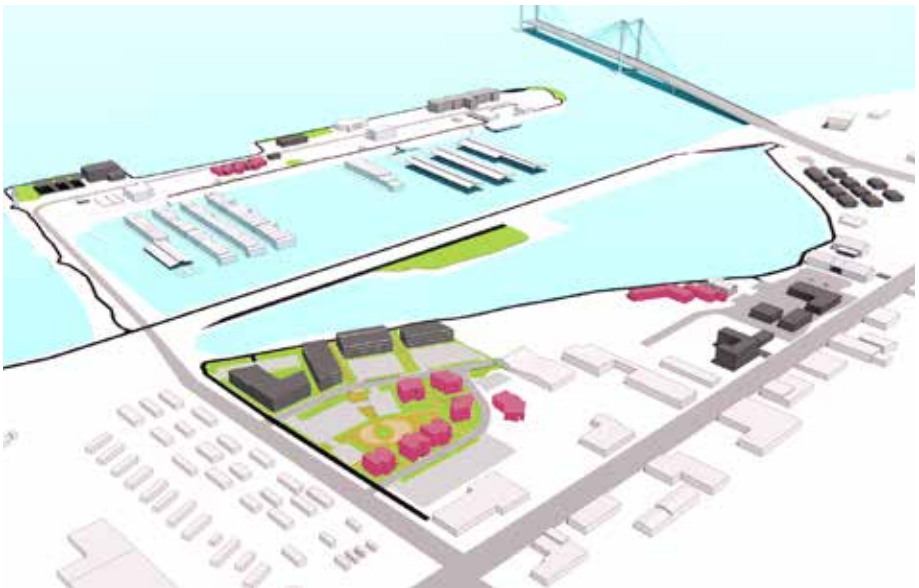


Figure 61. Medium term areas of focus identified in pink

## LONG TERM PROJECTS (2032-2041)

Developing the Cable Greens site and adding a boutique hotel or other use that meets plan objectives on Clover Island West are longer term focuses of the plan.

- Develop a casual dining restaurant on Clover Island and residential at The Willows and Cable Greens.
- Market remaining development parcels with a focus on Clover Island West and Columbia Greens; evaluate proposals to ensure development achieves goals and vision.
- Coordinate with Clover Island Inn on exterior improvements and dock access.

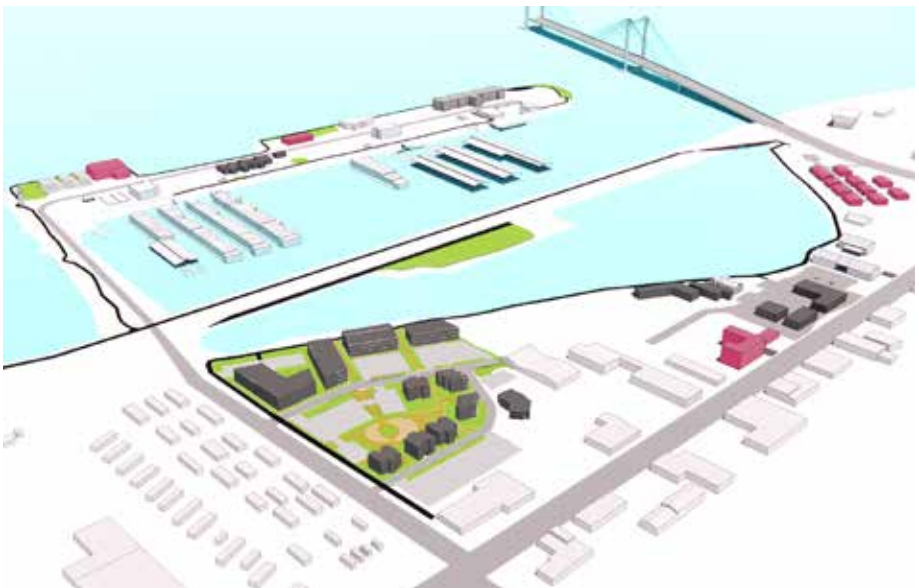


Figure 62. Long-term areas of focus identified in pink



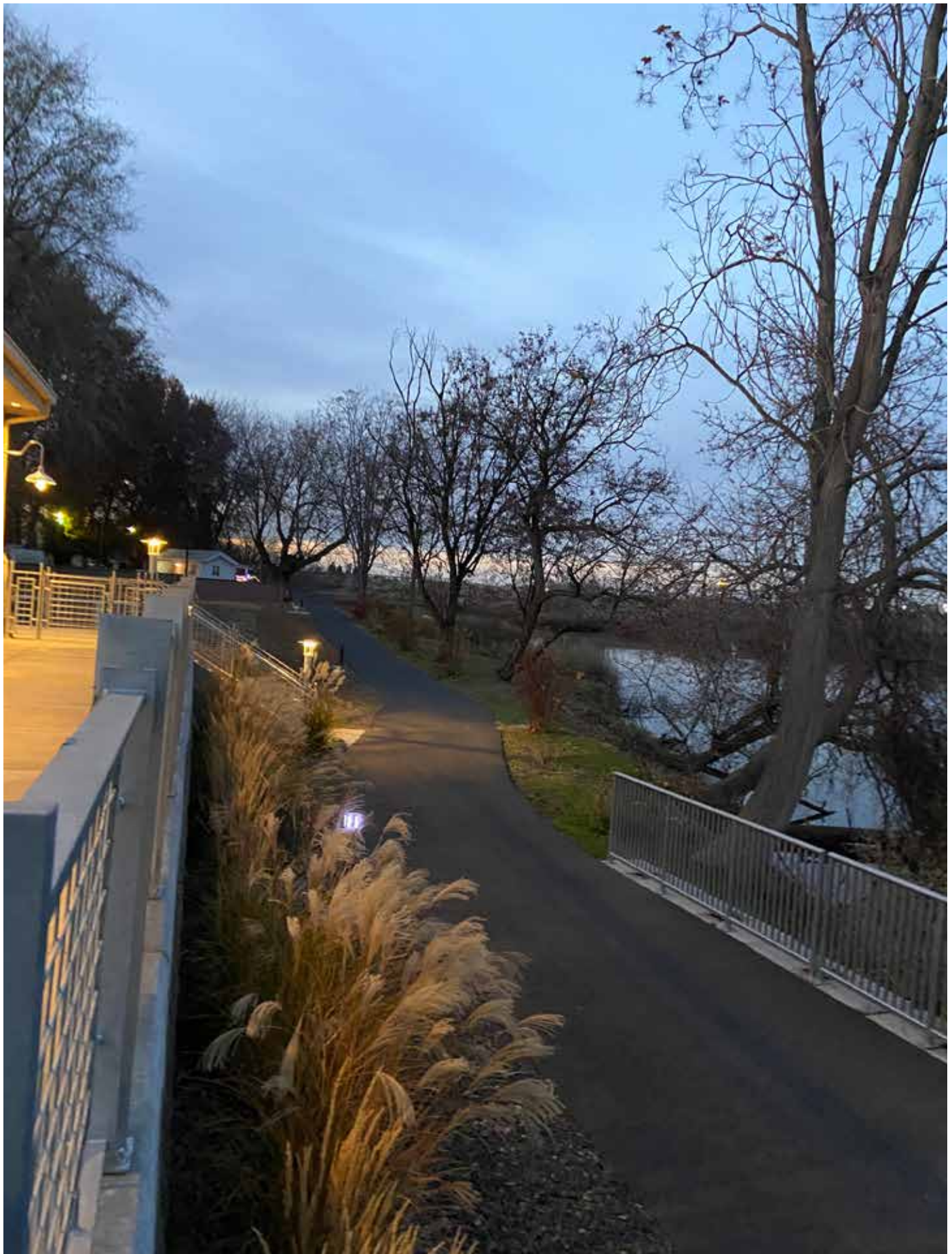


Figure 63. Pathway along the Columbia Gardens wine tasting rooms provides beautiful views of Duffy's Pond

# DESIGN GUIDELINES



Figure 64. The Food Truck Plaza provides space for people to enjoy the scenic interior waterfront (Source: Kim Fetrow Photography)

The historic waterfront district has two unique areas – Clover Island and the area along Columbia Drive. While Clover Island is heavily tied to the Columbia River, Columbia Drive is connected to the area's industrial past and historic downtown. Design guidelines will help unify new and existing development by creating a singular and coordinated identity.

Design guidelines define an area's look and feel to create a unique identity. The following guidelines are intended to celebrate the waterfront district's history, connection to water, and pedestrian focus. Rooted in the guidance established in the 2005 Clover Island Master Plan and the 2011 Willows Wine Village Pattern Language document, these updated guidelines reflect building styles that now extend to Port-owned parcels along Columbia Drive.

## DISTRICT-WIDE GOALS

- Maintain high quality craftsmanship using context sensitive building styles, design elements, and materials.
- Integrate local cultural and historical themes and artwork into building and site design where appropriate.
- Celebrate and enhance connections to the Columbia River and Duffy's Pond.
- Emphasize pedestrian-oriented buildings and site planning.
- Provide a year-round enjoyable pedestrian experience by incorporating design elements that respond to the region's specific environmental conditions. This includes protection from wind and snow in winter and access to shade, views of the water, and areas of respite in the summer.
- Accommodate all modes of transportation including bicycles and transit, where available.





Figure 65. Clustered buildings create a pedestrian friendly area



Figure 66. Monarch's active interface at Columbia Gardens adjacent to the pedestrian trail with outdoor seating, low fencing, and landscaping



Figure 67. Townhouse articulation

The following pages present guidelines for:

- Architecture: building design and orientation, public plazas, and gathering spaces
- Fixtures and landscape: lighting, fencing, seating, vegetation, and wayfinding and signage
- Recreation: trails and pathways, and bike facilities
- Transportation: street grid and parking

## ARCHITECTURE

### BUILDING ORIENTATION

Waterfront district buildings should be designed to create a visual and functional relationship with one another.

- Whenever possible, cluster multiple buildings to achieve a "village" environment and create opportunities for plazas and pedestrian areas (see Figure 65).
- When site constraints prevent clustering, establish a visual link between buildings with integrated landscape elements, such as trees and plantings, pathways, shared seating areas, public art, small pocket parks, and enhanced paving.
- Create active interfaces between buildings and predominant district pathways, plazas, and site features, such as Duffy's Pond. Include outdoor seating, trees and landscaping, pedestrian-scale lighting, and low, transparent fencing or walls, as appropriate (see Figure 66).
- Create a vibrant and pedestrian-oriented streetscape by including large storefront windows, awnings, and outdoor spaces for dining and other activities along main streets.
- Building frontage and setbacks should seamlessly integrate with the public realm.

### BUILDING DESIGN

The 2005 Clover Island Master Plan's architectural design guidelines for roofs, building exteriors, and windows remain the current standards.

## RESIDENTIAL AREAS

District housing guidelines complement those of district businesses, especially in mixed-use developments. Residential design guidelines address multiple housing options, encourage minimal setbacks, and specify landscaping with drought tolerant plantings.

- Place front windows to preserve privacy.
- Articulate façades with architectural elements such as porches and other entrance treatments, balconies, bay windows, and vertically divided building volumes.
- Create welcoming and safe multi-family or clustered housing through neighborhood site planning that avoids “turning its back” on the rest of the district.
- Landscaping should be used to soften the pedestrian environment around structures.
- Homes should front pedestrian pathways and provide access to the district’s trail system that meets the Americans with Disabilities Act (ADA) universal accessibility guidelines. When possible, homes should be oriented to maximize views of the Columbia River and Duffy’s Pond, and should be staggered to provide view corridors (see Figure 68).
- Neighborhoods should dedicate generous space to landscaping as both open space for play and gathering and vegetated areas with drought tolerant native plantings (see Figure 69).
- Walk-up units adjacent to a street should have a primary pedestrian entrance from the street sidewalk. Where individual units have access to the street sidewalk, private front yards should have small, low fences.
- Medium density projects, such as proposed for The Willows, should be designed such that ground floor units have individual sidewalk entrances, and courtyard projects have at least one significant pedestrian entrance from the street sidewalk.
- Design intent should avoid unnecessary complexity and focus on how the building relates to and ties into the surrounding site and buildings.



Figure 68. Pedestrian pathways connecting townhomes



Figure 69. Generous landscaping and low lying walls can distinguish private and public areas.



Figure 70. Seating provides areas for rest and relaxation





Figure 71. Downward facing lighting creates the feeling of a safe space to walk at night



Figure 72. Lighting should highlight art features and landscaping



Figure 73. New development should incorporate existing, healthy mature trees where feasible

## PUBLIC PLAZAS AND GATHERING SPACES

- As stated in Building Orientation, buildings should orient toward plazas and gathering spaces and must feature pedestrian-oriented façades. Buildings facing the artisan market plaza in Columbia Gardens must include transparent windows or large glass doors along at least 75% of the façade.
- Plazas should include pedestrian-scale lighting, landscaping, and flexible seating options and offer some protection from the elements.

## FIXTURES & LANDSCAPE

The waterfront district benefits from containing significantly more large trees than surrounding areas. Mature trees provide shade and local habitat, aid stormwater management functions, sequester carbon, and offer other relief from the built environment.

### SEATING

Integrate seating elements throughout the district to allow for rest and conversation, and maximize seating orientation toward significant views (see Figure 70).

### LIGHTING

The design, scale, and placement of outdoor lighting fixtures on buildings and in parking lots should be in keeping with the architectural style of the buildings and should be consistent in style wherever possible.

- Incorporate smaller-scale, softer parking lot lights and minimize tall parking lot lights where feasible.
- Outdoor light fixtures mounted on building walls should be pedestrian scale and not exceed eight to 10 feet in height.
- Light fixtures should be directed downward and shielded so the light source is not visible to minimize glare and blind spots for passersby, according to crime prevention through environmental design (CPTED) standards.
- Light all pedestrian pathways to illuminate ground surfaces and draw attention to significant landscaping features, such as mature or significant trees, public art, and design details (see Figure 72).
- Lighting along pathways should be continuous to safely guide visitors throughout the district and to public transit stops and vehicle and bicycle parking.
- Encourage seasonal, holiday, and festival lighting as a large-scale attraction to the site.

## VEGETATION

District landscaping and vegetation should adhere to the following:

- Preserve and integrate existing healthy mature trees wherever possible.
- Where practical, new residential and commercial development should incorporate existing healthy mature trees in site and building designs, especially in areas of public open space (see Figure 73).
- Retain urban tree canopy by replacing mature trees that are removed due to development, condition, or age with similarly scaled trees at maturity, to be planted as near to the removed trees' location as possible (see Figure 74).



Figure 74. Some mature trees at Columbia Gardens may need to be replaced due to condition or age

## FENCES AND WALLS

The design and placement of fences, retaining walls, gates, arbors, footbridges, and other site features should relate to building architecture, site topography, and pedestrian experience.

- Fence and wall styles should be consistent along Duffy's Pond and around Clover Island.
- Fences and walls adjacent to commercial spaces should provide visibility to the surrounding site and preserve views of the water.
- Avoid the use of chain link fencing and long, monotonous fences or walls.
- Fences and walls should be set back differently at least every 10 feet, with landscaping in offset areas where appropriate.
- Fences or walls should not impede pedestrian routes or block lighting.
- Coordinate landscaping along fences and walls with the Port's street tree planting and maintenance scheme.



Figure 75. Lighting should highlight art features, landscaping, and public spaces



Figure 76. Suspended sign adds visual interest





Figure 77. Bike parking can reflect the culture of the community



Figure 78. Updated wayfinding should be integrated at key entrance points into the district

## WAYFINDING AND SIGNAGE

Wayfinding orients visitors, welcomes, and increases feelings of comfort in a space. Wayfinding elements in the waterfront district should be designed to follow a consistent style and be easily identifiable.

- Display maps of the district at major entryways to highlight key points of interest and encourage exploration.
- Orient signage throughout the district toward pedestrians, bicyclists, and slow moving vehicles.
- Provide permanent, pedestrian-oriented window displays, awnings, and suspended signs to encourage meandering throughout the space and enrich the visual quality of the building (see Figure 76).
- Signage should be maintained to demonstrate a sense of pride and care that contributes to the vibrancy of the area. Unkempt signage can be confusing and detract from an area's appeal.

## RECREATION

### TRAILS AND PATHWAYS

- Pathways should retain a minimum width of five feet.
- Provide low-level bollard lighting, no more than 3½ feet in height, to reduce visual glare and light spill onto adjacent uses.



Figure 79. Pedestrian pathways buffered by planting strips

- Planting strips of a minimum four feet width are required between parking lots and pathways (see Figure 79).
- Maintain adequate space to accommodate pedestrian circulation where buildings must be sited directly adjacent to pathways.
- Sidewalks require a minimum five-foot width and a landscaped buffer from roadways.
- Locate public and/or private right-of-ways, connections, and open space to reflect the contextual block pattern.
- Establish an internal district roadway alignment that encourages slow driving speeds to support pedestrian safety and responsible enjoyment of the views and natural site elements. Road widths should be limited to a maximum of 24 feet.

## BIKE FACILITIES

- Place bike racks throughout the district in well-lit, safe, and convenient locations to encourage bicycle use and appropriate securing of bicycles that avoids encroaching on private property.
- Bike rack design should allow for artistic elements and reflect the character of the area.
- Install at least one publicly accessible bike pump station.

# TRANSPORTATION

## STREET GRID

The current configuration of the waterfront district lacks north-south oriented streets that could connect with the surrounding industrial area. The Port should work with the City to create more cross connections throughout the district and to downtown Kennewick.

## PARKING

- Create pedestrian-minded parking lots that eliminate safety conflicts with vehicles and add value to the district landscape.
- Delineate safe and accessible walkways for all ages and abilities with special pavement treatments, such as color, texture, and/or materials.
- Orient parking lot aisles to run perpendicular to the building's entry and allow pedestrians to walk parallel with moving cars. Look for opportunities to add separate pedestrian pathways within the parking aisles to minimize pedestrians' need to cross traffic and landscaped areas.
- Create shared-parking regimes between businesses and other entities whose high-peak use occurs at different times of day and seasons.



Figure 80. New development should have all-ages accessible walkways within parking areas, enhanced with landscaping



# A. ECONOMIC ANALYSIS



Figure 81. View of Clover Island looking east to the Cable Bridge

DATE: October 19, 2020  
TO: Julie Bassuk, MAKERS  
FROM: Matt Craigie  
SUBJECT: Port of Kennewick – Waterfront District Concepts – ECONorthwest Feedback

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## Purpose and Context

MAKERS and ECONorthwest are assisting the Port of Kennewick with the creation of a master plan for their Historic Waterfront District properties. MAKERS has developed two preliminary concepts for the properties and is in the process of gathering feedback from the Port and the community. MAKERS asked ECONorthwest staff for our input on the following questions:

1. What elements of each concept are likely to work? Which elements raise concerns?
2. What recommendations do you have regarding phasing of development on the Port's properties?
3. Given the mix of uses presented in each concept, what incentives should the Port use to encourage new development?

