

**INTERLOCAL COOPERATIVE AGREEMENT  
For Department of Energy Land Transfer**

**PARTIES:**

**THE CITY OF RICHLAND**, a municipal corporation of the State of Washington, hereafter referred to as "City"

**THE PORT OF BENTON**, a municipal corporation of the State of Washington, hereafter referred to as "Port"

The Parties may hereafter be jointly referred to as "Parties"

**I. RECITALS**

**WHEREAS**, the United States Department of Energy will transfer approximately 1341 acres of real property (the "Property") to the Tri-City Development Council, a designated Community Reuse Organization; and

**WHEREAS**, the Tri-City Development Council will then transfer a portion of the Property to the City and a portion of the Property to the Port; and

**WHEREAS**, the Parties want to provide for coordinated economic development activities for their respective portions of the Property; and

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties do hereby mutually agree as follows:

**II. AGREEMENT**

- 1. Purpose.** Pursuant to RCW Chapter 39.34, (the Interlocal Cooperation Act hereafter referred to as the "Act"), the Parties have entered into this Agreement to provide for the coordinated and cooperative development and marketing of their respective portions of the Property to cooperatively plan the development and marketing of land. The Act authorizes public entities to jointly exercise those powers which have been granted by statute to each party individually. Nothing contained in this Agreement shall be deemed to allow either Party to exercise any powers which it has not be granted by law.
- 2. Property.** The Property to be transferred to TRIDEC is designated on the Parcel Segregation Map attached hereto as Exhibit A. Each party will accept a conveyance of a portion of the Property from TRIDEC as described on Exhibit A and will hold title to that portion solely in its name. The portion of the Property designated for distribution to the City will be referred to as "City Property" and the portion of the Property designated for distribution to the Port will be referred to as "Port Property"
- 3. Parties' Responsibilities.** The Parties will identify, evaluate, and develop for collaborative efforts, including , but not limited to:

- a. Subdivisions – Upon transfer of the Property to the Parties, each Party will execute any necessary applications, permits and approvals required for the subdivision the Property to establish ownership of each Party’s respective Property.
- b. Master Plan – The Parties will coordinate master planning of their respective Properties and will consider sharing costs subject to the approval of each Party’s governing body.
- c. Urban Growth Boundary Expansion – The Parties agree to jointly pursue expansion of the Urban Growth Boundary to include all of the Property.
- d. Joint Marketing – The Parties agree to jointly market their properties.
- e. Future Acquisitions – The Parties pursue acquisition of additional land from the Department of Energy in the area of the Property.
- f. Reservation of “Mega Property” Opportunity – The Parties will attempt to market and sell their respective Properties in a manner that preserves a site of 200 – 500 acres to be utilized for a single large user. If the Parties recruit a user for the “Mega Property” the Parties will cooperatively determine the uses for the site and the sales price in accordance with the statutory powers of the Parties.
- g. Grant Applications – The Parties agree to coordinate and mutually support applications for grant funds for development of infrastructure, installation of improvements, development of projects, or marketing of the Property.
- h. Cooperative Purchasing – The Parties, in bidding, quoting, or negotiating for the purchase of goods, services, or real property, related to the Property, agree to extend those privileges to the other Party to the extent permitted by law, by agreement of the Parties or by contract with the vendors.

**4. Guiding Principles. Efforts will:**

- a. Be administrative in nature and not require formation of any new governance entity;
- b. Optimize functional economic use of the Property;
- c. Ensure future opportunities for pedestrian, non-motorized, and motorized modes of transportation are not precluded by the nature and character of development;
- d. Each Party will be responsible for the development of that Party’s Property.

**5. Scope of Work and Payment.** The Parties recognize that this cooperative agreement will result in both foreseen and unforeseen opportunities. The scope of work and cost for each opportunity will be variable. For each collaborative undertaking pursuant to this Agreement, the Parties will enter into a Memorandum

of Understanding to set forth the undertaking of each Party for the particular collaborative effort. Each of the Parties must approve and authorize the execution of each Memorandum of Understanding before the Memorandum of Understanding will be binding upon the Parties.

