

**INTERLOCAL COOPERATIVE AGREEMENT  
BETWEEN  
THE CITY OF RICHLAND AND THE CITY OF KENNEWICK  
FOR  
THE JOINT PLANNING AND DEVELOPMENT OF  
WEST COLUMBIA PARK**

THIS AGREEMENT is made and entered into by and between the CITY OF KENNEWICK, WASHINGTON, a municipal corporation (hereinafter "KENNEWICK") and the CITY OF RICHLAND, WASHINGTON, a municipal corporation (hereinafter "RICHLAND").

WHEREAS, the undersigned cities hereto are public agencies as defined by Chapter 39.34, Revised Code of Washington, and are authorized to enter into joint or cooperative actions and to cooperate with each other on the basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the Cities, as parties to this Agreement, share the common desire and intent to provide for public improvement of adjacent properties in West Columbia Park,

Now therefore, for and in consideration of the conditions, covenants and agreements contained herein, the parties agree as follows:

1. **PURPOSE.** The cities desire to utilize this Agreement in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW) and RICHLAND is desirous of entering into an agreement with KENNEWICK for the joint administration, planning, development and public improvement of West Columbia Park, including the establishment of a joint task force to provide guidance in line with the stated objectives of each council:
  - Richland has been planning to utilize the property for cultural, commercial recreation and supporting uses consistent with the U.S. Army Corps of Engineers (USACOE) lease.
  - Kennewick's objectives are as outlined in the Columbia Park Master Development Plan (2000); the Kennewick Comprehensive Parks and Recreation Plan (2006-2012); and the USACOE lease.

2. **LEGAL DESCRIPTION.** This Agreement for the joint planning, development and public improvement is for the following described area, commonly known as West Columbia Park and legally described as follows:

A parcel of land lying in Sections 28 and 29 Township 9 North, Range 29 East, W.M. Benton County, Washington, more particularly described as follows:

Beginning at a point on the Northerly Right of Way line of State Route 240, said point being on the arc of a 6,566.26 foot radius curve, concave to the Southwest the radius point bears S 07°53'44"W, said point also being on the common City Limits line of Kennewick and Richland;

Thence Easterly along said Northerly Right of Way line of State Route 240, along said 6,566.26 foot radius curve to the right, through a central angle of 4°50'30", for an arc distance of 554.86 feet;

Thence continuing along said North State Route 240 Right of Way, S77°15'46"E, for a distance of 3,770.44 feet, more or less, to the intersection of the Eastern most line of a 25 foot gas easement;

Thence leaving said State Route 240 Northerly Right of Way, N16°00'00"E, for a distance of 98.82 feet, more or less, to an angle point on the Eastern most line of said 25 foot gas easement;

Thence continuing along said Eastern most line, N16°33'00"E, for a distance of 711.58 feet, more or less, to the intersection with the South shore ordinary high water line, of the Columbia River;

Thence, in a Northwesterly direction along the Columbia River meandering ordinary high water line, for a distance of 6,343.35 feet;

Thence, leaving said Columbia River meandering ordinary high water line, S14°17'00"E, for a distance of 197.75 feet, more or less, to the former Southerly Right of Way line of former Primary State Highway Number 3;

Thence in a Northwesterly direction along said former Southerly Right of Way line of former Primary State Highway Number 3, for a distance of 766.62 feet, more or less, to the intersection of said former Southerly Right of Way line of former Primary State Highway Number 3 and a line between Army Corps of Engineers monuments Q-1286-1A and Q-1286-2;

Thence along said line between Army Corps of Engineers monuments Q-1286-1A and Q-1286-2, S00°50'19"E, for a distance of 98.70 feet; more or less, to said monument Q-1286-2;