This document presents our answers to these questions.



## Concept A: Activity Destination

This concept creates a destination spot with new things to do and places for visitors to stay.



- |  |   |
|--|---|
| <b>A1</b> Boutique hotel & event rentals   | <b>A7</b> Boardwalk connection to Sacagawea Trail                                       |
| <b>A2</b> Condo vacation rentals with art/gathering space  | <b>A8</b> Activity rentals (bicycle, scooter, kayak, peddle boat)                       |
| <b>A3</b> Activity cluster with shaded enjoyment area (grab & go cafe, retail, covered public space) | <b>A9</b> Activity cluster (brewery, arts, restaurant, winery)                          |
| <b>A4</b> Permanent performance space, lookout point, completed pedestrian pathway                   | <b>A10</b> Housing and vacation rental options around pond & courtyard enjoyment spaces |
| <b>A5</b> Cable Greens condos  | <b>A11</b> Future potential ped, bike, and vehicle connection                           |
| <b>A6</b> Completed Duffy's Pond Trail   |   |

### What elements are likely to work?

- **Retail/Maker Activity Cluster (A9):** The retail/quasi-industrial uses at A9 should continue to flourish once the pandemic has subsided. These uses make sense here and, from a market perspective, should be feasible in the near-term.
- **Repositioning Clover Island Inn:** The Port should work with the Clover Island Inn to maximize occupancy levels as the region comes out of the pandemic downturn. Pre-COVID, there were major shifts happening in the hotel business. "Flags"—hotel sub-brands—were changing rapidly in a response to generational changes in leisure and business travel. The Clover Island Inn might have been planning or considering a flag change to appeal to these changing preferences. The hotel's ownership may want to reposition the Inn to sync with the same visitors that would be drawn to the proposed area amenities, e.g., wine tourists, boaters/river users. In this way, the Port can leverage the hotel asset that is already present.

### Which elements raise concerns?

- **Permanent Performance Venue (A4):** A permanent performance space could be a necessity for Concept A. A frequently programmed venue that draws in visitors at least on a weekly basis for three seasons will be necessary to draw in the constant visitors that this concept will require. However, access and parking are major considerations for a performance venue.
  - Can parking for some of the uses on the island be shared during off-hours with concert goers?
  - With only one way on and off the island, are there off-island locations for concert goers to park and use a shuttle for access?
- **Commercial Cluster (A2, A3):** Clustering of commercial uses such as condo vacation rentals with art/gathering space (A2) and activity cluster with shaded enjoyment area (A3) could work well. However, since most visitors will drive and park at their

destination, businesses may struggle unless they have easy access points and adequate parking. The island's physical restrictions could inhibit the creation of a strong hub of activity. Since the island is long and linear, parking will most likely need to stay at surface level for the near to mid-term (i.e., subterranean parking is likely not physically possible and structured parking is cost prohibitive).

- **Residential Cluster (A10):** One issue with the off-island uses is that there does not appear to be a good way to build strong connections between each of the clusters. For example, the residential uses at A10 would be more appealing for prospective residents if they were closely tied with uses at A8 and A9. These connections should be explored to the extent possible with existing property ownership patterns.
- **New Boutique Hotel (A1):** The COVID-19 pandemic has decimated the hospitality industry, with plummeting occupancy levels and room rates. Despite the overall attraction of the Tri Cities region, new hotel developments will not be likely to pencil until at least the next market cycle (five years in the future). For this reason, hotels are going to remain unfavorable investments for years to come. In thinking about a potential new hotel, the Port should analyze (1) how a boutique hotel would differentiate itself from the Clover Island Inn and (2) how the two hotels would compete.

## What are phasing recommendations for development on the Port's properties?

### Short Term:

- **Permanent Performance Venue (A4):** A performance venue could be an early phase development. Even a temporary setup in a parking lot could go a long way to draw in visitor traffic and start to create more buzz about development on the island.
- **Outdoor Amenities (A6, A7, A8, A11):** The Port should seek ways to fund and develop those outdoor amenities—trails, Duffy pond improvements, etc.—during initial phases. This will help drive the appeal of residential uses.
- **Activity Cluster (A9):** The retail/quasi-industrial uses at A9 should continue to flourish once the pandemic has subsided. These uses make sense here and, from a market perspective, should be feasible in the near-term.

### Longer Term:

- **New Boutique Hotel (A1):** Hotels are rarely first or second phase projects, even in times with more favorable economic conditions. They need strong occupancy levels to survive and therefore usually only get built when the "there-there" is already present.
- **Residential Uses (A5 and A10):** Residential uses become much more appealing once the outdoor amenities are in place. Otherwise, it could be a hard sell for many prospective buyers/renters.

## Concept B: Residential Hub

This concept envisions the area evolving into a dynamic residential community with services and gathering spaces.



- |    |   |     |  |
|----|---|-----|--|
| B1 | Artisan market (local food/craft vendors, entertainment)  | B7  | Boardwalk connection to Sacagawea Trail              |
| B2 | Unique island living condominiums                         | B8  | Recreation cluster (covered public space, bike shop) |
| B3 | Amenity cluster (grab & go cafe, sports equipment rental) | B9  | Amenity cluster (cafe, bakery, casual dining)        |
| B4 | Performance space and open gathering space                | B10 | Residential around pond & courtyard enjoyment spaces |
| B5 | Cable Greens townhomes & vegetated buffer                 | B11 | Mixed-use with retail/grocery                        |
| B6 | Completed Duffy's Pond Trail                              | B12 | Future potential ped, bike, and vehicle connections  |

### What elements are likely to work?

- **On-island Housing (B2).** Condos on the island is a unique housing option with only a few true competitors in the region (e.g., Columbia Point). Seniors and river enthusiasts would be drawn to it. To support this residential use, consideration should be given to on-site and on-island amenities.
  - An important benefit of on-island housing is that residents will help "anchor" on-island commercial businesses and could generate off-peak hour activities.
- **Residential around Pond and Courtyard Enjoyment Spaces (B10).** In both concepts, it makes sense that new development in this area would be residential. A more achievable scale of residential development at this location would be the smaller multifamily pod buildings shown in Concept A. In addition, there are not mirrored uses across Clover Island drive or directly to the east of this property
  - **Additional Considerations:** To achieve higher multifamily densities, the Port might want to consider senior housing or assisted living facilities. The competition for these uses in the Tri-City area is unknown but likely the demographics are generally conducive to this type of use.

From an economics perspective, these uses can be profitable for landowners. They might even be able to work with a ground lease situation.

One downside of an assisted living or memory care facility would be that the residents are not likely to be able to leave the facility to support area businesses.

### Which elements raise concerns?

- **Artisan Village (Public Market) (B1).** While the Artisan village (B1) is an exciting concept, the Port should know that these projects are always economically challenging and even those that have been in use for years lack financial stability. That said, if public

markets are carefully planned and well supported, they can become major tourist attractions and valued community gathering places. Key threshold considerations include:

- **Building New vs. Repurposing a Building.** Building new is a financially challenging option, as none of these facilities can support a debt payment. The most successful public market in Eastern Washington is the [Pybus Market in Wenatchee](#). In that case, a preexisting building was repurposed for the market.
- **The Location.** Location could be a challenge from a transportation and access standpoint. Left-turning visitors to the market might create a slowdown or bottle neck with other island users. A more appropriate location could be adjacent to the existing amenity cluster (B9). This would build on energy of the existing retail and offer better ingress/egress via a traffic light on Columbia Blvd. (Of course, in this situation, it would not have the draw of being directly on the waterfront).
- **Mixed-Use Building (B11).** This should be considered as two buildings. While the Port does not control the building at the corner of Clover and Columbia, that is the most visible and desirable location for a larger retail building like a grocery store. Mixing a grocery store with upper floor retail is not only challenging from a financing/economics standpoint but also due to a floor plate and column spacing mismatch between uses. This type of development is usually only found in dense urban environments where high rents allow for its costly construction type.

## What are phasing recommendations for development on the Port's properties?

### Short Term:

- **On-island Housing (B2)** may be a viable near-term option with the right developer, especially given that this is such a unique site within the region.
- **Public Market (B1).** A two building concept would allow for phasing—one building is constructed first, and then as visitor volume and revenues increase, a second building could be constructed.

### Longer Term:

- **Residential around Pond and Courtyard Enjoyment Spaces (B10).** In both concepts, it makes sense that this area would be residential. However, residential at the scale shown in the renderings would only be possible in later phases of development.
- **Mixed-Use Building (B11).** Vertical mixed uses should only be considered for later phase projects, if at all. Vertical mixed-use is much more costly and difficult to finance. A horizontal mix of uses, say a condo building next to a coffeeshop, can offer the same use types without the same economic and financing issues. Many times, there is a demand for first floor retail in residential buildings. While in dense urban environments these spaces can live up to their promise of street activation, in almost all other locations they are difficult to lease and become financial burdens for developers.



## Given the mix of uses presented, what incentives should the Port consider using to encourage new development?

- **Opportunity Zone.** It appears that the Waterfront District is within a Federally designated Opportunity Zone. It is unclear what actual power this program will have to incentivize new development; however, it should be considered by new businesses and real estate projects.
  - The program allows private investors to defer, reduce, and in some cases, cancel out their capital gain taxes on specific investments. The program does have a graduated sunset, which encourages near-term investments.
  - Our assessment of this program as it impacts real estate development projects is that, in most cases, it does not tip the balance towards financial feasibility for a project that otherwise would not get funding. Rather, it layers an extra incentive on top of an already financially attractive project.
- **Reconsider Port Land Sale Policy.** One hurdle for new development that the Port needs to contend with is the impact that a "no land sale" policy has on prospective developments. In most situations, developers (and their investors) are unwilling to deal with a ground-lease encumbrance. Ground-leases make project financing and sale difficult. Ground-leases are most successful in growth-oriented markets (e.g., big cities). In this case, developers and investors are able to balance the multiple risks of a ground lease situation with the potential profit upside and confidence that they will be able to find a buyer in the future.
  - To counter the ground-lease impacts, the Port should offer generous ground-lease terms like low rates, deferred or "step up" payments, and long-term payment schedules with multiple options; they are already doing some of these things.
- **U.S. Treasury New Market Tax Credits.** This program provides private investors with federal tax credit for investments made in economically distressed communities. It appears that the Waterfront properties are [within an eligible census tract](#). Although these can be powerful funding tools for projects like a public market, these funds have been harder to access in recent years.
- **Washington State Grants.** The State has several grant programs that should be considered. The Port is familiar with some of these options. The State's Community Economic Development Board (CERB) grant program could assist with future planning efforts. Other state grants might be able to assist with infrastructure or public/private development deals, like the artisan market.
- **Federal Grants.** The Port is familiar with some, if not most available Federal grant programs. There are annual opportunities for grants from the U.S. Economic Development Administration (EDA), United States Department of Agriculture (USDA), and other Federal departments and bureaus. The Port should look out for new grant opportunities should another stimulus package get approved in 2021.

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## B. PUBLIC ENGAGEMENT FEEDBACK



Figure 82. Landscaped walkway adjacent to the marina

# VIRTUAL ENGAGEMENT SUMMARY

## TARGETED DISCUSSIONS

- 12 individual interviews
- 6 group interviews
- 4 discussion groups
- **56** total stakeholders

## OPEN HOUSES

- 3 virtual open houses
- **2,365** unique users
- **168** comments
- **137** survey responses



1

## OUTREACH SUMMARY

# COMMUNITY PRIORITIES



### WATER

Celebrate views, access, and connection to water



### LOCAL AMENITIES

Retain and add amenities with a local focus



### SAFETY

Address concern about blight and safety at night



### TRAILS & NATURE

Complete and upgrade trails and support connection to nature



### PARKING

Concern over increased vehicle and boat trailer traffic with more development



### LIVING & VISITING

Add a boutique hotel and appropriately scaled and sited mixed-use residential

2



## OUTREACH SUMMARY

# PLAN RESPONSES



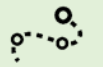
### WATER

- Increases areas that accommodate and encourage community gathering and recreation areas near water
- Provides additional river viewpoints



### LOCAL AMENITIES

- Adds eateries on Clover Island and at Columbia Gardens
- Builds an artisan market and pop-up retail to highlight local businesses



### TRAILS & NATURE

- Completes Clover Island and Duffy's Pond trails and connects to local trail network
- Enhances ecology of Duffy's Pond



Source: Kim Fetrow Photography



3

## OUTREACH SUMMARY

# PLAN RESPONSES



### SAFETY

- Adds trail lighting and increases foot traffic for enhanced safety
- Continues to develop safe walkways and open spaces designed for all ages



### PARKING

- Designates parking around amenities and area trail network
- Increases signage to alternative launch at Columbia Park for peak weekends



### LIVING & VISITING

- Reduces scale of planned development and prioritizes retaining river views
- Benefits district with increased patrons and revenue



4

# PHASE 1 - OUTREACH SUMMARY

## TARGETED DISCUSSIONS

- 12 individual interviews
- 6 group interviews
- 4 discussion groups

TOTAL: 56 stakeholders

## OPEN HOUSE

- 1,695 unique visitors
- 80+ people provided feedback
- 105 total comments



5

## OPEN HOUSE #1



### MAP ACTIVITY

- 31% - other (culture, retail, housing, recreation)
- 28% - water activities
- 23% - access & transportation
- 18% - food & entertainment



### IDEAS WALL

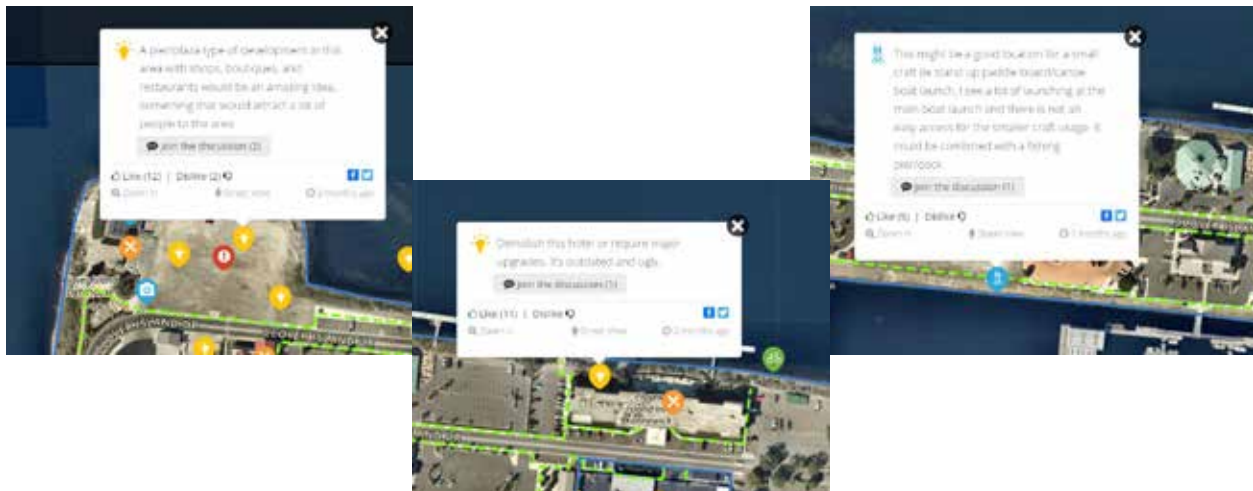
- 42% - other (food, housing, recreation)
- 25% - access & transportation
- 17% - water activities
- 16% - arts, culture, & local retail

6

## OPEN HOUSE #1

# MAP ACTIVITY HIGHLIGHTS

## Clover Island Development Ideas



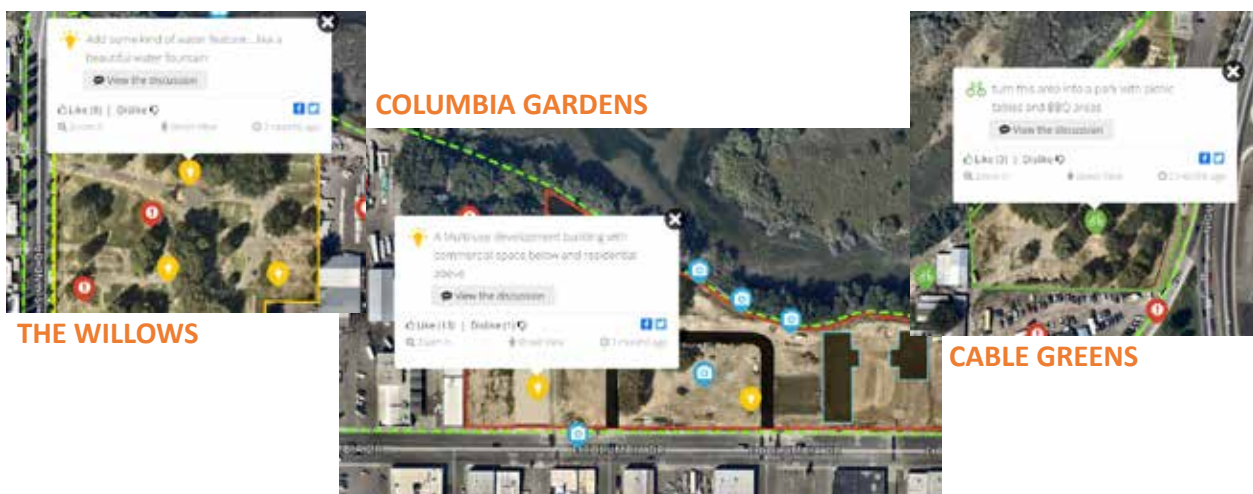
*Inn remodel – pier – shops – plaza – boutique – canoe launch – fishing pier – restaurant*

