



PORT OF KENNEWICK

SPECIAL COMMISSION MEETING

JUNE 22, 2023 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 Skip Novakovich called the Special Commission Meeting to order at 9:30 a.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President (via telephone)
Kenneth Hohenberg, Vice President (via telephone)
Thomas Moak, Secretary (via telephone)

Staff Members: Tim Arntzen, Chief Executive Officer (via telephone)
Amber Hanchette, Director of Real Estate (via telephone)
Nick Kooiker, Chief Financial Officer (via telephone)
Larry Peterson, Director of Planning (via telephone)
Michael Boehnke, Director of Operations
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant (via telephone)
Carolyn Lake, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

NEW BUSINESS

A. Real Estate Expression of Interest – GSA Request for Information (RFI) for Planning Purposes

1. Discussion

Mr. Arntzen reported within the last week, the Port was contacted by real estate representatives regarding the Port's willingness to sell about 10 acres at Vista Field so they can put in proposals regarding the Veteran's Administration (VA) outpatient clinic. This would be a pretty substantial project for our community, 130,000 square feet of building with 700 parking spaces and would probably employ around 200+ people, likely above average Tri-City wages. Mr. Arntzen believes the project would be an economically pleasing project for the community. Mr. Arntzen stated the VA is looking for a site within Kennewick or South Richland, and regardless of which site the VA selects, it is likely to land within the Port of Kennewick district. Mr. Arntzen stated if it goes to Vista Field, great, but if it goes elsewhere, for example, Southridge, the Port and our constituents are still winners, because it is in the Port district, and we still receive the increased tax revenue and positive influence of 200 jobs. Mr. Arntzen reiterated that it does not necessarily need to be located at Vista

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Field, but within the Port district, and as former President, Ronald Reagan used to say, “A rising tide lifts all boats.” Mr. Arntzen stated the proposal differs significantly from the community adopted Vista Field Master Plan (VFMP), which is why staff is bringing the proposal before the Commission, because it is beyond the scope of what is delegated to staff. The focus is on the positive benefits of the project versus the potential impacts to Vista Field. Mr. Peterson and Ms. Lake will provide additional details about possible impacts. Mr. Arntzen stated the proposals that are before the Port would require the Port to authorize selling the land by June 26, 2023. If the Port Commission wanted to move forward with this, they would authorize Mr. Arntzen to sign the appropriate paperwork and then the interested realtors would forward the letter to the GSA to stay in the hunt. There are two Resolutions that Ms. Lake has prepared, to give the Commission options and after discussion the Commission can choose something different. This is to assist the Commission in benchmarking the project. One Resolution declines participation in the project, signaling that relators should consider other sites within the designated area. The other Resolution allows the inclusion of the Vista Field property into the proposals and forwarded to the VA for further consideration. In that, there is some language that attempts to state that the Port in no way binds or commits itself to going further. Mr. Arntzen hopes that the Commission feels that the facts, as the staff can ferret out in this rather fast approaching project, are useful and he hopes the Commission does not view this as staff trying to put our “thumb on the scale” and he would like to make it clear, that at the end of the presentation, everyone understands that this is a decision that will be made by the Port Commission. Mr. Arntzen hopes that the facts will do a good job of providing information for the Commission to move forward today.

Mr. Peterson stated the Agenda Packet (*Exhibit A*) includes a one-page summary memo bringing some of the major points to the surface and a ten-page document that dives deeper into the variety of questions that this proposal poses related to Vista Field and Commission decisions. Also included in the packet is the original VA’s document outlining the specifics and the various criteria. Mr. Peterson stated that is part of the overall record of information and he will defer much of that and hopefully the Commission has had a chance to review some of that information.

Mr. Peterson stated on May 25, 2023, the VA released an advertisement of potential opportunity for an Outpatient Clinic, involving a 20-year lease, for a building of 118,000 – 130,000 square feet on 1-2 floors, with 700 parking spaces and an estimated construction cost of upwards of \$100,000,000.00. The VA is looking for the private sector to build this building for them, which they will lease back for a 20-year period. The VA, not the Port, not the City or any other entity, but the VA delineated a boundary which encompasses a 34 square mile area bounded by main freeways of Interstate 82, 182, State Route 240, and US 395. Essentially West Kennewick and South Richland; and as Mr. Arntzen indicated, the boundary selected by the VA is 98% within the Port of Kennewick District, the remaining area in Richland is a gravel pit in the Yakima River Delta. There is a listing of requirements that serves as a disqualifying or required attributes, which is included in the VA provided documentation (*Exhibit A*) and the response date is midday, Monday, June 26, 2023, hence the Special Meeting.

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Mr. Peterson stated a VA Outpatient Clinic in the Tri-Cities is a big deal, a 130,000 square foot building with 200-250 higher paying jobs, is a big deal and that boundary being 34 square miles means whatever team and site that is ultimately selected, is an investment and those jobs land within the Port District. This process has given the private sector very little time to assemble their teams, identify sites, run the numbers, and compile their initial responses. All the parties are operating with more questions than answers. Today is the 8th working day, since the first perspective proposer approached the Port about selling a portion of Vista Field for the VA Clinic. Staff has not been sitting on this, this just came to us recently, hence the scale of this project warranted bringing this to the attention of the Commission and scheduling a Special Meeting for the Commission to contemplate, in advance of the deadline. The VA has numerous criteria, which at present are undefined and the VA alone will make the determination as to what site suits them best. Even if the Port was to move forward with this, the ultimate decision rests with the VA and the combination of what is the best site for the project and who is the best team to build the building. Comparing and contrasting the VA clinic with the VFMP is an exercise to help the Commission understand how this proposal aligns or possibly contradicts or conflicts with the VFMP. As dictated by the VA, the massive footprint and the size of the parking lot are the near opposite of the concept of New Urbanism, upon which Vista Field is based. There are a series of questions included in the document and this is for the Commission to decide. The Port has been working on the VFMP for a decade, worked through the entitlement issues and staff is now working on marketing the property, based upon the new urbanism model; and along comes an opportunity, which is significantly different than what has been contemplated, hence the need for a Special Meeting. One of the criteria that is a concern, that has yet to be identified, could have significant implications on the remainder of Vista Field, if a portion of the site was pulled out. That is a clause that says, "sites in close proximity to residential will not be considered." Mr. Peterson stated that there are 1,100 residential units planned throughout the entire Vista Field site. Whatever 10-acre portion is pulled out, will be immediately adjacent to residential activity and what implication might this have on the remainder of the Port's plan for the Vista Field redevelopment project. This is unknown and Port staff and legal counsel reached out to the contracting officer with the VA and received a less than useful answer. We did not receive clarification regarding "close proximity" when we reached out to the VA. There is also additional criteria related to close proximity to industrial, rail lines or correctional facilities, and that may impact the VA's decision but the Port does not have rail, industrial, or correctional facilities planned on the Vista Field site; however, there may be additional locational criteria that Vista Field, abutting industrial, and being within a tenth of a mile from rail may or may not be attractive to the VA.

This seems to differ significantly from the VFMP which is covered by a Developer's Agreement that was executed with the City of Kennewick in December 2017, that has a ten-year time frame. In that Development Agreement the Port and City identified multiple aspects, such as traffic mitigation, agreeing on what intersections need to be fixed and when. It also states that the Port would follow the VFMP and the types of uses. This deviates significantly from the VFMP, which likely would trigger opening or revisiting the

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Development Agreement with the City. The Port could possibly re-negotiate some or all of those elements, if the Port Commission was to move forward with this and identify what kind of traffic impacts this might have, as a use of this size was not contemplated, which may have the City wanting additional or a new review conducted. The 8-day working fuse, did not give the Port the opportunity to sit down with the City and work through all of the questions.

There is also the question of the Comprehensive (Comp) Scheme, more of the mechanics, as it is a Port Commission driven decision. The Port Commission adopts the Comprehensive Scheme and Master Plan documents and the Port Commission, following a Public Hearing can make modifications of those documents. Mr. Peterson stated if the Commission wanted to contemplate this, it seems to differ significantly what is contemplated in the VFMP. It is not just a case of selling or carving out 10-acres, it is a case that could trigger modifying the Comp Scheme, VFMP and the Development Agreement. There are additional considerations and there are additional implications to the mechanics of our agreements and plans and unknown implications to land uses, specifically the residential that is planned on the remainder of the 93 acres the Port would retain, if 10-acres were sold.

The (memo) document contains a variety of questions. With limited time, staff has gathered as much information as possible. Both the proposers, the federal government soliciting this, and the Port staff have compiled the best information possible. The Commission is being asked to make a significant policy decision with limited information.

Ms. Lake stated her part of the presentation will touch on some of the details on the processes that Mr. Peterson touched on. Currently, what the VA issued is an expression of interest (EOI), which is not a solicitation for the actual development. The EOI is to see if sites are available and the EIO expressly states that it may or may not be followed up with an actual solicitation for the development. In summary, if the VA proposal is to be developed at Vista Field, it would require several key amendments and approvals, some of which, as Mr. Peterson pointed out, are within the Port's control and some that are not.

Ms. Lake stated what currently exists, instead of applying City zoning, the VFMP area development is governed by a Development Agreement, which approved by the Port and the City in 2017 after public processes and public notice and hearing, and is considered contract zoning. The City code then requires that once that Development Agreement is in effect, all development must be consistent with the Development Agreement. It is staff's view that the VA proposal is not consistent with the Development Agreement. This means that there would need to be an amendment to the Development Agreement and that would presumably follow the same steps as the original approval. Which is public notice, a public hearing, and a public comment that is made to the City Planning Commission. The City Planning Commission then makes a recommendation to the City Council and the City Council makes the ultimate decision on any amendments to that Development Agreement. And as Mr. Peterson pointed out, once the Development Agreement is opened, that may be an opportunity for other changes to the Agreement that the Port may or may not be interested in.

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In addition to the City process, because the VFMP is part of the Port's Comp Scheme, the Port would also need to follow the state law process for amending the Comp Scheme, which is publishing and providing 10 days' notice for the public hearing, public input, and a public vote of the Commission. Lastly, Ms. Lake stated because the Port is aware that more than one proposer is seeking the same Port owned area within the VFMP, the Port should think about, and carry out, what kind of competitive process there should be for ultimately selecting one proposer. Ms. Lake stated that should be determined if or when the EOI by the VA ripens into an actual solicitation.

Ms. Hanchette stated from a sales and marketing perspective, her marching orders have been very laser focused on place-making and compact development that is called out in VFMP. Any possible significant deviation from the Master Plan might affect momentum that has been built up over time and by shifting our gears, might impact staff time allocation.

Mr. Arntzen thanked staff for their comments and stated they did a great job expressing some of the thoughts that would come from him. Mr. Arntzen stated the team has done a pretty good job of bringing the information out. Mr. Arntzen stated this is a major fork in the road and points that we must look at, as articulated by staff and Ms. Lake, is do the benefits of this VA proposal offset and potentially justify the implications to the redevelopment planned at Vista Field. Do the benefits of this big project offset the fact that there may be some consequential effects on the remainder of the Vista Field site. Mr. Arntzen reiterated that it is quite likely this facility will take place within the Port District and mature and that is great for our community. It may or may not be in Vista Field, and if it doesn't land in Vista Field, it will likely land within the Port District. Mr. Arntzen thanked the Commission for the opportunity to bring this information forward and he hopes we have done a good job and as Mr. Peterson stated, it has been a very short time frame and he appreciates this team dropping everything else to work on this and bringing the information forward. Mr. Arntzen thanked the Commission for the opportunity to us articulate our thoughts.

2. Potential Action / Adoption of Resolution

Commissioner Moak thanked staff for the information that has been provided and inquired if there is a specific 10 acres of Vista Field, because he thinks that would make a difference in terms of everything or is it to be determined.

Mr. Peterson stated several proposers have identified different portions of Vista Field, whether at the corner of Young Street and Deschutes Avenue or across from Lawrence Scott Park on the corner of Kellogg and Quinault. Currently there has been no discussion of exact boundaries or price.

Commissioner Moak stated the one closer to Miramar is far away from the properties right now that Ms. Hanchette is trying to market. He inquired if the area on Young and Deschutes is close to where we are marketing.

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Mr. Peterson stated phase 1 of the development is in the core of Vista Field and the approximate distance of Young and Deschutes area is about 1,000 feet from where we are marketing. The site on Kellogg and Quinault is approximately 2,200 feet away.

Commissioner Moak inquired how long it would be before the Port started developing on the west side of Vista Field.

Mr. Peterson stated the Master Plan identifies eight phases, working out from the core. Mr. Peterson stated phases seven and eight are the ends of the project.

Commissioner Moak confirmed that both parcels are at the end of the development. Because this potential development does not conform to the Master Plan, is it possible to remove those 10 acres from the VFMP and develop them under the City of Kennewick standards?

Mr. Peterson stated there is a potential and as Ms. Lake stated, there are numerous steps that would need to be taken to accommodate that. One implication, for the long-term maintenance of Vista Field, are the operational costs were based on 103 acres and 1,100 residential owners would share the cost of the maintenance of the public space. We would be shifting the maintenance costs to a smaller amount of development.

Commissioner Moak stated if it happens, then the Port will need to revisit the agreement with the City. If the parcel stays in Vista Field, will it be subject to the design review and development standards?

Mr. Peterson stated if the parcel remains within the Vista Field Master Planning area, it will be subject to the design review. However, a building of this size and the amount of parking that is required, would be challenging to comply with the design standards and urban mixed-use (UMU) zoning, which may not be attractive to the VA.

Commissioner Moak stated if they don't want to be at Vista Field, there are 50 reasons why they shouldn't be at Vista Field. But if they want to be at Vista Field, then there are ways the Port can negotiate with the VA to make it fit.

Commissioner Hohenberg inquired if the VA is able to conform to current development agreement and Master Plan, if they thought this was the best site out of all the sites they are considering.

Ms. Lake stated the first question to address is if the use is consistent with the Development Agreement and right now, we do not believe it is. The Port and City would need to amend the Development Agreement, and there is a potential for negotiations on standards, etc. that could happen, and possibly make the VA facility compatible with the balance of the Master Plan.