Thence S01°00'39"E, for a distance of 400.14 feet, to Army Corps of Engineers monument Q-1286-1;  
Thence N89°01'32"E, for a distance of 274.42 feet, to Army Corps of Engineers monument Q-1286, also known as Q-1266;  
Thence S00°58'37"E, for a distance of 739.78 feet, to Army Corps of Engineers monument Q-1266-1, also known as C-W16th;  
Thence N89°11'53"E, for a distance of 665.69 feet, to Army Corps of Engineers monument Q-1266, also known as Q-1186;  
Thence S00°57'21"E, for a distance of 329.61 feet, to Army Corps of Engineers monument Q-1186-3;  
Thence N89°13'15"E, for a distance of 332.63 feet, to Army Corps of Engineers monument Q-1186-2;  
Thence S00°58'18"E, for a distance of 217.25 feet, more or less, to the intersection of the Northerly Right of Way line of State Route 240 and a line between Army Corps of Engineers monuments Q-1186-2 and Q-1186-1;  
Thence Easterly along said Northerly Right of Way line of State Route 240, being on an arc of a 6,566.26 foot curve, concave to the Southwest, the radius point of which bears S02°06'15"W;  
Thence along said 6,566.26 foot radius curve to the right, through a central angle of 5°47'29", for an arc distance of 663.70 feet, more or less, to the intersection of said Northerly Right of Way line of State Route 240 and the common City Limits line of Kennewick and Richland to the Point of Beginning.

Said parcel contains 145.18 acres, more or less.

3. **TERM OF AGREEMENT.** This Agreement shall expire, unless mutually extended in writing by the parties, no longer than two years from the date of the execution of this Interlocal Agreement. *Repayment provisions for contracted services including planning consultants shall survive expiration of Agreement.*
4. **RENEWAL.** The parties, by written agreement, may renew this Agreement for two (2) successive two (2) year terms.
5. **JOINT TASK FORCE.**  
The Joint Task Force shall be established by:
  - a. Appointment by each of the Councils of three (3) members.
  - b. Designation of staff contacts from each of the two cities.
  - c. Creation of a budget, to be approved by each council to hire consultants for the completion of specialized tasks or other matters, budget amendment requests will be forwarded to each council for approval. Should only one council approve the request, the request shall be deemed to be denied. *Each city has budgeted \$100,000 in*

*their respective 2009 budgets and said funds shall be made available to pay for the agreed upon services undertaken pursuant to this Interlocal Agreement.*

Duties of the Joint Task Force shall include but not be limited to:

- a. Establishment of a timetable and methodology to provide information feedback to the respective City Councils.
- b. Development and coordination of a public participation program to provide adequate notice to citizens of both communities of the planning process and provide opportunity to help design the recreation development.
- c. Providing input and direction to City staff on the development of a contractual relationship with potential developers of the site.
- d. A commitment to provide a common voice in recommending the approval of a (the) common vision to each city's Parks and Recreation Commission or Board so that the City Council of each city will have a consistent position/recommendation to consider.
- e. Exploring and developing a process to transfer to the most appropriate entity, whether public or private, the maintenance and operations of the developed property.
- f. Reviewing and recommending action proposed by prospective developers regarding the proposals and request(s) for public participation in the development project.
- g. Providing staff guidance and direction regarding the application for financial assistance needed to fund the public's portion of the development project.

6. **AVAILABILITY OF FACILITIES.** Both cities currently are lessees to a long-term lease agreement with the U.S. Army Corps of Engineers for park areas along the Columbia River. During the development of plans and potential improvements of public facilities in the West Columbia Park area, as shown on the attached Exhibit Map, Exhibit A, the Corps of Engineers will be engaged for approval of both the direction of the project and the authorization for physical improvement/construction on the land.
7. **COMPENSATION FROM CITY.** The Parties to this Agreement will each be responsible for tracking the time and expenses involved by each entity in preparing the plan and providing for public participation. The parties anticipate the need to contract with consultants or contractors, and have agreed on the proportionate amount each party shall be obligated to contribute as described in section 8. An overarching element of this Agreement is that any eventual development of this area will result in a balanced investment by the two cities in the project, with a proportionate sharing both in terms of expenses and revenues.