7

## OPEN HOUSE #1

# MAP ACTIVITY HIGHLIGHTS

## Columbia Drive Development Ideas



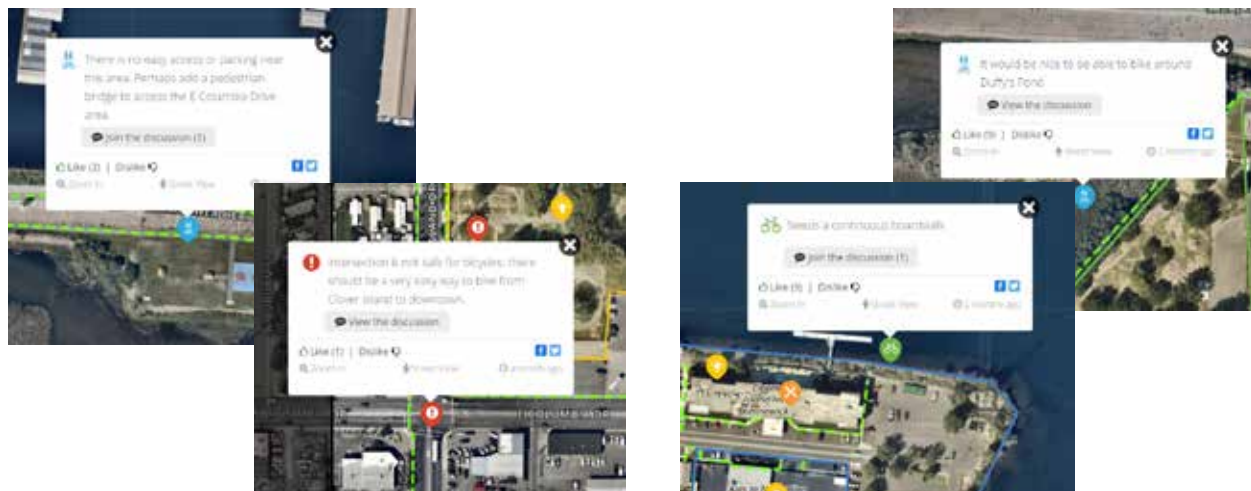
*multi-use – commercial space – residential – BBQ pit – picnic spot – water feature*

8



# MAP ACTIVITY HIGHLIGHTS

## Access Concerns



*continuous boardwalk – safe intersections – improved access – pedestrian bridge*

9

## PHASE 1 OUTREACH

# TAKEAWAYS

- Clover Island's views, lighthouse, and proximity to the river are main attractions
- Pedestrians and cyclists would benefit from completed trails and safety improvements
- The new wine village and food truck area attracts visitors, more amenities desired
- Blight and nighttime safety concerns can be deterrents to visitors and developers
- The variety of unique local businesses is *great* and there is appetite for more
- Island gets a lot of boat traffic and parking is limited during peak use periods



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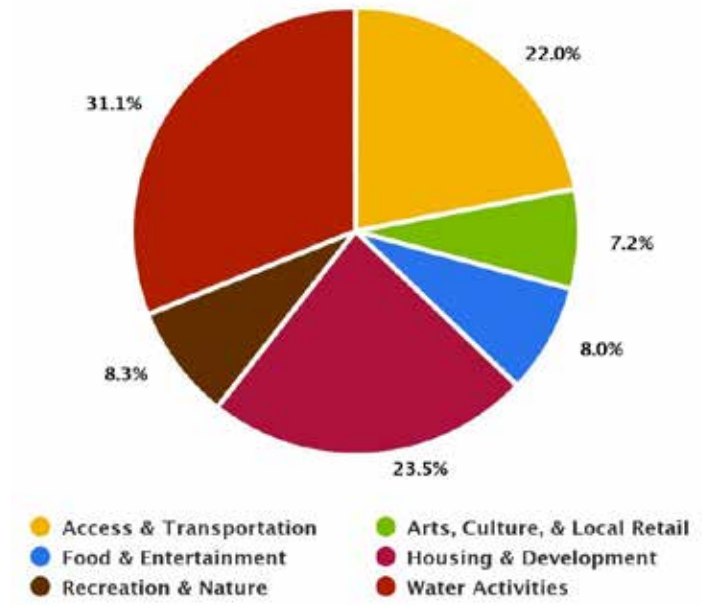
# OPEN HOUSE #2 - OUTREACH SUMMARY

## OPEN HOUSE

- 523 unique visitors
- 63 comments
- 76 survey responses

## MOST POPULAR TOPICS

- Water activities
- Housing and development
- Access and transportation



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## OPEN HOUSE #2

# CONCEPT FEEDBACK HIGHLIGHTS

## Concept A: Activity Destination



12

# CONCEPT FEEDBACK HIGHLIGHTS

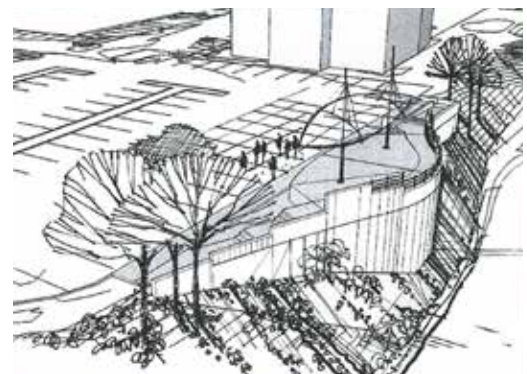
## Concept B: Residential Community



13

# TAKEAWAYS

- **Activation:** high level of interest in lively public spaces with amenities
- **Access:** improved trails and Duffy's Pond boardwalk are strongly desired
- **Amenities:** formal performance area and artisan market had the most positive feedback
- **Residential:** concern with the potential for blocked views and a perceived lack of vitality within residential areas



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# OPEN HOUSE #3 - OUTREACH SUMMARY

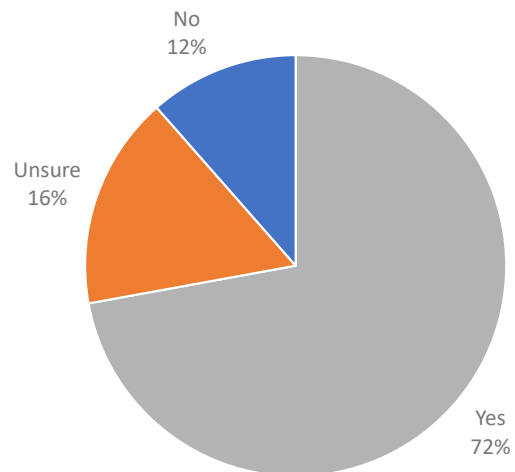
## OPEN HOUSE

- 147 unique visitors
- 61 survey responses

## FINDINGS

- 80% support a completed trail network
- 66% support adding community gathering spaces
- 70% support an artisan market

## Proposed plan provides enjoyable activities

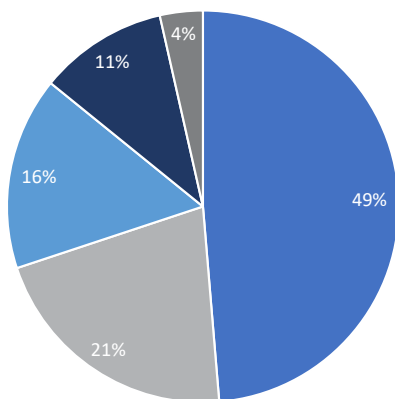


15

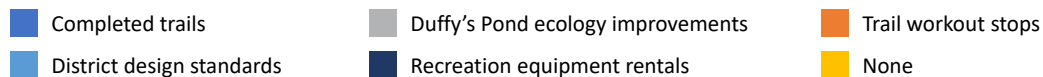
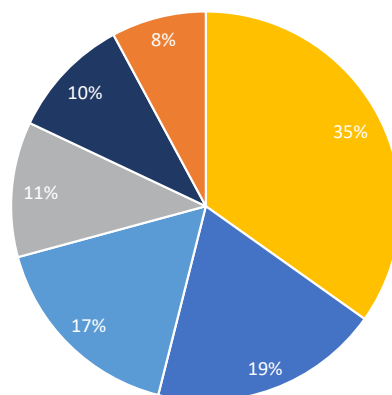
## OPEN HOUSE #3

# OUTREACH SUMMARY

## Highest Priority Amenities



## Amenities Causing Concern



16

OPEN HOUSE #3

## TAKE-AWAYS

### Priority Amenities

1. Completed trail network
2. Improved Duffy's Pond ecology

### Priority Development

1. Additional shopping & local food spots near Columbia Gardens
2. Artisan market at Columbia Gardens
3. Improved Clover Island concert location



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OPEN HOUSE #3

## TAKE-AWAYS

### Concerns

1. Residential development that blocks views
2. Increased development and programming that impacts available parking
3. Uses that limit public access to the river and Duffy's Pond
4. Development that detracts from existing attractions like the lighthouse, and is not in scale with other development
5. Attractions that cater to tourism and neglect the desires of the local community



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# PORT OF KENNEWICK REGULAR COMMISSION MEETING

**DRAFT**

**MAY 11, 2021 MINUTES**

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Commissioner Don Barnes called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

## **ANNOUNCEMENTS AND ROLL CALL**

**The following were present:**

**Board Members:** Commissioner Don Barnes, President (via telephone)  
Skip Novakovich, Vice-President (via telephone)  
Thomas Moak, Secretary (via telephone)

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

## **PLEDGE OF ALLEGIANCE**

Commissioner Barnes led the Pledge of Allegiance.

## **APPROVAL OF THE AGENDA**

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

## **PUBLIC COMMENT**

Ms. Scott read the following public comments into the record.

Ron Swanby, 110 S. McKinley Place, Kennewick. (EXHIBIT A)

*"I have questions about the Willows Resolution.*

*1) Is this resolution included in the Historic Waterfront District Master Plan by Makers? If not, I would ask that the commissioners refrain from moving forward until the Plan is completed and received.*

*2) Is this the best location for low income housing? After doing some research, there have been locations on 10th Avenue and 13th offered by the City for low income housing.*

*3) Does this meet the Port's original vision for this property, or, is this because Federal funding has been made available and you feel this is something that you must do to get "grant monies"?*

*4) What kind of effect do you think this will have on potential investors for the surrounding properties you plan to sell?*

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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5) Will this increase or decrease the values of surrounding properties and longtime businesses?

6) Have the surrounding neighborhoods and businesses been considered or informed? I understand everyone has the same opportunity as I do to review the meetings, agendas, and be informed. In the real day to day grind, I would guess that less than 2% of our community pays any attention until after the decisions have been made, and that percentage might be on the high side. Out of all the meetings I have either attended or listened to, the most common attendee is a Richland man who lives on Snyder Street. This does not change my desire or interest in growing my business in Columbia Gardens. I do agree we have an epidemic for affordable housing in our city. I believe this is admirable that you would be inclined to consider this endeavor. Millions of dollars have already been spent on cleaning up the area, which entailed removing a low income area in the same location. I understand how other businesses think, whether I agree or disagree with them, and I truly believe this will pose as a hindrance for reaching the right investors to complete the vision of the revitalization of this area. Thank you for your time, Ron Swanby”

Andrew S. Klein, Klein Griffith Properties Group, LLC, 2 Rose Court, Pasco. (EXHIBIT B)

“I am writing today to voice my concern for the potential harms to the area of Historic Downtown Kennewick posed by a suggested partnership with the Kennewick Housing Authority (KHA) at the proposed “Willows” development. I am opposed to their project as described in their letter attached to today’s agenda. While I am a firm believer in the work that is completed in our community to provide safe, and affordable housing to those of modest means, their proposal for the Willows is not the right fit for an area of our community that is rapidly developing into a prime retail and residential jewel in the Tri-Cities. Significant private and public investment has already been made in the Historic Downtown and there is a clear trajectory the neighborhood is following to complete re-vitalization. Removing significant amounts of available development property from the community and granting those lands to a government agency has the potential to slow, if not halt, the momentum that Downtown Kennewick is experiencing. I would encourage the Port to instead consider partnering with like-minded private developers who have Kennewick’s economic development as their first priority. Thank you, Andrew S. Klein”

No further comments were made.

## **PRESENTATION**

### **A. Kennewick Historic Waterfront District Master Plan Update**

Mr. Peterson gave a brief history of the work completed on the Kennewick Historic Waterfront District (KHWD) Master Plan by Makers. Today, Makers will present an update on the KHWD draft Master Plan and provide recommendations. Mr. Peterson introduced Julie Bassuk, Erica Bush, and Beth Batchelder.

Ms. Bassuk presented an overview of the KHWD draft Master Plan and outlined the community priorities and the economic analysis (EXHIBIT C).

Ms. Bush presented the six zones for the KHWD draft Master Plan:

- Clover Island West: celebration space;
- Central Clover Island: activity hub;
- Clover Island East: connected gathering space;

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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- Columbia Drive West: residential cornerstone;
- Columbia Drive Central: energetic commercial core;
- Columbia Drive East: district supporting development.

Ms. Bassuk summarized the implementation strategy for the KHWD:

- Near term: market development parcels focusing on The Willows and Columbia Gardens;
- Medium term: build on momentum to market parcels for development on Clover Island, The Willows and Columbia Gardens and add parking and amenities;
- Long term: secure development of Cable Greens and remaining parcels at The Willows and attract signature development on Clover Island.

Commissioner Novakovich thanked the Makers team for the exciting KHWD draft master plan; however, he expressed his concern over the contradiction of the alignment of the vision of the KHWD draft Master Plan and Resolution 2021-06, which may approve future infrastructure in The Willows and a partnership with the Kennewick Housing Authority (KHA). Commissioner Novakovich asked if additional public outreach should be done for The Willows infrastructure project and discuss the potential direction the Port is going, which is a drastic change to what Makers is proposing. Commissioner Novakovich does not believe it is the right use for the project and thinks Makers vision is the correct use and what the community expects from the Port. Commissioner Novakovich inquired how the Port should handle the upcoming Resolution 2021-06.

Ms. Bassuk stated she cannot address directly whether this new development is in alignment with the vision, as she has not reviewed the information and it was not part of the process. Ms. Bassuk stated the KHWD draft Master Plan sets up general visions, goals, and targets of what we hope the development of The Willows will do to support what the Port and community see for the overall development. Ms. Bassuk offered a few comments for the Commission to evaluate the proposed Resolution 2021-06. One of the critical pieces for The Willows is to generate a near term stream of revenue and activity. The Willows is the most developable parcel, that is easily accessible and flexible and critical to drive increased activity to Columbia Gardens and Clover Island. The Willows needs to be inviting and welcoming to a diverse mix of the community and create support for the other businesses. Makers did not discuss in detail how to position the housing but talked about the values that would drive it. Ms. Bassuk stated bringing activity to the area that would support other businesses and generating a level of revenue for the Port funds all of the other investments that are desired, which are not revenue producing in the district.

Commissioner Novakovich stated he has been transparent throughout this process and wondered if the Port should go back and ask the public what they think about the KHA plan for affordable housing in The Willows, as opposed to sticking with the Makers draft plan.

Ms. Bassuk stated what the Master Plan should do is help the Port to make good decisions as this and many future opportunities may be considered. Ms. Bassuk cautioned on extending the Master Plan process just to respond to this specific development and stated if the Commission wants to evaluate whether this specific development is the right fit, then that is a separate question that needs to be asked.



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Commissioner Moak inquired if there have been any changes to the presentation or if this is a finalization of ideas.

Ms. Bassuk stated the scale of the development was reduced to make some of the targets more flexible.

Further discussion commenced regarding the KHWD draft Master Plan with the Makers team.

Commissioner Barnes addressed Commissioner Novakovich's concerns regarding The Willows and thinks the work that has been put into the KHWD draft Master Plan has been methodical and community driven and will provide a great tool for the Port going forward. Commissioner Barnes stated the Port needs to listen to the recommendations laid out by Makers and appreciates the time to review the document.

Mr. Peterson stated the Commission will have additional opportunities to review and discuss the KHWD draft Master Plan at the May 25<sup>th</sup> and June 8<sup>th</sup> Regular Commission Meetings.

## OLD BUSINESS

### **A. *Clover Island Shoreline 1135 Update***

Ms. Bader Inglima reported the U.S. Army Corps of Engineers (USACE) division office concurred with the Walla Walla District for additional funding for the 1135 project and is now estimated at \$7,240,000, up from the 2016 estimate of \$5,000,000. Mr. Arntzen and the Walla Walla District Commander signed an amended cost-share agreement, and the State Recreation and Conservation Office extended our Aquatic Lands Enhancement grant, which allowed the Port to retain the \$500,000 for Clover Island. USACE requires the local sponsor's matching funds before they go out to bid on a project. Ms. Bader Inglima stated there is a check for \$1,654,000 on Consent Agenda A for the Port's match, which was identified and set aside for the project. After 13 years, our desire to restore the Clover Island shoreline and extend the recreational pathway to enhance the environment and bring new economic opportunities to east Kennewick's waterfront is very close. This payment enables the USACE to go out to bid in time to meet the winter 2021-2022 in-water work window.

### **B. *Community Project Direct Appropriations Funding Applications***

Ms. Bader Inglima stated Resolutions 2021-05 and 2021-06 address the Congressional appropriations request that the Commission directed staff to submit to secure federal funding. Resolution 2021-05 would bring Electrical Vehicle Charging stations to Clover Island, Columbia Gardens, and Vista Field.

Resolution 2021-06 is for The Willows infrastructure, which, if the Commission recalls, was originally deemed for infrastructure to prepare lots for the private sector. However, in vetting that project with Senator Murray's staff for funding under Biden's Build Back Better plan, they suggested that we look at working with Lona Hamer and the Kennewick Housing Authority (KHA) as a way of helping to meet a critical need for assisted housing for families transitioning out of poverty, for seniors, homeless and female veterans. The Commission agreed and directed staff to secure a letter from KHA, which is included in the Agenda packet (EXHIBIT D).

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Ms. Bader Inglima stated the appropriations process requires each project to have a letter of support and the Port received general letters of support from the Historic Downtown Kennewick Partnership, TRIDEC and the City of Kennewick; and another letter from the Visit Tri-Cities in support of the charging stations. Ms. Bader Inglima believes passing a formal resolution for each project will help strengthen our application. Ms. Bader Inglima inquired if the Commission had any questions regarding Resolution 2021-05 or 2021-06.

Commissioner Novakovich inquired if the Commission were to approve 2021-06, is the Port committed to the proposal from the KHA or can the Port do whatever we want with the infrastructure if the project is funded.

Ms. Bader Inglima stated the application would have strength as a partnership and collaboration to meet the critical needs for housing as identified with KHS and other agencies within the community. Senator Murray's office encouraged the collaboration to meet the housing needs for the application; however, there is no guarantee of funding. Ms. Bader Inglima stated the Commission directed staff to submit the application in collaboration with the KHA. It is the Commission's discretion on how they would like staff to submit the application.

Commissioner Novakovich reiterated his concern that Resolution 2021-06 does not agree with the KHDW draft Master Plan and the community vision.

Commissioner Moak thought it was the Port's plan and asked the KHA to support The Willows project.

Ms. Bader Inglima stated the Port is requesting funding for infrastructure with the support of the KHA to meet and identify need for the type of housing as identified by KHA and other agencies. Commissioner Moak stated he is chairman of the KHA and believes the intent of what is envisioned in The Willows plan was a mixed income project and the KHA was supporting a certain part of the mix. Commissioner Moak confirmed that this does not prohibit the ability of the Port to have other types of housing.

Ms. Bader Inglima stated all of the details have not been worked out. Staff was approaching the appropriations request for the infrastructure and Commission directed staff to work with Ms. Hammer to pursue options, but those options have not been fully vetted, given the deadline to submit the application.