Commissioner Hohenberg does not like the idea of having to go back and open the Development Agreement. He thinks if this was where the VA thought this was the best

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location to serve our Veterans, then we would need to do further exploration to ensure that we are able to move forward without jeopardizing the Master Plan that has received a lot of community input. Commissioner Hohenberg has heard many times that when the Master Plan was developed, there are certain things you can't anticipate in the future, such as an opportunity to have VA facility. Commissioner Hohenberg is trying to be objective, and not emotional, and stated there are 1,400,000 people in active duty and he has no idea how many veterans there are. The Port is trying to maintain the heritage of Vista Field and the role it played in World War II. Commissioner Hohenberg stated his emotional side believes if there is an opportunity to move forward, if they determine Vista Field is the best location, he would hate to close the door on it. However, with that said, this is an expression of interest and there are a lot of other sites that may be less expensive, easier to develop, less things to conform to, which may disqualify Vista Field. Commissioner Hohenberg would rather the VA make the determination than the Commission at this time. Commissioner Hohenberg would like to have some benchmarks, so that we don't have to worry about opening up the Development Agreement and then creating a lot more challenges, to where we could jeopardize the overall vision of Vista Field.

Commissioner Novakovich agrees with Commissioner Hohenberg's comments regarding the emotional side and serving Veteran's is something that is important to him; however, the public dictated to us, in their participation of the Master Plan, and if we make concessions on this, other developers will allude to the fact that we made concessions. Commissioner Novakovich thinks we may be putting the Port in a position to make concessions for other developers that were not part of the vision of the Master Plan. Commissioner Novakovich heard from staff and counsel that we would need to go back to the City to renegotiate or amend our Development Agreement, which could open the negotiations to further comments and negotiations by the City. Commissioner Novakovich is afraid of revisiting the Development Agreement and redoing our Master Plan for this and he believes there are other locations in this area. As our CEO stated, the area that the VA is looking at encompasses the Port district and it would be a benefit if it were located anywhere in this area. Commissioner Novakovich is not sure if Vista Field is the right area, and he thinks we would be making too many concessions to accommodate. Commissioner Novakovich does not think this is what the public envisioned for Vista Field, and he is afraid of even moving forward and keeping the door open. Commissioner Novakovich inquired if the Commission had any further comments.

Commissioner Hohenberg inquired of Ms. Lake if we are putting ourselves in jeopardy by having Vista Field considered as part of their expression of interest and what the next step is.

Ms. Lake stated the Commission has two alternative Resolutions before them, one being a gentle decline based on some of the reasons, and the second agrees for the Port to be included in expression of interest; however, being included in the expression of interest does not mean the Port has an intent to sale or lease. As much as we reiterate that, a proposer may have an expectation that that would be the next step. The Resolution states that the Port is exploring only for purposes to see if the VA would consider the property. The other provision in the Resolution states that just because the Port is including the property in the expression of

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interest, does not mean we won't continue to market the property, consistent with the Master Plan. The uses that are consistent with the Master Plan and Development Agreement should be given priority. Ms. Lake stated it "kicks the can" down the road for the property to be included and if the VA does a market analysis in August and finds that the property fits the criteria, the Port would need to make a decision at that time, whether that is yay or nay and which proposer to partner with.

Commissioner Hohenberg inquired if we "kick the can" down the road, would there be a stronger commitment on the VA's part if we moved forward? Based on some of the things that have been expressed by staff, if the VA knows they need to conform to the Master Plan, the other things that have been established for Vista Field, it may not be the most user-friendly area to locate if there are other, potential sites that are better. Commissioner Hohenberg is struggling with closing the door completely.

Commissioner Moak stated if we vote one way, we are done, but he thinks there are plenty of outlets if we choose a different way.

Commissioner Novakovich restated if we leave the door open for the VA, are we leaving the door open for other developers to then come back and request modification of the Master Plan? He is struggling with this, because he would like to leave the door open, but he is wondering if we are sending the wrong message by agreeing to leave the door open for different proposals and willing to change what the public wanted the Port to do.

Commissioner Hohenberg inquired if we made a motion to approve the expression of interest, how much staff time is needed in kicking the can down the road? At this point in time, if the Commission made the decision to approve, would this fall on the developer and not staff. Commissioner Hohenberg stated Vista Field is the number one priority and he is respectful of staff time to make sure we continue to get Vista Field developed. Lastly, there are a lot of veterans in eastern Washington and Commissioner Hohenberg thinks this is that when the Master Plan was being developed, the community could not have anticipated this kind of opportunity. He does not know if Vista Field is the best site; however, if we move forward to deny, then we close the door, but if the VA is willing to meet the criteria set forth, he is not concerned about other developers asking for exceptions. He believes it is easier to articulate the reasons why.

Commissioner Novakovich asked how much staff time will be involved if the Commission were to approve and deal with developer and VA on potentials for Vista Field.

Mr. Arntzen requested clarification and stated one developer asked for 20 acres and one asked for 10 acres. Our internal evaluation of this believes less than 10 acres would be appropriate. From Mr. Arntzen's perspective, this will be a significant investment of staff resources. We have been through a few development proposals that were not in the Work Plan, such as the Fortify proposal and The Willows lower income housing. Even though those projects did not materialize, it was quite an investment of staff time. Mr. Arntzen stated we are happy to do the work that the Commission assigns to us and if it moves forward, even if it is in small

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increments, there will be a significant amount of staff time invested. Mr. Arntzen stated we will come back to the Commission so they can see where the staff time will be rerouted and some of the projects that we might have to pull away from.

MOTION: *Commissioner Moak moved to approve Resolution 2023-16 delegating the Chief Executive Officer the authority to allow the Port's Vista Field area to be included within all proposals for the VA Proposal upon request by a Proposer with the provisions stated in Resolution 2023-16; Commissioner Hohenberg seconded.*

Commissioner Moak believes this is huge, and when he and Mr. Arntzen toured Mueller Field, in Austin, Texas one of the big things was a medical facility and we saw how important it was to the development. Since Commissioner Moak went there about eight years ago, he has been really excited about the opportunity of having a medical facility as part of Vista Field. When Commissioner Moak thinks about it, he thinks about the jobs that are there, but sees the people who want to utilize the rest of Vista Field to shop, to eat, as well as the surrounding areas. Commissioner Moak thinks if this moved forward, it would make Ms. Hanchette's job easier, because people would be wanting to be at Vista Field, they would be wanting restaurants and other services for all these veterans that use the facility as well as all the doctors, nurses and technical staff that would be working 7 days a week. Commissioner Moak sees this as a jumpstart to Vista Field if it happens. He thinks if the City had an opportunity like this within the city limits of Kennewick, even though folks who didn't like us a few weeks ago, are going to love this, because it will be in the city of Kennewick. To his knowledge, Commissioner Moak has not heard that the VA is using competing projects, such as Southridge or Queensgate, they are going to make their decision and if they jumped on Vista Field, he thinks the City would roll over to get this into the City limits and would be very happy to do something to facilitate it; because if they didn't, it could lose the whole project for the City. Commissioner Moak does not think it sets a precedent related to other decisions made by the Port Commission and if someone wanted to change something, it is up to the Commission to say no, there is a very big difference as Commission Hohenberg identified why this would be different. Commissioner Moak thinks the VA is big and thinks how it could impact, he does not think we are giving away the store, because Mr. Peterson said it may not meet the criteria of our plan, but that doesn't mean they it can't meet anything of the criteria, or that they are going to leverage to create an ugly development at Vista Field. If they want to come to Vista Field, there are things they are going to have to do. And it may be easier to go someplace else. But it also may be easier to go to a place with flat ground, that is close to services, close to transit, close to shopping, all these things that make it easier for veterans. If the VA wants to be here, they will have to give up a little bit too, same with the Port and the City. The potential for great things is there and if during the Master Plan process, if someone asked if we would turn away the VA and 1,000 jobs, he is not sure the people would say turn them away because we want only a mixed urban area. He does not believe they said that at all and times change over the years. Commissioner Moak does not think we have to do an ugly development; and we are not committed, there are plenty of other exit ramps if it doesn't work for us. Commissioner Moak believes we should give the VA an opportunity and go from there.

Commissioner Hohenberg appreciates Commissioner Moak's comments.

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PUBLIC COMMENT

Ryan Fallows, JTW Development. Mr. Fallows, speaking to the process to help guide our understanding, if this is an acceptable location for the VA, there will be a market survey as part of the process. The location is submitted to VA for review, they will schedule time to visit Kennewick and determine if the site and surrounding area would be a good fit. The VA does provide written documentation and feedback on the property. As the Commission evaluates the proposals for developers like himself, it is always worth submitting it to the VA for their review to get their feedback, so they can make the best determination if it will work for their use and the Port's.

No further comments were made.

Commissioner Novakovich reiterated he has very mixed feelings; however, to show complete uniformity on the Commission, that we are all going down the same path, he will support this motion, although he has a lot of reservations.

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

Mr. Arntzen requested clarifications on the path the Commission would like staff to follow. Mr. Arntzen heard discussion regarding compliance with the Master Plan and asked that when we reply to realtors and developers, would we insert in any of our materials, whether verbal or written, that we expect full compliance with the Master Plan? Should we limit this to 10 acres to reduce speculative purposes which Port policy prohibits? Do we need to determine a price? Currently we have appraised numbers of about \$21.00/sq. foot. Furthermore, Mr. Arntzen would need authority from the Commission to sign the agreements that the realtors are requesting.

Commissioner Novakovich stated these are reasonable, good questions and inquired if the Commission would like to answer.

Commissioner Moak inquired if the questions need to be answered before Monday, June 26, 2023.

Mr. Arntzen believes so, and stated staff will need to sign documents. Does he have the authority to sign an agreement that reasonably complies with the discussion today. And does the Port want to limit it to 10 acres? Mr. Arntzen believes we should limit it to 10 acres. And, do we tell people that they can build according to the VA plan or hold "their feet to the fire" and be compliant with the Visa Field Master Plan?

Commissioner Moak agrees it should be limited to 10 acres and they should know there is a Vista Field Master Plan. Additionally, the VA will need to come back to the Port to see if we are willing to deviate from certain things. He is not willing to deviate on 100% of the Master Plan or to give up total control, but Commissioner Moak thinks there will have to be give and take. The VA should be aware of the Vista Field Master Plan; and, any possible deviations should be for a later discussion.

Commissioner Novakovich reiterated that the Commission is limiting this to 10 acres and Mr. Arntzen has the authority to sign the letter of authorization to the VA. The remaining question is

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does Mr. Arntzen stipulate that they have to abide by the Vista Field Master Plan and if not, how does he communicate what aspects are non-negotiable and what are. Commissioner Novakovich mulled if the history of the Master Plan should be included and there is an expectation that developers follow this. Is that acceptable or do we leave it open to negotiate the Master Plan, which he believes is a mistake.

Commissioner Hohenberg stated Mr. Arntzen should provide the Master Plan for the VA to comply with and at some point, the VA may come back with a request. Additionally, Commissioner Hohenberg agrees with limiting to 10 acres, but would defer to Ms. Lake to come up with specific language so that if the VA only requires 9 acres, someone else does not carve out an acre to develop for some other proposal that they see fit. Commissioner Hohenberg is concerned, if the proposal went forward and everything came together, and the VA was able to comply with what we have established, and they purchased the 10 acres, he does not want to see someone try to make a profit on the side, from something else. Commissioner Hohenberg will leave it up to the experts on how to protect the Port's interest in that aspect.

Mr. Arntzen thanked the Commission for the discussion and direction and reiterated that the Commission is giving him authority to sign an agreement. Mr. Arntzen will work with Ms. Lake on a response; however, we do not know all the details and requested "artistic license" to sign an agreement that moves this project forward yet is mindful of the conditions that the Commission brought forward.

Commissioner Hohenberg stated he believes that is necessary for the CEO to have and Mr. Arntzen has heard what the Commission has had to say. Additionally, Commissioner Hohenberg has always been impressed with staff's willingness to follow through on what the Commission ultimately decides at a policy level. In order to execute this, there needs to be some flexibility and Commissioner Hohenberg has complete confidence and trust that it will get done the right way.

Commissioner Moak stated this is a tough thing for everybody and he appreciates the work of staff and Ms. Lake. The brunt of this falls on Mr. Arntzen and trying to execute something and Commissioner Moak appreciates that. He would say any other location in this area, where someone is trying to deal with, working through a lot of the same issues and they don't have the information and somebody needs to make a decision and there isn't a lot of time. It is tough for everybody, and Commissioner Moak thinks the VA knows it is tough and they are going to do what they do, how they do, and we hope a lot of the burden falls on the developer to do a lot of the due diligence work and it comes with a big check to us, if it comes to that. Commissioner Moak is hopeful that while supporting this project, the Port figures out ways to limit staff work and push more of the work onto the developer, who will be making the big money. And we will see where it goes with the VA and they may decide they don't want to work within the Vista Field Master Plan. But, it may be a starter for the VA to think about building in a way that is more conducive to the Master Plan. Commissioner Moak thinks being aware of the Master Plan and why it is so important might lend the VA to think differently. He thinks it is tough work and we want to give Mr. Arntzen the flexibility to do the work and support the Commission's policy direction and hopes that we have done that.

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Commissioner Novakovich summarized the discussion and stated the Commission is authorizing Mr. Arntzen to sign the agreement. The Commission is authorizing Mr. Arntzen to present the Master Plan with the expectation that it is followed. The Commission is authorizing Mr. Arntzen to limit the development to 10 acres or less, and only for the use of the VA and not for any other development within the 10 acres or less.

Commission Hohenberg stated he agrees with Commissioner Novakovich's summarization.

Commissioner Moak agrees as well; however, he does not want it to sound like the Port won't consider possible deviations from the Master Plan, but it is important to know its there.

Mr. Arntzen thanked the Commission and asked Ms. Lake if there is additional information needed. Ms. Lake stated the discussion adds clarity and from her perspective, we have enough information to draft an acceptable letter of authorization that is limited, the way the Commission has directed.