**6. Exchange of Information/Confidentiality.** The Parties may exchange information as needed to facilitate the collaborative efforts. To the extent either Party has access to sensitive and confidential materials, including, but not limited to, attorney-client privileged documents, e-mails, and social security numbers, a Party shall not exchange that information if it would become a public record subject to disclosure. Employees of the Parties shall not disclose this information to any person without the prior written permission of the Party who maintains the information.

**7. Allocation of Liability/Indemnification.** The Parties agree that:

Each of the Parties to this Agreement shall indemnify and hold the other Party harmless from liability, obligation or claims arising solely from the actions or omissions of the indemnifying Party, to the extent permitted by law. In the event the liability, obligation or claim arises from the joint action or inaction of the Parties, then each Party shall be responsible to the extent that its action or inaction contributed to the liability, obligation or claim.

**8. Property.** The Parties intend to acquire title to real property in their individual names and do not intend to own the real property jointly. In the event the Parties do acquire any real property in their joint names, the Parties shall agree in writing prior to acquiring joint real property as to the interests of each Party to the property and the manner of disposal. In the event that any other joint property is acquired, upon termination of this Agreement it shall then be distributed to the Parties in proportion to that Party's contribution to purchase such property or according to the terms of the contract entered into for the purchase of such property.

**9. Exclusivity.** This Agreement is not exclusive. Either Party may contract with others as it deems necessary. In the event either Party contracts with another party for matters covered by this Agreement, the contracting Party shall notify the other Party to this Agreement and shall provide a copy of the contract to the other Party. Either Party may, at its discretion, elect to not pursue certain collaborative efforts or at any time terminate established collaborative efforts upon mutual agreement after negotiating impact of such termination.

**10. Non-Delegation/Non-assignment.** No Party may delegate the performance of any contractual obligation to a third Party unless mutually agreed in writing. No Party may assign this Agreement without the written consent of the other Party.

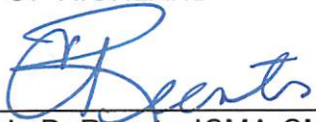
**11. No Third Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein

not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.

- 12. Term.** This Agreement shall commence on the date it is signed by the Parties and shall continue in effect until terminated as provided in this Section. Either Party may terminate participation in this Agreement giving written notice to the other Party of the termination date at least 60 days prior to the date of termination. Any agreements regarding title to property shall survive the termination of this Agreement. The Parties will continue to perform their respective duties and obligations which may be contained in any Memorandums of Understanding entered into between the Parties as part of this Agreement and the MOUs may be terminated as provided in the terms of the MOU.
- 13. Compliance with Law.** The Parties to this Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Agreement.
- 14. Complete Agreement.** This Agreement contains all the terms and conditions agreed upon. No other understanding, oral or otherwise, regarding this Agreement shall be deemed to exist or bind the Parties. There shall be no modification of this Agreement except in writing and referencing this Agreement.
- 15. Dispute Resolution/Venue.** It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the Parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Benton County. The Parties hereto agree that all questions shall be resolved by application of Washington law and that the Parties to such accordance with the laws of the State of Washington.
- 16. Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the applications of the remainder of the Agreement shall not be affected.
- 17. Evidence of Authority.** This Agreement shall be executed in originals. Upon execution of this Agreement, each party shall provide the other with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as Exhibit B (City) and Exhibit C (Port)


In Witness Whereof, the Parties have signed this Agreement as of the day and year written below.

