

**TRANSFER AGREEMENT
RURAL COUNTY CAPITAL FUNDS**

This Transfer Agreement, between the City of West Richland (hereinafter “City”), and the Port of Kennewick (hereinafter “Port”) (hereinafter collectively referred to as the “Parties”), shall be effective upon execution by the Parties at Closing of the sale contemplated by the Parties’ October 15, 2019 Real Estate Purchase and Sale Agreement (the “Agreement”). A copy of the Agreement is attached hereto and incorporated herein by reference as Exhibit “A”.

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

WHEREAS, the Port and the City are authorized, including under Chapters 39.33 and 39.34 of the Revised Code of Washington, to contract with each other in order to effectively and efficiently operate, administer and carry out their programs and public projects; and

WHEREAS, pursuant to the Agreement, the City offered to purchase the Port’s 92 +/- acre racetrack property for use as the site of the City’s new police station and for other economic development purposes consistent with terms as set forth in the Agreement; and

WHEREAS, pursuant to the Agreement and as part of the purchase price paid to the Port by the City, the City wishes to transfer its rights to receive distributions of that certain portion of the Fund apportioned to it and as set forth below; and

WHEREAS, the City agrees to assign One Million Three Hundred Sixteen Thousand and No/100 Dollars (\$1,316,000.00) of its allocation from the Fund to the Port. The Parties acknowledged that such amount is also subject to payment by the City to the Port pursuant to the terms of a Promissory Note and secured by a Deed of Trust as set forth in the Agreement; and

WHEREAS, the Port anticipates utilizing that portion of the Fund transferred to it by the City for Port economic development projects including but not limited to the Vista Field redevelopment project which projects are expected to result in a substantial number of permanent jobs and to positively impact sales, B&O, and property tax revenues for jurisdictions within the Port district.

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

1. The City assigns One Million Three Hundred Sixteen Thousand and No/100 Dollars (\$1,316,000.00) of its allocation of the Fund to the Port. The Parties intend that the Port be reimbursed directly from Benton County for expenses the Port incurs related to projects the Port, in its sole discretion, identifies and submits to Benton County for reimbursement from the Fund.

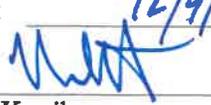
2. The Port agrees to use best efforts to seek reimbursement from the Fund pursuant to Benton County's policies and procedures for such reimbursements.
3. All such approved reimbursement payments will be made directly to the Port.
4. The City shall not hold the Port liable for any delay in applying for or the rejection by Benton County of projects for which Fund reimbursements are sought.
5. The Port shall be responsible for establishing policies to implement this Transfer Agreement, and to monitor the fulfillment of the Parties' responsibilities under this Transfer Agreement.
6. The Port agrees to report to the City reimbursements received from Benton County pursuant to this Transfer Agreement.
7. The records and documents with respect to all matters covered by this Transfer Agreement shall be subject to inspection by the Parties during the term of this Agreement and for three years after its termination. This Agreement shall be filed by the Port with the Benton County Auditor.
8. It is not the intention that a separate legal entity be established by this Transfer Agreement, nor is the joint acquisition, joint holding, or joint disposal of real or personal property anticipated hereunder.
9. The City agrees to indemnify the Port from and against any claims, actions, losses, costs, penalties, damages, attorneys' fees, costs of defense, and all other liabilities of any nature arising out of this Transfer Agreement.
10. The Port may freely assign its rights under this Agreement. The City may not terminate its obligations hereunder without first i) paying the Port in one cash lump sum any balance remaining of the \$1,316,000.00 due and payable to the Port under the Agreement, or ii) securing the written consent of the Port.
11. At April 15, 2023, this Transfer Agreement shall terminate and the City shall be required to immediately pay to the Port in one cash lump sum any balance remaining of the \$1,316,000.00 due and payable to the Port under the terms of the Promissory Note and secured by a Deed of Trust as set forth in the Agreement.

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

PORT OF KENNEWICK



Tim Arntzen, Chief Executive Officer

Date: 12/4/19


Nick Kooiker
Chief Financial Officer & Auditor

APPROVED AS TO FORM:


12/9/19

Lucinda J. Luke, Port Counsel

CITY OF WEST RICHLAND



Brent Gerry, Mayor

Date: 11.4.19