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

Commissioner Novakovich thanked the Port team and Ms. Lake for the presentation that was completed in such a short time frame. As Commissioner Hohenberg stated, we have an excellent staff and can trust what they do. Commissioner Novakovich expressed his appreciation for staff and based on what he heard today, his fellow Commissioners do too.

No further comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 10:48 a.m.

APPROVED:

PORT of KENNEWICK BOARD of COMMISSIONERS

DocuSigned by:

Skip Novakovich

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Skip Novakovich, President

DocuSigned by:

Kenneth Hohenberg

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Kenneth Hohenberg, Vice President

DocuSigned by:

Thomas Moak

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Thomas Moak, Secretary

PORT OF KENNEWICK

Resolution No. 2023-16

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK ADDRESSING RESPONSE TO DEPARTMENT OF
VETERANS AFFAIRS OFFICE OF CONSTRUCTION AND
FACILITIES MANAGEMENT EXPRESSION OF INTEREST FOR APPROXIMATELY
118,362 SF OF OUTPATIENT CLINIC SPACE LOCATION: TRI-CITIES, WA ~
VISTA FIELD***

WHEREAS, the Veterans Administration (“VA”) formally released an Expression of Interest for a potential opportunity [Solicitation #36C10F23R0071] for a VA Outpatient Clinic involving a 20-year lease of 118,362sf-130,198sf (maximum 2 floors) with 700 parking spaces with an estimated construction costs of \$50-\$100 million (“VA Proposal”).

WHEREAS, the “Delineated Area” bounded by I-182, SR-240, US-395 & I-82 generally includes the western portion of Kennewick, Southridge area, South Richland and Badger Mt. South area, and may include an area within the Port’s Vista Field Master Plan.

WHEREAS, numerous potential Proposers seeking to respond the Expression of Interest have contacted the Port for permission to submit a response that includes a development footprint within the Vista Field Master Plan area.

WHEREAS, the VA Proposal use is not consistent with the Vista Field Master Plan as approved by the Port and the City of Kennewick and may not be consistent with City zoning. As a result, implementing the VA Proposal would require seeking approval of several amendments.

WHEREAS, due to a degree of vagueness in the Expression of Interest site criteria, it is unclear whether the Vista Field area would qualify as a responsive site and attempts to clarify have not been successful.

WHEREAS, due to the short window for submitting Responses to the Expression of Interest, the Port lacks the time to undertake a competitive process to select a preferred proposer, if any, from the several proposers who have contacted the Port.

WHEREAS, the Expression of Interest is not a solicitation by VA for a proposal, but instead is a method to explore whether suitable sites exist. Allowing the Port’s Vista Field site to be included in one or more Responses to the Expression of Interest does not bind the Port to any course of action.

WHEREAS, when and if the VA determines the Vista Field site qualifies for the VA Proposal, the Port will need time to explore whether the Port wishes to participate, to undergo the many steps needed for approval of a use not currently consistent with the Vista Field Master Plan, and to select among many and partner with a Proposer.

Resolution No. 2023-16

Page 2

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby:

1. Approves and delegates to the Chief Executive Officer the authority to allow the Port's Vista Field area to be included within all proposals for the VA Proposal upon request by a Proposer, and

2. Provided however, the Port's actions in this exploratory step in no way binds the Port to commit the Vista Field Property to a change of use or a sale or lease of the property, all of which would require further approval(s) and amendment of the Master Plan and potentially City zoning, and

3. Provided further that the Port staff should continue the marketing efforts of the Vista Field property for uses consistent with that Plan and Port consideration and approval of such consistent uses shall have priority for development.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 22nd day of June 2023.

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

By: DocuSigned by:
Skip Novakovich
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SKIP NOVAKOVICH, President

By: DocuSigned by:
Kenneth Hohenberg
89F77EAC8921416...
KENNETH HOHENBERG, Vice President

By: DocuSigned by:
Thomas Moak
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THOMAS MOAK, Secretary



**PORT of
KENNEWICK**

350 CLOVER ISLAND DRIVE, SUITE 200, KENNEWICK WASHINGTON 99336 509-586-1186 WWW.PORTOFKENNEWICK.ORG

**LETTER OF AUTHORIZATION
Authorization to Submit Property to
The U.S. Department of Veteran Affairs (“VA”)
Solicitation #36C10F23R0071**

Property Address: Approximate location of 6600 West Deschutes Avenue, Kennewick, WA 99336 (the “Vista Field Property”).

The Port is the Owner of the above referenced Vista Field Property and confirms as follows:

1. The referenced property is within the VA-defined area for a potential site for the U.S. VA’s Expression of Interest No. 36C10F23R0071 (“EOI”).
2. The Port Commission by Resolution 2023-16 authorizes the Chief Executive Officer to allow Vista Field Property, which is within the Port’s Vista Field Master Plan, to be included within any Proposal submitted in response to the VA’s EOI, upon request of the Proposer.
3. The Port’s authorization for this exploratory step in no way binds the Port to commit the Vista Field Property to a change of use or to a sale or lease of the Vista Field Property, all of which would require further approvals(s) from the Port Commission and potentially require amendments to the Port’s Master Plan, Development Agreement, Comprehensive Scheme and City zoning and Comprehensive Plan. The Port cannot provide any warranty, expressed or implied, as to the accuracy, reliability, or completeness of contents of the information furnished herein. The Port is under no responsibility to respond or answer any inquiries regarding this authorization or in support of any response to the EOI.
4. The Vista Field Property currently falls within the scope of the Port’s Vista Field Master Plan, and conformance is expected. The Vista Field Master Plan conceptual map showing the urban mixed-use development at full buildout is attached for reference. Links to additional Vista Field information are provided:
 - Vista Field Master Plan - <https://www.vistafield.com/wp-content/uploads/2022/01/Vista-Field-Master-Plan.pdf>
 - Vista Field website: <https://www.vistafield.com/>
 - New Urbanism Approach: <https://www.vistafield.com/new-urbanism-approach/>
5. The Port’s authorization is limited to the minimum area required for the VA facility described in the EOI as determined by the VA, not expected to exceed ten (10) acres.
6. The Owner Port authorizes the undersigned Proposer to submit and show the Vista Field Property to the VA, to be accompanied by Port Staff.

PORT OF KENNEWICK, OWNER

PROPOSER: _____

By: _____

Tim Arntzen

Its: Chief Executive Officer

Date: _____

By: _____

Its: _____

Date: _____

Memorandum

To: Tim Arntzen, Chief Executive Officer
From: Larry Peterson, Director of Planning & Development
Meeting Date: June 22, 2023
Re: Veterans Affairs Opportunity: 130,000sf Outpatient Clinic at Vista Field

Port staff have been contacted by real estate representatives regarding the Port's willingness to sell 10+ acres at Vista Field for a VA Outpatient Clinic involving a 130,000sf building and 700 parking spaces. The VA proposed 20-year lease provides the backstop for the private sector to construct the improvements within an identified value of up to \$100 Million. Although not listed in the VA information an outpatient clinic of this size would likely employ 200-250 people, likely at or above average Tri-City wages.

The VA seeks a site within west Kennewick or south Richland bounded by I-82, I-182, US-395 & SR-240. Regardless of which site within the "Delineated Area" that VA ultimately selects, those new jobs and investment will occur within Port of Kennewick district.

This proposal differs significantly from the plans adopted for Vista Field yet final determination on an opportunity of magnitude seems beyond that delegated to port staff.

Initial proposals including property owner authorization to sell land to the Proposer(s) is due to the GSA by Monday June 26, 2023, which occurs before the next regular Commission, hence the scheduling of a Special Meeting. Attached is detailed information about the VA opportunity and questions the Port Commission might consider before taking action and included below is a summary of five crucial decision points.

IMPLICATION TO VISTA FIELD REDEVELOPMENT PROJECT

Per the VA information certain elements {residential or industrial areas, correctional facilities (jails) and railroad tracks} must not be within close proximity to the site, yet the GSA/VA definition of close proximity does not appear in the offer package. **Knowing the definition of "Close Proximity" which the VA will utilize seems crucial.**

- ❖ **Would Port Commission approval of this proposal require the Port to prohibit some, most or all of the remaining site from developing with residential uses {1,100 units currently planned}?**
- ❖ **Should the Port Commission consider a decision on 10-acres of the Vista Field site without a clear understanding of the implications to the remaining 93-acres?**
- ❖ **Do the benefits of the VA proposal offset and/or justify the implications to the redevelopment planned as Vista Field?**
- ❖ **Would the divergence from the approved City/Port approved Development Agreement trigger/required revision to that agreement and if so, is that a desired action?**
- ❖ **Procedurally can/should the Port Commission authorize a land sale which contradicts the Port's Comp Scheme and adopted policies and if revision is desired what type of public input should be sought?**

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

BACKGROUND**PROJECT**

- ✓ On May 25, 2023 the Department of Veterans Affairs (VA) formally released an advertisement of potential opportunity [Solicitation #36C10F23R0071] for a VA Outpatient Clinic involving a 20-year lease of 118,362sf to 130,198sf (maximum 2 floors) with 700 parking spaces with an estimated construction costs of \$50-\$100 Million.
- ✓ The “Delineated Area” bounded by I-182, SR-240, US-395 & I-82 generally includes the western portion of Kennewick, Southridge area, South Richland and Badger Mt. South area.
- ✓ Numerous “Additional Requirements” are listed which serves as a listing of both required and disqualifying qualities/elements/qualities.
- ✓ Current Response Date is June 26, 2023 by 12:00/1:00pm PST {conflicting times in VA issued document}
- VA prepared project information document is attached.

PORT INVOLVEMENT

The Port has been contacted by numerous {more than 2} entities/potential proposers inquiring/requesting the Port either identify a potential site or accept a proposer’s identified site, all located within the Vista Field Redevelopment project.

These inquires/requests involve 10-acre and 20-acre sites. Additionally, at least one ‘Proposer’ has requested the Port execute a “Letter of Authorization” which confirms the property is for sale, authorizes Proposer to submit site to the VA and will negotiate acquisition with Proposer. The commitment requested would require Port Commission action which has not occurred.

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10+ Acres

PROPOSAL & POLICY IMPLICATIONS

Factual review of the proposal and potential implications without editorial bias is intended although the difficulty of posing rhetorical questions without a perceived bias is acknowledged.

General topics are listed below with topic specific questions on the following pages with questions and key considerations in bold with varying bullets signifying different types of questions or considerations:

- ❖ Port Commission Questions both Policy & Procedure
- Site/Process Relevant Questions
- Questions providing General Questions

UNIVERSAL FACTORS/CONSIDERATIONS

DELINATED AREA

BUILDING & SITE CONFIGURATION CONSIDERATIONS

SITE LOCATION/PROXIMITY RESTRICTIONS

SITE LOCATION/PROXIMITY REQUIREMENTS

ECONOMIC IMPACTS

VISTA FIELD SPECIFIC FACTORS

VISTA FIELD MASTER PLAN

DEVELOPMENT AGREEMENT WITH CITY OF KENNEWICK

PORT ADOPTED POLICIES & PROCEDURES

PORT'S COMPREHENSIVE SCHEME OF DEVELOPMENT

OTHER

CITY ZONING

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

UNIVERSAL FACTORS/CONSIDERATIONS

“DELINATED AREA”

To received consideration properties must be within or fronting on the boundary shown below. Although interesting, the short timeframe does not allow time to speculate as to who made the decision and why East Kennewick, North Richland and all of Pasco and West Richland are excluded from this opportunity.

The Delineated area contains over 34 square miles with 98+% of the area lying within the Port of Kennewick (POK) boundary. The other 2% of land is bounded by the Yakima River, I-182 & SR-240/rail line connecting to North Richland and contains the City of Richland (COR) sewer treatment plant, a former gravel pit and low-lying Yakima River delta land.

Numerous potential sites, some owned by local entities {POK, City of Kennewick (COK) and the remainder owned by the private sector all seem to have varying degrees of compliance with the VA criteria.

It appears that all viable sites are located within the POK district, therefore regardless of which site VA selects, the yet to be defined economic benefits from this opportunity will occur within the POK district.



Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

BUILDING & SITE CONFIGURATION CONSIDERATIONS

Based upon the VA criteria of 118,00-130,000 square foot building of 2 floors maximum with 700 parking spaces which can't be under the building it seems 7-9 net acres of land would be required. Bifurcated sites will not be considered, which appears to indicate all the improvements must be contained in one parcel and not separated by a roadway.

ITEM	SF		LAND AREA	
			SF	Acres
Building	130000 x	1 Floor	130,000	2.98
Parking Lot	300 x	700 Spaces	210,000	4.82
Sub-Total			340,000	7.81
+ 10% for Buffer, Circulation, & Services			34,000	0.78
TOTAL			374,000	8.59

ITEM	SF		LAND AREA	
			SF	Acres
Building	130000 x	2 Floor	65,000	1.49
Parking Lot	300 x	700 Spaces	210,000	4.82
Sub-Total			275,000	6.31
+ 10% for Buffer, Circulation, & Services			27,500	0.63
TOTAL			302,500	6.94

Numerous 7 to 9-acre sites including both undeveloped land and potential redevelopment sites, exist within the Delineated Area", meaning size alone is not the limiting/deciding factor.

- ❖ Is the Port Commission willing to consider selling a site larger than the 10-acres the VA proposal could realistically consume?
- ❖ If so, would the Port Commission require the prospective purchaser to identify their plans and timing for the property in excess of the VA proposal?
- ❖ If more than one prospective purchaser seeks the Port property, what procurement process would the Port follow?

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

SITE LOCATION/PROXIMITY RESTRICTIONS

Per the VA information certain elements/qualities must not be within close proximity to the site, yet the VA definition of close proximity does not appear in the offer package. Per the VA document "Offered space will not be considered if located in close proximity to residential or industrial areas, correctional facilities (jails or otherwise) and railroad tracks....."