Mr. Arntzen stated a lot of details need to be worked out, but it is important to recognize that this project has transitioned into a partnership with the KHA.

Commissioner Barnes stated if the Port were to receive appropriations funding through Senator Murray's office, it may not be in line with the envisioned Master Plan.

Further discussion commenced between the Commission and staff regarding Resolution 2021-06.

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## *1. Electrical Vehicle Charging Stations*

***MOTION:*** Commissioner Novakovich moved to approve Resolution 2021-05 approving submittal of a Congressional Appropriations request for the Bringing Electrical Vehicle Charging Stations to Kennewick's Historic Waterfront and Vista Field project and further authorizing the Port's Chief Executive Officer to execute all documents necessary to submit the application package; Commissioner Barnes seconded.

## **PUBLIC COMMENT**

No comments were made.

*With no further discussion, motion carried unanimously. All in favor 3:0.*

## *2. The Willows Infrastructure*

***MOTION:*** Commissioner Moak moved to approve Resolution 2021-06 approving submittal of an appropriations Congressional Appropriations request for The Willows Infrastructure Project in collaboration with the Kennewick Housing Authority and further authorizing the Port's Chief Executive Officer to execute all documents necessary to submit the application package; Commissioner Barnes seconded.

## **PUBLIC COMMENT**

Lona Hammer, 2200 East 8<sup>th</sup> Place, Kennewick. Ms. Hammer fully supports the Port's Master Plan for The Willows project. The KHA partnered with the Port, because it is a great project and the Port indicated that it would be mixed income, mixed use project. Ms. Hammer believes mixed income means all levels of income and thinks it is worthwhile across communities across our nation. Ms. Hammer stated if the KHA purchased property from the Port to build, they would use those developer fees on other projects; it would not be a shared appreciation or partnership. The KHA makes money receiving a developer fee for building units and then rolls those funds over to a new project. That would only happen if the KHA were able to purchase a piece of property in The Willows from the Port; however, based on the location and the prices in community, she believes the prices will be too high. Then, KHA looks at other affordable housing options, as indicated in the letter. Ms. Hammer proposed 5% is set aside for low income within each of the developer contracts that the Port signs. Which totals 7 affordable units out of 138 units, which Ms. Hammer does not believe is a huge ask. Ms. Hammer mulled if having affordable units would be seen as disincentive to a developer. Ms. Hammer outlined the Health-In-Choice voucher program and Washington state law regarding housing discrimination. Ms. Hammer stated the KHA did not envision being the developer on the project and believes there are many for-profit developers aching to develop this community. Ms. Hammer thinks having a modest 5% of affordable units would be a great compromise and would also enrich the community. Ms. Hammer does not want to offer support to the Port and then be cast aside. Furthermore, she does not want to sully her reputation with the Senator's office and would like to keep those relationships solid. Ms. Hammer stated if the Port needs to withdraw her letter of support, she is fine with that. Ms. Hammer stated there will not be an issue with her relationship with staff and the Port. Ms. Hammer understands where the Commission is coming and KHA wants to help, and she thinks affordable housing and housing across

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the spectrum in our community is important.

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick disagrees with the earlier comments sent in via email. Mr. Burdick stated taking care of Kennewick's less privileged and most vulnerable citizens is more important than economic development. Mr. Burdick applauds the Port of Kennewick's adjoining with the KHA for providing supportive housing for moderate income, for Veteran's, and other less privileged people. Furthermore, Mr. Burdick believes Resolution 2021-05, which provides electric charging stations, is welfare for people who can afford a \$70,000 Tesla.

Ken Hohenberg, 3900 South Green Street, Kennewick. Mr. Hohenberg appreciates all the comments and would like to go on record and say how much he appreciates the KHA. They have brought a lot of great projects to the City of Kennewick and other areas that they serve. Mr. Hohenberg believes that affordable housing is important; however, he goes back to some of the concerns Commissioners have brought up about the original Master Planning and the public input. Earlier today, Mr. Peterson stated how much public comment has gone into this planning process. At the end of the day, Mr. Hohenberg encouraged the Commission to make sure they consider that in their decision.

No further comments were made.

## ***Discussion:***

*Commissioner Moak would like to go back to original efforts in The Willows and the Port looking for funding for infrastructure. Several years ago, we thought we had a plan for infrastructure, but that fell through. The Port does not have the money to install the infrastructure, but as we know, Makers stated one of the important items that need to be completed is getting The Willows project off the ground and one way to do that is to install the infrastructure. The Port has opportunities on the federal side to do some things in The Willows and work with Senator Murray. When we work with the Federal or State government, we need listen to their concerns, and work to try to address those concerns to get support from the federal government. One of the things Senator Murray would like to see is a partnership dealing with housing. Commissioner Moak does not think the draft Master Plan said The Willows should benefit the priciest real estate, but rather, the waterfront is for everybody and that includes the KHA. Commissioner Moak stated there are details to be worked out if things happen with Senator Murray's office, yet those details have not been determined yet. The Commission heard from Ms. Hammer that the KHA does not have a plan to take over this project, but rather, they are interested in partnering on a great project with the Port. Commissioner Moak does not think affordable housing is the boogie man nor is it true that the Port is returning The Willows into a low-income housing project. What is true is that the Port is taking an opportunity to partner with KHA to get some great housing in The Willows and for the Port to sell some property, so that we may be able to work on the rest of the waterfront project. Commissioner Moak stated it would certainly help if the Port had support from the federal government to do that. If we had support from KHA and others, he thinks it would create a great neighborhood for all. Commissioner Moak believes forwarding this project to Senator Murray's office, to get assistance with The Willows would be a good thing.*



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*Commissioner Novakovich would agree with Ms. Hammer and Commissioner Moak regarding usage; however, there are too many unknowns. The perception right now is that the Port would partner based on the KHA's mission and he would have to vote against it because of the unknowns. Commissioner Novakovich stated if the roles and responsibilities were defined, then he would support it. Commissioner Novakovich agrees with Commissioner Moak and thinks that it would be nice to have money to complete the infrastructure; however, as it stands, the perception and appearance is that the Port is doing something that is not in compliance of community Master Plan.*

*Commissioner Barnes appreciates Ms. Hammer's comments and believes the Port is in the very early stages of this project and a lot of details can be worked out. Commissioner Barnes heard clearly from Ms. Hammer that it is her intention to help the Port conform to our master plan and work within those guidelines. In a situation like this, the Port should show good faith and we need to believe we can work with a solid partner in our community, and we can overcome obstacles and differences and perceptions. Commissioner Barnes believes it would be a tremendous boost to The Willows project to have Senator Murray's office assist the Port in obtaining funding for the infrastructure. After hearing the discussion and comments, this is going to be a mixed income development with an appropriate, suitable mix, that will conform with the Master Plan.*

***With no further discussion, motion carried. All in favor, 2:0:1. Ayes (Commissioners Barnes and Moak) Abstain (Novakovich).***

## **RECESS**

*Commissioner Barnes called for a recess at 4:19 p.m. for 5 minutes.*

*Commissioner Barnes reconvened the Regular Commission meeting at 4:23 p.m.*

## **CITIZEN COMPLAINT-REQUEST FOR REIMBURSEMENT OF LEGAL FEES**

### **A. Resolution 2021-07**

Mr. Kooiker stated before the Commission is Resolution 2021-07, reimbursing Commissioner Barnes for legal fees and inquired if the Commission had any questions.

Commissioner Barnes stated Mr. Kooiker pointed out there are some redactions in the invoices that were submitted to the Port, and he called attention to the transmittal email from his attorney, Joel Comfort. The transmittal email from Mr. Comfort to Ms. Luke, dated March 26, 2021, reads as follows:

*"Dear Lucinda, Commissioner Barnes requested that I send you unredacted copies of the invoices, see attached. There are a couple of remaining redactions in here that are necessary for attorney client privilege reasons. If you have any questions on any of the items, please do not hesitate to contact me. Signed by attorney Joel Comfort.*

Commissioner Barnes stated at the time of submittal, there were still some redactions because of attorney client privileges. Commissioner Barnes believes Steve DiJulio was aware of those redactions.

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Commissioner Moak asked Mr. Kooiker and Ms. Luke how the Commission responds to these concerns and conflicts. Commissioner Moak understands sharing information that is attorney client privileges is confidential, yet, from a finance standpoint, the finance manager needs to verify that it is an expense that the Port has to the ability to pay.

Ms. Luke stated typically in a legal setting, when there is a situation like this, where there is confidential information or a privileged document, an agreement can be reached, wherein information is provided, either under legal setting, if there is a judge involved, the judge reviews the document on camera or there is an agreement, a protective order agreement in which the attorneys agree to attorneys eyes only, that it is not to become a public document; however, in this situation there is the issue with public records, which does allow for attorney client privilege to be redacted. Ms. Luke did not review the documents, they were communicated to Mr. DiJulio, who was the special counsel to the Port on this issue. Ms. Luke thinks the question should be posed to Mr. DiJulio, as he reviewed the documents and redactions and also provided his analysis and recommendations to the Commission and also sent a follow-up document to Mr. Kooiker.

Commissioner Moak stated if he understands Ms. Luke correctly, in order for the Port properly reimburse Mr. Barnes the entire amount that he is owed, the question on those redactions need to be referred back to Mr. DiJulio.

Ms. Luke stated her recommendation is that be worked out by Mr. DiJulio and Mr. Comfort and also to the satisfaction of the Port's Auditor, Mr. Kooiker.

Mr. Kooiker thinks Commissioner Moak hit the nail on the head regarding how the legal issues are interpreted by Mr. DiJulio and Ms. Luke. Mr. Kooiker reviews the information as the auditor for the Port, so for him to sign and authenticate a claim, he needs all the work papers that will show in our records to support the payment. Mr. Kooiker looked at it through a very objective lens and stated any check that leaves the Port follows the same process, regardless of the amount. Mr. Kooiker wanted to disclose that information to the Commission and that was the reason for the statement on the warrant register.

Commissioner Barnes stated when Mr. Comfort submitted these invoices with some invoice's redacted for attorney client privileges reasons, he clearly stated in his email transmittal, "*if you have any questions on any of the items, please do not hesitate to contact me.*" And to the best of Commissioner Barnes' knowledge, no one from the Port reached out to try to resolve these issues. Commissioner Barnes stated the invoices were held and then they came to the Commission with this statement. Commissioner Barnes believes it would have been a simple thing to resolve this issue prior to today. The email was transmitted on March 26, 2021, so a month and a half has gone by since these invoices have been in the hands of the Port. Furthermore, this is the first time that these redactions for attorney client privilege reason have come up as an issue. Commissioner Barnes reiterated that Mr. Comfort has been available and invited any questions on any of these items and to the best of my knowledge, he has not been contacted.

Mr. Arntzen stated staff is in an interesting situation, at the April 13, 2021 Commission Meeting,

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there was a clear directive from the Port Commission to pay this amount; however, Mr. Kooiker is following the established process. Mr. Arntzen knows Mr. Kooiker has been diligent in his outreach to Mr. DiJulio, who has been handling this, so we have done our due diligence. Mr. Arntzen thinks any implication that staff is dragging their feet is incorrect.

Commissioner Barnes inquired if anyone from the Port or Mr. DiJulio's office contracted Mr. Comfort.

Mr. Arntzen stated Mr. Kooiker has been working with Mr. DiJulio and expressing his concerns to Mr. DiJulio. The Commission seems to take great credence in what Mr. DiJulio says, so staff has been working within the best legal advice provided by Mr. DiJulio. Mr. Arntzen thought that this would go right through, because previously, the Port Commission was very unequivocal in the directive to pay this amount. Mr. Arntzen shared that staff is trying to do as the Commission asked and respond to the directive from the Commission. Mr. Arntzen is not sure what more that staff needs to be instructed to do.

Commissioner Barnes stated this Resolution is set up to pay the amount approved previously, and he thinks the amount that was approved previously came right out of a letter from Mr. DiJulio. Commissioner Barnes does not want to be difficult but his has been a long process and he just wants to be made whole. Commissioner Barnes stated a judge found that the complaint against him was unsubstantiated in its entirety. Commissioner Barnes submitted all the invoices to Mr. DiJulio, whereas Mr. DiJulio wrote a letter and made it clear that some of the amounts should not be reimbursed. Commissioner Barnes did not have any argument with that, those amounts were taken out, and then Mr. DiJulio said Mr. Forgette's work should not be included, which he disagreed with. Additionally, Mr. DiJulio said that there should be some rounding down in the due diligence, which Commissioner Barnes addressed at the meeting when this was approved. This amount that is in proposed Resolution came directly from Mr. DiJulio's analysis of these invoices and Commissioner Barnes would respectfully ask for reimbursement from the Port.

Mr. Arntzen stated this has been set up for the Commission to approve the Resolution today and this will matter will be concluded. Mr. Kooiker included the disclosure, and it is up to the Commission to approve. Mr. Arntzen stated if the Commission feels comfortable with what staff presented, the Commission could vote to move forward and authorize the payment and then the issue is in the rearview. If the Commission, in their own review of this matter has further questions, then please lodge them with us, and we will do the necessary amount of work, but we set this up so it could be approved today.

Commissioner Barnes stated thank you and he appreciates that.

Commissioner Moak stated when he made the motion, and it was corrected to the number that was identified in the Resolution, he assumed that all this information regarding the redactions was provided to Mr. Kooiker; however, Mr. Kooiker could only account for \$47,000 instead of \$49,000. Commissioner Moak is hearing that the Port could make it right if Mr. DiJulio gave a go-ahead to agreeing to the redactions. Commissioner Moak believes to adopt the Resolution as

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 11, 2021 MINUTES

**DRAFT**

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it is today, invites scrutiny by the Auditor's Office, because there is no documentation for a certain small percentage of that amount. Commissioner Moak believed Ms. Luke stated Mr. DiJulio needs to address those redactions. Commissioner Moak is frustrated, and he hears the frustration of Commissioner Barnes, and the frustration of Mr. Arntzen, and believes anybody else who is on the line, is probably frustrated too. Commissioner Moak thinks there is a right way to get Commissioner Barnes the appropriate amount of money he is owed; however, there is also a proper way, in terms of the bookkeeping of the Port, and to shield us, to try and shield us, from audit issues, if we have that final piece from Mr. DiJulio. If this issue had come up at our last meeting, it would have been nice to have known that at the that time, but we did not have this information. Commissioner Moak believes the only proper way is to defer this to the next meeting and have Mr. DiJulio and Mr. Comfort sign off on the redacted invoices for the Auditor to feel comfortable with cutting the check to Commissioner Barnes and that they meet the Port's high standards.

Commissioner Barnes thanked Commissioner Moak for his comments and stated that would mean another two week delay. Commissioner Barnes believes almost everyone on this call today can understand an inconvenience that a \$50,000 outlay, over an extended period, would pose for anyone. Commissioner Barnes inquired if Mr. Kooiker would be comfortable in approving a lower amount and then we could address the remaining \$1,300.

Mr. Kooiker reported that he received the invoices and support from Foster Garvey on April 28, 2021 and stated staff has not been sitting on this information for a month and a half. Last week, Mr. Kooiker built a spreadsheet and discovered the \$1,300 discrepancy. The Resolution is drafted for the Commission to approve the \$49,282.75 and the Commission can do that; however, Mr. Kooiker cannot certify that full amount, which is fine. Mr. Kooiker does not have the ability to write a check to Commissioner Barnes for \$47,990.25 because it needs to follow the correct process and needs to be an approved warrant by the Commission.

Commissioner Barnes understands that Mr. Kooiker did not get this information until April 28, 2021; however, this information was submitted to the Port of Kennewick on March 26, 2021 at 4:20 p.m. Here we are a month and a half later and Commissioner Barnes is learning for the first time that there are problems with the redacted invoices, which were clearly called out in cover memo upon submittal. It was clearly stated in Mr. Comfort's email that there were some remaining redactions for attorney client privileges. And further, Mr. Comfort stated, *"if you have any questions about any of these items, please do not hesitate to contact me."* Commissioner Barnes has made a good faith effort to get the material in the hands of the Port of Kennewick for reimbursement and now he learns a month and a half later that there are still problems and expressed his frustration.

Commissioner Novakovich asked Ms. Luke if a Commissioner who is asking for reimbursement has the right to vote on their own reimbursement.

Ms. Luke stated she has not looked at that specific issue of the conflict. She has looked at conflict issues generally, but not that specific issue.



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Commissioner Novakovich thinks along with what Commissioner Moak is suggesting, is perhaps we need to look at that as well.

Ms. Luke believes the Commission has already voted on this and that there was a motion previously.

Commissioner Novakovich stated there is a Motion to approve Resolution 2021-07 today.

Ms. Luke stated correct.

Commissioner Novakovich stated when he owned Esprit Printing and even though they were not paid directly by the Port of Kennewick, but through a marketing firm for printing we did for the Port, he recused himself from voting on any monies that would have gone to pay the marketing firm, which in turn, then paid Esprit. Commissioner Novakovich wondered if there is a conflict involved here, that could cause potential problems for Commissioner Barnes.

Commissioner Barnes stated, Commissioner Moak, this is up to you, what is your pleasure, what would you like to do?

**MOTION:** *Commissioner Moak moved to postpone this issue for another two weeks; Commissioner Novakovich seconded.*

***Commissioner Barnes restated the motion and called for discussion:***

***Discussion:***

*Commissioner Moak feels Commissioner Barnes' pain and would have preferred to have voted on this much earlier than this and he totally supports Commissioner Barnes efforts to retrieve the money that is owed to him. However, Commissioner Moak also has a duty to the Port, to make sure that the information is verified, and everything fits within the best practices of the Port. Commissioner Moak does not want to delay it another two weeks, either for what he has to say or what Commissioner Novakovich has to say, but he believes it is in the best interest of transparency of the Port, that we do this. Commissioner Moak feels bad for Commissioner Barnes, who put out the money and prevailed in the hearing; and now has to wait another two weeks.*

## **PUBLIC COMMENT**

No comments were made.

***With no further discussion, motion carried. All in favor, 2:1 Ayes (Commissioners Moak and Novakovich): Nay (Commissioner Barnes).***

Commissioner Barnes stated he looks forward to getting this issue behind us someday.

Mr. Kooiker requested direction from the Commission and asked if the Commission wants him to reach out to Mr. DiJulio who will reach out to Mr. Comfort regarding these discrepancies.

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Commissioner Barnes wants Mr. Kooiker to do what he needs to do and does not want to tell him how to proceed, because he gets in trouble when he tells Mr. Kooiker to do what he needs to do. Commissioner Barnes stated Mr. Kooiker is the CFO and Auditor and you need to do what he needs to do to be able to make this reimbursement.

Commissioner Moak believes Mr. Kooiker or Ms. Luke needs to reach out to Mr. DiJulio. Certainly Ms. Luke understood what the issues are, in terms of the redaction and the legal aspects. Maybe Mr. Kooiker does too, Commissioner Moak does not know, but he would like it resolved.

