

Port of Kennewick Commission Chambers will be open to the public during Commission Meetings.
However, the Port will continue to use GoToMeeting to provide remote access,
and Commissioners and the Port team will attend remotely.

To participate and make public comments remotely, please call in at: 1-866-899-4679, Access Code: 634-424-669

Or, join on-line at the following link: <https://meet.goto.com/634424669>

AGENDA

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

May 23, 2023
2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- V. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments May 17, 2023
 - B. Approval of Warrant Register Dated May 23, 2023
 - C. Approval of Regular Commission Meeting Minutes May 9, 2023
- VI. PRESENTATION**
 - A. Memorandum of Understanding Update, Marie Mosley; Resolution 2022-10 (TIM)
- VII. ACTION ITEMS**
 - A. Use of Opportunity Fund for Benton City; Resolution 2022-11 (TIM)
 - B. WA State Health Care Authority (HCA) PEBB Agreement (NICK)
- VIII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Kennewick Waterfront
 - 1. Columbia Gardens Wine & Artisan Village Update (AMBER)
 - 2. Clover Island Shoreline/1135 Update (TIM/TANA)
 - B. WPPA Creative Partnership Award (TOM)
 - C. Commission Meetings (formal and informal meetings with groups or individuals)
 - D. Non-Scheduled Items
(LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/CAROLYN/TIM/KEN/TOM/SKIP)
- IX. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- X. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

MAY 9, 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 Regular Commission Meeting to order at 2:00 p.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)
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Larry Peterson, Director of Planning (via telephone)
Amber Hanchette, Director of Real Estate (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Michael Boehnke, Director of Operations
Lisa Schumacher, Special Project Coordinator
Bridgette Scott, Executive Assistant (via telephone)
David Phongsa, Marketing & Capital Projects Coordinator
Carolyn Lake, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

A. *Approval of Direct Deposit and E-Payments Dated May 2, 2023*

Direct Deposit and E-Payments totaling \$99,980.88

B. *Approval of Warrant Register Dated May 5, 2023*

Expense Fund Voucher Number 104806 through 104844 for a grand total of \$147,044.25

C. *Approval of Regular Commission Meeting Minutes April 25, 2023*

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

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 9, 2023 MINUTES

DRAFT

PRESENTATION

A. *Hanford Area Economic Investment Fund Advisory Committee*

Commissioner Novakovich gave a brief presentation on the role of the Hanford Area Economic Investment Fund and Advisory Committee and how the fund can assist government entities and the private sector.

ACTION ITEMS

A. *2023-24 Budget Amendment*

Mr. Kooiker reported in 2020, the Port Commission signed an Interlocal Agreement with the City of Kennewick for the Vista Field Fire Station shared roadway for \$125,000. Due to issues with the contractor, the City has been unable to close out the contract, therefore, the Port was not able to issue payment to the City during the 2021-2022 Budget. Mr. Kooiker presented Resolution 2023-09, which approves shifting the \$125,000 to the 2023-2024 Budget. Mr. Kooiker received guidance from the State Auditor's Office and stated the project is complete and the shift of funds does not affect the current budget.

MOTION: *Commissioner Hohenberg moved to approve Resolution 2023-09, approving the shifting of \$125,000 of unexpended funds from the 2021/22 budget, into the 2023/24 capital budget and further ratify and approve all action by port officers and employees in furtherance hereof; Commissioner Novakovich seconded.*

PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Hohenberg stated this is a unique situation, but not uncommon and supports the Resolution.

Commissioner Moak stated it is a logical way of dealing with the close out of a contract and he supports it.

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

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Kennewick Waterfront*

1. Clover Island Shoreline Celebration Event May 12, 2023

Ms. Bader Inglima shared that the Clover Island Shoreline Celebration will take place Friday, May 12, 2023 at 2:30 p.m. Ms. Bader Inglima stated Jaime Pinkham, Deputy Assistant Secretary of the Army for Civil Works will join the celebration. The Confederated Tribes of the Umatilla Indian Reservation will offer a prayer of blessing as well.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 9, 2023 MINUTES

DRAFT

B. Vista Field

1. Hangar Project Update

Mr. Peterson presented an update on the Vista Field Southern Gateway project, which is funded by the Benton County Rural County Capital Funding. Mr. Peterson stated we are currently at 30% of the design phase and are addressing the shade and wind concerns (*Exhibit A*).

2. Daybreak Commons Update

Mr. Peterson presented some conceptual design possibilities for Daybreak Commons (*Exhibit B*) and stated this project will be presented to the Commission later this year.

C. New Port Employee David Phongsa

Mr. Kooiker introduced David Phongsa, the Port's new Marketing and Capital Projects Coordinator, who previously worked as the mobile vendor coordinator/consultant for the Port.

Mr. Phongsa is excited to continue working on creating vibrancy for Port properties and has events scheduled for Columbia Gardens and Vista Field.

D. Amendment of Commission Policies

Ms. Lake stated Commissioner Novakovich inquired if the public comment section the Port's Rules of Policies and Procedures needed to be amended because of the revised law in June of 2020. Ms. Lake stated "taking public comment at a public meeting is now required;" however, the new law does not state where or how the public comment is to be taken, rather that it is taken at a meeting where final action is taken. The Port has several opportunities for public comment, including the beginning of the meeting, where it precedes the Consent Agenda Action. The question is whether the Port should take public comment specific to the Consent Agenda. After further review, Ms. Lake recommends the Port make an amendment to Section 7.6, Public Comments of the Commission Policies and Procedures, to state:

"All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. Because these matters are routine and are considered after the first public comment, no additional public comment is needed. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items, with opportunity for public comment or tabled for consideration."

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

Commissioners reported on their respective committee meetings.

F. Non-Scheduled Items

Commissioner Novakovich thanked Julie Sovereign, JoEllen Peters, and Morgan Sullivan for assisting with the HAEIF presentation and for all their work.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 9, 2023 MINUTES

DRAFT

Commissioner Novakovich thanked Port staff for all their hard work on the 1135 Shoreline Celebration.

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:03 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION 2023-09

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING AN AMENDMENT TO THE 2023 & 2024 BUDGET**

WHEREAS, the Commission approved a interlocal agreement with the City of Kennewick on October 20, 2020 where the Port agreed to contribute \$125,000 towards the City's Fire Station located in the Vista Field area to enhance public safety within the area and City at large; and

WHERAS, the \$125,000 was included in the Commission approved 2021 & 2022 Port budget; and

WHERAS, the funding compliance requirements for the City of Kennewick Fire Station were not completed in 2022; and estimated completion is anticipated in 2023; and

WHEREAS, Port staff are requesting the 2021 & 2022 Budget amount of \$125,000 for the City of Kennewick Fire Station to be rolled to the 2023 & 2024 Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approve rolling the unexpended \$125,000 funds for the City of Kennewick Fire Station originally approved in the 2021-2022 Budget into the 2023-2024 Budget.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 9th day of May, 2023.

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

By: DocuSigned by:

Skip Novakovich

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SKIP NOVAKOVICH, *President*

By: DocuSigned by:

Kenneth Hohenberg

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KENNETH HOHENBERG, *Vice President*

By: DocuSigned by:

Thomas Moak

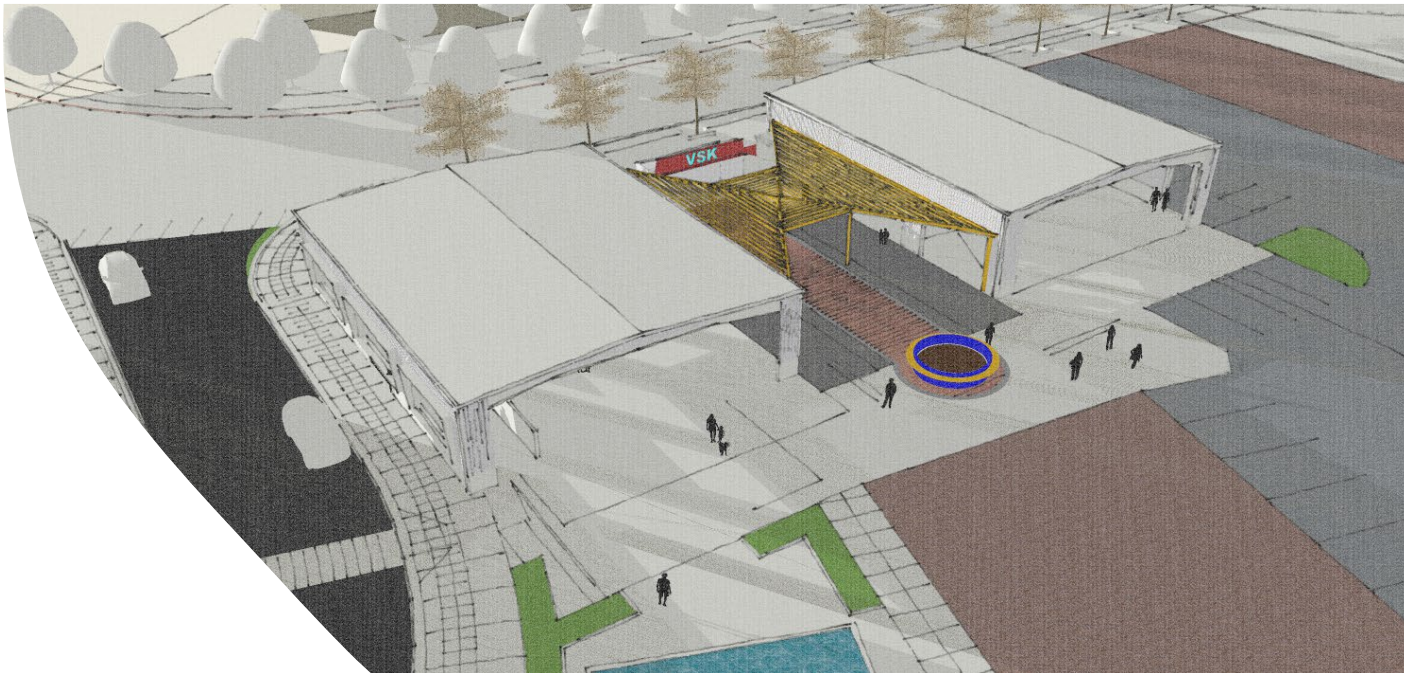
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THOMAS MOAK, *Secretary*