Knowing the definition of "Close Proximity" which the VA will utilize is crucial.¹

Residential use is planned throughout the Vista Field master plan including properties that would abut ANY 10 or 20-acre parcel carved-out at Vista Field.

- ❖ **Would Port Commission approval of this proposal require the Port to prohibit some, most or all of the remaining site from developing with residential uses?**

The VA definition of Close Proximity would seem to dictate how close residential uses currently planned within Vista Field could be to the VA site, yet this definition nor impact is known at this time.

- ❖ **Is the Port Commission willing to consider a decision on 10-acres of the Vista Field site without a clear understanding of the implications to the remaining 93-acres?**

Industrial Uses form the entire southern boundary of the site so nearly every parcel configuration will result in the VA site abutting industrial uses. Depending upon the VA definition of "close proximity" this may be factor which excludes some or all of the Vista Field Redevelopment project from further consideration.

- **How much energy and excitement should build up before the close proximity question, which may negate or require reconfiguring the Proposers site be answered?**

Railroad tracks (BNSF Mainline) are no further than 1/3 mile at most and in many areas within 1/10 of a mile of the Vista Field Redevelopment project.

Again, depending upon the VA definition of "close proximity" this may be factor which excludes some or all of the Vista Field Redevelopment project from further consideration.

- **Same question... how much energy and excitement should build up before answering the "close proximity" definition question?**

¹ A search of the Federal Acquisition Regulation FARS, General Services Acquisition Manual GSAM, Veterans Affairs Acquisition Regulations VAARS, and ALL CFRs, reveals there is only one definition for "close proximity", and that is in the following federal regulation:

Title 31 Money and Finance: Treasury, Subtitle B-Regulations Relating to Money and Finance,

Chapter VIII Office of Investment Security, Department of the Treasury

Part 800 Regulations Pertaining to Certain Investments in the United States by Foreign Persons

§ 802.203 Close proximity., "The term close proximity means, with respect to a military installation or another facility or property of the U.S. Government identified in this part, the area that extends outward one mile from the boundary of such military installation, facility, or property."

In addition, Black's Law considers "in close proximity" to mean the same as "contiguous," as that source defines "contiguous" as "CONTIGUOUS- Means: "In close proximity; in actual close contact Touching; bounded or traversed by. The term is not synonymous with "vicinal." *Plaster Co. v. Campbell*, 89 Va. 396, 16 S. E 274; *Bank v. Hopkins*, 47 Kan. 580, 28 Pac. 000, 27 Am. St. Rep. 309; *Raxedale v. Seip*, 32 La. Ann. 435; *Arkell v. Insurance Co.*, 69 N. Y. 191, 25 Am. Rep. 168."

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

Correctional Facilities (Benton County Jail) is approximately ½ mile from most anywhere on the Vista Field Redevelopment site.

- **Same question, different disqualifying characteristic does the VA definition of “close proximity” negate or impact the potential site configuration?**

Likely those submitting competing sites will staunchly argue that abutting or 1/10 mile or 1/3 of a mile is “close proximity” and if successful then the Vista Field site would be excluded from further consideration due to not one but up to four strikes (Residential, Industrial, Rail & Jail)

- ❖ **Are there other sites within the Delineated Area, possibly owned by the private sector, which more closely conform to the VA site selection criteria than the Vista Field Redevelopment site?**
- ❖ **Should the Port Commission be concerned about potential other sites and/or the Vista Field Redevelopment project’s level of conformance to the VA criteria?**

SITE LOCATION/PROXIMITY REQUIREMENTS

Per the VA information certain elements/qualities must be within close proximity to the site and the entities and potential proposer frequently mention close proximity to public transportation. Public Transportation is not defined in the VA document, but this logically seems to include both transit hubs and routes. If close proximity to a transit center was crucial to VA then this would have been listed, but as published it appears as long public transportation, albeit a transit hub or transit stop, the site would meet this criterion. The Vista Field Redevelopment site benefits from abutting transit routes and a transit hub within a half mile of the site.

Presuming transit stops meet the public transportation criteria, then most of the Delineated Area meets this criterion, which means this is not an attribute unique to the Vista Field Redevelopment project.

ECONOMIC IMPACT

Per the proposal this 118,000 -130,000 sf building & 700 parking space project is anticipated to cost \$50,000,000 to \$100,000,000 and observing construction prices for the last 20 years it is likely this project will be near the \$100 Million dollar investment cap. Employment estimates are not provided in the VA document but general building size to job type ratios suggest 200-250 employees (*550sf per employee*), with most jobs likely to be at or above the average income levels in Kennewick. Additionally significant construction employment would be involved with constructing a 118,000sf-130,000 sf medical clinic. Understanding the Port’s primary focus is on economic development, several questions seem relevant.

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

- **Does a \$100M building constructed and owned by the private sector pay local property taxes and if so at what rate?**
- **What are the construction sales tax amounts and to which agencies are those tax revenues allocated?**
- **What are the realistic employment expectations and what are anticipated income levels for the various types of employment?**
- **What are the anticipated employment tax implications and to which agencies are those tax revenues allocated?**
- **What is the likely financial benefit from the patients visiting the clinic {restaurants, hotels, retail} and to which agencies are those benefits/tax revenues allocated?**

VISTA FIELD SPECIFIC FACTORS

VISTA FIELD MASTER PLAN

The adopted Vista Field Master Plan is based upon the principles of New Urbanism which is the melding of mixed-uses at higher densities, transportation interconnectivity, all focused on the human experience. Fancy words often include the term “placemaking” but it might be easier to define what’s not New Urbanism. New Urbanism isn’t separated land uses transitioning from large lot single family homes accessed by a major arterial passing by a 5-acre apartment complex to a 6-lane intersection surrounded by strip commercial buildings and big box retailers encircled with a sea of parking. The Vista Field Mater Plan includes nearly 1,100 residential units ranging from small lot single family to townhomes, condos and apartments and 750,000sf of office, service, retail, restaurant, hotel, gathering spaces...all of which are mixed together.

The VA document requires the prospective Veterans Outpatient Clinic be no more than two floors and excludes other use within the building which is the default suburban type development standard. Constructing the building space in 4 floors and utilizing a 5-level parking structure {similar to Kadlec Hospital} would allow the VA requirements to be met on 2.5 to 3 acres.... which would be urban in nature.

Although an adjacent parking structure {not parking under the building} is not prohibited, it is unrealistic to believe that a competitive process to deliver a 118,000+ sf building and 700 parking spaces would have a proposer suggest parking be accommodated in a parking garage, adding significantly to their proposal and thus creating a competitive disadvantage for the proposer.

- ❖ **Do the benefits of the VA project offset the opportunities lost to yield more development, employment and housing on the same amount of land AND if so which entities receive those benefits?**
- ❖ **What impacts would the VA proposal have on the remining Vista Field Redevelopment site?**

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

- ❖ **Would those be positive impacts likely accelerating demand for housing and hospitality services on adjacent lands... or would those residential uses be restricted?**
- ❖ **Is the Port Commission willing to carve-out 10 acres from the Vista Field Redevelopment project for a development inconsistent with the basic principle of new urbanism?**
- ❖ **Would the establishment of a large VA Outpatient Clinic suggest/dictate the Port reconsider the New Urbanism based master plan and instead pivot towards uses and a development pattern similar to the land northwest of the Vista Field Redevelopment project?**

DEVELOPMENT AGREEMENT

The Port & City of Kennewick entered into the Vista Field Development Agreement (DA) in 2017.² This agreement formally adopted the Vista Field Master Plan, the Vista Field EIS, the Vista Field Transportation System Impact Evaluation, applied the City's new Urban Mixed Use zoning district to Vista Field, and identified mutual improvement commitments by both parties through 2027. Much of the DA focused on the Port's commitment to correct prorated shares of various off-site intersections. The DA Section 11.10 Transfer or Assignment allows for transfer of some/all of these commitments but requires COK acceptance.

- ❖ **Should the Port transfer the transportation mitigation requirements to the proposer, and would the COK accept this transfer?**
- ❖ **Would a request to transfer a portion of the DA agreement commitments open up discussions about revising other portions of the DA, and if so is that a positive or negative consideration?**
- ❖ **Should the Port avoid altering the DA and instead retain the transportation mitigation requirements and simply increase the land price to offset these likely expenses?**
- **How should the transportation impacts of a vaguely defined project be ascertained?**
- **Can the VA Facility which is not consistent with the DA be permitted? ³Can the Development Agreement be modified?⁴**
- **If allowed, what is the process to amend the Development Agreement? ⁵**

² DA at 3.2 The City and the community has participated in development of Vista Field Master Plan including key elements related to land use planning, development standards, infrastructure and other improvements.

³ KMC 18.48.030 provides that, "A permit or approval issued by the City after the execution of the development agreement must be consistent with the development agreement."

⁴ Kennewick Municipal Code (KMC) 18.48.030 provides: "A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement." However, KMC 18.48.030: - Enforceability, references amendments to a DA, so presumably amendments may be had.

⁵ Presumably, the amendment process would mirror the process for original approval, which requires a public hearing shall be held before the Planning Commission whose recommendation and record shall be acted on by the City Council, per KMC 18.48.050: "The City shall only approve a development agreement by resolution after a public hearing. Unless a public

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

PORT ADOPTED POLICIES & PROCEDURES

Over the last decade the Port Commission has adopted numerous resolutions and provided consensus votes on Vista Field Redevelopment matters which range from Master Plan adoption and amending the Port's Comprehensive of Development (Comp Scheme) to how the properties will be offered for sale and the design expectations for the property within the Vista Field Redevelopment project. All of those actions were both driven by public input and made after seeking and receiving citizen input. At a minimum as currently presented, the inquires to sell land for the VA opportunity seem to necessitate amending the Comp Scheme, revising and/or rescinding the Master Plan for the Vista Field Redevelopment project and rescinding the resolutions related to marketing actions and design review expectations.

- ❖ **Procedurally can the Port Commission authorize a land sale which contradicts the Port's Comp Scheme and adopted policies?**⁶
- ❖ **If not, what is the process to amend the Comp Scheme, including the timing and notification requirements?**⁷
- ❖ **Additionally if needed, what is the process to rescind a portion of the Vista Field Redevelopment Master Plan?**⁸
- ❖ **What is the process to rescind and/override the decade of policy directives related to marketing, proposal review and design standard application?**

OTHER

hearing is held under KMC 4.12, the public hearing shall be held before the Planning Commission whose recommendation and record shall be acted on by the City Council."

KMC 18.48.030: "Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement." A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the City after the execution of the development agreement must be consistent with the development agreement.

(Ord. 5180 Sec. 1, 2007)

⁶ RCW 53.20.020 ***Improvement to follow plans adopted.***

When such [Port Comprehensive Scheme] general plans shall have been adopted or approved, as aforesaid, every improvement to be made by said commission shall be made substantially in accordance therewith unless and until such general plans shall have been officially changed by the port commission after **a public hearing thereon, of which at least ten days' notice shall be published in a newspaper in general circulation in such port district.**

⁷ ID., See RCW 53.20.020

⁸ The Vista Fields Master Plan is incorporated into the DA. See DA at 3.2 "The City and the community has participated in development of Vista Field Master Plan including key elements related to land use planning, development standards, infrastructure and other improvements", and at 4.1, "The Vista Field Master Plan at Exhibit C and Vista Field Redevelopment Master Plan-Layout at Exhibit D **are hereby adopted and approved and shall remain in effect and applicable** to the Property during the Agreement Term.. Therefore the process to amend the DA must be followed.

Veterans Affairs Opportunity - Outpatient Clinic on 130,000sf Building/700 Parking Spaces on 10± Acres

ZONING

The COK Urban Mixed-Use zoning district (UMU) limits a building footprint to 60,000 square feet {K.M.C. 18.80.040(4)(a)}. This zoning text was crafted to prohibit large sprawling big box buildings and encourage those seeking larger building sizes to construct 2, 3 or more floors. The VA solicitation for a 118,000 to 130,000sf building on no more than 2 floors combined with the current UMU zoning text yields a maximum of 120,000sf building [2 floors @ 60,000sf each]. The UMU zoning restriction does not allow the Proposer to offer the full 130,198sf building the VA seeks, which may place Vista Field Redevelopment properties and all other UMU zoned properties at a competitive disadvantage.

- **Would the COK Council amend the UMU zoning text at rule to allow a 130,198sf building on one level?**
- ❖ **Would the Port Commission support such a text amendment?**
- ❖ **What is the process for a zoning amendment?⁹**
- **Can the VA opportunity reasonably and economically comply with the design standards contained within the City's UMU zoning district (75% building frontage, window requirements, off-street parking behind the building), or would a rezone to another district be required?**
- **Would amendment of the City's Comp Plan be a prerequisite to rezoning?**
- ❖ **Would the Port Commission support such a rezone and possible Comp Plan amendment?**

⁹**See generally KMC Chapter 18.51** A zoning code change requires a public hearing before the Planning Commission which must be preceded by fifteen days' notice of the open record hearing published in a newspaper of general circulation and mailed to the applicant and other affected property owners. The Planning Commission has 60 days to issue its written advisory report of its recommendations. The City Council may accept, reject or send the recommendation back to the Planning Commission. In order to amend the zoning map, the City Council must find that: (a) The proposed amendment conforms with the comprehensive plan; and (b) Promotes the public necessity, convenience and general welfare; and (c) The proposed amendment does not impose a burden upon public facilities beyond their capacity to serve or reduce such services to lands, which are deemed unacceptable by the City; and (d) The proposed amendment is consistent with all applicable provisions of the Kennewick Municipal Code, including those adopted by reference from the Comprehensive Plan.