Commissioner Barnes stated additional work from Mr. Comfort will create additional fees to be reimbursed.

Commissioner Moak does not know whether Mr. Comfort needs to be involved or not, he does not know what exactly all the information that has been provided and maybe all that information has been provided somewhere.

Commissioner Barnes stated there were redactions on the invoices, which were highlighted in the submittal email. Commissioner Barnes has copies of the unredacted invoices and stated they are names of individuals that had nothing to do with this matter. Commissioner Barnes stated we consulted with people on issues and he does not believe these people don't need to be named in this matter. Commissioner Barnes stated to answer Mr. Kooiker's question, please do what you need to do, as the Auditor for the Port of Kennewick. And if there is additional work for Mr. Comfort, that will generate a supplemental request for further reimbursement, because this is a related matter.

Mr. Kooiker stated if Mr. Comfort and Mr. DiJulio decide they are going to maintain the attorney client privilege information for the invoices, the same Resolution will be presented at the next meeting because he cannot approve an invoice that is blacked out. Mr. Kooiker will reach out to Mr. DiJulio right now regarding the redacted invoices.

Commissioner Moak thinks there should be some documentation from either Mr. DiJulio or Ms. Luke, as to why the Port approved a payment for which we do not have all the documentation. There should be something in the record that indicates that information was attorney client privilege. Commissioner Moak thinks it is up to the legal team to figure out what needs to be in the file, that provides a satisfactory answer to the Auditor.

Commissioner Barnes outlined Consent Agenda A and stated on Consent Agenda B, which was a single payment reimbursement of legal fee. Commissioner Barnes reviewed the warrant register under Consent Agenda A, and saw there was a payment included on that for reimbursement of legal fees. Commissioner Barnes if Mr. Kooiker if that was a mistake or was that an oversight.

Mr. Kooiker stated Warrant Register A should not include the legal fee reimbursement.

Commissioner Barnes stated but it did in the copy he received via email as a detailed entry.

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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Mr. Kooiker does not see the information Commissioner Barnes is referring to.

## **CONSENT AGENDA – A**

### ***A. Approval of Direct Deposit and E-Payments Dated May 4, 2021***

Direct Deposit and E-Payments totaling \$88,646.50

### ***B. Approval of Warrant Register Dated April 27, 2021***

Expense Fund Voucher Number 102889 through 102893 and 102895 through 102924 for a grand total of \$1,792,301.07

### ***C. Approval of Regular Commission Meeting Minutes April 27, 2021***

**MOTION:** *Commissioner Novakovich moved to approve the Consent Agenda A with the caveat that legal fees paid to Commissioner Barnes are not included in Warrant Register dated May 11, 2021;*

*Commissioner Barnes stated there are legal fees included in Warrant Register dated May 11, 2021 for other attorneys as well. You may want to modify your motion.*

**MOTION:** *Commissioner Novakovich moved to approve the Consent Agenda A with the caveat that legal fees paid to Commissioner Barnes are not included in Consent Agenda A, Warrant Register dated May 11, 2021; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

Commissioner Barnes stated Mr. Kooiker, Consent Agenda Item B, the Commission moved to postpone this topic until the next Meeting and that it is his understanding that it is the only payment on this proposed warrant register, is that correct?

Mr. Kooiker stated yes, that is correct, and for clarification, he misunderstood Commissioner Barnes question. The check register, which has the detail for all the checks is grouped together because that is how the software works. Mr. Kooiker stated Warrant Registers A and B should be separated.

Commissioner Barnes trusts Mr. Kooiker to handle the details, he just noticed it when he read through it and wanted to make sure it was not a mistake.

## **CONSENT AGENDA – B**

*With Consensus of the Commission, there will not be action on Consent Agenda B.*

## **EMERGENCY DELEGATION UPDATE**

Mr. Arntzen and Ms. Hanchette stated there is nothing to report for emergency delegation.

## **REPORTS, COMMENTS AND DISCUSSION ITEMS**

### ***A. Vista Field***

Ms. Hanchette reported that the maintenance team has been preparing the water features for the season. Staff is working on the final documents for close out and dedication to the City of Kennewick. Additionally, the planning and real estate departments are working on a parallel path to develop the map where we can add draft pricing for lots by utilizing the information from our

# PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 11, 2021 MINUTES

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market research study and the Multiple Listing Service (MLS). Ms. Hanchette stated staff will vet the pricing with an experienced group of real estate agents in the community.

***B. Oak Street/Verbena Auction July 20, 2021***

Ms. Hanchette reported that the auction will be held on July 20, 2021 and thanked Ms. Scott for coordinating calendars.

***C. Letter of Support for City of Kennewick's Direct Appropriations Funding Application***

Ms. Bader Inglima reported that the City of Kennewick is seeking to submit an appropriations request for federal funding to make improvements to the intersection at Quinault and Columbia Center Boulevard. Senator Murray's office is requesting that all applications for federal earmarks include letters of support. Ms. Bader Inglima inquired if the Commission had any questions regarding the draft letter of support (EXHIBIT E).

*It is the Consensus of the Commission for the CEO to sign the letter of support for the City of Kennewick Congressional Appropriations request.*

***D. Public Disclosure Commission Reports and No-Conflict Statements***

Ms. Scott reported that the deadline to submit the Commission's Public Disclosure Reports and no-conflict statements was April 15, 2021.

All three Commissioners have filed their F-1 Public Disclosure Report, and as of today, two Commissioners have filed their no-conflict statements.

Mr. Arntzen appreciated Commissioner Barnes raising this issue at the last meeting and stated it is always good to have a reminder of the conflict-of-interest issue or the appearance of conflict. Mr. Arntzen stated Port policy, as well as the RCW's, address conflict-of-interest or the appearance of conflict-of-interest issue. The Port policy states the Commission is deemed to know of and abide by all Port policies. Mr. Arntzen stated should the Commission want additional input or a deeper dive into the conflict-of-interest issue or the appearance of conflict-of-interest or the remote interest issue, he would be happy to work with Ms. Luke to present a refresher course on this topic.

Commissioner Barnes inquired if the statement he made at the April 27, 2021 Commission Meeting is sufficient or does staff need the statement in writing.

Ms. Scott stated Commissioner Barnes' statement is sufficient.

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

Commissioners reported on their respective committee meetings.

***F. Non-Scheduled Items***

Ms. Scott emailed the links for the Washington Public Ports Association Spring Meeting and the Congress of New Urbanism virtual conferences to the Commission, if they would like to attend the conferences.



# PORT OF KENNEWICK REGULAR COMMISSION MEETING

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Mr. Kooiker has been working with Dan Legard, Finance Director for the City of Kennewick, finalizing the Interlocal Agreement for the partnership on the Washington Street improvements.

Ms. Hanchette gave a Zoom presentation to networking group regarding Columbia Gardens and recent Port improvements. Additionally, the Port welcomed Non-Fiction by Bookwalter, a new pop-up food truck at the food truck plaza.

Mr. Arntzen met with Ms. Bader Inglima recently and walked Vista Field and reported that the water features are up and running.

Commissioner Moak apologized for the interruption of his phone earlier in the meeting. Furthermore, Commissioner Moak does not have any official conflict of interests and as he identified earlier, he is Chairman of the Kennewick Housing Authority (KHA), which is a volunteer position and there is no additional compensation, no matter what. Additionally, Commissioner Moak is part of the Kiwanis Club project that is trying to install a project in Columbia Gardens, for which he receives no compensation. Commissioner Moak has continued to identify that he is part of those organizations. Commissioner Moak stated officially, he has no conflict of interest.

## **PUBLIC COMMENTS**

No comments were made.

## **COMMISSION COMMENTS**

No comments were made.

## **ADJOURNMENT**

With no further business to bring before the Board; the meeting was adjourned 5:17 p.m.

**APPROVED:**

**PORT of KENNEWICK  
BOARD of COMMISSIONERS**

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*Don Barnes, President*

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*Skip Novakovich, Vice President*

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*Thomas Moak, Secretary*

**From:** [Amber Hanchette](#)  
**To:** [Bridgette Scott](#)  
**Cc:** [Tim Arntzen](#)  
**Subject:** FW: The Willows Resolution  
**Date:** Tuesday, May 11, 2021 8:40:02 AM

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Ron's public comment for today's commission meeting. ~Amber

---

**From:** Ron Swanby <[ronswanby@gmail.com](mailto:ronswanby@gmail.com)>  
**Sent:** Monday, May 10, 2021 8:18 PM  
**To:** Amber Hanchette <[amber@portofkennewick.org](mailto:amber@portofkennewick.org)>  
**Subject:** Re: The Willows Resolution

Yes, that is what I meant.

On Mon, May 10, 2021 at 8:16 PM Amber Hanchette <[amber@portofkennewick.org](mailto:amber@portofkennewick.org)> wrote:

Did you mean "read into the public comment"? Just want to clarify for the record. Thank you for your submission. Amber

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**From:** Ron Swanby <[ronswanby@gmail.com](mailto:ronswanby@gmail.com)>  
**Sent:** Monday, May 10, 2021 8:13:05 PM  
**To:** Amber Hanchette <[amber@portofkennewick.org](mailto:amber@portofkennewick.org)>  
**Subject:** The Willows Resolution

Hi Amber,

I will be unable to attend tomorrow's meeting. I would like my letter read in the pic Lux comments section. If my two minutes run out before it is fully read, I ask that the letter be posted in its entirety under the comments.

My name is Ron Swanby. I live at [110 S. McKinley Place, Kennewick](#).

I have questions about the Willows Resolution.

- 1) Is this resolution included in the Historic Waterfront District Master Plan by Makers? If not, I would ask that the commissioners refrain from moving forward until the Plan is completed and received.
- 2) Is this the best location for low income housing? After doing some research, there have been locations on 10th Avenue and 13th offered by the City for low income housing.
- 3) Does this meet the Port's original vision for this property, or, is this because Federal funding has been made available and you feel this is something that you must do to get "grant monies"?

4) What kind of effect do you think this will have on potential investors for the surrounding properties you plan to sell?

5) Will this increase or decrease the values of surrounding properties and longtime businesses?

6) Have the surrounding neighborhoods and businesses been considered or informed? I understand everyone has the same opportunity as I do to review the meetings, agendas, and be informed. In the real day to day grind, I would guess that less than 2% of our community pays any attention until after the decisions have been made, and that percentage might be on the high side. Out of all the meetings I have either attended or listened to, the most common attendee is a Richland man who lives on Snyder Street.

This does not change my desire or interest in growing my business in Columbia Gardens. I do agree we have an epidemic for affordable housing in our city. I believe this is admirable that you would be inclined to consider this endeavor. Millions of dollars have already been spent on cleaning up the area, which entailed removing a low income area in the same location. I understand how other businesses think, whether I agree or disagree with them, and I truly believe this will pose as a hindrance for reaching the right investors to complete the vision of the revitalization of this area.

Thank you for your time,

Ron Swanby

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Ron Swanby

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Ron Swanby

Klein Griffith Properties Group, LLC  
2 Rose Ct.  
Pasco, WA 99301

Phone: 509.212.7263  
Email: andrew@kgprop.com  
www.kgprop.com

## Memorandum



May 11, 2021

Port of Kennewick  
Commissioner Don Barnes, President  
Commissioner Skip Novakovitch, Vice President  
Commissioner Thomas Moak, Secretary  
350 Clover Island Drive; Suite 200  
Kennewick, WA 99336

Honorable Commissioners:

I am writing today to voice my concern for the potential harms to the area of Historic Downtown Kennewick posed by a suggested partnership with the Kennewick Housing Authority (KHA) at the proposed "Willows" development. I am opposed to their project as described in their letter attached to today's agenda.

While I am a firm believer in the work that is completed in our community to provide safe, and affordable housing to those of modest means, their proposal for the Willows is not the right fit for an area of our community that is rapidly developing into a prime retail and residential jewel in the Tri-Cities. Significant private and public investment has already been made in the Historic Downtown and there is a clear trajectory the neighborhood is following to complete re-vitalization. Removing significant amounts of available development property from the community and granting those lands to a government agency has the potential to slow, if not halt, the momentum that Downtown Kennewick is experiencing.

I would encourage the Port to instead consider partnering with like-minded private developers who have Kennewick's economic development as their first priority.

Thank you,

*Andrew S. Klein*

Andrew S. Klein, P.E.  
Klein Griffith Properties Group, LLC



# PORT OF KENNEWICK

EXHIBIT C

## HISTORIC WATERFRONT DISTRICT MASTER PLAN



**Draft Plan Commission Presentation**

May 11, 2021

# PROJECT PURPOSE AND TODAY'S GOALS

## PROJECT PURPOSE

- Update the Clover Island Master Plan and tie into greater district
- Identify future uses of Port-owned property
- Respond to the area's evolving context
- Position the district to meet Port and community objectives

## TODAY'S GOALS

- Summarize major outreach take-aways
- Review master plan recommendations

EXHIBIT C



# PROJECT OVERVIEW

EXHIBIT C

## PHASE I ASSESSMENT

★ Stakeholder interviews

★ Discussion groups

Needs assessment

★ Open House #1 – initial  
needs assessment

★ Commission briefing

★ *COMMUNITY ENGAGEMENT*

## PHASE 2 ALTERNATIVES

Alternatives development

Economic & transportation  
analysis

★ Open House #2 –  
alternatives evaluation

★ Commission briefing

★ Preferred concept selection

## PHASE 3 MASTER PLAN

Recommendations refinement

Phasing & implementation  
strategy

★ Open House #3 – draft  
recommendations

★ Commission briefings

Draft and final plan

# INNOVATIVE VIRTUAL ENGAGEMENT STRATEGY

## TARGETED DISCUSSIONS

- 12 individual interviews
- 6 group interviews
- 4 discussion groups
- **56** total stakeholders

## OPEN HOUSES

- 3 virtual open houses
- **2,365** unique users
- **168** comments
- **137** survey responses





# COMMUNITY PRIORITIES

EXHIBIT C



## **WATER**

Celebrate views, access, and connection to water



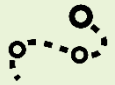
## **LOCAL AMENITIES**

Retain and add amenities with a local focus



## **SAFETY**

Address concern about blight and safety at night



## **TRAILS & NATURE**

Complete and upgrade trails and support connection to nature



## **PARKING**

Concern over increased vehicle and boat trailer traffic with more development



## **LIVING & VISITING**

Add a boutique hotel and appropriately scaled and sited mixed-use residential

# ECONOMIC ANALYSIS TAKE-AWAYS

EXHIBIT C

## RECOMMENDATIONS

- Emphasize a balance of uses, activated public spaces, and strong circulation network throughout, especially to connect the Willows to Columbia Gardens
- Residential is the most economically viable use in the near term; can be a key revenue-generating and 24-7 activating anchor for the district

## CAUTIONS

- “Vertical” stacked mixed use is more expensive, complex, and harder to finance than side-by-side “horizontal” mixed-use



# PLAN RESPONSES



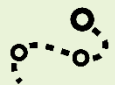
## WATER

- Increases areas that accommodate and encourage community gathering and recreation areas near water
- Provides additional river viewpoints



## LOCAL AMENITIES

- Adds eateries on Clover Island and at Columbia Gardens
- Builds an artisan market and pop-up retail to highlight local businesses



## TRAILS & NATURE

- Completes Clover Island and Duffy's Pond trails and connects to local trail network
- Enhances ecology of Duffy's Pond

EXHIBIT C



Source: Kim Fetrow Photography



# PLAN RESPONSES



## SAFETY

- Adds trail lighting and increases foot traffic for enhanced safety
- Continues to develop safe walkways and open spaces designed for all ages



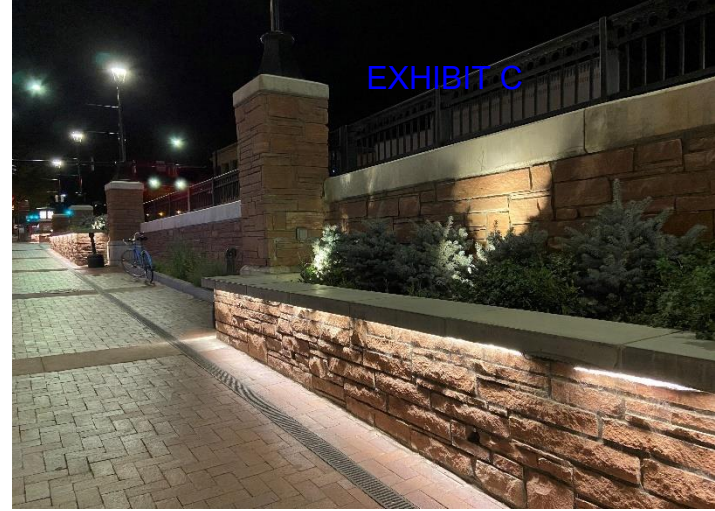
## PARKING

- Designates parking around amenities and area trail network
- Increases signage to alternative launch at Columbia Park for peak weekends



## LIVING & VISITING

- Reduces scale of planned development and prioritizes retaining river views
- Benefits district with increased patrons and revenue







# RECOMMENDATIONS

# RECOMMENDATIONS

EXHIBIT C

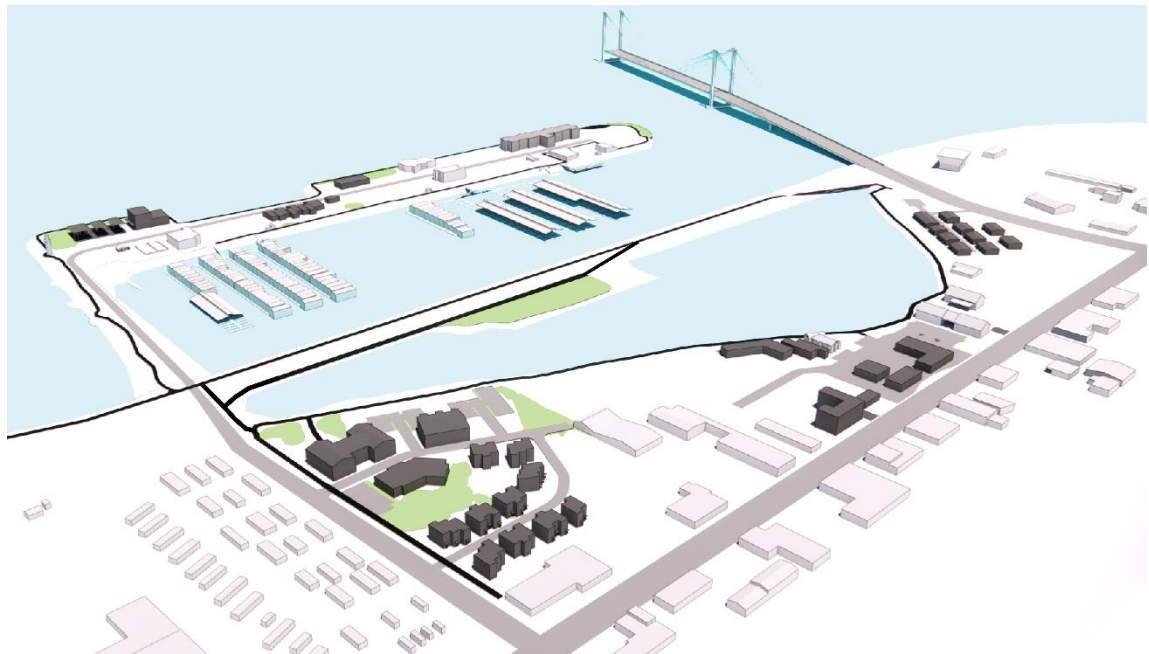
*Create a unique waterfront community that provides a dynamic place to live, play, explore, and gather.*