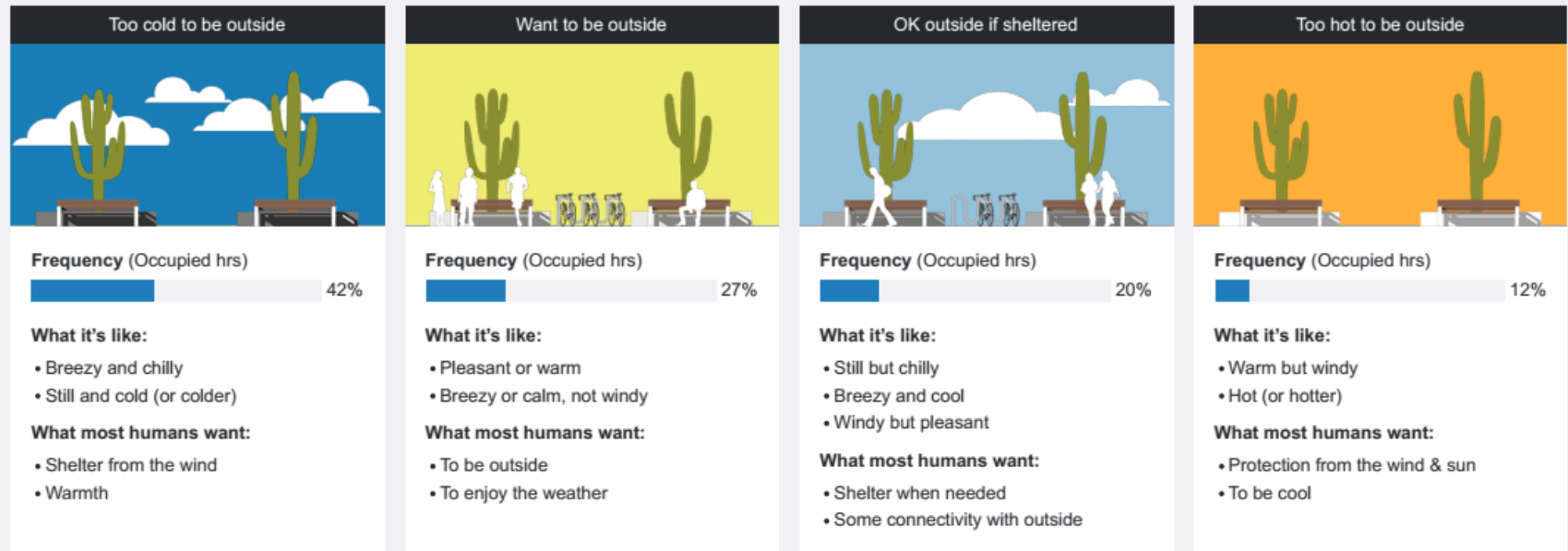
VISTA FIELD SOUTHERN GATEWAY

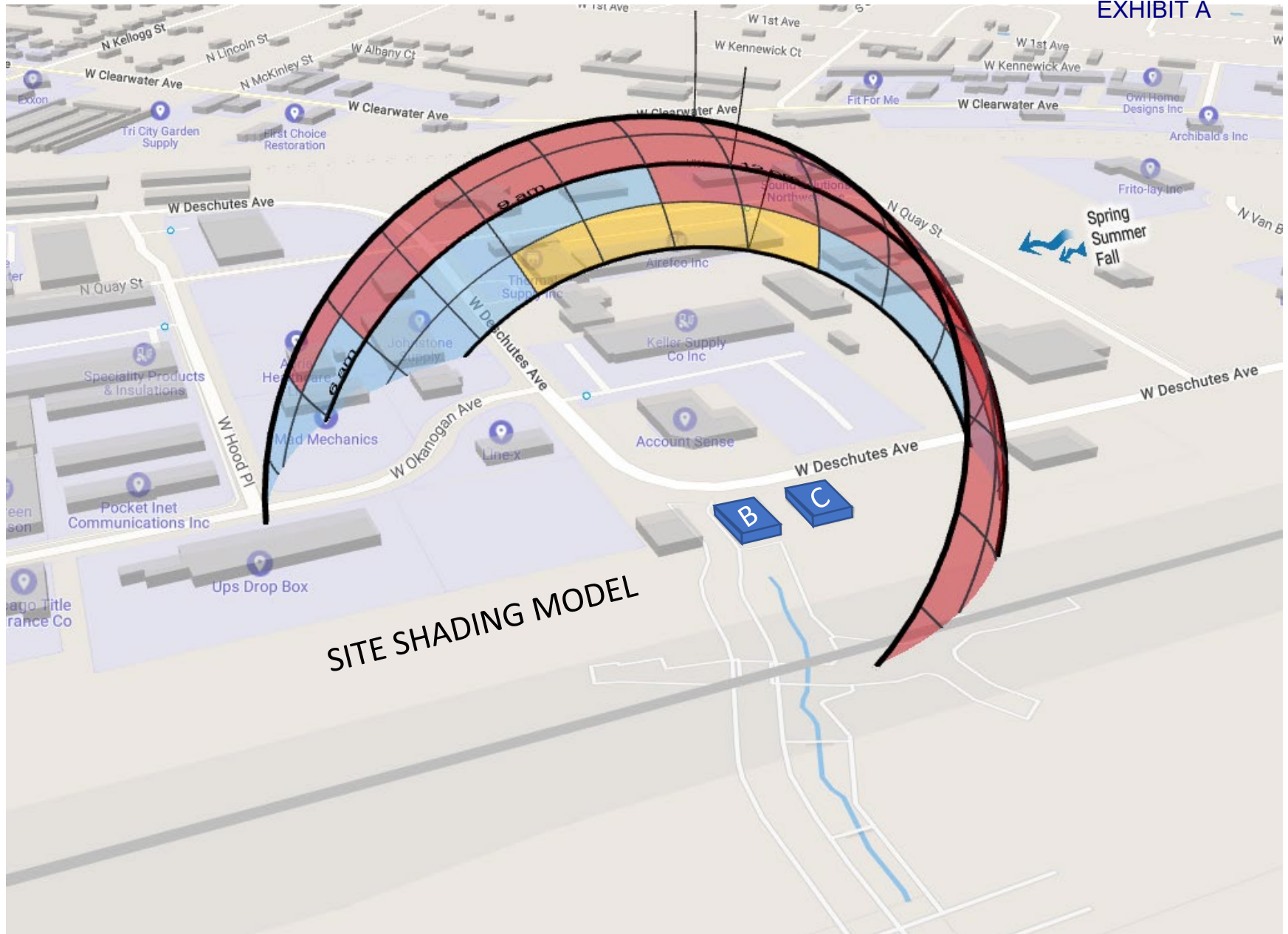
SUN AND WIND ASSESSMENT AND RECOMMENDATIONS



Architectural response

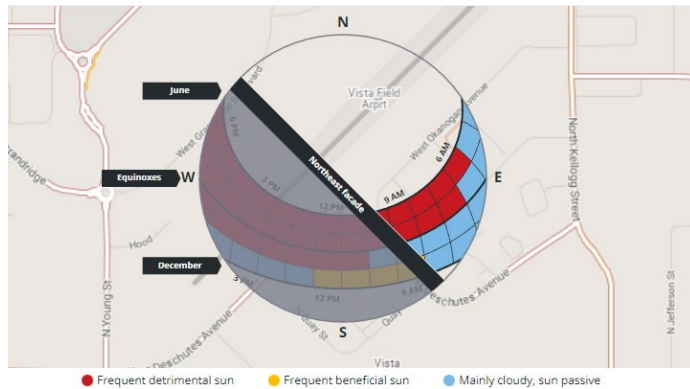
Impact of climate on architectural response





NORTHWEST FAÇADE IMPROVEMENTS

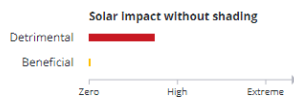
BEFORE



Annual solar impact

This façade sees a noticeable amount of detrimental overheating hours. When overheating happens, its impact can be quite significant.

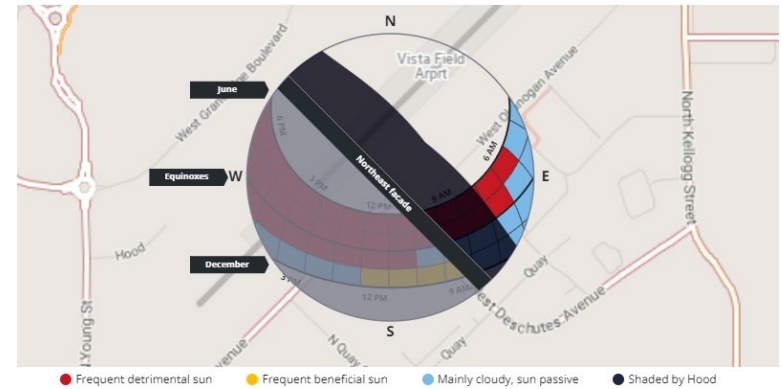
Beneficial warming from the sun is rare. When warming sun happens, its benefit is low.



Overall recommendation

Consider shading or glazing with good solar control.

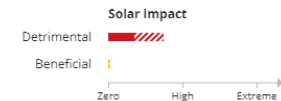
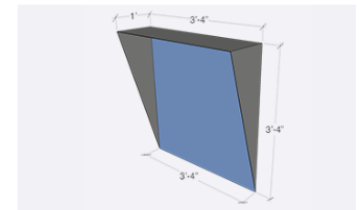
AFTER



50% improvement through shading devices shown above.