Sources Sought Notice

EXHIBIT A

SUBJECT* Tri-Cities Lease US Seeks EOI for Approximately 118,362 ANSI/BOMA sf nte 130,198RSF of Outpatient Clinic Space Location: Tri-Cities, WA area

GENERAL INFORMATION

CONTRACTING OFFICE'S ZIP CODE*	20001
SOLICITATION NUMBER*	36C10F23R0071
RESPONSE DATE/TIME/ZONE	06-26-2023 3:00pm EASTERN TIME, NEW YORK, USA
ARCHIVE	99 DAYS AFTER THE RESPONSE DATE
RECOVERY ACT FUNDS	N
SET-ASIDE	
PRODUCT SERVICE CODE*	X1DB
NAICS CODE*	531120
CONTRACTING OFFICE ADDRESS	Department of Veterans Affairs Office of Construction and Facilities Management (00CFM3B) 425 I Street NW Washington DC 20001
POINT OF CONTACT*	VA Lease Rep, EVP Public Properties Brad Seifert bseifert@ppwashdc.com

PLACE OF PERFORMANCE

ADDRESS	Tri Cities, WA
POSTAL CODE	
COUNTRY	US

ADDITIONAL INFORMATION

AGENCY'S URL	
URL DESCRIPTION	
AGENCY CONTACT'S EMAIL ADDRESS	
EMAIL DESCRIPTION	

*= Required Field

Sources Sought Notice

Sources Sought Notice

EXHIBIT A

DESCRIPTION

Sources Sought Notice

EXHIBIT A

EXPRESSION OF INTEREST Tri-Cities, WA

The U.S. Department of Veterans Affairs Seeks Expressions of Interest for approximately 118,362 American National Standards Institute/Building Owners and Managements Association (ANSI/BOMA) Square Feet (ABOA SF) yielding a not to exceed amount of 130,198 Rentable Square Feet (RSF) of Outpatient Clinic space in the area of Tri-Cities, WA.

Notice: This advertisement is a notice of a potential opportunity. This advertisement is not a solicitation for offers, nor is it a request for proposals. The purpose of this advertisement is to identify potential sources and suitable locations and is not intended to pre-qualify or disqualify any potential offers. The Government will not pay for any costs incurred as a result of this advertisement. The Government cannot provide any warranty, expressed or implied, as to the accuracy, reliability, or completeness of contents of the furnished information found within this advertisement; Government is under no responsibility to respond or answer any inquiries regarding this advertisement. **Respondents are advised that the Government assumes no responsibility to award a lease based upon responses to this advertisement.**

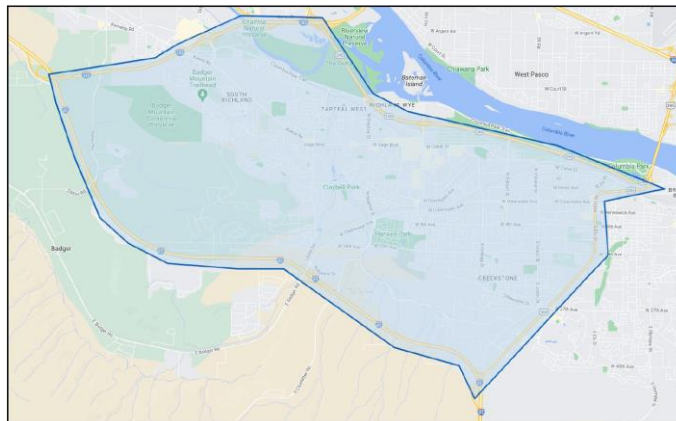
Contracting Office Address:

Anntwinette Dupree-Hart
United States Department of Veterans Affairs (VA)
Office of Construction & Facilities Management
Office of Real Property, (003C1E)
425 "Eye" Street, NW
Washington, DC 20001

Description: VA seeks to lease approximately 118,362 ABOA SF, not to exceed 130,198 RSF, of space and 700 parking spaces for use by VA as an Outpatient Clinic in the delineated area explained below within the greater Tri-Cities, WA area. VA will consider leased space located in an existing building as well as land for new construction for a build-to-suit lease option.

Lease Term: Up to twenty 20 years firm term.

Delineated Area: To receive consideration, submitted properties must be located within the following area described below, which is bound by the following roads; properties fronting the following boundary roads will also be considered:



Northern Boundary: East on I-182, East on Highway 240
Southern Boundary: West on I-82

Sources Sought Notice

EXHIBIT A

Eastern Boundary: South on US-395

Western Boundary: North on I-82

Additional Requirements:

1. Offered space must be located on no more than two (2) contiguous floors; one of the offered floors must be the ground floor.
2. Bifurcated sites, inclusive of parking, are not permissible.
3. The following space configurations will not be considered: Space with atriums or other areas interrupting contiguous space, extremely long or narrow runs of space (more than twice as long/as wide), irregularly shaped space configurations or other unusual building features adversely affecting usage.
4. Offered space cannot be in the FEMA 100-year flood plain.
5. Offered space must be zoned for VA's intended use or offeror must provide proof that it can be zoned at the time initial offers are due.
6. Space will not be considered where apartment space or other living quarters are located within the same building.
7. Loading dock or loading area is required. Freight elevator required if loading area is on a different level than the offered space. Parking lot must be able to accommodate deliveries by trucks with trailers.
8. Structured parking under the space is not permissible.
9. Offered space must be compatible for VA's intended use.
10. Offered space will not be considered if located in close proximity to residential or industrial areas.
11. Offered space will not be considered if located in close proximity to property with incompatible uses, including but not limited to the following uses: correctional facilities (jails or otherwise), railroad tracks, or within flight paths if flight paths are a noise or vibration disturbance.
12. Offered space must be located in close proximity to amenities including but not limited to restaurants, pharmacies, and shopping.
13. Offered space must be located in close proximity to public transportation.

To be considered for the Market Survey, all EOI submissions must include the following information, if applicable, by the EOI Due Date described below:

1. Property owner or owner representative contact information (name, phone, and email);
2. Evidence the owner representative has the authority to represent the property owner;
3. Building address or address/described location of the land;
4. Provide the location on a map, demonstrating the building or land lies within the delineated area;
5. Description of ingress/egress to the building or land from a public right-of-way;
6. Description of the uses of adjacent properties;
7. FEMA map providing evidence of floodplain status;
8. Evidence of seismic compliance or willingness to upgrade;
9. Evidence of ABBAS compliance or willingness to upgrade;
10. Evidence of fire and life safety compliance or willingness to upgrade;
11. Evidence of sustainability standards or willingness to upgrade;
12. A narrative and map describing proximity of the building or land to the nearest public transportation and major transportation routes;
13. A description of any planned land development or construction that will affect the site, including neighboring projects and road/utility line construction;
14. Site plan depicting the property boundaries, building, parking, and amenities;
15. Floor plan showing the floor(s) and ABOA SF of proposed space;

Sources Sought Notice

EXHIBIT A

16. A description of any changes to the property necessary to be compatible with VA's intended use;
17. A statement indicating the current availability of utilities serving the proposed space or property; and
18. Provide a statement and supporting documentations if available showing any environmental and/or cultural/historic studies have been done on the property (e.g., Phase I or II ESAs, NEPA environmental assessments, or archaeological surveys).

Set Aside Determination Information:

19. If you are qualified as a Service-Disabled Veteran Owned Small Business (SDVOSB) or Veteran Owned Small Business (VOSB) under NAICS Code 531120 Lessors of Nonresidential Buildings with the associated small business size standard, you must meet the requirements outlined in the attachment, entitled, "SDVOSB, VOSB, or JV Status" and submit the required information for a Service-Disabled Veteran Owned Small Business (SDVOSB) or Veteran Owned Small Business (VOSB).
20. If you are a Joint Venture (JV) and intend to submit an offer as such, you must provide the following: Evidence that the SDVOSB or VOSB entity of the Joint Venture is certified as a legal SDVOSB or VOSB entity, your JV Agreement including proper provisions, a Unique Entity Identifier (UEI) in the JV legal name, the CAGE code identified for the JV, and evidence of SAM registration representing that the entity type is designated as a JV. If you do not meet these JV requirements, as put forth by the Small Business Administration (SBA) and new Code of Federal Regulations (CFR) at the time of EOI due date, your submission will be considered incomplete and not considered.
21. The Joint Venture (controlling entity) must be able to clearly show they are capable based upon past performance on a project of similar size, scope completed, and complexity.

EOI Due Date: All interested parties must respond to this announcement and provide the submissions for consideration no later than **Monday, June 26, 2023, at 4:00PM, Eastern.**

EOI Submission Format: All submissions shall be sent via email to:

Anntwinette Dupree-Hart
Senior Lease Contracting Officer
Department of Veterans Affairs
Office of Construction & Facilities Management
Office of Real Property/Lease Execution (003C1E)
Email: Anntwinette.Dupree-Hart@va.gov

AND

Brad Seifert
Executive Vice President
Public Properties LLC (sub to REAG)
Email: bseifert@ppwashdc.com

Market Survey: The estimated Market Survey date(s) is **August 8, 2023.**

Sources Sought Notice

EXHIBIT A

Attachment SDVOSB, VOSB or JV Status

The NAICS Code for this procurement is 531120 Lessors of Nonresidential Buildings, and the small business size standard. Responses to this notice will assist VA's Office of Real Property (ORP) in determining if the acquisition should be set-aside for competition and restricted to SDVOSB or VOSB concerns in accordance with 38 USC Sec. 8127.

The magnitude of the anticipated construction/buildout for this project is:

___ (k) Between \$50,000,000 and \$100,000,000;

VA makes monthly rental payments in arrears upon facility acceptance and may elect to make a single lump-sum payment or amortize over the course of the firm term for specified tenant improvements. VA makes no progress payments during the design or construction/build-out phases of the project.

This is not a request for proposals, only a request for information for planning purposes, and does not constitute a solicitation. A solicitation may or may not be issued.

Project Requirements: ORP seeks information from potential offerors who are capable of successfully performing a lease contract, including design and construction of the facility described above, for a term of up to 20 years, inclusive of all options, as well as all maintenance and operation requirements for the duration of the lease term, at a fair and reasonable price. More information on VA's requirements can be found on the solicitations and expression of interest/sources advertisements, that are made public information via "Contract Opportunities" on www.SAM.gov.

SDVOSB and VOSB firms are invited to provide information to contribute to the market research for this project. SDVOSB and VOSB firms must be registered in through SBA's Veteran Small Business Certification (VetCert) at <https://veterans.certify.sba.gov>. All business concerns must have the technical skills and financial capabilities necessary to perform the stated requirements. All business concerns are requested to submit a Capabilities Statement if they are interested in participating in this project. A submission checklist and information sheet are provided below for firms to complete and submit, which will serve as the firm's Capabilities Statement.

Sources Sought Notice

EXHIBIT A

Capabilities Statement Will Include:

1. Company name, address, point of contact, phone number, Experian Business Identification Number, e-mail address, and an organizational chart showing the ownership percent for each individual of the SDVOSB or VOSB firm.
2. If you are a Joint Venture (JV) and intend to submit an offer as such, you must provide the following: Evidence that the SDVOSB or VOSB entity of the Joint Venture is certified as a legal SDVOSB or VOSB entity, your JV Agreement including proper provisions, a Unique Entity Identifier (UEI) in the JV legal name, the CAGE code identified for the JV, and evidence of SAM registration representing the entity type is designated as a JV.
3. If you are qualified as a Service-Disabled Veteran Owned Small Business (SDVOSB) or Veteran Owned Small Business (VOSB) under NAICS Code 531120 Lessors of Nonresidential Buildings with the small business size standard, you must meet the requirements out lined in accordance with SBA and any applicable grace period allowable under the new SBA regulations. SBA has assumed control over the SDVOSB and VOSB certification process. Contractors seeking SDVOSB or VOSB verification must be registered on SBA's website (<https://veteranscertify.dba.gov>) notwithstanding any applicable grace period that allows a former CVE.
4. If you are qualified as a Service-Disabled Veteran Owned Small Business (SDVOSB) or Veteran Owned Small Business (VOSB) under NAICS Code 531120 provide evidence of ability to offer as a small business in the System for Award Management at www.sam.gov, including a copy of the representations and certifications made in that system;
5. A detailed summary describing at least two (2) projects of similar size, scope completed, and complexity in the past seven (7) years that demonstrate your company's experience designing, constructing, and managing Federal leased facilities or health care facilities relevant to a VA project for 50,000 ABOA SF (4-page limit); and

Example for Similar Size, Scope, and Complexity:

1. Details of structural systems and coordination of the building with multiple stories, specialized foundations, and even possibly progressive collapse avoidance.
2. Mechanical and electrical systems in relationship to similar characteristic in size.
3. Facility tiers of complexity:
 - a. Walk into a clinic with a multitude of exam rooms and admin spaces.
 - b. Business occupancy or ambulatory care: The level of business use and number of ambulatory care occupancy in NFPA 10 and Life Safety Code.
 - c. Higher complexity Departments. Certain departments are higher in complexity. Sterile Processing, Dental, Endoscopy, Surgery, Pharmacy Clean Rooms, and Radiology (CT Scan/MRI).
 - d. Special requirements of departments for mechanical requirements.
 - e. Experience in the firm term maintenance of all of these spaces. Maintaining the HVAC system of a sterile processing department to continue to have appropriate pressurization throughout the firm term life of the lease.
6. Evidence of capability to obtain financing (for a project of this size in current market conditions) dated within the last 120 days of EOI due date. Evidence should be in the company name and in the form of a conditional commitment funding letter from a verifiable lender or certificate of deposit in the company name identifying funds available for a VA project in the amount of 118,362 ABOA SF. (Note: You must provide contact information for verification of financing.)

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EXHIBIT A

Although this notice focuses on SDVOSB and VOSB, we encourage all small businesses and other interested parties to respond for market research purposes.

Capabilities Statement is attached.