8. **FINANCING.** The parties shall each be responsible for the individual expenditures made by their separate entities related to the administration or coordination of this Agreement. However, costs for contract services related to planning, design, or construction of public infrastructure, will be shared as follows:
- **Master Planning:** The parties agree to retain a consulting firm to master plan the subject site and will share the expenses equally. Each city is expected to support the consultant's efforts with in-kind-services and to the maximum extent possible will divide these responsibilities equally.
  - **Cultural Resources Study:** It is expected that the parties will also retain a qualified entity to prepare a cultural resources study in support of the master planning effort. The costs associated with this study will be apportioned between the Cities based on the land area in each jurisdiction, approximately 1/3 from Richland and 2/3 from Kennewick.
  - **Design and Construction of Infrastructure:** Prior to the award of any contract for the design or construction of infrastructure serving the subject property, the parties shall agree to the area benefitting from the proposed improvement. The cost for the design and construction of these improvements will be apportioned to each city based on the percent of benefitting area in each jurisdiction.
  - **Design and Construction of Facilities and Other Improvements:** Prior to the award of any contracts for the design or construction of facilities or other improvements on the subject site the parties shall agree on a fair allocation of costs.

The City of Richland as administrator of this Agreement, shall receive the billing from the service provider and timely transmit to the respective project managers the agreed upon share of the bill.

9. **SHARING OF REVENUES.** The parties agree that to the maximum extent permitted by law any new revenues generated by the use of the subject site, will be pooled and used to reimburse expenses incurred by the parties as follows:
- First to repay the individual Cities for costs incurred for contract services used to master plan or design and construct public infrastructure, facilities or other site improvements.
  - Second to repay the individual Cities for direct costs associated with the ongoing maintenance of the site's grounds, facilities or infrastructure.

- Third, any revenues in excess of that need for the first two will be shared equally between the Cities.

Each city will submit to the Joint Task Force and to their respective City Council an annual accounting of expenses and revenues derived from the subject site which will be used as the basis for distribution of revenues as described above.

10. **TRANSFER OF CUSTODY.** The real property which forms the basis of this planning and public development project is presently owned by the United States. The land is under long term lease from the Corps of Engineers to the cities. There is no contemplated transfer of fee title to any private entity. Any future transfer shall only be on the approval of the owner(s) of said real property.
11. **PERSONAL PROPERTY.** Unless otherwise specifically agreed by the parties, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of the party initially owning it.
12. **RECORD KEEPING.** The administering jurisdiction shall maintain records of all financial transactions, meeting minutes from the Joint Task Force, documentation resulting from the public participation process, and all other documentation related to this development. Said records will be maintained for no less a period of time than as set forth in record retention schedules established by the State of Washington for municipal entities.
13. **INDEMNIFICATION.**
  - a. Richland shall indemnify and hold harmless Kennewick and its officers, agents and employees from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever resulting from, arising out of or incident to, any act or omission of Richland, its officers, agents or employees, in the performance of this Agreement. With respect to the performance of this Agreement and as to claims against Richland, its officers, agents and employees, Richland expressly waives its immunities under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of Richland. This waiver is mutually negotiated by the parties.

In the event that any suit based upon such a claim, action, loss, cost, expense, or damage is brought against Richland, Richland shall

defend Kennewick at its sole cost and expense; provided, that Kennewick retains the right to participate in any such suit if any principle of governmental or public law is involved. If final judgment is entered against Richland or its officers, agent, or employees, Richland shall satisfy the same in full.

b. Kennewick shall indemnify and hold harmless Richland and its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever resulting from, arising out of or incident to, any act or omission of Kennewick, its officers, agents or employees in the performance of this Agreement.

In the event any suit based on such a claim, action, loss, cost, expense or damage is brought against Kennewick, Kennewick shall defend Richland at its sole cost and expense; provided that Richland retains the right to participate in such suit if any principle of governmental or public law is involved. If final judgment be rendered against Kennewick or its officers, agents, or employees, Kennewick shall satisfy the same in full.