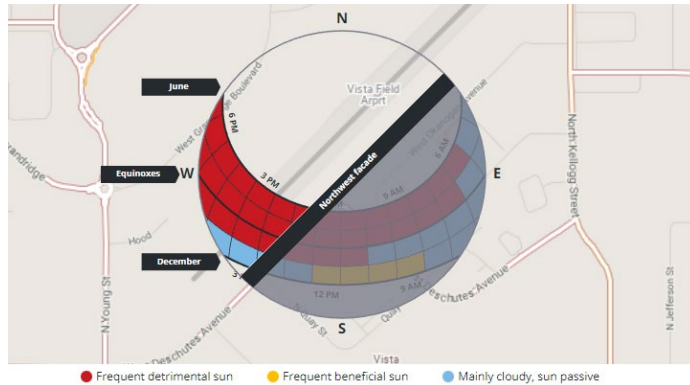
Additional Improvements:

Further improvement through increased overhang depth.



NORTHWEST FAÇADE IMPROVEMENTS

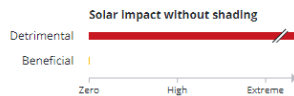
No additional improvements addressed
at hanger door openings



Annual solar impact

This facade sees a moderate amount of detrimental overheating hours. When overheating happens, its impact is extremely significant.

Beneficial warming from the sun is rare. When warming sun happens, its benefit is low.



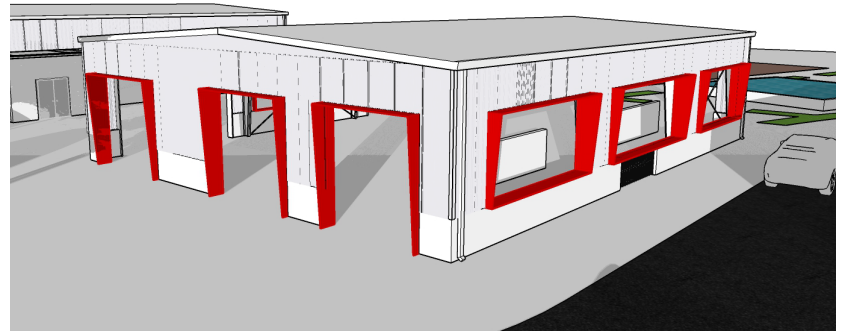
Overall recommendation

Shading strongly recommended

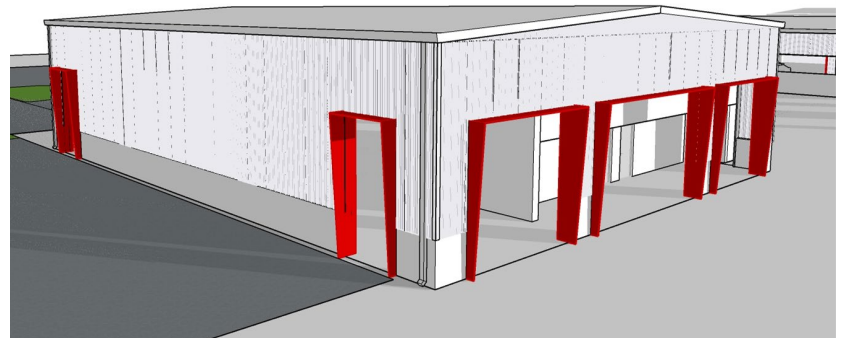
FAÇADE IMPROVEMENTS

Shading Devices

Pavilion B



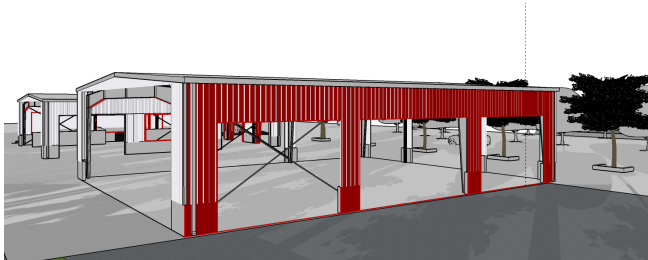
Pavilion C



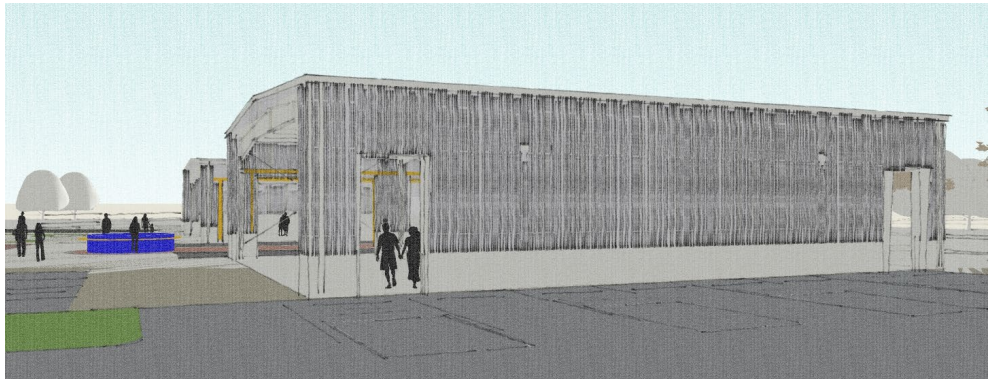
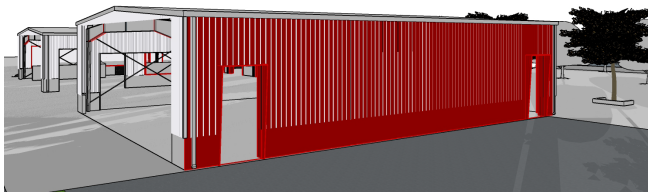
SOUTWEST FAÇADE IMPROVEMENTS

Pavilion C revision to mitigate wind and Sun

BEFORE



AFTER



VISTA FIELD

Daybreak Commons

EXHIBIT B

Daybreak Commons

Design Principles:

Urban gathering place;

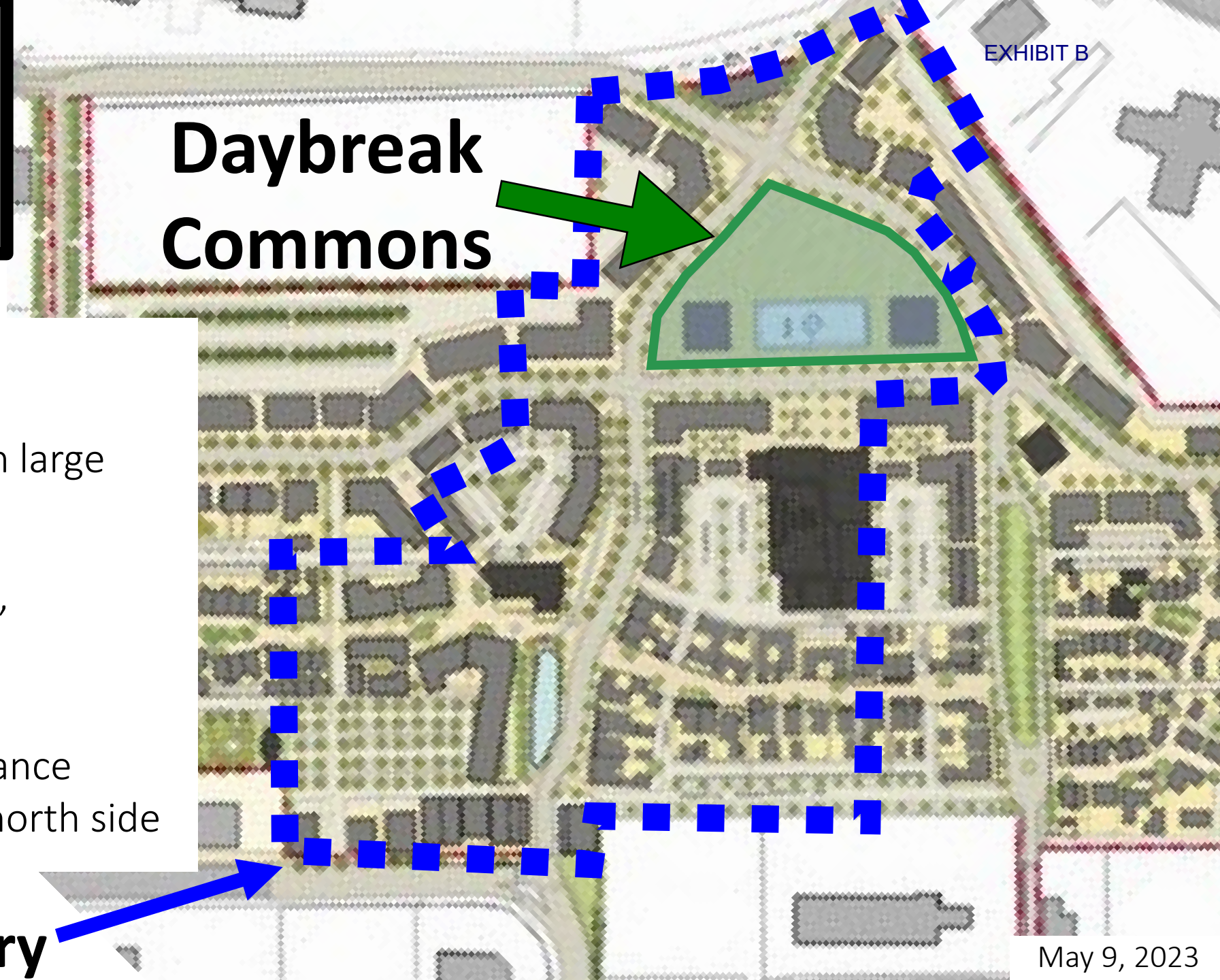
Creating small pockets within large open space;

Area/equipment for children,

NO active sports field(s);

Retain potential for performance area/stage centered on the north side of the pond.