Sources Sought Notice

EXHIBIT A

CAPABILITIES STATEMENT SUBMISSION CHECKLIST AND INFORMATION SHEET

Tri-Cities, WA Department of Veterans Affairs Outpatient Clinic

Company name: _____

Company address: _____

Experian Business Identification Number (BIN): _____

Point of contact: _____

Phone number: _____

Email address: _____

The following items are attached to this Capabilities Statement:

- ☐ Company name, address, point of contact, phone number, Experian Business Identification Number, e-mail address, and organizational chart;
- ☐ Evidence of SDVOSB or VOSB registration status through SBA's Veteran Small Business Certification (VetCert) at <https://veterans.certify.sba.gov/>;
- ☐ To be considered a JV, please attach evidence that the SDVOSB or VOSB entity of the Joint Venture is certified as a legal SDVOSB or VOSB entity, your JV Agreement including proper provisions, a Unique Entity Identifier (UEI) in the JV legal name, the CAGE code identified for the JV, and evidence of SAM registration representing that the entity type is designated as a JV.
- ☐ Evidence of ability to offer as a small business under NAICS Code 531120 and listing in the System for Award Management at www.sam.gov, including a copy of the representations and certifications made in that system;
- ☐ A summary describing at least two (2) projects of similar size and scope completed in the past seven (7) years that demonstrate your company's experience designing, constructing, and managing Federal leased facilities or health care facilities relevant to a VA project for 102,055 ABOA SF. (4-page limit); and
- ☐ Evidence of capability to obtain financing (for a project of this size in current market conditions dated within the last 120 days of EOI due date. Evidence should be in the company name and in the form of a conditional commitment funding letter from a verifiable lender or certificate of deposit in the company name identifying funds available for a VA project in the amount of 102,055 ABOA SF. (Note: You must provide contact information for verification of financing.)

If desired, the company may also submit a narrative describing its capability, not to exceed three (3) pages.

Submitted By: _____
(Print Name and Title)

(Signature)

The Sources Sought Notice document was pulled "as is" from their website and pages 8 and 9 do not exist.

PORT OF KENNEWICK

Resolution No. 2023-16

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK ADDRESSING RESPONSE TO DEPARTMENT OF
VETERANS AFFAIRS OFFICE OF CONSTRUCTION AND
FACILITIES MANAGEMENT EXPRESSION OF INTEREST FOR APPROXIMATELY
118,362 SF OF OUTPATIENT CLINIC SPACE LOCATION: TRI-CITIES, WA ~
VISTA FIELD***

WHEREAS, the Veterans Administration (“VA”) formally released an Expression of Interest for a potential opportunity [Solicitation #36C10F23R0071] for a VA Outpatient Clinic involving a 20-year lease of 118,362sf-130,198sf (maximum 2 floors) with 700 parking spaces with an estimated construction costs of \$50-\$100 million (“VA Proposal”).

WHEREAS, the “Delineated Area” bounded by I-182, SR-240, US-395 & I-82 generally includes the western portion of Kennewick, Southridge area, South Richland and Badger Mt. South area, and may include an area within the Port’s Vista Field Master Plan.

WHEREAS, numerous potential Proposers seeking to respond the Expression of Interest have contacted the Port for permission to submit a response that includes a development footprint within the Vista Field Master Plan area.

WHEREAS, the VA Proposal use is not consistent with the Vista Field Master Plan as approved by the Port and the City of Kennewick and may not be consistent with City zoning. As a result, implementing the VA Proposal would require seeking approval of several amendments.

WHEREAS, due to a degree of vagueness in the Expression of Interest site criteria, it is unclear whether the Vista Field area would qualify as a responsive site and attempts to clarify have not been successful.

WHEREAS, due to the short window for submitting Responses to the Expression of Interest, the Port lacks the time to undertake a competitive process to select a preferred proposer, if any, from the several proposers who have contacted the Port.

WHEREAS, the Expression of Interest is not a solicitation by VA for a proposal, but instead is a method to explore whether suitable sites exist. Allowing the Port’s Vista Field site to be included in one or more Responses to the Expression of Interest does not bind the Port to any course of action.

WHEREAS, when and if the VA determines the Vista Field site qualifies for the VA Proposal, the Port will need time to explore whether the Port wishes to participate, to undergo the many steps needed for approval of a use not currently consistent with the Vista Field Master Plan, and to select among many and partner with a Proposer.

Resolution No. 2023-16

Page 2

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby:

1. Approves and delegates to the Chief Executive Officer the authority to allow the Port's Vista Field area to be included within all proposals for the VA Proposal upon request by a Proposer, and

2. Provided however, the Port's actions in this exploratory step in no way binds the Port to commit the Vista Field Property to a change of use or a sale or lease of the property, all of which would require further approval(s) and amendment of the Master Plan and potentially City zoning, and

3. Provided further that the Port staff should continue the marketing efforts of the Vista Field property for uses consistent with that Plan and Port consideration and approval of such consistent uses shall have priority for development.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 22nd day of June 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

PORT OF KENNEWICK

Resolution No. 2023-16

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK ADDRESSING RESPONSE TO DEPARTMENT OF
VETERANS AFFAIRS OFFICE OF CONSTRUCTION AND
FACILITIES MANAGEMENT EXPRESSION OF INTEREST FOR APPROXIMATELY
118,362 SF OF OUTPATIENT CLINIC SPACE LOCATION: TRI-CITIES, WA ~
VISTA FIELD***

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WHEREAS, numerous potential Proposers seeking to respond the Expression of Interest have contacted the Port for permission to submit a response that includes a development footprint within the Vista Field Master Plan area.

WHEREAS, the VA Proposal use is not consistent with the Vista Field Master Plan as approved by the Port and the City of Kennewick and may not be consistent with City zoning. As a result, implementing the VA Proposal would require seeking approval of several amendments.

WHEREAS, due to a degree of vagueness in the Expression of Interest site criteria, it is unclear whether the Vista Field area would qualify as a responsive site and attempts to clarify have not been successful.

WHEREAS, due to the short window for submitting Responses to the Expression of Interest, the Port lacks the time to undertake a competitive process to select a preferred proposer, if any, from the several proposers who have contacted the Port.

WHEREAS, the Expression of Interest is not a solicitation by VA for a proposal, but instead is a method to explore whether suitable sites exist. The VA is not bound to follow up with an actual solicitation as the Expression of Interest expressly states that “A solicitation may or may not be issued,” and there is no announced timetable for further VA action.

WHEREAS, allowing inclusion of the Port’s Vista Field property in one or more response to the Expression of Interest could have a chilling effect on the Port’s current marketing of the Vista Field Master Plan property, due to uncertainty on the impact of the potential VA proposal on the remainder of the Plan area.

Resolution No. 2023-16
Page 2

WHEREAS, the Port of Kennewick and the City of Kennewick agree that the Vista Field property in the City of Kennewick as envisioned in the current Master Plan provides a valuable economic development opportunity for the Port of Kennewick and the City of Kennewick; and

WHEREAS, the Vista Field Redevelopment Master Plan was the product of significant community involvement and contains significant deviations from current City of Kennewick regulations and practices and for that reason the City previously approved the Vista Field Development Agreement; and

WHEREAS, since the Development Agreement and Master Plan was approved in 2017 the Port has expended time and resources for development consistent with the Master Plan.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby declines to deviate from its Port and City Approved Vista Field Master Plan as envisioned in the Port-City approved Vista Field Development Agreement (Exhibit 1).

ADOPTED by the Board of Commissioners of Port of Kennewick on the 22nd day of June 2023.

PORT of KENNEWICK
BOARD of COMMISSIONERS

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

2017-038233 AGR

12/29/2017 10:45:49 AM Pages: 17 Fee: \$90.00

City Of Kennewick

Benton County Auditor's Office



AFTER RECORDING RETURN TO:

City of Kennewick
210 W. 6th Avenue
Kennewick WA 99336
Attn: City Clerk

**CITY OF KENNEWICK AND PORT OF KENNEWICK
VISTA FIELD DEVELOPMENT AGREEMENT**

Abbreviated Legal Description:

Parcel 1: REAL PROPERTY LOCATED IN SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, WILLAMETTE MERIDIAN;

Parcel 2: LOT 2, SHORT PLAT NO. 1333, in VOL. 1 OF SHORT PLATS, PAGE 1333;

Parcel 3: LOT 3, SHORT PLAT 3336, in VOLUME 1 OF SHORT PLATS, PAGE 3336;

Parcel 4: LOT 2, SHORT PLAT 3336, in VOLUME 1 OF SHORT PLATS, PAGE 3336;

Parcel 5: A PORTION OF PARCEL 3 OF RECORD SURVEY NO. 1-521;

Parcel 6: TRACT B OF RECORD SURVEY No. 2339; AND

Parcel 7: A PORTION OF PARCEL 7 OF RECORD SURVEY 1-522;
RECORDS OF BENTON COUNTY WASHINGTON; ALL LOCATED WITHIN THE
CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON.

Tax Parcel Identification Numbers:

Benton County Assessor's Tax Parcels:

1-3299-100-0003-013

1-3299-101-1333-002

1-3299-101-3336-003

1-3299-101-3336-002

1-3299-100-0003-014

1-3299-300-0009-002

1-3299-300-0005-004

FULL LEGAL DESCRIPTION ATTACHED AT EXHIBIT A

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EXHIBITS TO THIS AGREEMENT

- Exhibit A: Vista Field Property Legal Description
- Exhibit B: Vista Field Property Parcel Map
- Exhibit C: Vista Field Master Plan 2017
- Exhibit D: Vista Field Master Plan - Layout
- Exhibit E: Vista Field Roadway Design Criteria Elements
- Exhibit F: Vista Field Redevelopment Project Transportation System Impact Evaluation (Part)
- Exhibit G: Fire Lane Access Intersection Triangle Example

**City of Kennewick and Port of Kennewick
VISTA FIELD DEVELOPMENT AGREEMENT**

1. DEVELOPMENT AGREEMENT. THIS VISTA FIELD DEVELOPMENT AGREEMENT ("Agreement") is entered between the City of Kennewick, Washington, a Washington municipal corporation ("City") and the Port of Kennewick, a Washington municipal corporation ("Port"). The City and Port are each a "Party," and collectively the "Parties" to this Agreement. The Parties agree as follows.

2. VISTA FIELD PROPERTY. This Agreement applies to the Vista Field Redevelopment Area (the, "Property"). The Property is described in attached Exhibit A. A parcel map of the Property is attached as Exhibit B. All Exhibits to this Agreement are attached hereto and incorporated herein by this reference.

3. RECITALS AND FINDINGS.

3.1 The Port has approved a Master Plan to guide the redevelopment of Vista Field.

3.2 The City and the community has participated in development of Vista Field Master Plan including key elements related to land use planning, development standards, infrastructure and other improvements.

3.3 The Port and the City are authorized by law, including Chapter 36.70B RCW, to enter into a development agreement setting forth the development standards and other provisions to apply to development of the Property, all as set forth in this Agreement.

3.4 The Port enters this Agreement to provide certainty for the development community in the planning and redevelopment of the Property, including the funding and consideration received for meeting the development standards incident to the Vista Field Master Plan which are in excess of those necessary to facilitate Vista Field redevelopment alone.

3.5 The City and Port determine that this Agreement is appropriate to establish planning principles, development standards, and procedures in order to eliminate uncertainty in the redevelopment of Vista Field and to guide the orderly development of the Property, including the funding of improvements identified herein.

3.6 The City and Port each conducted public hearings in advance of approval of this Agreement as required by RCW 36.70B.200. And the City Council by ordinance and Port Commission by resolution each approved the Agreement and the associated Preliminary Plat.

4. VISTA FIELD MASTER PLAN AND ZONING.

4.1 Approval of Vista Field Master Plan and Map. The Vista Field Master Plan at Exhibit C and Vista Field Redevelopment Master Plan-Layout at Exhibit D are hereby adopted and approved and shall remain in effect and applicable to the Property during the Agreement Term.

4.2 Urban Mixed Use Zoning Ordinance. Kennewick Municipal Code 18.80, 18.12.010A.1, 18.12.010A.2, 18.12.010B.1, 18.12.010B.2, 18.12.030, 18.12.040, 18.12.250, 18.12.270, 18.12.280, 18.24.030, and

18.36.067 are incorporated by this reference and shall remain applicable to the Property during the Agreement Term.

5. TRANSPORTATION.

5.1 **Vista Field Roadway Design Criteria Element.** Exhibit E identifying the street plan and profile for roadways in Vista Field is hereby adopted and approved and shall remain applicable to the Property during the Agreement Term.

5.2 **Transportation System Impacts and Mitigation.** The Vista Field Redevelopment Project Transportation System Impact Evaluation (part) is attached as Exhibit F and incorporated herein by reference. The cost allocation table contained within Exhibit F outlining percentage impacts from Vista Field Development shall be applicable during the term of this agreement. Timing of improvements discussed herein shall be determined by those intersections which are close to exceeding the Level of Service (LOS) thresholds identified in Exhibit F. The following responsibilities and actions are deemed both necessary and appropriate to assure proper function of the transportation network within the Vista Field vicinity.

5.2.1 The City of Kennewick shall perform/collect bi-annual vehicle counts and other data at the locations identified in Exhibit F to determine intersection operation-levels of service to identify timing for transportation system improvements set out in Exhibit F for identified LOS.

5.2.2 The City currently has one, citywide Traffic Impact Fee (TIF) zone. The City is in the process of updating its Citywide Transportation System Plan. The Parties anticipate that upon conclusion of the study in 2018, the City will adopt additional TIF zones to include a zone which encompasses the Vista Field Property. The Parties also anticipate that several of the intersections identified in Exhibit F, will also be identified on a future City of Kennewick TIF eligible project list for that zone. As a result all TIF collected from development of the Vista Field Property will be applied to TIF eligible projects which mitigate the traffic impact of the Vista Field redevelopment. The Port and their successors and assigns agree to pay the TIF that is determined at the point in time a complete application for a development permit is filed with the City. The Port waives the requirement under RCW 82.02.080 that unexpended TIF paid for Property development is returned to the party paying the TIF, provided the funds are held by City for transportation improvements identified in Exhibit F.

5.2.3 The City may review and consider additional intersections within the TIF zone that includes the Vista Field Property as TIF eligible, that are not already identified in Exhibit F if consistent with standard engineering practices. However, TIF collected from development of the Vista Field Property shall be first applied to improvements identified in Exhibit F and then to subsequently identified TIF eligible projects within the Vista Field TIF zone.