## CLOVER ISLAND

Enhance programming and amenities and develop a vibrant activity center around a central restaurant cluster

## COLUMBIA DRIVE

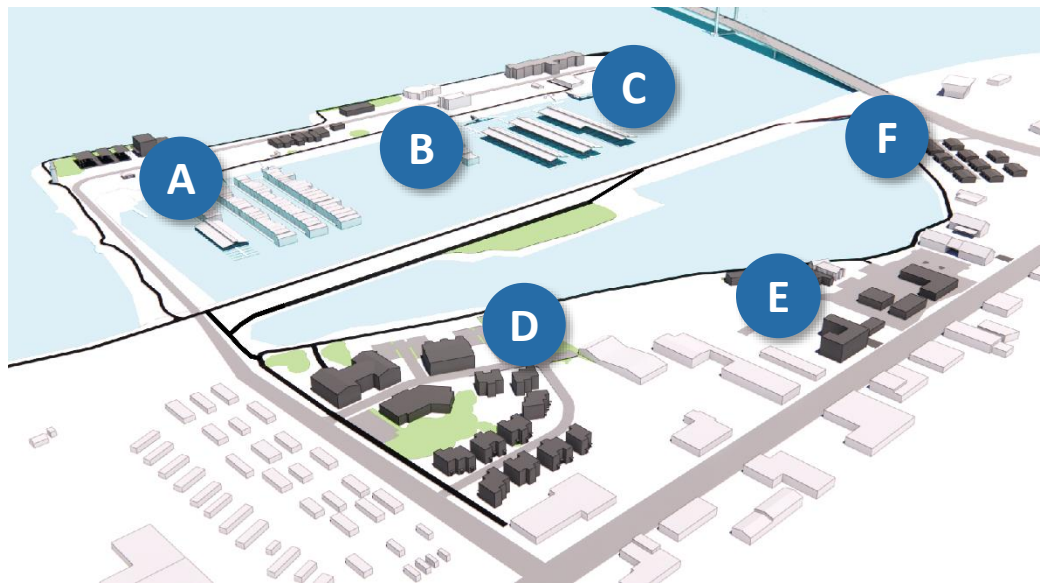
Build on Columbia Gardens as a catalyst for additional destination and revenue-generating opportunities



# RECOMMENDATIONS

EXHIBIT C

- Balance public enjoyment spaces and activities with revenue-producing uses
- Invest in activated public spaces and strong connected circulation network
- Create six destination hubs
  - Activate with retail and recreation
  - Provide for all-season enjoyment of river views and district exploration
  - Create visual links that draw people from one hub to the next
  - Provide year-round activities for the community to enjoy



*Note: labels denote nodes, draft phasing outlined in plan*

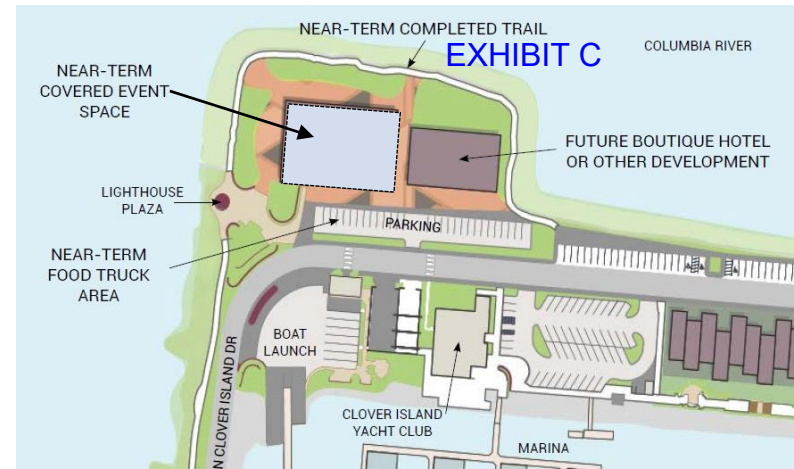
# CLOVER ISLAND WEST

## CELEBRATION SPACE

**Vision:** *Leverage the lighthouse to draw people to the island*

- Add rentable, all-season event space to host cultural celebrations, weddings, farmers markets, and other small music/arts events
- Extend plaza and provide park and picnic areas facing waterfront
- Consider event parking shuttles and maps to alternate boat launches for peak weekends

**Future Ideas:** Market signature development site for a future a multi-story office, residential, or boutique hotel with ground floor celebration space





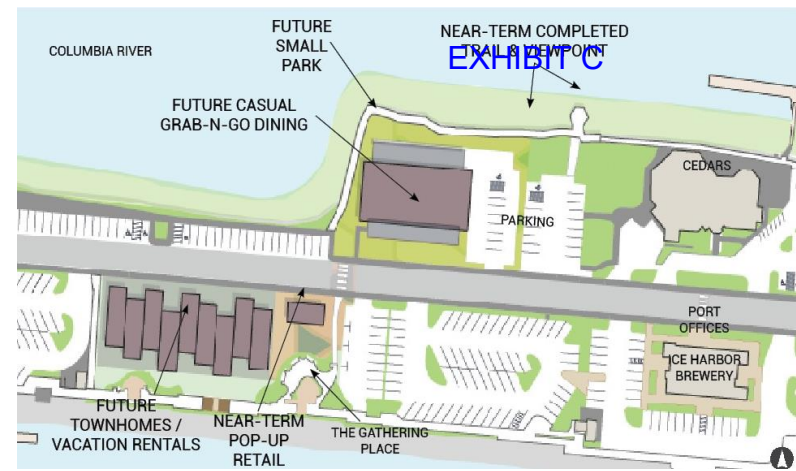
# CENTRAL CLOVER ISLAND

## ACTIVITY HUB

**Vision:** *Activated node with inviting gathering spaces*

- Recruit eating options complementary to Cedars and Ice Harbor Brewery capitalizing on water views
- Add gathering space with activities, such as a small splash park
- Pursue seasonal and pop-up retail until demand grows; work toward year-round activity

**Future Ideas:** Market unique residential location to river enthusiasts



# CLOVER ISLAND EAST

## CONNECTED GATHERING SPACE

**Vision:** Entertainment, recreation, and view destination

- Enhance entertainment space to host a wide range of events
- Work with Clover Island Inn to improve exterior and connect to public trail network, especially around lease renewal
- Create eastern viewpoint showcasing Cable Bridge views
- Work with Coast Guard and interested parties to connect trail and add exercise features



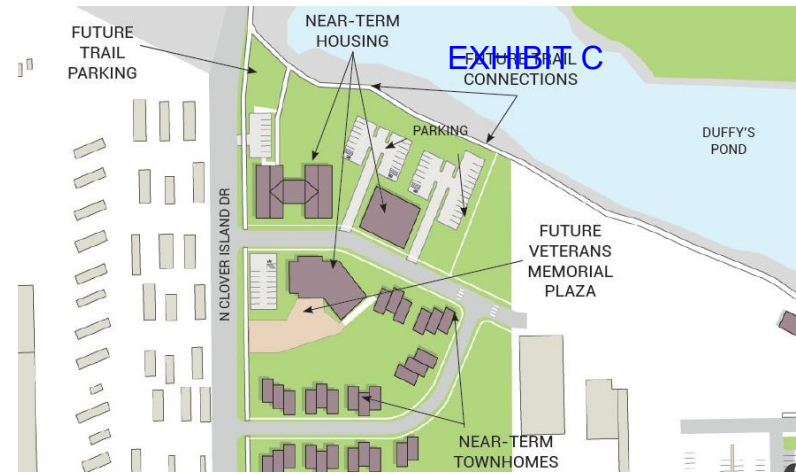
# COLUMBIA DRIVE WEST

## RESIDENTIAL CORNERSTONE

**Vision:** *Create thriving community on critical connecting and revenue-generating parcel*

- Develop with medium scale residential; market to those desiring a unique setting and waterfront view
- Provide parking to support visitors and trail users
- Connect to Duffy's Pond from N Clover Island Dr
- Maintain park like atmosphere by retaining healthy trees and adding new plantings

**Future Ideas:** Continue developing as demand grows, connect internal road, acquire adjacent parcels if opportunities arise





# COLUMBIA DRIVE CENTRAL

## ENERGETIC COMMERCIAL CORE

**Vision:** Build on wine village with complementary uses, crafts, and food

- Connect pathways around Duffy's Pond and improve ecology
- Develop incubator space for local artisan market and other open-air retail that builds on brewery/winery culture; distinguish design and offering from recent Port of Pasco development
- Explore option to build a children's playground
- Utilize open spaces for pop-up events and performances

**Future Ideas:** Attract a restaurant or brewery overlooking Duffy's Pond





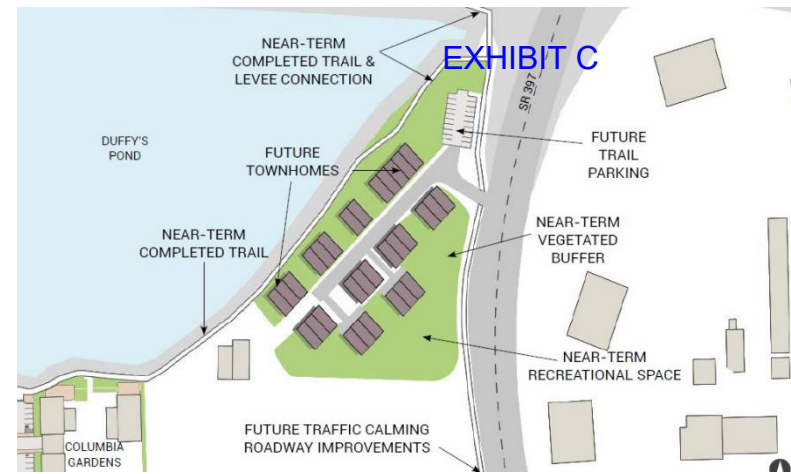
# COLUMBIA DRIVE EAST

## DISTRICT-SUPPORTING DEVELOPMENT

**Vision:** *Leverage location and park-like quality to attract revenue-generating uses, bring customers, and connect to district amenities*

- Explore near term activation options such as a dog park; consider maintenance, potential liability, and potential to set long term expectations
- Evaluate proposals for highest and best use aligned with the district vision
- Designate parking to support district visitors and trail users
- Maintain privacy with a vegetated buffer

**Future Ideas:** Acquire adjacent parcels if opportunities arise





# PLAN IMPLEMENTATION

# IMPLEMENTATION STRATEGY

- Focus on key investments on the northwest corner of Clover Island and at Columbia Gardens
- Build partnerships with local organizations to activate district with events, pop-up retail, food trucks, etc.
- Support City efforts to improve Washington Street and Columbia Drive and adopt design standards for the greater area; partner to add wayfinding and improve connections to downtown
- In recognition of its unique setting and community value, maintain ownership of Clover Island and pursue opportunities to acquire district properties
- Consider district marketing, programming, and development when identifying staff priorities and setting future budgets

EXHIBIT C



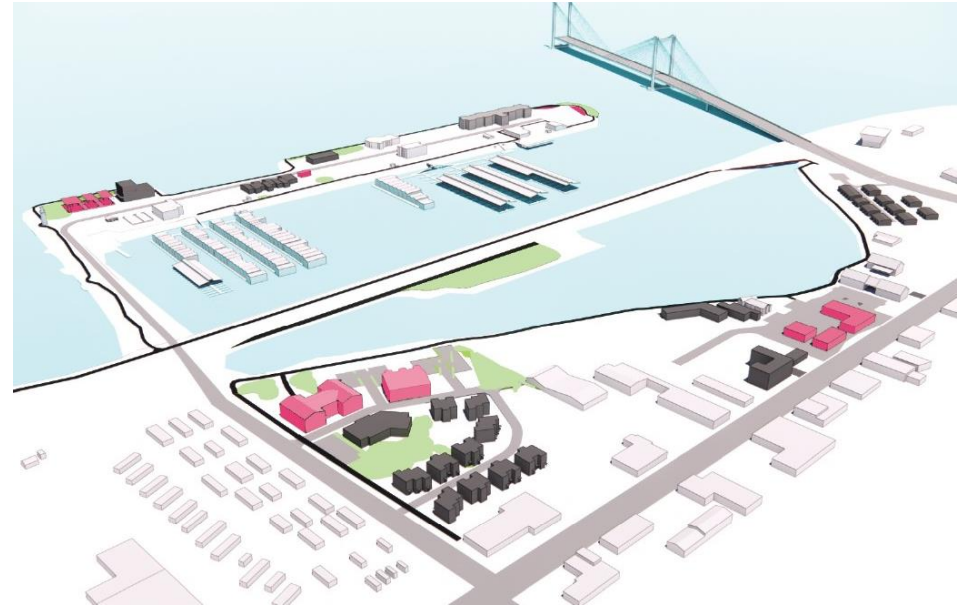


# NEAR TERM (2022-2026)

EXHIBIT C



- Raise awareness and create energy and excitement around the district through programming and partnership
- Prioritize investments that attract people to the area including the event spaces and community amenities
- Market development parcels focusing on The Willows and Columbia Gardens
- Support City's roadway safety improvements



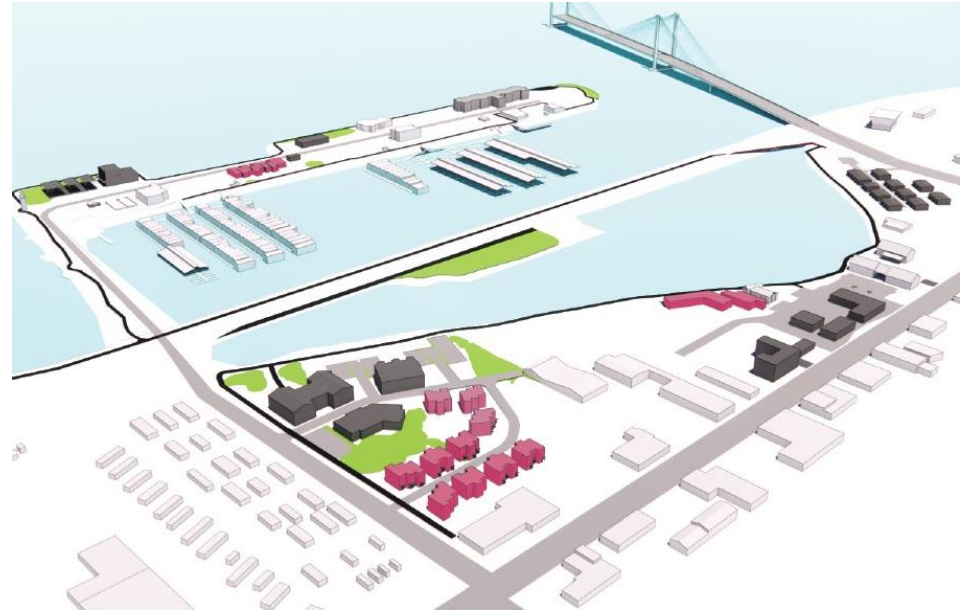


# MEDIUM TERM (2027-2031)

EXHIBIT C



- Build on momentum created to market additional parcels for development on Clover Island and at The Willows and Columbia Gardens
- Add parking and amenities

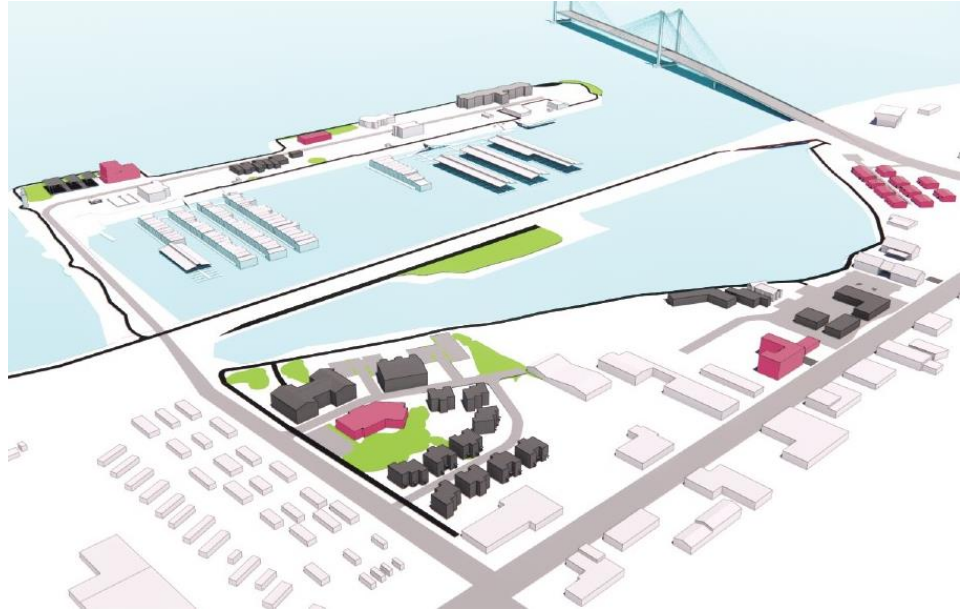


# LONG TERM (2032-2041)

EXHIBIT C



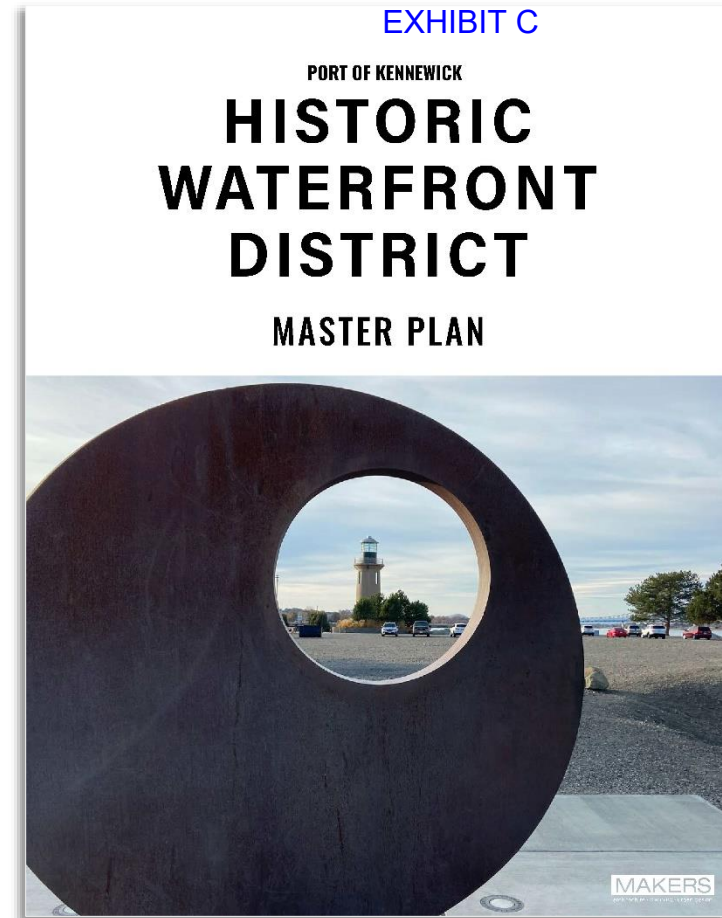
- Attract a casual dining restaurant and signature development on Clover Island
- Secure development of Cable Greens and remaining parcels at The Willow



# NEXT STEPS

- Commission briefings
  - May 25<sup>th</sup>
  - June 8<sup>th</sup>
- Final master plan

**COMMENTS? QUESTIONS?**





May 4, 2021

The Honorable Patty Murray  
United States Senator for Washington  
154 Russell Senate Office Building  
United States Senate  
Washington DC

RE: COLLABORATIVE PARTNERSHIP AND LETTER OF SUPPORT FOR THE WILLOWS PROJECT

Dear Senator Murray:

The Housing Authority City of Kennewick (KHA) is delighted to collaborate and partner with the Port of Kennewick on *The Willows* mixed income/mixed use housing development project located in historic downtown Kennewick. The project is zoned *Urban Mixed Use* which will allow more density than a traditional housing development project in another area within our community. The increased density zoning, coupled with a property located in a federally designated Opportunity Zone, coupled with the site of the property near the river with water views, will make this project an extremely attractive opportunity for the development of a mixed income housing project.