PHASE #1 Boundary



May 9, 2023

VISTA FIELD

Daybreak Commons Design Concepts

EXHIBIT B

**VERY
CONCEPTUAL**
at this Time



DAYBREAK COMMONS CONCEPT

May 9, 2023

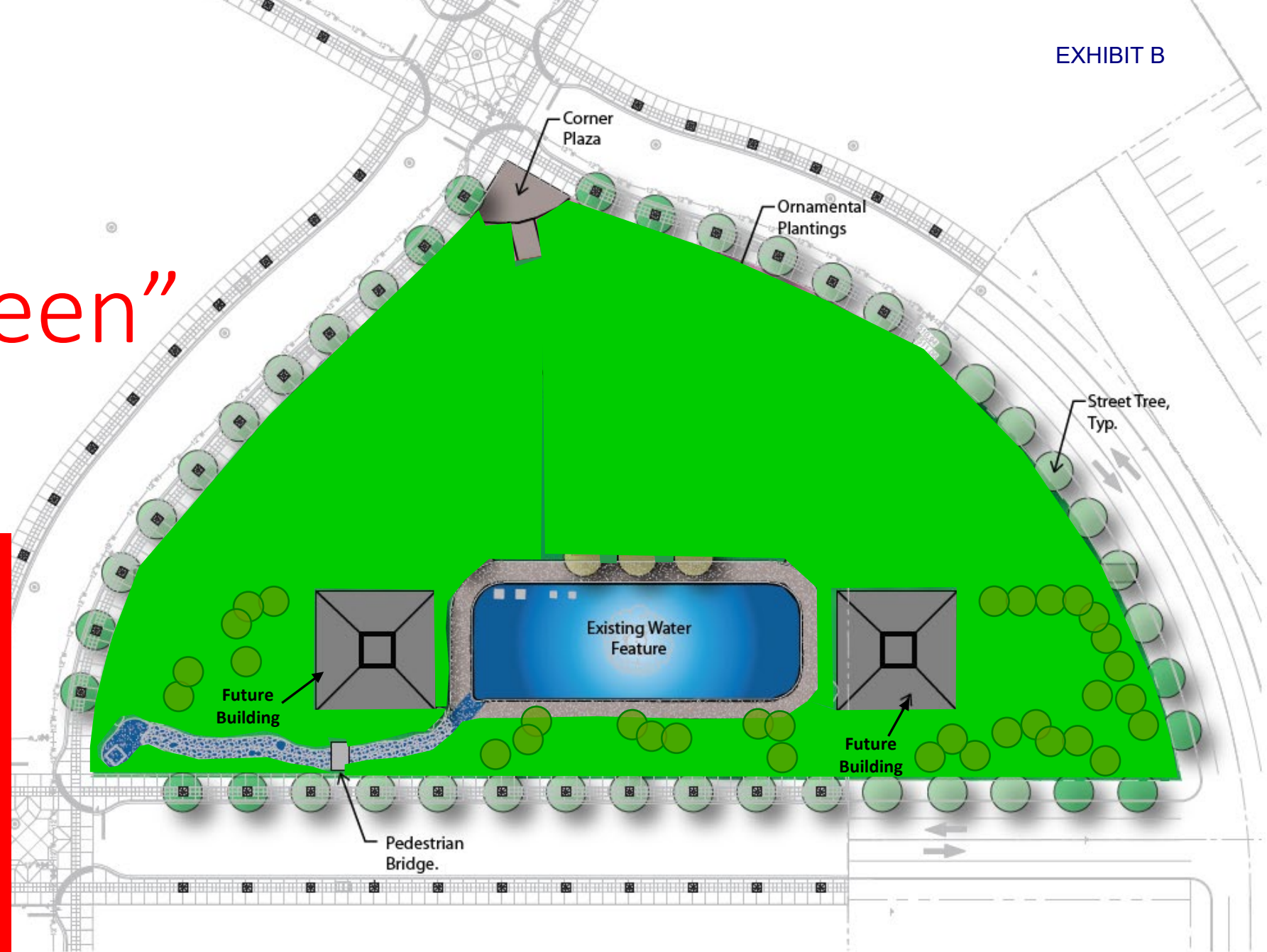
VISTA FIELD

Daybreak Commons
Design Concepts

“Clean & Green”
ONLY

NOT
Urban, but
Lowest
Initial Cost

EXHIBIT B



COMMONS CONCEPT

May 9, 2023



AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen

MEETING DATE: May 23, 2023

AGENDA ITEM: City of Kennewick MOU

I. REFERENCE(S):

II. FINANCIAL IMPACT:

III. DISCUSSION: Staff from the Port and the City of Kennewick (City) propose a joint development Memorandum of Understanding (MOU) which addresses projects of benefit to both the Port and the City. The MOU is attached hereto. Of note are the provisions related to Duffy's Pond and Vista Field infrastructure.

IV. ACTION REQUESTED OF COMMISSION:

Motion: I move approval of Resolution 2023-10, approving the MOU between the Port of Kennewick and City of Kennewick; and hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to execute the MOU and take all action necessary in furtherance hereof.

PORT OF KENNEWICK

RESOLUTION No. 2023-10

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE PORT OF KENNEWICK AND
THE CITY OF KENNEWICK***

WHEREAS, the Port and the City of Kennewick (City) have a long history of collaboration on projects of community benefit; and

WHEREAS, staff from the Port and the City propose commission approval of a Memorandum Of Understanding (MOU) which outlines projects of community importance.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves the MOU as attached hereto.

BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to execute the MOU and take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of May, 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

**MEMORANDUM OF UNDERSTANDING
REGARDING
POTENTIAL JOINT PROJECTS OF COMMUNITY IMPORTANCE
BETWEEN THE PORT OF KENNEWICK AND THE CITY OF KENNEWICK**

I. PARTIES

This Memorandum of Understanding (MOU) is entered into as of _____, 2023, between the PORT OF KENNEWICK, a Washington municipal corporation (“Port”), and the CITY OF KENNEWICK, a Washington municipal corporation, (“City”) referred to collectively as the “Parties”. The Parties agree as follows:

II. RECITALS

- 2.1 Economic Development Authority.** 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 and other public agencies to operate, administer and carry out their programs and public projects effectively and efficiently.
- 2.2 Location of Facility in Project Area.** The Port owns various parcels of real property within the City which it is developing to the benefit of the public and both Parties.
- 2.3 Opportunity for Collaborative Development.** The Parties recognize that successful economic development of the Property benefits the economic and social welfare of the City and the surrounding area. The Parties seek to memorialize their understanding related to potential joint development activities.
- 2.4 Port Action.** In October 2022, the Port applied to Benton County for Rural County Capital Funding (RCCF) from its account, in the sum of \$3,400,000. This funding, if awarded, shall be utilized for Vista Hangar repurposing as set forth in the application attached hereto as “Exhibit A.”

III. OBLIGATIONS OF THE PARTIES

- 3.1 Obligations.** The Parties shall consult related to the following future projects:
- A. **Parking Structure.** The Parties shall examine the necessity of a parking structure to serve the Vista Field development, the City’s Entertainment District and Benton County facilities. The Parties shall jointly select and contract with a consultant to examine the need and feasibility of a parking structure serving the immediate area. Costs shall not exceed \$40,000 and shall be split evenly between the parties. The parties shall use best efforts to ensure that the consultant’s report is finalized on or before June 1, 2024. It is the intent of the Parties to present the contents of the report to each Party’s elected body in a timely manner. The parking feasibility study in no way commits either party to building a parking structure, rather it provides information to both parties for future planning efforts.

- B. **Vista Field Development.** The Port is negotiating with a private party developer to build a large-scale residential development on a portion of the site, with a construction cost estimated to exceed \$10,000,000 (the Development). The Development will require the Port to complete Grandridge Boulevard as approximately shown on Exhibit “B” (the Grandridge Extension). If the Port signs a purchase and sale agreement with the developer for the Development on or before December 31, 2023, then the City will contribute one-half of the project costs, including architecture and engineering costs, of the Grandridge Extension, up to \$800,000. The Port shall design, bid, and award the project for construction of the Grandridge Extension and shall invoice the City upon completion of the project.

When the sale of this parcel closes, the City will pursue an amendment to the development agreement with the Port to carve out the Grandridge Extension and contribute one-half the construction costs up to \$800,000. The City portion of the funding would come from the City’s Rural County Capital Funds (RCCF) allocation. The parties agree to work jointly on securing RCCF for up to \$800,000 to be paid by the City through collaborating on and supporting the application.

- C. **Remediation of Duffy’s Pond.** The Parties recognize the necessity of treating the Clover Island boat basin and Duffy’s Pond with algicides to prevent the accumulation of noxious aquatic weeds and algae. Each Party’s respective staff shall collaborate to produce, on or before July 1, 2023, a brief written plan which will provide for the treatment of the boat basin and the pond. The plan will account for the City’s downstream potable water plant intake as well as consider time of year limitations associated with City’s potable water demands as it relates to the application of algicide. The plan shall provide for effective implementation action for both areas, commencing with the 2023 season and extending through the 2028 application season.
- D. In addition to the work described above, the Parties will also consult with the US Army Corps of Engineers to explore options for deepening Duffy’s Pond. Said deepening would permit the use of aeration equipment which provides for long-term algae control in the pond.
- E. The parties agree to communicate and cooperate toward the completion of Duffy’s Pond Trail including design, environmental permitting and construction.

IV. ADMINISTRATION

- 4.1 **Responsibilities.** This MOU shall be administered by the City Manager or her designee and the Port Chief Executive Officer or his designee. Working in partnership and on behalf of their respective agencies these individuals shall be responsible for:

- A. Establishing policies for implementing this MOU;

- B. Providing periodic progress reports;
 - C. Monitoring progress of the Parties and other agencies in the fulfillment of their respective responsibilities; and
 - D. Follow applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this project.
- 4.2 **Document Review.** The Parties shall cooperate by sharing all relevant information, including planning, financial and environmental documents, to the extent allowed by law.
- 4.3 **Expenses and Financial Contingency.** Except as otherwise provided, the obligations of each Party shall be performed at the sole expense of said Party.