5.2.4 The City will be responsible for the design and implementation of all offsite intersection improvements identified in Exhibit F. The City will notify the Port upon determination that an intersection is close to exceeding the LOS standards, and upon initiation of design work provide the Port with the Engineers' Cost Estimate prior to advertising the project for bid. The Parties acknowledge that assuming a given intersection listed in Exhibit F is on the City's TIF eligible project list for that zone, any TIF collected from the Vista Field Development will be utilized to offset the Port's proportionate share of the project costs as shown in the allocation table of Exhibit F. All TIF collected outside of the Vista Field Property but within that zone may be utilized to offset the City's proportionate share of the project costs. The remaining balance will be split between the Port and the City based upon the

allocation table found in Exhibit F. The Port agrees to pay to the City a 3% construction management fee to manage each capital project. The Parties agree the 3% will be calculated against the successful bid for each project. Upon City acceptance of project at substantial completion and written notification by the City to the Port, the Port shall reimburse the City for the Port's percentage (identified in Exhibit F) of the total project costs plus the administrative fee within forty-five (45) days.

5.2.5 The Port shall plan, design and implement all onsite transportation system improvements that are the Port's sole responsibility as shown in Exhibit F ("100%" in column 14), and such other transportation improvement's as may be required for which the City does not have responsibility to participate in funding under this Agreement.

5.2.6 The Port will be responsible for the design and implementation for all four (4) major entrances to Vista Field noted in the Vista Field Master Plan, to wit: (1) the North East entrance at Kellogg Street and Quinault Avenue; (2) the South West entrance at Deschutes Avenue and Young Street; (3) the Southern entrance at Deschutes Avenue; and (4) the Northern entrance at Grandridge Boulevard.

6. UTILITIES

6.1 **Stormwater System Improvements.** The storm water drainage systems shall be designed to locate all infiltration elements outside of roadway sections. Drywells and infiltration systems shall be located behind curb and gutter lines.

6.2 **Sewer System Improvements.** The City analyzed the existing City sewer system and determined the system within the vicinity of the Vista Field development is adequate to accommodate buildout of Vista Field as identified in the Master Plan.

6.3 **Water System Improvements.** The City analyzed the existing City water system and determined the system within the vicinity of the Vista Field development requires improvements to accommodate fire flows to support build out of Vista Field as identified in the Master Plan. The Parties agree that installation of the following improvements is necessary in conjunction with the first phase of development of the property. The Parties acknowledge that although listed separately, the water system improvements noted below may be constructed as a single project.

6.3.1 The City shall plan, design and implement the improvements identified in Agreement Section 6.3.2. The Port shall reimburse the City for 20% of the total project costs for each improvement. The estimated cost for the improvements is \$850,000 to \$1,000,000 (2017 planning-level cost estimates). However, the Port is obligated to reimburse the City for 20% of the actual costs of each improvement, but such Port reimbursement to City shall not exceed \$200,000 plus a 3% construction management fee to reimburse the City for managing the water system improvement projects noted below. The Parties agree the 3% fee will be calculated against the successful bid for projects.

6.3.2 The water system improvements under this Agreement Section 6.3 are:

- Installation of a pressure reducing valve (PRV) station in the vicinity of the intersection of Deschutes Avenue and Colorado Street connecting Pressure Zones 2 and 3.

- Upgrade the existing 8 inch diameter waterline with a 12-inch diameter waterline in Young Street from Deschutes Avenue to W. Okanogan Place.
- Upgrade the existing 8 inch diameter waterline with 12 inch diameter waterline in Colorado Street from Deschutes Avenue to Grandridge Boulevard.

6.3.3 The Port agrees to design and install a 12 inch diameter waterline along the main East West road connecting the water systems in Young Street to Kellogg Street. The Port agrees to design and install a 12 inch diameter waterline along the main North South road connecting Deschutes Avenue and Grandridge Boulevard.

7. CITY OF KENNEWICK DESIGN STANDARDS AND PARK IMPACT FEES.

7.1 **Street and Access Design.** The City acknowledges the Vista Field Street Design Criteria found in Exhibit E, deviates from the City's standard specifications, the City consents to the design criteria listed in Exhibit E, all other City standard specifications for streets not in conflict with this subsection shall apply. The following additional design standards apply.

7.1.1 The Port agrees to use a WB40 as the Design Vehicle for the design of the streets and intersections within Vista Field except as provided for in Section 7.1.2, below:

7.1.2 The Port agrees to use a WB50 as the Design Vehicle to design the streets and intersections around the primary routes to accommodate the "errant truck." The primary routes are considered to be the main East West road connecting Young Street to Kellogg Street, and the North South road connecting Deschutes to Grandridge.

7.1.3 All buildings shall be maximum 150 feet from a "fire truck staging location" as measured along streets, pedestrian passages, or other publicly accessible open space to the farthest corner of the building.

7.1.4 Fire truck staging areas shall be minimum 20 feet wide in order to allow sufficient room for emergency workers to move around the fire truck with hoses, and other emergency response equipment.

7.1.5 Turning radii into side streets shall meet City design standards as measured from the driving lane of one street into the side street (not the actual radius of the street curb).

7.1.6 Intersection of 20-foot fire lane access routes in alley locations shall require dedication of additional 5-foot by 5-foot triangle rights-of-way areas to assure safe and efficient circulation of emergency vehicles. See attached Exhibit G for an example of this requirement.

7.2 **Park Impact Fees.** The Parties acknowledge the City is updating its Park Comprehensive Plan which will divide the City based upon Levels of Service into several parks zones. The Parties anticipate the City will be adopting a Park Impact fee which will apply to both residential uses as well as mixed use developments within Vista Field. The Port and their successors in interest agree to pay the Park Impact fee determined by the City at the time a complete application for a development permit is submitted to the City.

8. VESTING.

8.1 Effect of Development Agreement on Subsequent Development Regulations.

Development regulations adopted subsequent to the Agreement Effective Date, shall not be applicable to Vista Field Property, except as otherwise provided in this Agreement or as may be required by subsequently adopted state or federal statutes.

8.2 Vested Rights. All regulations in existence on Agreement Effective Date shall be applicable to the development of the Property, including: those provisions of Chapters 36.70A (Growth Management) and 58.17 RCW (Plats, Subdivisions and Dedications), as supplemented by the design standards contained in Kennewick Municipal Code (KMC), including but not limited to KMC 18.80, and the sections KMC 18.12, 18.24 and 18.36 as referenced in Section 4.2, the Final Vista Field Redevelopment Master Plan, and other provisions of this Agreement attached hereto as Exhibits C, D, E, F and G; all applicable KMC sections, the City Comprehensive Plan, as well as all other City rules, regulations, standards and specifications applicable to Vista Field and in effect on the Agreement Effective Date. Unless otherwise stated herein with respect to Traffic Impact Fees and Park Impact Fees, this Agreement vests for the Port, its successors and assigns, and the Property to the regulations in effect on the Agreement Effective Date and as set forth herein for the term of this Agreement, and for the reasonable build-out period for improvements with building permits issued prior to the termination of the Agreement.

8.3 Exception to Vesting/Serious Threat to Public Health. In the event the City is faced with an unforeseen serious and immediate threat to public health, safety and welfare directly affecting Vista Field Property, the City may, upon notice to the Port, adopt new or different regulations applicable to the property than those established in this Agreement.

9. **AGREEMENT TERM AND EFFECTIVE DATE.** This Agreement shall take effect and be in force upon the last date of the signature of each Party to this Agreement, following the effective date of the City Ordinance approving this Agreement (the "Effective Date"). The Agreement term shall commence on the Effective Date and extend for ten (10) years (the "Agreement Term"). The Agreement Term may be extended by five-year extensions upon application by the Port and approval by City Council per KMC 18.48, until the Agreement is deemed no longer necessary by both parties.

10. **MINOR PLAN MODIFICATIONS.** The Parties acknowledge that refinement and further development of the Vista Field Master Plan and associated improvements may require modification during the Agreement Term. The Parties shall review and consider requests for minor modifications. Minor modifications require the consent of the City and the Port, which consent shall not be unreasonably withheld. For purposes of this Agreement Section 10, a "minor modification" is a modification in the Master Plan or applicable development regulations that do not require SEPA review.

11. GENERAL PROVISIONS.

11.1 Default. In the event either Party fails to perform the terms and provisions of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice from the other Party (unless the Parties have mutually agreed in writing to extend this period) shall constitute a default under this Agreement. Any notice of default shall specify the nature of the alleged default and, where appropriate, the manner in which the alleged default may be satisfactorily cured. If the nature of the alleged default is such that it cannot be reasonably cured within the sixty (60) day period, then the

commencement of actions to cure the alleged default within the sixty (60) day period and diligent prosecution of such actions necessary to complete the cure of the alleged default, shall be deemed to be a cure within the sixty (60) day period. Upon a default of this Agreement that is not cured as provided above, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement. If the default is cured, then no default exists, and the noticing Party shall take no further action.

11.2 Extension of Time for Performance. Notwithstanding anything to the contrary contained in this Agreement, neither Party shall be deemed to be in default where delays and performance or failures to perform are due to war, terrorism, insurrection, strikes or other labor disturbances, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, extended appeals by third parties or similar basis for excused performance which are not within the reasonable control of the party to be excused. Upon the request of either Party, an extension of time for such cause shall be granted in writing for the period of the forced delay, or longer, as may be mutually agreed upon.

11.3 Governing Law, Remedies and Venue. This Agreement shall be governed by the laws of the State of Washington. Either Party may, in addition to any other rights or remedies, institute an equitable action to cure correct, or remedy any default; enforce any covenant or agreement set forth herein; enjoin any threatened or attempted violation of the Agreement; enforce by specific performance the obligations and rights of the parties to this Agreement, or obtain any remedies consistent with the foregoing and the purpose and intent of this Agreement; provided, however, in no event shall either Party be entitled to recover from the other Party, either directly or indirectly "damages" in any legal or equitable action. Notwithstanding the foregoing, in the event of a dispute arising out of or relating to this Agreement, whether or not suit or other proceedings are commenced and whether in mediation, arbitration, at trial, on appeal or in administrative proceedings, the substantially prevailing Party shall be entitled to its costs and expenses incurred, including reasonable attorney's fees. Venue for any action shall be in the Superior Court for Benton County, Washington.

11.4 Dispute Resolution. The Parties shall attempt to resolve disputes through informal good faith negotiations. Either Party may declare an impasse in an informal negotiation, but only after thirty (30) days following commencement of negotiations.

11.4.1 Mediation. Either Party may request mediation before neutral mediator acceptable to both Parties. If a mediator cannot be selected by the Parties, any Party may apply to the Presiding Judge of the Benton County Superior Court for appointment of a mediator. The costs of the mediator shall be borne equally by each Party. Any mediation process shall not delay or preclude commencement of an action in Superior Court for emergency or temporary relief.

11.4.2 Arbitration. Disputes not resolved through negotiation or mediation may be resolved by arbitration upon mutual agreement of the Parties. Arbitration shall be before a single arbitrator. The decision of the arbitrator will bind all Parties. If an arbitrator cannot be selected by the Parties, any Party may apply to the Presiding Judge of the Benton County Superior Court for appointment of the arbitrator. The Parties shall share equally the fees and expenses of the arbitrator. The arbitration will be conducted under Chapter 7.06 RCW, and the Superior Court Rules for Mandatory Arbitration (MAR). Any matter not submitted to arbitration may be brought in Superior Court.

11.4.3 This Agreement Section 11.4 shall survive the Agreement Term and shall also apply to resolve any disputes between the Parties arising out of or relating to this Agreement or the transactions contemplated thereby.

11.5 **Construction.** This Agreement has been freely and fairly negotiated by the Parties hereto and has been reviewed and discussed by legal counsel for each of the Parties, each of whom has had the full opportunity to modify the draftsmanship hereof and, therefore, the terms of this Agreement shall be construed and interpreted without any presumption or other rule requiring constructional interpretation against the Party causing the drafting of the Agreement.

11.6 **Complete Agreement and Conflicts.** This Agreement sets forth the entire agreement of the Parties. This Agreement shall be construed as a whole. No amendment, change or modification of any provision of this Agreement shall be valid unless set forth in writing and signed by both Parties. To the extent of any conflict with any City development regulations which may otherwise govern the Property, the terms and conditions of the development regulations in effect on the Effective Date and this Development Agreement shall prevail.

11.7 **Waiver and Severability.** The failure of either Party to insist upon or enforce strict performance by the other Party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement shall not be construed as a waiver or relinquishment of any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

11.8 **Binding Effect.** This Agreement shall be recorded against the Property and shall run with the land. Subject only to the express conditions or limitations of this Agreement, the Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Upon assignment of this Agreement or the conveyance of any parcel of the Property to which this Agreement is applicable, the assignee/grantee shall be deemed to assume all rights, obligations and liabilities set forth in this Agreement as they relate to such parcel.

11.9 **Cooperation.** Each Party shall take such action (including, but not limited to the execution, acknowledgement and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, or any subsequent action taken consistent with this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment, including all appeals. Each party shall select its own legal counsel and retain such counsel at its own expense.

11.10 **Transfer or Assignment.**

11.10.1 The Port may assign or transfer all or any portion of its interests, rights, obligations or responsibilities under this Agreement, including all development approvals and all subsequent actions, to third parties acquiring an interest in the Property or any portion thereof, including, without limitation, purchasers, or long-term ground lessees of individual lots, tracts, parcels or any lots, homes or facilities comprising a portion of the Property.

11.10.2 Any such transfer shall not release Port from its obligations and responsibilities under this Agreement unless the City has consented to such transfer in writing. In the event of a request for consent to a transfer, the City's consent shall not be unreasonably withheld, conditioned or delayed. Provided, in the event City consent is obtained for a transfer, any transfer agreement or document may (i) release Port from obligations under this Agreement, including development approvals and any subsequent actions, that pertain to the portion of the Property being transferred, provided the transferee expressly assumes Port's obligations and responsibilities; (ii) transfer to the transferee all vested rights to improve that portion of the Property being transferred; and, (iii) may address any other matter deemed by Port or the City to be necessary or appropriate in connection with the transfer or assignment. Written notice of any proposed transfer or assignment for which consent from the City is sought shall be mailed to the City in the manner set forth in this Agreement at least thirty (30) days in advance of the proposed date of transfer. Failure of the City to respond within the thirty (30)-day period after receipt of a request by Port for such consent shall be deemed to be the City's approval of the transfer in question. All benefits and burdens to the Property are intended to and shall run with the land and shall be enforceable upon and for the benefit of subsequent owners and successors in interest to all or any portion of the Property.