KHA fully embraces the Port of Kennewick's draft Master Plan for this community. The ongoing planning process has previously engaged community members, businesses, partners and other stakeholders. This input has helped the Port of Kennewick identify challenges, opportunities and potential synergies with neighboring plans and projects along Columbia Drive, in downtown Kennewick, across the river on Port of Pasco property and in the broader Tri-Cities community. With this input, the Port has gathered sufficient information with regard to community needs and our community's vision for development along this stretch of waterfront. We are honored to be asked to partner on this project.

KHA has developed three modest income housing projects in the last seven years. These projects target very low to extremely low income individuals and families. Early in 2014, we discussed partnering with the Port of Kennewick at Vista Field on the development of a workforce housing development project (120% area median income and below) and attended the planning and design charrette process. We hope to continue those discussions in a future year. The Willows, I envision, could serve this same population and should include market rate rental and possibly homeownership units as well as a portion of the units being available for low income families.

As KHA develops and refines our affordable housing development strategies, it has become apparent that a broad spectrum of housing development strategies are needed within our community because vacancy rates are extremely low and even families who are at the 80-120% of area median income bands and beyond are struggling to find decent, safe and sanitary housing with affordable rents. Expanding our resources to develop mixed income, mixed use projects in partnership with the Port will also have the added benefit of adding a sustainable revenue source which KHA would then turn around and utilize for the development of additional traditional affordable housing projects on different sites for individuals or families within the lower income bands as well as potentially develop additional micro homes projects for the homeless. Given that KHA is a mission-driven entity; we strive to keep rents affordable for all families regardless of income. With rents set at a reasonable level and the location, I anticipate that the units would have a relatively high rate of occupancy and a long waiting list. Families living in a mixed income



community create vibrant, livable communities. The children thrive and this community, I suspect, would become a community of opportunity.

I envision a project where a third of the units developed are townhomes which are possibly sold to families rather than developed as rental units. There is a potential scenario where the Port could long-term lease the land at a modest cost, and the potential homeowner could purchase the improvements on the land and pay a yearly modest lease payment on the land enhancing overall affordability of the home. The homeownership units could be developed as townhomes which would further drop the cost of construction and enhance affordability for families and fit within the Master Plan goals. The pride of ownership first-time homebuyers will have for their homes would enhance the sense of ownership and stewardship of *The Willows*. The Juneau Land Trust in Alaska is an extremely high-priced market and developed a number of small footprint (~850 sq.ft.), two bedroom homes and this was an extremely effective strategy to develop homes for their first-time homebuyer market. Resale agreements were executed on the improvements which allowed the homes to remain affordable to new owners into the future. This strategy could produce high quality new homes for sale to first-time homebuyers at reasonable prices in a desirable neighborhood just off the river and adjacent to a commercial corridor where perhaps families would live, play and work. In the scenario in Juneau, the Neighborhood Stabilization program (NSP) which was a part of the HERA Act in 2008, provided the seed money for this program. In partnership with the Trust, the state housing finance corporation and the school district the homes were built. With Build Back Better, the FY2022 budget, and other state-funded development programs, similar strategies could be developed that would enhance the development of *The Willows* project as well as other projects throughout our community. A broad, innovative approach is warranted with developers being nimble and responding to local needs and conditions.

Within a mixed income housing project, a portion of the unit rents will be set at market rate, but with a mission-driven partner, unit rents possibly could be set closer to HUD Fair Market Rents and set for sustainability rather than set for profit margin. The units would not have subsidy but would enhance affordability for all levels of resident income. Another strategy could be the use of Housing Choice Vouchers or designated set-aside units within the unit mix developed by team members to make the project accessible for families at all levels of income. Many families with two wage earners who are not low income still struggle to pay market rate rents in our community. Due to the source of income discrimination law that the Legislature enacted a few years ago, a voucher holder who met all criteria, passed a background check, and was otherwise fully qualified and the unit was affordable for the family, would be eligible to rent a market rate unit at this property. Landlords across the state cannot turn away renters solely because a portion of their rent is being paid via a rental voucher, so this project will be a mixed income development. KHA provides over \$500,000 each month in rental assistance to private landlords.

This project also envisions development of senior housing and a Veteran Memorial Plaza on site as well as multiple green spaces, walking paths, possible gardens and community spaces. Expanded veteran housing opportunities are severely needed within our community, especially for female veterans. KHA administers the Veterans Affairs Supportive Housing (VASH) program and we also work directly with the other veteran programs in our area. If this project moves forward we plan to reach out to Columbia Basin Veteran's Coalition and Blue Mountain Council as well as the case management staff at the Veteran's Administration who we work with on a daily basis for input into the potential to have a veteran housing set-aside within this project. KHA is committed to serving veterans as evidenced by our veteran preference and our designation of three set-aside units for veterans in our latest project. In working with the Port on this project, I envision that we would explore how to best incorporate veteran housing and explore best practices in senior housing

development and how to seamlessly blend senior space into the overall project plan. Ridgeline Terrace in Anchorage, Alaska developed by Cook Inlet Housing Authority has successfully melded family housing and senior housing on the same seven acre site.

KHA, if we were a developer as well as a housing assistance provider, would also explore the potential for an ultra-high energy efficiency grant through the Department of Commerce if this program continues to be available. Our current project for the homeless is a net zero project.

In terms of viable partnerships, KHA partnered with the City of Kennewick on a Department of Ecology application for the development of a ten acre site in downtown Kennewick, repurposing from a Procurement Department site to a site for 110 units of affordable housing. We were one of seven grants awarded in the state of Washington and have received environmental clearance and hope to develop the site into affordable housing and possibly respite services and a learning center once the City of Kennewick's staff secure funding to move their services off-site. We plan to have set-asides for veterans, persons with disabilities and the homeless within this community. We are supportive of housing development opportunities in our community for all levels of income. We also have a number of service partnerships in place and are members of the Human Services Coalition and the Continuum of Care.

In terms of development financing strategies, having a piece of property with secured site control, that has infrastructure developed, with a master plan in place, is a dream come true for any developer and makes a substantially "shovel-ready" project which, in turn, increases the potential for access to construction funding through public or private sources. Should the proposed commercial development element become reality, this addition may provide employment opportunities for a portion of the residents.

The Housing Cooperation Law, RCW 35.83, provides opportunities for housing authorities and public entities to work together in the creation of affordable housing. KHA has utilized this law to facilitate zoning changes via ordinance, fee reductions and could be utilized in this project.

With KHA as a partner, at least 5% of all units developed will be handicapped accessible with universal design features and 2% will be fitted with sight/sound features. Sidewalks, common areas and office space will be accessible as well. Within the senior community on this site, the Port and KHA would explore best practices and look at the need for fully accessible units for the majority of units within the senior complex as well as the potential for on-site health/wellness services.

We are so excited about the opportunity to partner on this innovative project. We are fully supportive of the infrastructure project and of the work already done by the Port with regard to the vision for this project. I feel that installation of infrastructure will allow the Port and KHA and other partners to quickly develop a shovel-ready project, bring on additional partners, and allow us to jointly serve families at all levels of income in our community which will, in turn, enhance economic opportunities and revitalize Kennewick's Historic Waterfront District.

Sincerely,



Lona Hammer, PHM  
Executive Director



350 CLOVER ISLAND DRIVE, SUITE 200, KENNEWICK WASHINGTON 99336 509-586-1186 [WWW.PORTOFKENNEWICK.ORG](http://WWW.PORTOFKENNEWICK.ORG)

May 11, 2021

The Honorable Patty Murray  
United States Senate  
154 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Murray:

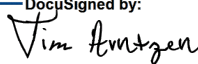
The Port of Kennewick is providing this letter as documentation of our support for City of Kennewick's request for appropriations funding to widen and reconstruct the Quinault and Columbia Center Boulevard intersection which helps serve Vista Field.

Port of Kennewick is working to establish Vista Field as a regional town center by redeveloping a former 103-acre airfield with new living options; visitation and entrepreneurial ventures that create new jobs; and civic amenities, entertainment and recreation opportunities in the heart of the Tri-Cities' commercial core. We very much appreciate the City of Kennewick's efforts to enhance the transportation network that serves and supports the Vista Field District. And the improvements proposed for the Quinault and Columbia Center Boulevard corridor will help our community recover as we transition out of the pandemic.

We understand that the City's project is far along in its design development and is one that can move swiftly to construction. As the regional cluster for retail, entertainment, medical, insurance, and financial agencies, continued efforts to improve the transportation network that supports Vista Field as a critical business center are essential.

We applaud the City of Kennewick's appropriations request as a way to protect and improve our community transportation network, and to sustain and improve our regional economy.

Sincerely,

DocuSigned by:  
  
897EAA4F32B4455...

Tim Arntzen  
Chief Executive Officer







## AGENDA REPORT

**TO:** Port Commission

**FROM:** Amber Hanchette, Director of Operations & Real Estate

**MEETING DATE:** May 25, 2021

**AGENDA ITEM:** Repurchase Option Period – Pronghorn, LLC (JMAC)

---

**I. REFERENCE(S):**

Resolution 2017-11  
Resolution 2019-08  
Vicinity Map

**II. DISCUSSION:**

- Through resolution 2017-11, port commission authorized the sale of 34.66 acres of vacant land to Pronghorn LLC (JMAC) on June 13, 2017.
- Purchase Price - \$154,000.00
- Statutory Warranty Deed recorded September 13, 2017.
- PSA section 10.1 – Obligation to Commence Cement Batch Plant Business.
  - *Construction of facilities required for the cement batch plant shall commence no later than eighteen (18) months from the date the deed is recorded transferring the Seller's title to this land to Purchase. Deadline March 13, 2019.*
- Through resolution 2019-08, port commission authorized an extension of 24 months on the Obligation to Construct clause per purchase and sale agreement dated June 13, 2017. Deadline: April 30, 2021.
- PSA section 10.2 – Failure to Construct and Right to Repurchase.
  - *....Seller shall have the right to repurchase the Property at the same agreed upon price (\$154,000.00) with all closing costs and real estate taxes paid by Purchaser, payable in cash at closing. Seller must give Purchaser written notice of its intent to repurchase the property within sixty months (60) months of the date deed is recorded transferring the Seller's title to this land.... Deadline: September 13, 2022.*
- May 6, 2021, I spoke with Mike Johnson (JMAC representative). Mr. Johnson indicated that JMAC is still very interested in developing the property. The COVID19 pandemic (2020 to present) did set back their efforts due to the lockdowns and future uncertainties. They are optimistic that they can develop the property into an industrial use with warehousing and possible office space based on the current demand for industrial warehouse and associated uses (office, bullpen, laydown yard).

Their primary request of commission is to waive the buyback clause and allow a future industrial use on the property. Their secondary request would be an extension to July 31, 2022 on the Obligation to Construct clause.

**III. ACTION REQUESTED OF COMMISSION:**

*Acquire the property, relinquish the buyback clause or extend the Obligation to Construct for 34.66 acres at the Twin Tracks Industrial Park sold to Pronghorn LLC (JMAC) via purchase and sale agreement dated June 13, 2017 and Statutory Warranty Deed recorded September 13, 2017.*

**PORT OF KENNEWICK**

**RESOLUTION No. 2017-11**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF  
KENNEWICK AUTHORIZING A PURCHASE AND SALE AGREEMENT WITH  
PRONGHORN LLC***

**WHEREAS**, Pronghorn LLC (Purchaser), has offered to purchase approximately 34.66 acres of the area graphically depicted on "*Exhibit A*" at the Twin Tracks Industrial Park, in Richland, Washington from the Port of Kennewick (Seller) for \$4,443 per acre or approximately \$154,000; and

**WHEREAS**, Port staff and the Port attorney have reviewed the proposed Purchase and Sale Agreement and find it is in proper form and is in the Port's best interest; and

**WHEREAS**, the Port Commission finds that said property is surplus to the Port's needs and the proposed sale is consistent with all previous Port policies, including its Comprehensive Scheme of Development.

**NOW, THEREFORE; BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick hereby authorizes the Port's Chief Executive Officer to execute a Purchase and Sale Agreement with Pronghorn LLC and hereby authorizes the Port's Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the transaction as specified above.

**BE IT FURTHER RESOLVED** that the Port Commission declares that said property is surplus to the Port's needs and the proposed sale as referenced above is consistent with all previous Port policies, including its Comprehensive Scheme of Development.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 13th day of June, 2017.

**PORT of KENNEWICK  
BOARD of COMMISSIONERS**

By:

  
SKIP NOVAKOVICH, President

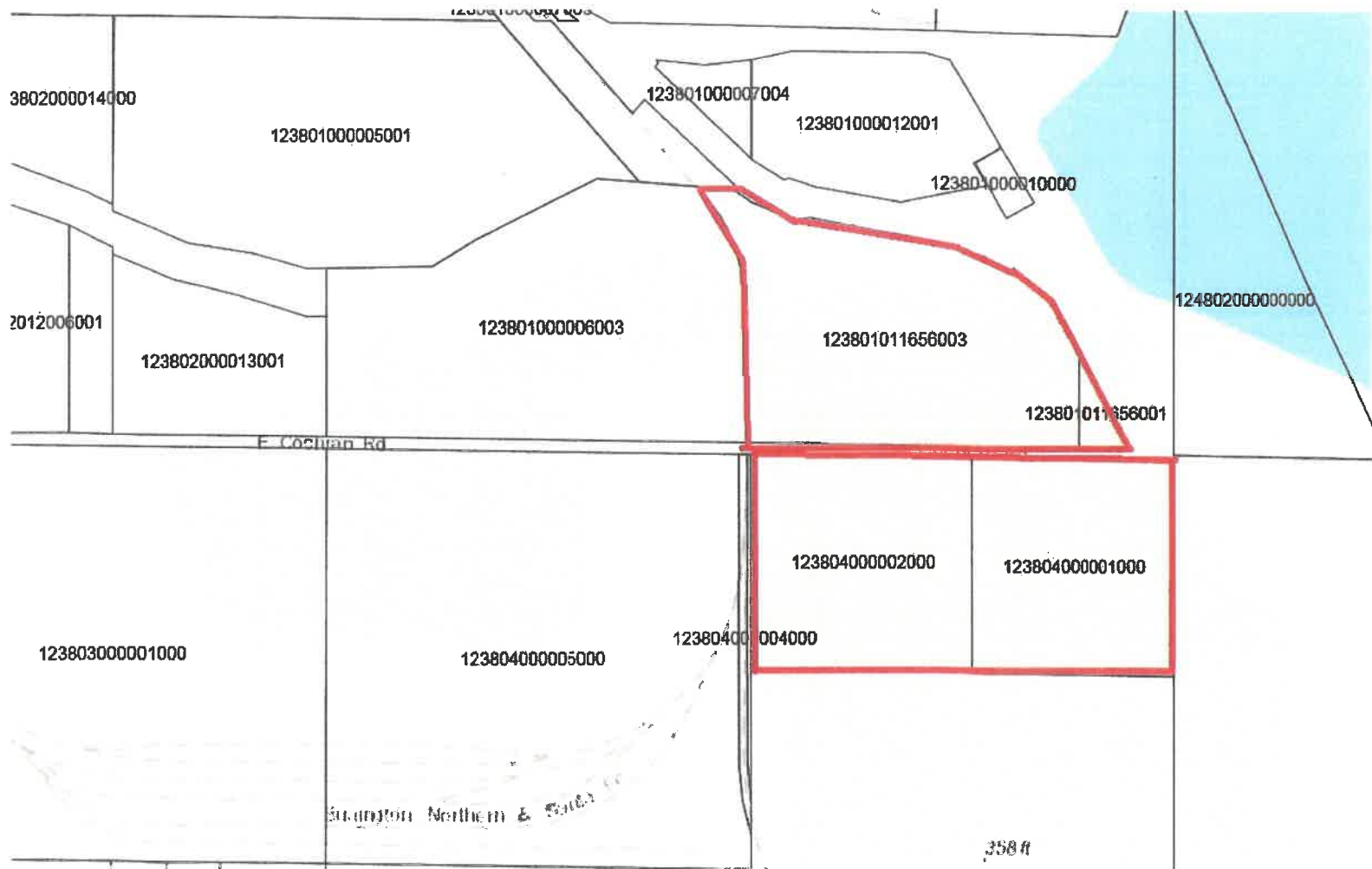
By:

  
THOMAS MOAK, Vice President

By:

  
DON BARNES, Secretary

Pronghorn LLC Land Sale  
Resolution 2017-11; Exhibit A





**PORT OF KENNEWICK**

**RESOLUTION No. 2019-08**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK AUTHORIZING  
A 24 MONTH EXTENSION OF OBLIGATION TO CONSTRUCTION FOR A  
2017 LAND SALE TO PRONGHORN LLC***

**WHEREAS**, Pronghorn LLC (Purchaser), purchased 34.66 acres of vacant land from the Port of Kennewick on June 13, 2017 in Kennewick, Washington and graphically depicted on "Exhibit A"; and

**WHEREAS**, a restriction to the Statutory Warranty Deed recorded September 13, 2017 allows the Port of Kennewick the option to repurchase the property should the Purchaser not develop the property within eighteen months of closing; and

**WHEREAS**, the Port Commission agrees to a 24 month extension of obligation to construct per PSA section 10.1 of the original agreement.