V. GENERAL

- 5.1 **Amendment.** This MOU shall not be altered or varied except in writing signed by each Party.
- 5.2 **Governing Law.** Each of the Parties has independent authority to contract; and, this MOU is pursuant to that authority and shall be governed by, construed and enforced in accordance with the substantive laws of the State of Washington.
- 5.3 **Venue.** The venue for any action arising out of this MOU shall be the Superior Court for Benton County.
- 5.4 **Non-Waiver.** Nothing in this MOU and no actions taken pursuant to this MOU shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or others under any provision of this MOU or any provision of law.
- 5.5 **MOU Term.** The term of MOU shall continue until each Party's obligations hereunder have been fully performed, or December 31, 2026, whichever occurs first.
- 5.6 **Inspection of Records and Filing.** The records and documents with respect to all matters covered by this MOU shall be subject to inspection by the Parties during the term of this MOU and for three years after its termination. This MOU shall be filed or listed pursuant to RCW 39.34.040.
- 5.7 **No Separate Legal Entity.** It is not the intention that a separate legal entity be established to conduct the cooperative undertaking nor is the joint acquisition, holding or disposing of real or personal property anticipated.
- 5.8 **Severability.** In the event any term or condition of this MOU or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this MOU which can be given effect without

the invalid term, condition, or application. To this end, the terms and conditions of this MOU are declared severable.

- 5.9 Defense Indemnity and Insurance.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees and witness costs) arising from or in connection with or caused by any act, omission, or negligence of such indemnifying party.
- 5.10 Breach.** In the event of a breach of this MOU, the non-breaching Party shall retain all legal and equitable remedies against the breaching Party.
- 5.11 Assignment.** Neither Party may assign its obligations under this MOU.

VI. EXECUTION AND APPROVAL

- 6.1 Warranty of Authority.** Each Party to this MOU warrants that it has the authority to enter into this MOU.
- 6.2 Execution.** The person executing for a respective Party has been duly authorized to and does execute the MOU on behalf of that respective Party.

PORT OF KENNEWICK

Date: _____

By: _____

TIM ARNTZEN, Chief Executive Officer

Approved as to Form:

CAROLYN LAKE
Attorney for Port of Kennewick

CITY OF KENNEWICK

Date: _____

By: _____

MARIE E. MOSLEY, City Manager

Approved as to Form:

LISA BEATON, City Attorney

BENTON COUNTY
RURAL COUNTY CAPITAL FUND
PROJECT APPLICATION FORM

This form is available in a digital format for ease of completion and submittal.

Organization: Port of Kennewick

Contact: Tim Arntzen

Telephone: 509-586-1186 | 509-585-4238

Email: TA@portofkennewick.org

Address: 350 N. Clover Island Drive #200, Kennewick, WA 99336

Project Title: Vista Field Southern Gateway & Hangar Transformation

Project Category:

<input type="checkbox"/> Transportation (Roads & Bridges)	<input type="checkbox"/> Energy Generation
<input checked="" type="checkbox"/> Domestic Water Facilities	<input type="checkbox"/> Transmission & Conveyance
<input checked="" type="checkbox"/> Industrial Water Facilities	<input type="checkbox"/> Earth Stabilization
<input checked="" type="checkbox"/> Sanitation & Sewer	<input type="checkbox"/> Telecommunications
<input checked="" type="checkbox"/> Buildings & Structures	<input checked="" type="checkbox"/> Port Facilities

☒ Other: in-fill, urban renewal, education, site safety, tourism, recreation

Project Description: Please describe the project briefly, but with the essential details. Include location (attach vicinity map), describe how the project will be managed, and list any partnerships or other forms of leveraged monetary, logistical, administrative, or other support.

The Vista Field Southern Gateway & Hangar Transformation Project site is located at the intersection of Deschutes Avenue and Crosswind Boulevard in Kennewick, Washington [see vicinity photo and site map in Attachment D].

The Port of Kennewick owns the 103-acre parcel of land that was the former Vista Field Airport. That property sits in the heart of our region's commercial center, and the Port is asking Benton County to provide Rural County Capital Funds to continue transformation of that site by enhancing the southern entry and creating vibrant public-use facilities from two former hangar buildings located adjacent the fountain and commercial plaza.

The Vista Field Southern Gateway & Hangar Transformation project consists of deconstructing two former, empty hangar buildings, installing low dividing walls, adding restrooms, storage, strategic weather and wind reduction, large industrial overhead fans, water, sewer, storm, electrical, parking, sidewalks, lighting, landscaping, mobilization, earthwork, grading, compaction, appurtenances, and infrastructure necessary to prepare those two hangars and the surrounding site for expanded public use.

The project will also construct a sheltered band stand and courtyard between the two former hangars that will create a series of seamless public spaces that can be used individually or combined to help activate the adjacent commercial “pop up” plaza. The space will artistically re-use the site’s metal carrier decking and will share the story of Vista Field’s ties to World War II Naval history—thus creating a visitor attraction and fostering increased tourism spending.

And finally, the southern entryway will be enhanced with landscaping, additional parking, and wayfinding signage.

The Southern Gateway transformation will take place with design starting winter 2023 through construction completion spring 2024 and will be readied as one of the first and most visible projects—helping showcase industrial chic architecture and setting the tone for private development as the surrounding twenty-one parcels are sold and developed for mixed commercial, retail and residential living.

The Port will produce drawings, plans, and cost estimates; and will bid, monitor, and administer construction of the public improvements.

Following completion of infrastructure improvements the Port will work in partnership with Benton County to hold a celebratory ribbon cutting event recognizing the County’s investment and partnership in further developing Vista Field.

The project will expand local employment opportunities, grow the retail industry, and increase tourism spending for the region. The project will help import visitor dollars and serve as a catalyst to transform the Vista Field neighborhood into a family-friendly mix of restaurants, retail, residential, public, and artisan spaces. Given its prime location within Vista Field, the project will create a unique tourism destination that will serve and sustain the greater Benton/Franklin Counties region.

Project Funding Sources:	Proponent's Own Funds:	<p>\$425,000 in land value</p> <p>\$110,000 in-kind port staffing costs and expenditures to administer this project.</p>
	Other Leveraging Sources:	<p>Previous investments include: \$6 Million Port of Kennewick in Vista Field phase one infrastructure (includes \$1M from City of Kennewick invested at Clover Island so port could expend and additional \$1M at Vista Field) AND \$500,000 Benton County RCCF invested in Vista Field phase one infrastructure.</p> <p>The Port already spent \$117,000 on conceptual design & administrative expenses to research, evaluate, and prepare for this Southern Gateway Transformation Project.</p> <p>And the Port is working on an MOA whereby the City of Kennewick would commit RCCF allocations toward future Vista Field infrastructure upon the Port completing this Southern Gateway & Hangar Transformation project.</p>
	Benton County RCCF:	\$3.3 million (Port of Kennewick RCCF allocation as of September 2022)

Project Budget & Schedule Detail:

PROJECT PHASES	START DATE	FINISH DATE	RCCF FUNDS REQUESTED	OTHER FUNDS IN-HAND / SOUGHT	SOURCE(S) OF OTHER FUNDS
Vista Field Southern Gateway & Hangars Project			\$3,300,000		
Design	winter 2023				
Bid Process	spring 2023				
Construction	summer 2023 thru spring 2024				
Project Management	winter 2023 thru Spring 2024			\$110,000	Port property tax revenues
SUB-TOTALS			\$3,300,000	\$ 110,000	
TOTAL PROJECT COST			\$3,410,000		

Rural County Capital Fund assistance is on a reimbursable basis. The proponent must be able to cash-flow work on the project either in whole or in phases. The proponent shall invoice the County not more than once per month for those expenses eligible for Rural County Capital Fund assistance to the extent that such costs are directly attributable and properly allocable to the project.

Project Anticipated Benefits

What are the anticipated outcomes of this project with respect to the criteria identified below? Please answer concisely in narrative form, supported with defensible estimates and projections. This is not a competitive application. The intent is to demonstrate that the project meets with the “economic development purposes” intended by the Legislature in its development of RCW 82.14.370 and our local economic development goals, not to weigh the merits of multiple projects against each other.

Jobs

- **Estimated *new* jobs to be created? What mix/types of new jobs?**
- **Estimated retention of *existing* jobs?**

Projections indicate at full build-out Vista Field redevelopment could mean ***as many as 3,380 jobs*** [*projections by consultant team DPZ and ECONorthwest*].

While the existing restaurants and businesses in the surrounding area and those related jobs, will most certainly benefit from this project; overall, we anticipate that the number of existing jobs *retained* by this project will be low since those existed in a land-extensive condition due to the 103-acre former airport.

However, this project alone will create an initial 50+ construction jobs with services required in survey, demolition, excavation, laborers, carpenters, masons, concrete, plumbers, electricians, landscapers, and sign makers.

In addition, there will be an increase in tourism and visitors drawn to Vista Field, as well as ongoing employment and business support from commercial use of the plaza and future residential as it develops.

Indeed, this redevelopment project offers a higher and better use of land and buildings located within the very heart of the region’s commercial center and it will spur vitality, business options, and job growth for both Vista Field AND the surrounding neighborhoods given that a number of businesses are already investing and building nearby--with specific examples cited in the “*Incidental & Other Benefits*” section below (and referenced in Attachment C).

Diversification

- **Would the project help to expand the palette of Tri-Cities business and industry? How would it help to develop new sectors to better balance the local and regional economy, making it less anchored in, reliant upon, and responsive to traditional economic sectors?**

Redevelopment of Vista Field is following a community-driven master plan which addresses deficiencies identified by TRIDEC / Tri-Cities Regional Chamber of Commerce / Visit Tri-Cities studies. In addition, Vista Field is the very first urban-mixed-use zoning development in the area and there is nothing like it within a several-hours’ drive. As such, the improvements proposed in this Southern Gateway & Hangar Transformation project will bolster the region’s burgeoning tourism industry and provide additional amenities for current and future residents. Additionally, this project is about expanding local amenities that help support job recruitment

efforts for existing and new businesses looking to open shop in Benton County.