11.11 **Effect of Development Agreement on City Rates and Fees.** Nothing in this Agreement shall prevent the City from modifying standard City-wide rates and fees applied equally throughout the City, and also applicable to Vista Field, during the term of this Agreement, unless specifically set forth in this Agreement.

11.12 **No Public Official Liability.** No provision of this Agreement and any authority granted by this Agreement is intended to create or result in any personal liability for any public official or employee or agent of the City or Port, nor shall any provision or provisions of this Agreement be construed to create any such liability.

11.13 **Notices.** Notices under this Agreement shall be in writing and, unless otherwise required by law, may be delivered (1) personally; (2) by U.S. mail, certified or registered; or (3) by a nationally recognized overnight courier service. Mailed notices shall be deemed effective on the third day after deposited as registered or certified mail, postage prepaid, directed to the other party at the address shown below.

Port: Chief Executive Officer
350 Clover Island Drive, Suite 200
Kennewick WA 99336

City: City Manager
210 W. 6th Avenue
Kennewick WA 99336

Couriered notices shall be deemed delivered when the courier's records indicate that delivery has occurred. Either party may change its address for notices by written notice to the other.

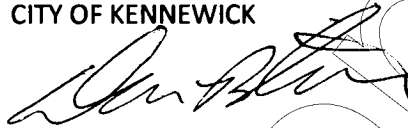
11.14 **Warranty of Authority.**

11.14.1 The Port hereby warrants to the City that the undersigned is authorized to execute this Agreement and to bind the port and the Property.

11.14.2 The City has authority under Chapter 36.70B RCW to enter this as a proper exercise of municipal police power and contract authority. This Agreement is entered into pursuant to such authority. The city warrants that the undersigned Mayor has authority and is authorized to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on the below dates.

CITY OF KENNEWICK


Steve Young, Mayor Pro Tem
Don Britain

DATE: 12-5-17

Attest:




City Clerk

Approved as to form:


City Attorney

PORT OF KENNEWICK


Skip Novakovich, Port Commission President

DATE: 12-5-17

EXHIBIT A – VISTA FIELD PROPERTY LEGAL DESCRIPTION**PARCEL 1**

REAL PROPERTY LOCATED IN SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, WILLAMETTE MERIDIAN, CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 32; THENCE NORTH $00^{\circ}05'15''$ EAST, 891.82 FEET ALONG THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH $89^{\circ}54'25''$ WEST, 162.33 FEET TO THE SOUTHWEST CORNER OF LOT 2 OF SHORT PLAT NO. 1333 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 1333, RECORDS OF BENTON COUNTY, SAID POINT IS ALSO AN ANGLE POINT IN THE NORTHERLY LINE OF BLOCK 1 OF THE PLAT OF VISTA INDUSTRIAL PARK AS RECORDED IN VOLUME 14 OF PLATS, PAGE 56, RECORDS OF BENTON COUNTY AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH $45^{\circ}11'01''$ WEST, 2042.89 FEET ALONG THE NORTHWESTERLY LINE OF SAID BLOCK 1 TO THE NORTHWEST CORNER OF THAT PARCEL SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 2320, RECORDS OF BENTON COUNTY; THENCE SOUTH $44^{\circ}48'56''$ EAST, 200.00 FEET ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL TO THE NORTHWESTERLY LINE OF OKANOGAN AVENUE; THENCE SOUTH $45^{\circ}11'04''$ WEST, 30.00 FEET ALONG SAID NORTHWESTERLY LINE TO THE SOUTHEAST CORNER OF PARCEL "A" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS AT PAGE 1611, RECORDS OF BENTON COUNTY; THENCE NORTH $44^{\circ}48'56''$ WEST, 255.75 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL "A"; THENCE SOUTH $45^{\circ}11'04''$ WEST, 670.00 FEET ALONG THE NORTHWESTERLY LINES OF PARCEL "A" AND PARCEL "B" OF SAID SURVEY TO THE NORTHWEST CORNER OF SAID PARCEL "B"; THENCE SOUTH $44^{\circ}48'56''$ EAST, 55.75 FEET ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL "B" TO THE NORTHWESTERLY LINE OF WEST DESCHUTES AVENUE; THENCE SOUTH $45^{\circ}11'04''$ WEST, 494.70 FEET ALONG SAID NORTHWESTERLY LINE TO THE SOUTHEAST CORNER OF THAT PARCEL OF LAND SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 2094, RECORDS OF BENTON COUNTY; THENCE NORTH $44^{\circ}48'56''$ WEST, 139.19 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH $45^{\circ}11'04''$ WEST, 323.30 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE SOUTH $44^{\circ}48'56''$ EAST, 139.19 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, SAID POINT BEING ON THE NORTHWESTERLY LINE OF WEST DESCHUTES AVENUE; THENCE SOUTH $45^{\circ}11'04''$ WEST, 739.11 FEET ALONG SAID NORTHWESTERLY LINE TO A POINT IN THE EASTERLY LINE OF PARCEL 7 AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 522, RECORDS OF BENTON COUNTY; THENCE NORTH $44^{\circ}48'56''$ WEST, 700.00 FEET ALONG SAID EASTERLY LINE TO AN ANGLE POINT IN SAID LINE, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 4 OF THE PLAT OF WESTHAVEN BLOCK TWO ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 75, RECORDS OF BENTON COUNTY; THENCE NORTH $45^{\circ}11'04''$ EAST, 700.00 FEET ALONG THE SOUTHEASTERLY LINE OF SAID PLAT TO THE SOUTHEAST CORNER OF LOT 12 OF SAID PLAT; THENCE NORTH $44^{\circ}48'56''$ WEST, 508.22 FEET ALONG THE EASTERLY LINE OF SAID PLAT TO THE NORTHEAST CORNER OF LOT 10 OF SAID PLAT, SAID POINT BEING ON THE

SOUTHEASTERLY LINE OF GRANDRIDGE BLVD.; THENCE NORTH 45°11'04" EAST, 60.00 FEET ALONG SAID SOUTHEASTERLY LINE TO THE NORTHWEST CORNER OF TRACT "A" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 2339, RECORDS OF BENTON COUNTY; THENCE SOUTH 44°48'56" EAST, 407.01 FEET ALONG THE SOUTHWESTERLY LINE OF SAID TRACT "A" AND TRACT "B" OF SAID SURVEY TO THE MOST SOUTHERLY CORNER OF SAID TRACT "B"; THENCE NORTH 45°11'04" EAST, 797.11 FEET ALONG THE SOUTHEASTERLY LINE OF SAID TRACT "B" TO THE MOST EASTERLY CORNER THEREOF; THENCE SOUTH 44°48'56" EAST, 101.21 FEET; THENCE NORTH 45°11'04" EAST, 700.00 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 3 AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 521, RECORDS OF BENTON COUNTY; THENCE CONTINUING NORTH 45°11'04" EAST, 2042.89 FEET ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 3 AND THE SOUTHEASTERLY LINES OF SHORT PLAT NO. 1333 AND SHORT PLAT NO. 1644 AS RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGES, 1333 AND 1644, RECORDS OF BENTON COUNTY TO THE MOST WESTERLY CORNER OF LOT 2 OF SAID SHORT PLAT NO. 1333; THENCE SOUTH 44°48'56" EAST, 700.00 FEET ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2 TO THE TRUE POINT OF BEGINNING.

CONTAINS 69.90 ACRES.

PARCEL 2

LOT 2, SHORT PLAT NO. 1333, RECORDED IN THE OFFICE OF THE COUNTY AUDITOR IN VOL. 1 OF SHORT PLATS, PAGE 1333. CONTAINS 5.58 ACRES.

PARCEL 3

LOT 3, SHORT PLAT 3336, ACCORDING TO THE SHORT PLAT THEREOF RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3336, RECORDS OF BENTON COUNTY, WASHINGTON CONTAINS 2.85 ACRES

PARCEL 4

LOT 2, SHORT PLAT 3336, ACCORDING TO THE SHORT PLAT THEREOF RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3336, RECORDS OF BENTON COUNTY, WASHINGTON CONTAINS 3.14 ACRES

PARCEL 5

THAT PORTION OF PARCEL 3 OF RECORD SURVEY NO. 1-521 DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3; THENCE NORTH 45°11'04" EAST ALONG THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL FOR 193.31 FEET; THENCE NORTH 77°09'37" WEST 361.22 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY OF SAID PARCEL 3; THENCE SOUTH 44°48'56" EAST ALONG SAID SOUTHWESTERLY BOUNDARY 305.40 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 3; THENCE SOUTH 45°11'04" WEST, 700.00 FEET; THENCE NORTH 44°48'56" WEST, 101.21 FEET TO THE MOST EASTERLY CORNER OF TRACT "B" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 2339, RECORDS OF BENTON COUNTY; THENCE NORTH 44°48'56" WEST, 406.52 FEET ALONG THE NORTHEASTERLY LINE OF SAID TRACT "B" AND TRACT "A" OF SAID SURVEY TO A POINT ON THE SOUTHEASTERLY LINE OF GRANDRIDGE BLVD., SAID POINT ALSO BEING ON THE ARC OF A 1031.00 FEET RADIUS CURVE (RADIUS POINT BEARS NORTH 44°49'51" WEST); THENCE NORTHERLY, 513.53 FEET ALONG THE ARC OF SAID CURVE AND ALONG THE SAID SOUTHEASTERLY LINE OF GRANDRIDGE BLVD. THROUGH A CENTRAL ANGLE OF 28°32'17" TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 3 COLONNADE BUSINESS PARK AS SHOWN ON BINDING SITE PLAN NO. 3386 AS RECORDED IN VOLUME 1 OF SURVEYS, PAGE 3386, RECORDS OF BENTON COUNTY; THENCE SOUTH 77°09'13" EAST (SOUTH 77°09'37" EAST, RECORD), 387.50 FEET ALONG THE SOUTHERLY LINE OF SAID RECORD OF SURVEY AND THE SOUTHWESTERLY LINE OF A PARCEL AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 3785, RECORDS OF BENTON COUNTY TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 3 OF SAID RECORD SURVEY NO. 1-521; THENCE SOUTH 44°48'56" EAST, 305.72 FEET (305.40 FEET RECORD) TO THE POINT OF BEGINNING. CONTAINS 9.12 ACRES.

PARCEL 6

TRACT B OF RECORD SURVEY #2339 DESCRIBED AS FOLLOWS: THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, W.M., CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE MOST WESTERLY CORNER OF A 10 ACRE PARCEL AS DEPICTED ON A SURVEY RECORDED UNDER AUDITOR'S FILE NUMBER 838693 AND FILED IN VOLUME ONE OF SURVEYS, AT PAGE 662, RECORDS OF SAID COUNTY. THENCE NORTH 45°11'04" EAST ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF A CITY STREET KNOWN AS GRANDRIDGE BLVD. 60.00 FEET. THENCE SOUTH 44°48'56" EAST 307.01 FEET TO THE TRUE POINT OF BEGINNING. THENCE NORTH 45°11'04" EAST 797.11 FEET. THENCE SOUTH 44°48'56" EAST ALONG THE NORTHEASTERLY LINE OF SAID 10 ACRE PARCEL 100.00 FEET. THENCE SOUTH 45°11'04" WEST 797.11 FEET. THENCE NORTH 44°48'56" WEST 100.00 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH AND SUBJECT TO EASEMENTS, RESERVATIONS, COVENANTS, AND RESTRICTIONS OF RECORD AND IN VIEW.

CONTAINS 1.83 ACRES.

PARCEL 7

THAT PORTION OF PARCEL 7 OF RECORD SURVEY 1-522, AS ON FILE WITH THE BENTON COUNTY AUDITOR, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, W.M., BENTON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MONUMENTED INTERSECTION OF THE CITY STREETS KNOWN AS NORTH YOUNG STREET AND WEST

DESCHUTES AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF SAID PARCEL 7; THENCE SOUTH $89^{\circ}16'47''$ EAST 30.00 FEET; THENCE NORTH $0^{\circ}28'48''$ EAST 40.00 FEET TO THE INTERSECTION OF THE EASTERLY AND NORTHERLY RIGHTS-OF-WAY OF SAID STREETS RESPECTIVELY, AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH $0^{\circ}28'48''$ EAST ALONG SAID EASTERLY RIGHT OF WAY 347.50 FEET; THENCE NORTH $45^{\circ}11'04''$ EAST 690.98 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID PARCEL 7; THENCE SOUTH $44^{\circ}48'56''$ EAST ALONG SAID EASTERLY BOUNDARY 600.00 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY OF DESCHUTES AVENUE, SAID POINT IS NORTH $44^{\circ}48'56''$ WEST 40.00 FEET FROM THE SOUTHEAST CORNER OF SAID PARCEL 7; THENCE SOUTH $45^{\circ}11'04''$ WEST ALONG SAID NORTHERLY RIGHT-OF-WAY 250.00 FEET; THENCE NORTH $44^{\circ}48'56''$ WEST 100.00 FEET; THENCE SOUTH $45^{\circ}11'04''$ WEST 393.74 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY, SAID POINT BEING ON A CURVE TO THE RIGHT, THE RADIUS POINT OF WHICH BEARS NORTH $15^{\circ}29'00''$ WEST 780.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND SAID NORTHERLY RIGHT-OF-WAY 220.59 FEET; THENCE NORTH $89^{\circ}16'47''$ WEST ALONG SAID NORTHERLY RIGHT OF WAY 170.82 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINS 9.87 ACRES.

Exhibit B through G are on file at the Kennewick City Clerk's office.

"Unofficial Copy"