CITY OF RICHLAND

  
\_\_\_\_\_  
Cynthia D. Reents, ICMA-CM  
City Manager

Date: 10-5-15

Approved as to Form:


  
\_\_\_\_\_  
Heather Kintzley  
City Attorney

PORT OF BENTON

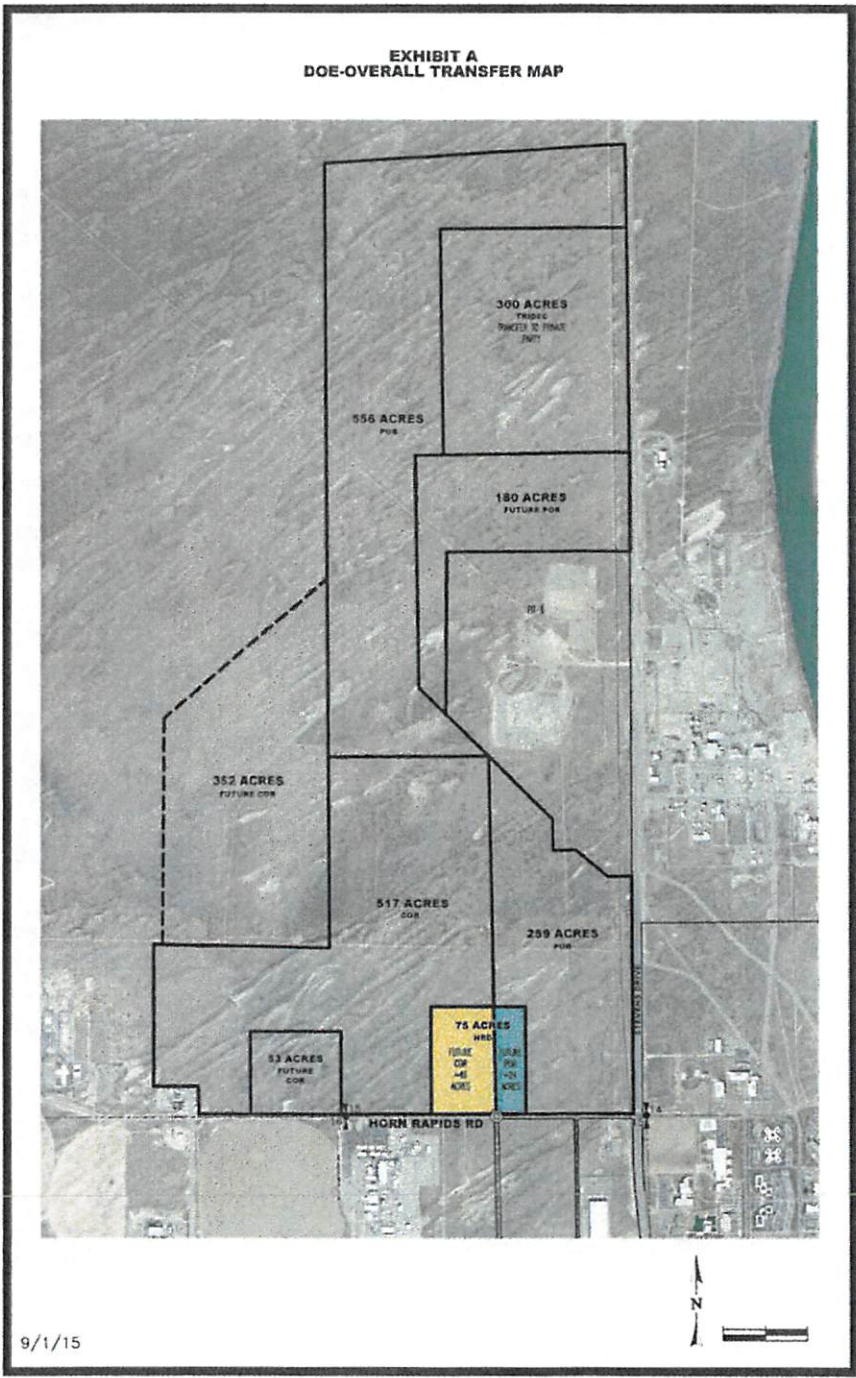
  
\_\_\_\_\_  
Scott D. Keller, PPM®  
Executive Director

Date: 10/19/15

Approved as to Form:

  
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Thomas A. Cowan  
Attorney for Port of Benton

**EXHIBIT A  
DOE-OVERALL TRANSFER MAP**



9/1/15