14. **NON-DISCRIMINATION POLICY.** It is the policy of the cities that no person shall be subjected to discrimination in the cities or by their subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental or sensory handicap.
15. **AUTHORITY.** This Agreement is executed in accordance with the authority of RCW 67.20.010 et seq. and Chapter 39.34 RCW, the Interlocal Cooperation Act.
16. **ADMINISTRATION.** This Agreement shall be administered by the City of Richland or its Contracting Officer for the initial two (2) years. In the event the parties renew the Agreement (paragraph 4) the parties agree to re-designate a party to serve as the Administering jurisdiction for the successive two (2) year term(s).
17. **OTHER AGREEMENTS.** This Agreement is subject to and shall not supersede, modify, limit or otherwise alter any pre-existing Agreements made by either city with third parties. This limitation shall only apply to Agreements fully executed prior to the date of execution of this Agreement by all parties.
18. **REMEDIES.** No waiver of any right under this Agreement shall be effective unless made in writing by the authorized representative of the party to be bound thereby. Failure to insist upon full performance

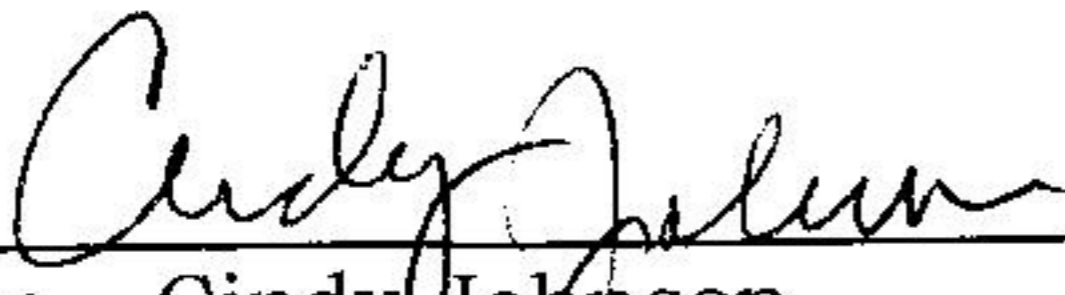
on any occasion shall not constitute consent to or waiver of any continuation of nonperformance or any later nonperformance, nor does payment of a billing or continued performance after notice of a deficiency in performance constitute an acquiescence thereto.

19. **TERMINATION.** This Agreement may be terminated prior to the end of its term with the approval of either party hereto and in consideration of any contractual obligations which have been developed and incurred based upon this Interlocal Agreement. However, any contractual obligations to third parties shall survive expiration or termination of this Agreement and the responsible city or both if the obligation is shared, shall fulfill its obligations to pay unless otherwise legally excused from payment.
20. **PRIOR INTERLOCAL AGREEMENT.** This 2009 Interlocal replaces and supersedes the 2006 Interlocal Agreement on this subject, provided that contracts entered into by the two cities under that 2006 Agreement and involving outside consultants or contractors shall survive the replacement by this Agreement.
21. **AMENDMENT.** This Agreement may be amended, in writing, from time to time by mutual agreement of the parties with approval of both City Councils prior to the amendment becoming effective.

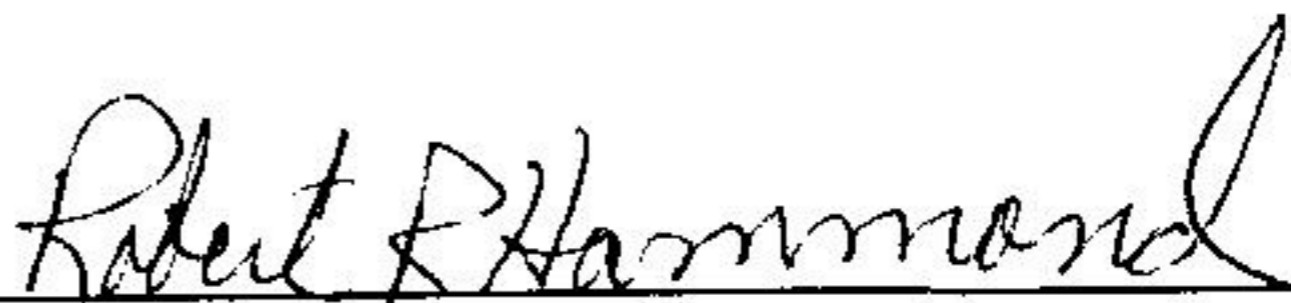
*Authorized by Resolution # 18-09 passed by the Richland City Council at its meeting of March 17, 2009.*

DATED this 17th day of March 2009.