**NOW, THEREFORE; BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the extension as specified above.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 23<sup>rd</sup> day of April, 2019.

**PORT of KENNEWICK  
BOARD of COMMISSIONERS**

By: \_\_\_\_\_

THOMAS MOAK, President

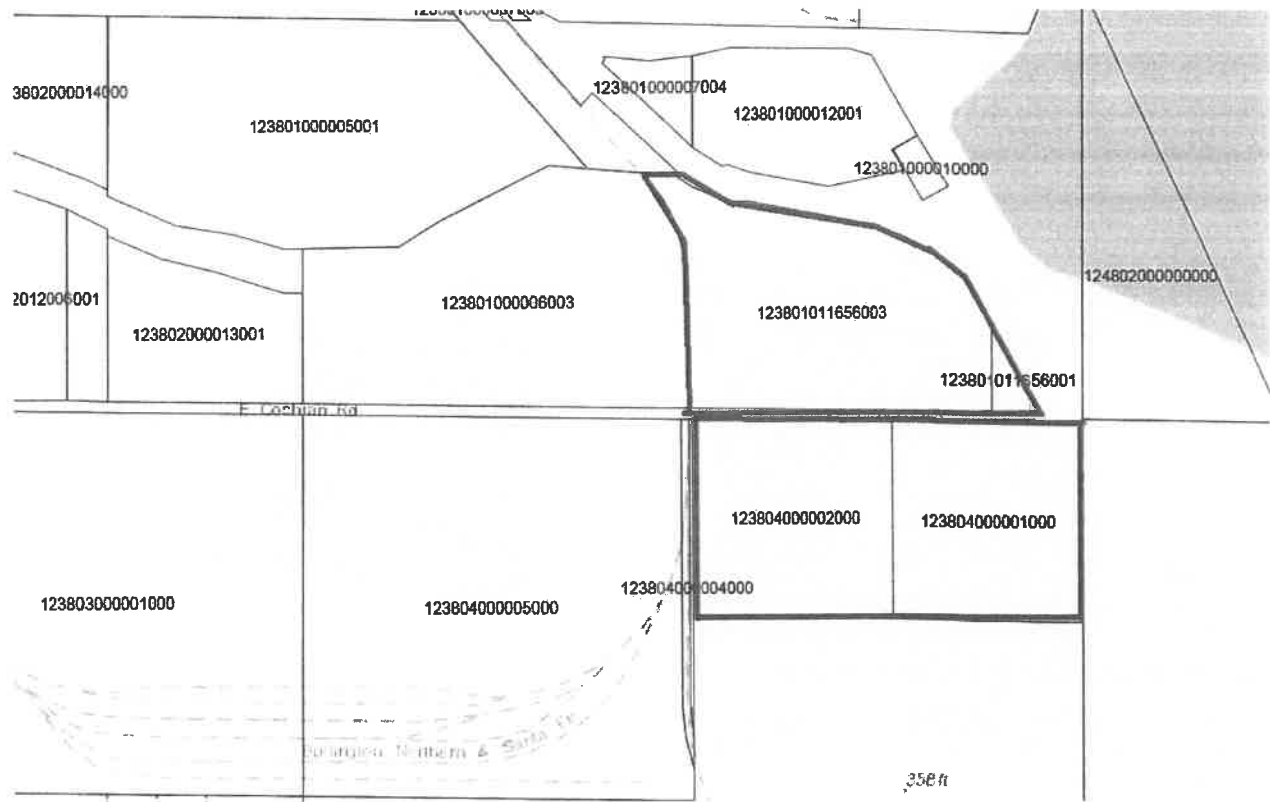
By: \_\_\_\_\_

DON BARNES, Vice President

By: \_\_\_\_\_

SKIP NOVAKOVICH, Secretary

*Resolution 2019-xx*  
*Exhibit A*





Kennewick Fertilizer Operations

AGRIUM

34.66

GBW Rail Car Services

AGRIUM Finley

E Main St

E Lechelt Rd

Air Liquide

Mary Pr SE

Walter Pr SE

Buel Dr

Morton Rd

S Finley Rd

S Pier Rd

Pier Rd

Sandvik

Kerley

E Riek Rd

© 2017 Google

***PORT OF KENNEWICK***

**RESOLUTION No. 2021-09**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK AUTHORIZING  
AN EXTENSION OF OBLIGATION TO CONSTRUCT CLAUSE  
FOR A 2017 LAND SALE TO PRONGHORN LLC***

**WHEREAS**, Pronghorn LLC (Purchaser), purchased 34.66 acres of vacant land from the Port of Kennewick on June 13, 2017 in Kennewick, Washington and graphically depicted on “*Exhibit A*”; and

**WHEREAS**, a restriction to the Statutory Warranty Deed recorded September 13, 2017 allows the Port of Kennewick the option to repurchase the property should the Purchaser not develop the property within eighteen months of closing; and

**WHEREAS**, the Port Commission agrees to an extension to July 31, 2022 of an Obligation To Construct clause per PSA section 10.1 of the original agreement.

**NOW, THEREFORE; BE IT HEREBY RESOLVED** that the Board of Commissioners of the Port of Kennewick hereby agrees to an extension to July 31, 2022 of an Obligation To Construct clause per PSA section 10.1 of the original agreement; and authorizes the Port’s Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the extension as specified above.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 25th day of May 2021.

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

By: \_\_\_\_\_

DON BARNES, President

By: \_\_\_\_\_

SKIP NOVAKOVICH, Vice President

By: \_\_\_\_\_

TOM MOAK, Secretary



The map displays several land parcels with the following parcel numbers:

- 3802000014000
- 123801000005001
- 123801000007004
- 123801000012001
- 123801000010000
- 2012006001
- 123802000013001
- 123801000006003
- 123801011656003
- 123801011656001
- 124802000000000
- 123803000001000
- 123804000005000
- 123804000004000
- 123804000002000
- 123804000001000

Key features and labels on the map include:

- Roads:** E Cochran Rd, Burlington Northern & Santa Fe.
- Scale:** 358 ft.
- Highlighted Area:** A red outline highlights a specific area, including a large parcel (123801011656003) and a rectangular section containing parcels 123804000002000 and 123804000001000.
- Water Body:** A blue area representing a lake or reservoir is visible on the right side.
- Topography:** Green shaded areas indicate hilly or uneven terrain.

358 ft

***PORT OF KENNEWICK***

**RESOLUTION No. 2021-09**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK AUTHORIZING  
BUYBACK CLAUSE RELEASE TO PRONGHORN LLC***

***WHEREAS***, Pronghorn LLC (Purchaser), purchased 34.66 acres of vacant land from the Port of Kennewick on June 13, 2017 in Kennewick, Washington and graphically depicted on “*Exhibit A*”; and

***WHEREAS***, a restriction to the Statutory Warranty Deed recorded September 13, 2017 allows the Port of Kennewick the option to repurchase the property should the Purchaser not develop the property within eighteen months of closing; and

***WHEREAS***, the Port Commission agrees to release Pronghorn LLC of the buyback clause in favor of construction of a future industrial use on the property.

***NOW, THEREFORE; BE IT HEREBY RESOLVED*** that the Board of Commissioners of the Port of Kennewick hereby agrees to release Pronghorn LLC of the buyback clause in favor of construction of a future industrial use on the property and authorizes the Port’s Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the extension as specified above.

***ADOPTED*** by the Board of Commissioners of the Port of Kennewick on the 25th day of May, 2021.

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

By: \_\_\_\_\_

DON BARNES, President

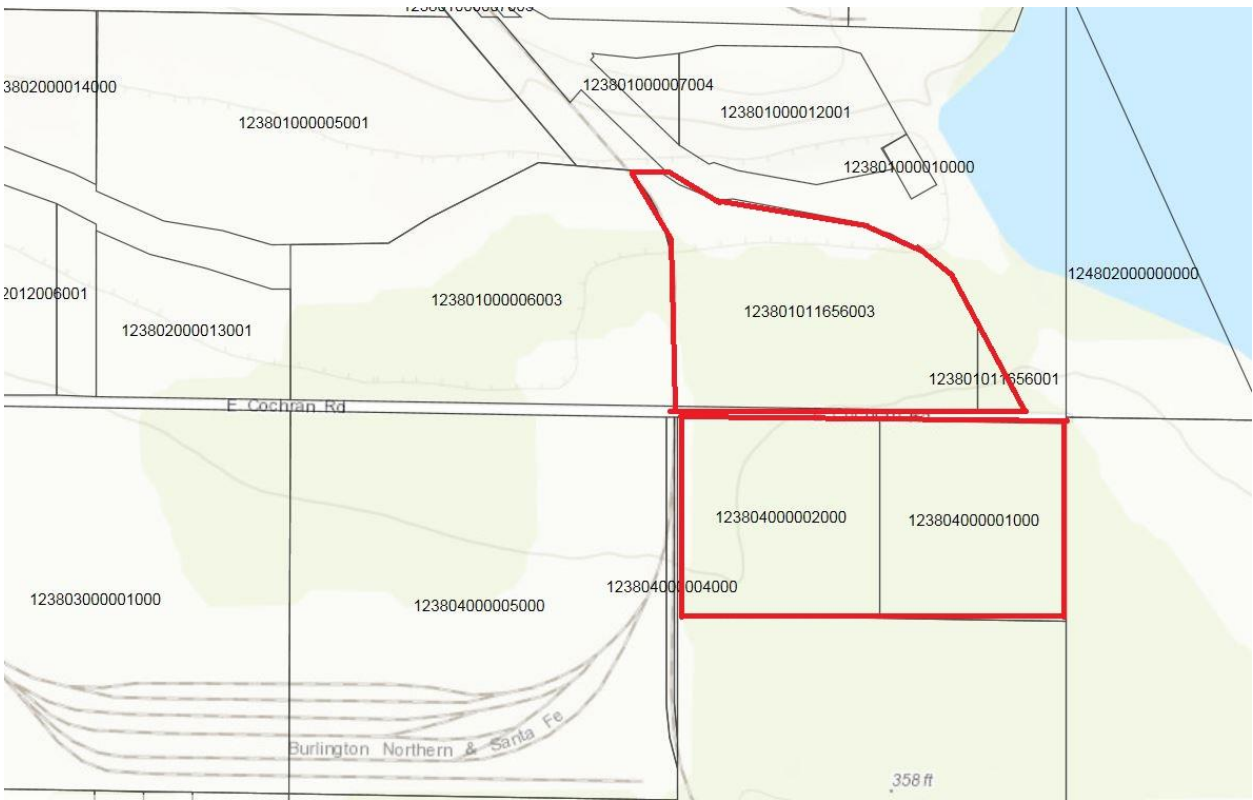
By: \_\_\_\_\_

SKIP NOVAKOVICH, Vice President

By: \_\_\_\_\_

TOM MOAK, Secretary

**Resolution 2021-09**  
**Exhibit A**









## AGENDA REPORT

**TO:** Port Commission

**FROM:** Nick Kooiker, Chief Financial Officer

**DATE:** 5/25/2021

**AGENDA ITEM NO.:** Resolution 2021-10, Interlocal Agreement with the City of Kennewick for the Washington Street Improvements

---

- I. REFERENCE(S):** Resolution 2021-10 attached.
- II. FISCAL IMPACT:** \$500,000 allocated in the 2021/22 Budget
- III. DISCUSSION:** The City of Kennewick is making improvements to the Washington Street Corridor, connecting downtown Kennewick with Clover Island, and the Port and City have outlined the general provisions for contract compliance in the Interlocal Agreement; and Port legal counsel has reviewed this contract and approved it as to form.
- IV. STAFF RECOMMENDATION:** Approve Resolution 2021-10, adopting the Interlocal Agreement between the Port of Kennewick and City of Kennewick for the Washington Street Improvements.
- V. ACTION REQUESTED OF COMMISSION:**

*Motion: I move approval of Resolution 2021-10, approving the Interlocal Agreement between the Port of Kennewick and City of Kennewick for the Washington Street Improvements.*

***PORT OF KENNEWICK***

**Resolution No. 2021-10**

***A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE PORT OF KENNEWICK AUTHORIZING THE PORT CHIEF EXECUTIVE  
OFFICER TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE CITY OF  
KENNEWICK FOR WASHINGTON STREET IMPROVEMENTS***

**WHEREAS**, the City of Kennewick is making improvements to the Washington Street Corridor, connecting downtown Kennewick with Clover Island; and

**WHEREAS**, the Port of Kennewick has allocated \$500,000 in its 2021/22 budget for this project; and

**WHEREAS**, the Port and City have outlined the general provisions for contract compliance in the Interlocal Agreement; and

**WHEREAS**, Port legal counsel has reviewed this contract and approved it as to form.

**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.

**BE IT FURTHER RESOLVED** that all action by port officers and employees in furtherance hereof is ratified and approved; and further, the port Chief Executive Officer is authorized to take all action necessary in furtherance hereof.

**ADOPTED** by the Board of Commissioners of the Port of Kennewick on the 25th day of May, 2021.

**PORT OF KENNEWICK  
BOARD OF COMMISSIONERS**

By: \_\_\_\_\_

DON BARNES, President

By: \_\_\_\_\_

SKIP NOVAKOVICH, Vice President

By: \_\_\_\_\_

THOMAS MOAK, Secretary

WHEN RECORDED RETURN TO:

Kennewick City Clerk  
210 West 6<sup>th</sup> Avenue  
Kennewick, WA 99336

**INTERLOCAL COOPERATIVE AGREEMENT**  
*Between*  
**THE CITY OF KENNEWICK AND THE PORT OF KENNEWICK**  
*Re: Washington Street Corridor Improvements*

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date") by and between the **City of Kennewick**, a Washington municipal corporation (hereafter "Kennewick"), and the **Port of Kennewick**, a political subdivision of the state of Washington (hereafter "the Port"). Kennewick and the Port are also herein referred to individually as a "Jurisdiction" and collectively as "the Jurisdictions."

**I. RECITALS**

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage, and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each Jurisdiction is authorized to contract with any one or more public agencies to perform any governmental service, activity, or undertaking which each Jurisdiction entering into the contract is authorized by law to perform; and

WHEREAS, Kennewick's proposed Washington Street Enhancement project presents an opportunity for promotion of economic development through a public infrastructure investment; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined this effort may be best implemented on a shared basis in a manner deemed most efficient and effective for the Jurisdictions.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Jurisdictions agree as follows:

**II. AGREEMENT**

**Section 1. Purpose and Scope of Work:** The purpose of this Agreement is to formalize the roles and responsibilities of the Jurisdictions in relation to implementation of Kennewick's Washington Street Corridor Improvements. (the "Project").

**Section 2. Administration:** The Kennewick City Manager or designee will administer this

Agreement, and will be responsible for:

- a. Establishing policies for implementing this Agreement;
- b. Providing periodic progress reports to the elected officials of each Jurisdiction; and
- c. Monitoring progress of the Jurisdictions and other agencies in the fulfillment of their respective responsibilities.

**Section 3. Funding:** The Port will provide funding for the Washington Street Corridor Improvements project for work including engineering design, construction, and construction contract administration in the total amount of \$500,000. These funds will be paid to Kennewick on a reimbursable basis for actual work performed in one (1) installment, upon receipt of invoice.

The Port's funding obligations are limited at \$500,000 as described herein, and individual payments will not increase beyond the values identified herein.

**Section 4. Development:** Kennewick hereby commits to the following:

- a. Kennewick will narrow a portion of North Washington Street from Kennewick to Canal Drive, adding landscape planters, replacing and widening sidewalks from Kennewick Avenue to Columbia Drive.
- b. Kennewick anticipates the project will be completed by the end of 2021.
- c. In compliance with state and/or federal law, Kennewick will complete all property acquisitions necessary to complete the project.
- d. Kennewick shall solicit bids and award a construction contract in compliance with Kennewick and the Port's procurement procedures and applicable law.
- e. Kennewick will oversee construction of the improvements and perform all contract administration functions necessary.
- f. Kennewick will develop and distribute public information identifying its partnership with the Port in completing the project.

**Section 5. Modification:** Amendments to this Agreement must be in writing and executed by the duly authorized representative for each Jurisdiction.

**Section 6. Term of Agreement and Termination:**

- a. The term of this Agreement, commencing on the Effective Date, shall become effective on full execution hereof, and upon posting on at least one Jurisdiction's website as provided in RCW 39.34.040. Either Jurisdiction may choose to record this Agreement, but recordation is not required.

This Agreement shall expire on the date the Port's funding obligations as set forth in Section 3 above are satisfied in full.

**Section 7. Inspection of Records:** The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by any Jurisdiction during the term of this Agreement, and shall be maintained thereafter in accordance with the retention schedule established by the State of Washington for municipal records.

**Section 8. No Separate Legal Entity:** By this Agreement, the Jurisdictions do not intend to form a separate legal entity to conduct the cooperative undertaking. Further, no acquiring, holding



or disposing of real or personal property will occur under this Agreement.

**Section 9. 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.

**Section 10. Venue, Applicable Law and Personal Jurisdiction:** All questions related to this Agreement shall be resolved under the laws of the State of Washington. In the event that either Jurisdiction deems it necessary to institute legal action arising from this Agreement, such action shall be instituted in Benton County Superior Court.

**Section 11. Authority To Execute:** Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this Agreement on behalf of the entity for which he or she is signing. The Jurisdictions hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein, and that this Agreement is enforceable in accordance with its terms.

**Section 12. Counterpart Originals:** Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, including portable document format (.pdf), each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, the Jurisdictions have entered into this Agreement as of the day and year first written above.

**CITY OF KENNEWICK**

**PORT OF KENNEWICK**

\_\_\_\_\_  
Marie Mosley, City Manager

\_\_\_\_\_  
Tim Arntzen, Chief Executive Officer

Attest:

Attest:

\_\_\_\_\_  
Terri Wright, City of Kennewick

\_\_\_\_\_  
Nick Kooiker, CFO

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Lisa Beaton, City Attorney

\_\_\_\_\_  
Lucinda Luke, Attorney - Port of Kennewick