Additional, flexible event space located adjacent to the Three Rivers Convention Center can help strengthen the number and type of businesses that support local viticulture, agritourism, meeting and convention sectors; allowing the community to further capture market share in these targeted industries, and further diversify from the region's dependence upon traditional agriculture and Hanford.

By offering placemaking in the form of a central gathering space, wayfinding, and landscaping, the project will further attract private sector investment and support a variety of living spaces across the site—from affordable and multi-unit; to live-work, and single-family; apartments and condos; to courtyard duplexes, and multi-generational living spaces—interspersed with commercial development, the goal is to create an entirely new, urban destination for the region.

Tax Revenue Generation

- **Estimate and discuss tax revenue generation from expanded business or trade (sales, property, business & occupation taxes, etc.).**

Projections indicate at full build-out Vista Field redevelopment could mean as much as \$575 million in private sector investment, \$63.75 million in new infrastructure and \$510 million in new (taxable) buildings—meaning new revenues for roads, utilities, police, fire, hospital, libraries, schools, parks and other services—without increasing taxes or costs to existing taxpayers [*initial 2013 projections by consultant team DPZ and ECONorthwest increased by 25% to account for current economic conditions*].

Sustainability

- **Does the project utilize existing abandoned, derelict, or otherwise underutilized land, buildings, or other infrastructure?**
- **What are the long-term prospects for success of the project's intended beneficiaries?**
- **What is the project's impact on resource consumption?**
- **Discuss other potential environmental impacts.**

This project will help push in-fill development forward and is a perfect example of economic and environmental sustainability. No raw land will be consumed; access to the project site utilizes existing infrastructure on previously impacted land; and abandoned, empty hangar buildings will be repurposed into vibrant public event spaces to support food trucks, pop up retail, markets, events and entrepreneurial ventures that attract people and create initial activity and tourism for the overall site.

In addition, the Kennewick Police Department's Chief of Police Chris Guerrero has indicated his support of this development project and his intent to have patrol officers utilize the public space as a mobile "mini-station" whereby patrol cars could park while officers utilize the restrooms and public spaces for their breaks and completing paperwork—while simultaneously demonstrating a visible presence for public safety and minimizing unwanted activity.

Incidental & Other Benefits

- **Does the project have a likelihood to incubate or spin-off other businesses into the future that may not be intended or foreseen now?**
- **Will the project support additional prestige, cultural, recreational, tourism, or other experiential opportunities aside from the intended direct economic benefits?**

The project will continue to foster investment within Vista Field itself and is anticipated that additional in-fill investment in the surrounding neighborhoods will also occur. In fact, since the redevelopment of Vista Field was announced and the master plan completed, the energy and excitement of a regional town center has attracted significant private-sector investment to the property surrounding Vista Field. From the \$20 million state-of-the-art Miramar Clinic at the eastern end of Vista Field; to the \$4 million Chuck E. Cheese restaurant; to the new \$5 million Food Truck Hub on Skagit Avenue (next to Chuck E. Cheese); to the 7-Kitchen 1Derful Food Park outdoor mall that is currently under construction on Skagit Avenue—these are just some of the recent investments attracted to the surrounding neighborhood as the vision of Vista Field as a regional town center unfolds.

According to Owner John Corbin, Chuck E. Cheese's chose their new location because they wanted to be part of the redevelopment of Vista Field, the former airport being redeveloped as a town center mixed-use development. Nearby Lawrence Scott Park and its extensive sports field was another lure. *Tri-City Herald, September 18, 2018*

Redeveloping the hangars will offer opportunities for sheltered farmers' markets, craft fairs, weddings, quinceaneras, art shows, musical and theater productions, and entrepreneurial ventures. That space will support a city-centered lifestyle and offer a location for residents of the urban town center to gather and recreate.

Indeed, transformation of those hangar buildings was identified as a unique and prestigious part of the Vista Field Master Plan as it frames the gateway for the southern entrance to Vista Field and phase one of the site development.

Activating those hangars as commercial event space will help attract adjacent business, foster micro-entrepreneurs, and ensure that area becomes a central gathering place as envisioned for the walkable, bikeable, pedestrian-friendly and transit-oriented city-center.

This placemaking project will creatively re-use the site's metal carrier decking and will share the story of Vista Field's ties to World War II Naval history--thus fostering both community education and tourism visitation/spending by leveraging interest in history and cross-promotion with the Pasco Aviation Museum.

In addition, the Port is working with City of Kennewick on a Memorandum of Agreement that would formalize a commitment by City to provide allocations of their RCCF funding to support future infrastructure at Vista Field upon the Port repurposing the Hangar B and Hangar C into a tourism and event focused civic space.

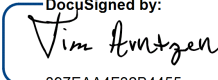
Submitted by:

Agency: Port of Kennewick

Exhibit A - Rural County Capital Funding Application

Date: 9/9/2022

By:

DocuSigned by:

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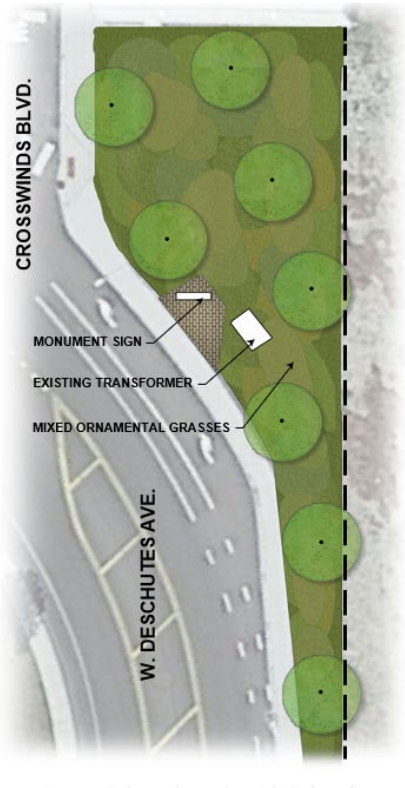
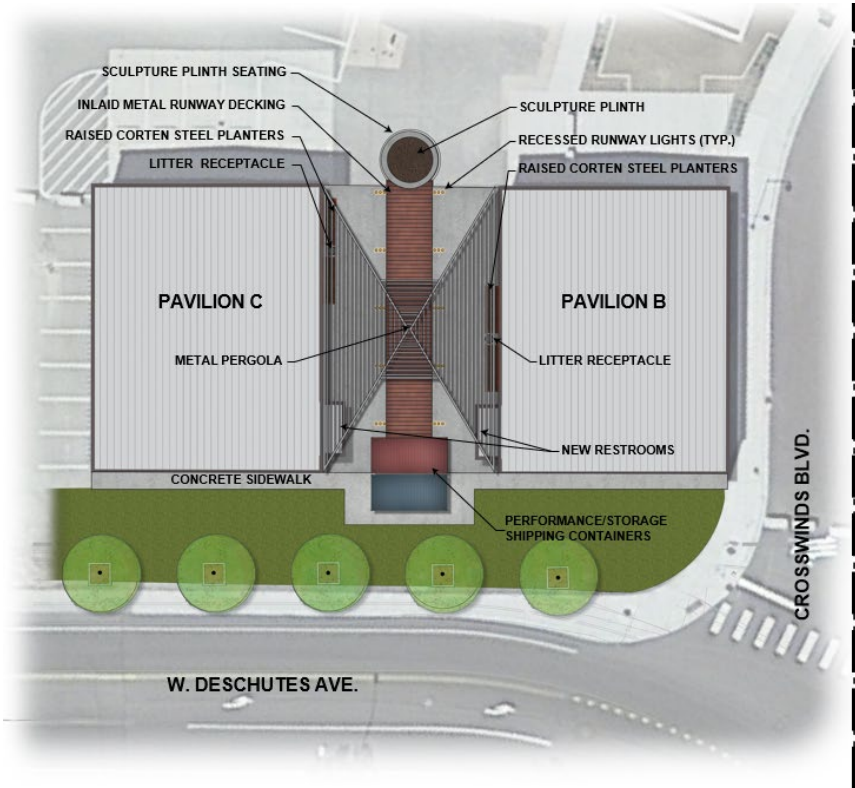
Title:

Chief Executive Officer

Submit to: Benton County Commissioners Office
% Sustainable Development Manager
7122 West Okanogan Place
Kennewick, Washington 99336
commissioners@co.benton.wa.us