CITY OF RICHLAND, WASHINGTON


  
By: Cindy Johnson  
Title: City Manager

CITY OF KENNEWICK, WASHINGTON

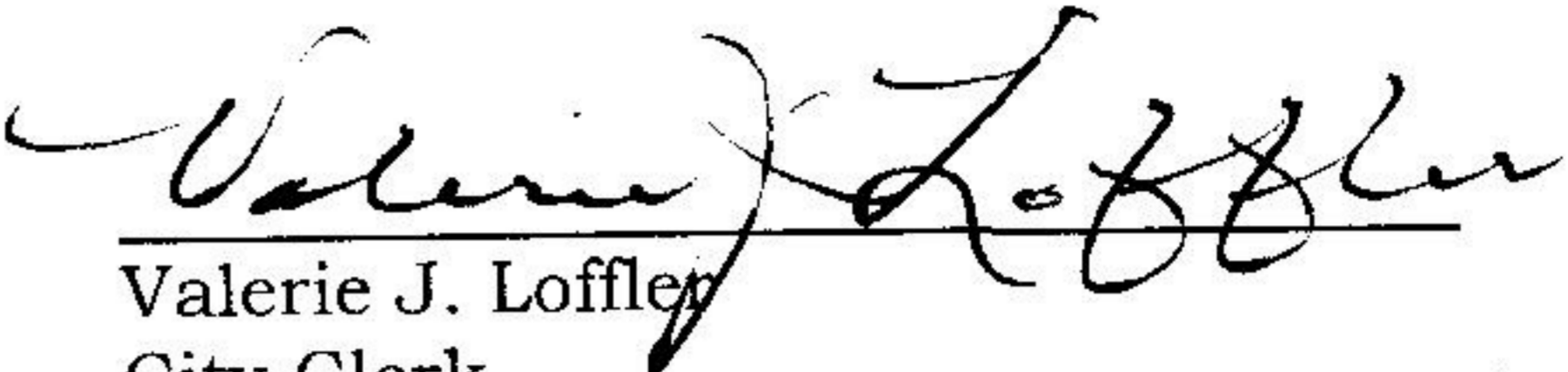
  
By: Robert R. Hammond  
Title: City Manager




ATTEST:

  
\_\_\_\_\_  
Debra Barham  
Deputy City Clerk


ATTEST:

  
\_\_\_\_\_  
Valerie J. Loffler  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Thomas O. Lampson  
Richland City Attorney

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Lisa Beaton  
Kennewick City Attorney

RESOLUTION NO. 18-09


A RESOLUTION of the City of Richland authorizing the City Manager to execute an Interlocal Agreement between the City of Richland and the City of Kennewick for the Joint Planning and Development of West Columbia Park.

WHEREAS, the City Council of the City of Richland desires to enter into an Interlocal Cooperative Agreement with the City of Kennewick for the purpose of Joint Planning and Development of West Columbia Park.

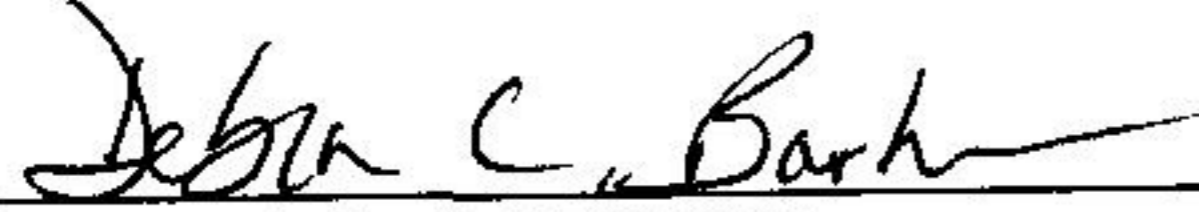
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland, that the City Manager or designee is hereby authorized to execute such an agreement on behalf of the City of Richland and in compliance with RCW 39.34.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland at a regular meeting on the 17th day of March, 2009.

  
\_\_\_\_\_  
JOHN FOX  
Mayor

ATTEST:

  
\_\_\_\_\_  
DEBRA C. BARHAM  
Chief Deputy City Clerk, CMC

APPROVED AS TO FORM:

  
\_\_\_\_\_  
THOMAS O. LAMPSON  
City Attorney