Attachment A – Vicinity Photos, Site Map & Project Location





Attachment B –Conceptual Project Renderings

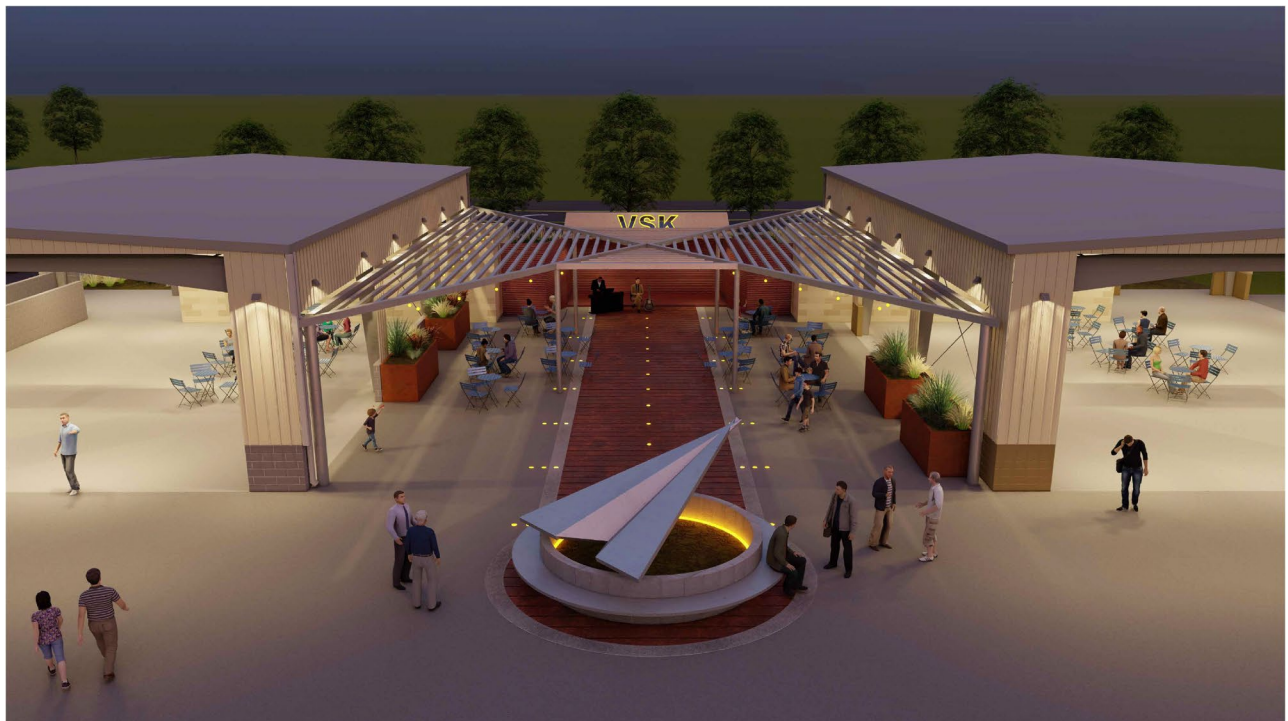






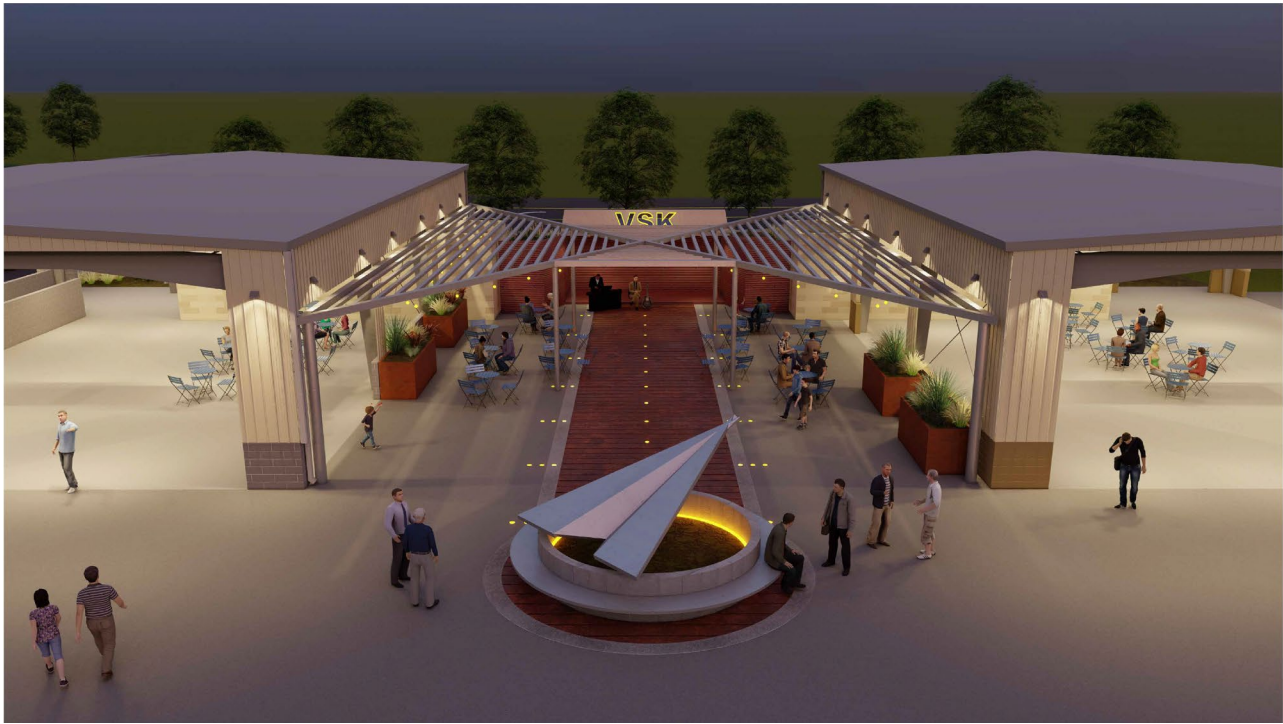
Exhibit A - Rural County Capital Funding Application



Exhibit A - Rural County Capital Funding Application







Attachment C –Project-Related News and Editorials

Tri-Cities Area Journal of Business, Tri-City Herald, The Spokesman-Review



The Miramar Clinic in Kennewick will respect the Italian stylings of the Vista Field redevelopment plan. The Yakima Valley Farm Workers Clinic broke ground on the \$20 million project in January. It's expected to open in 2021. Courtesy The Neenan Co.

\$20 million clinic shows what's possible at Vista Field

Tri-City Herald

They spent \$4 million to upgrade in Kennewick. Now Chuck E. Cheese's has a new home

BY WENDY CULVERWELL

UPDATED SEPTEMBER 18, 2018 5:57 PM



THE SPOKESMAN-REVIEW

Spokane, Washington Est. May 19, 1883

The Tri-Cities are among the fastest growing parts of Washington, according to 2020 Census data. Here's how they're dealing with explosive growth

Aug. 21, 2022 | Updated Sun., Aug. 21, 2022 at 4:24 p.m.

Developers in the area are trying to be creative about how they move forward. One example in Kennewick is Vista Field.

The development will be built on an old airport strip but will become a walkable, urban space – the first of its kind in the region, said Larry Peterson, director of planning and development at the Port of Kennewick.

The hope is that it will become a new regional town center that focuses less on cars and single-family zoning and more on mixed use, Peterson said.

The site has green spaces, waterways and walking paths throughout.

"The intent is building an interesting place," Peterson said. "It's more about how much stuff we can get on a piece of property versus sprawling."

The Port of Kennewick began receiving proposals for the first 20 acres of land in early July.

The site won't accommodate all of the people moving into the area, Peterson said.

It won't necessarily change the game, but the goal is to add some housing stock while at the same time build a community that's never been seen before in the area.

More development on one piece of land is a trend that is coming, Peterson said. It makes economic sense, and Vista Field can be a local example that people can point to for that type of development.

"We aren't going to solve the housing crisis," Peterson said. "What we are hoping is some ideas can be decanted from this."

Summer's Hub

Building Tri-Cities advertising | August 2022



Chris Corbin together with Kathleen and Jon Corbin have completed Summer's Hub, a dining destination that can accommodate up to 28 food trucks in the heart of Kennewick.

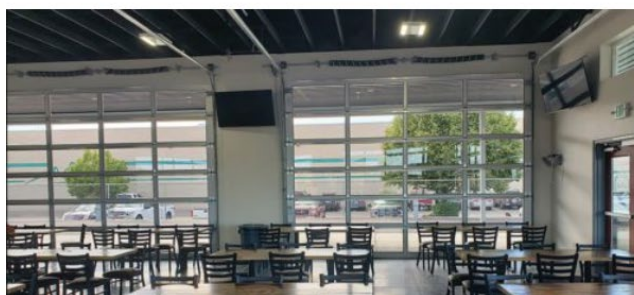
The 7,000-square-foot, one-story building at 6481 W. Skagit Ave., near Chuck E. Cheese, offers indoor and outdoor seating as well as an outdoor stage for live performances.

The 150-spot parking lot can be converted into a market during the summer months. Brady's Brats and Burgers is a tenant.

The \$5 million project, including land, is designed as a family-friendly destination.

The rent is \$1,200 per month for a one-year lease.

The project wrapped up on Aug. 1.



New food park to bring innovative dining to Tri-Cities. There will be Korean BBQ and more

BY CORY MCCOY

UPDATED MAY 24, 2022 11:24 AM

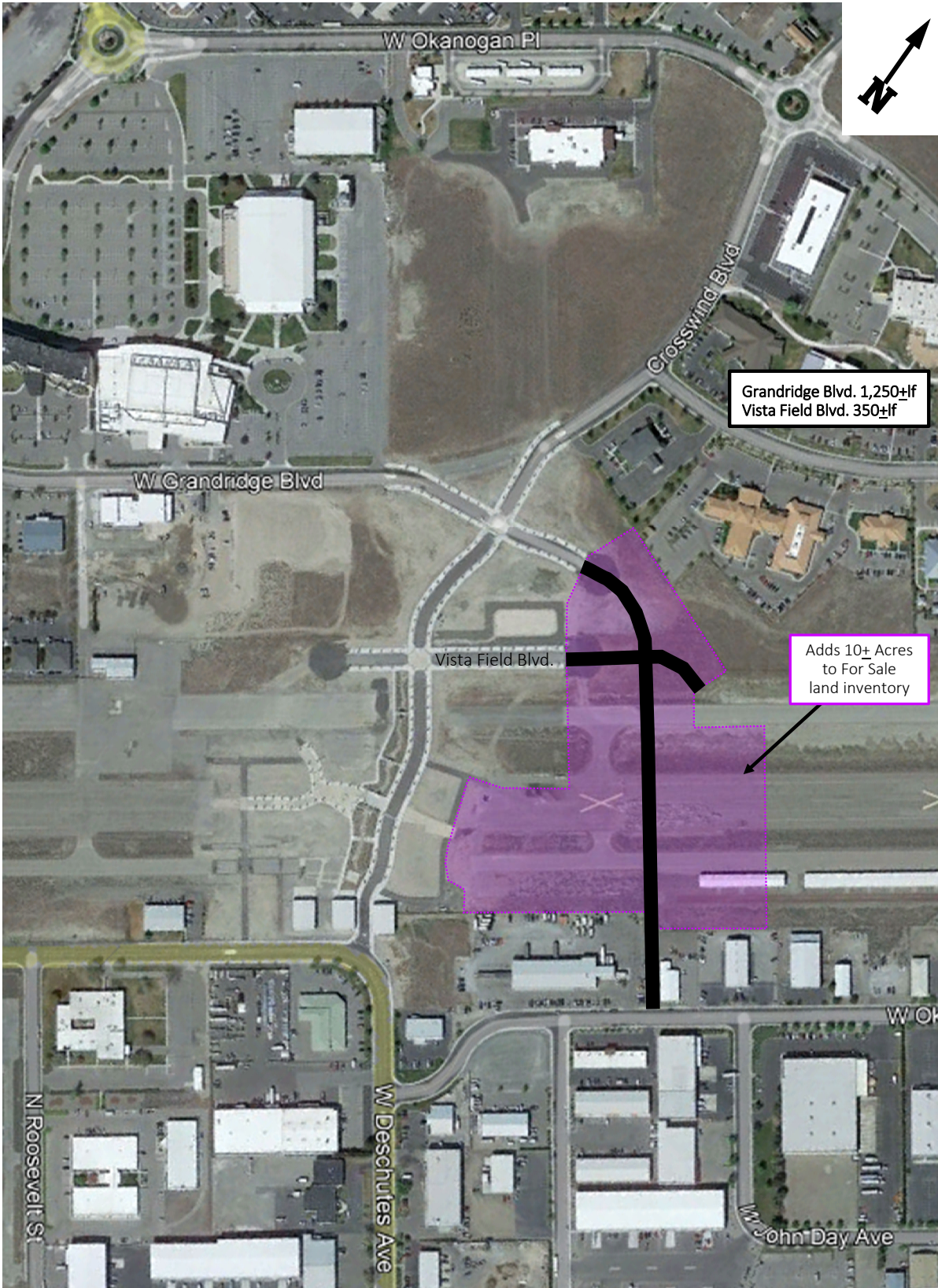


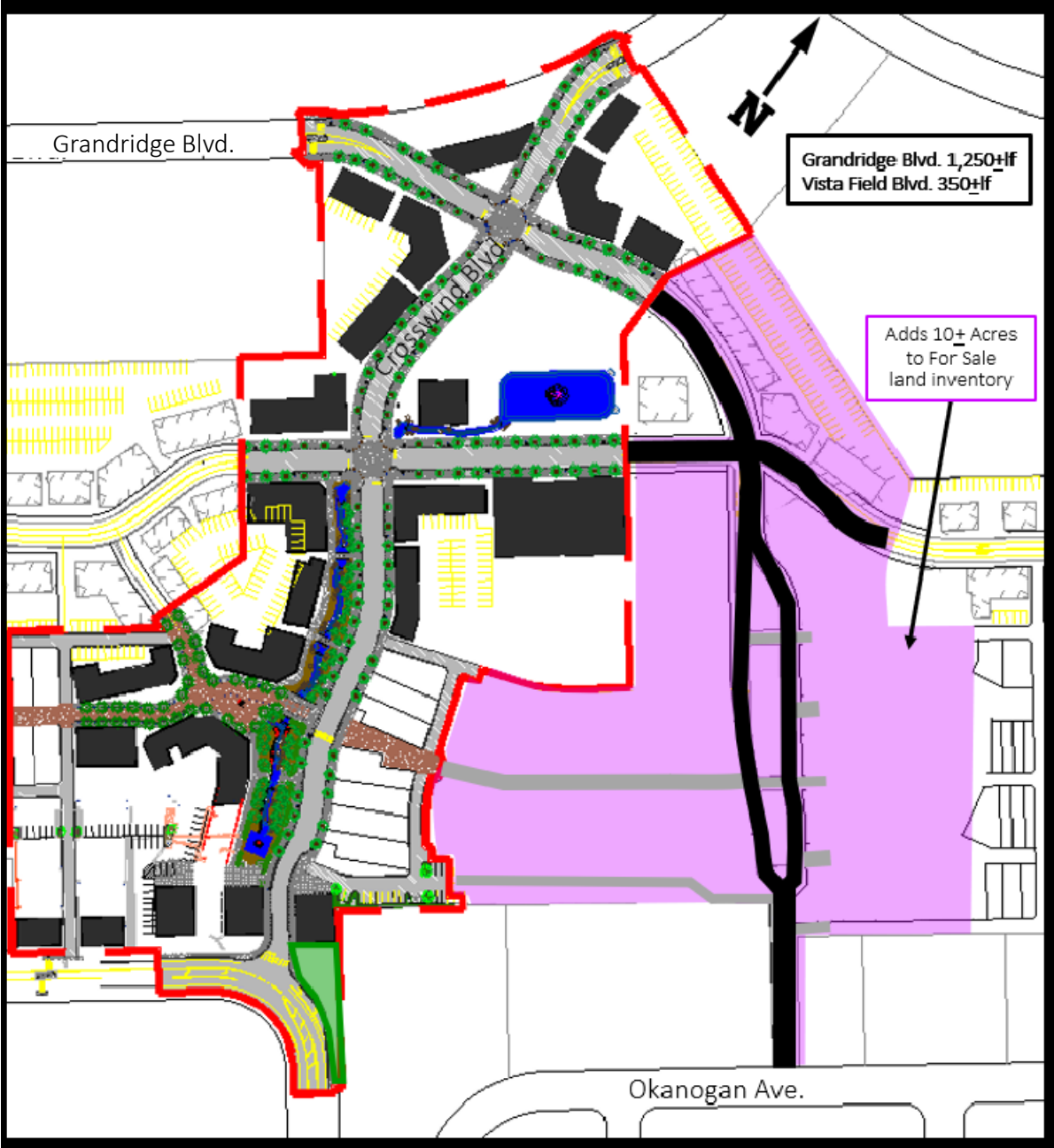
Tri-City Herald



1Derful Food Park owner Joo Seok Baek wants to bring a new way to dine to the Tri-Cities. His food park is designed with outdoor dining in mind.

[illegible]







AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen

MEETING DATE: May 23, 2023

AGENDA ITEM: Benton City Funding Assistance

I. REFERENCE(S):

II. FINANCIAL IMPACT: Approximately \$40,000 from Opportunity Fund

III. DISCUSSION: The port has allocated \$100,000 of its funding as part of the commission's approved budget for projects of community importance that arise after the adoption of the approved two-year budget. Benton City proposed several projects of importance that also benefit the port and its regional economic development objectives. Those projects are as set forth on "Attachment A" hereto, and those projects total approximately \$40,000 which could be funded from the Opportunity Fund, which totals \$100,000. Staff recommends commission approval of funding of approximately \$40,000; a spreadsheet related to the Opportunity Fund is attached as "Attachment B".

IV. ACTION REQUESTED OF COMMISSION:

Motion: I move approval of Resolution 2023-11, approval funding of approximately \$40,000 for Benton City for the projects as set forth on Attachment "A"; and further authorize the Port Chief Executive Officer and employees to take all action necessary in furtherance hereof.

PORT OF KENNEWICK

RESOLUTION No. 2023-11

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING BENTON CITY FUNDING ASSISTANCE***

WHEREAS, the Port has allocated \$100,000 via its Opportunity Fund, as part of the commission's approved budget for projects of community importance that arise after the adoption of the approved two-year budget; and

WHEREAS, Benton City has proposed several projects of importance that also benefit the port and its regional economic development objectives; and

WHEREAS, those projects are as set forth on "Attachment A" hereto, which projects total approximately \$40,000 which could be funded from the Opportunity Fund; and

WHEREAS, staff recommends Commission approval of funding approximately \$40,000 from the Opportunity Fund. A spreadsheet related to the Opportunity Fund is attached as "Attachment B".

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves allocation of approximately \$40,000 for Benton City for the projects as set forth on "Attachment A".

BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners hereby ratifies and approves all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of May, 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President


By: _____

THOMAS MOAK, Secretary

Areas of Potential Assistance from Port of Kennewick

- Update Parks and Recreation Plan to Include Subarea 8-10K**
- Update zoning map to include Subarea 3 - 5K**
- Train Staff to implement new design standards for City and Subarea. (Two different sets of design standards) 6-10K**
- Development of recruitment materials illustrating Subarea vision and concepts 10-15K**

	2023-2024 Budget:	\$ 125,000.00		
Project	Vendor	Encumbrance	Spent To Date	Balance
Benton City Funding Assistance		\$ 40,000.00	\$ -	\$ 40,000.00
Cable Bridge Lighting Project		\$ 25,000.00	\$ -	\$ 25,000.00
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
	TOTAL	\$ 65,000.00	\$ -	\$ 65,000.00
	Remaining Budget	\$ 60,000.00		

		PEBB EMPLOYER GROUP INTERLOCAL AGREEMENT Restated Contract		HCA Contract Number: K2031 HCA Contract Amendment Number: 1 Employer Group Agency Number: 955	
<p>Washington State Health Care Authority is the single state agency that administers the medical, dental, life, and disability insurance coverage for the Employees of the State of Washington and for contracted employer groups, as set forth in Title 41 RCW.</p> <p>THIS Interlocal Agreement made by and between Washington State Health Care Authority, hereinafter referred to as "HCA," and Port of Kennewick, hereinafter referred to as the "Contractor."</p>					
EMPLOYER NAME Port of Kennewick			EMPLOYER doing business as (DBA)		
EMPLOYER GROUP ADDRESS 350 Clover Island Drive Kennewick, WA 99336			FEDERAL TAX ID #: 91-6009781	WA STATE UBI #:	
EMPLOYER BARGAINING GROUP: All Employees					
EMPLOYER CONTACT Nick Kooiker	EMPLOYER TELEPHONE 509-586-1186	EMPLOYER E-MAIL ADDRESS nick@portofkennewick.org			
HCA PROGRAM PEB Outreach and Training	HCA DIVISION/SECTION Employees and Retirees Benefits (ERB) Division	HCA CONTRACT CODE			
HCA CONTACT NAME AND TITLE Amy Corrigan Management Analyst		HCA CONTACT ADDRESS Post Office Box 45530 Olympia, WA 98504-5330			
HCA CONTACT TELEPHONE (360) 725-0826		HCA CONTACT E-MAIL ADDRESS amy.corrigan@hca.wa.gov			
EFFECTIVE DATE OF BENEFITS: June 12, 2023	CONTRACT START DATE: Date of Execution	CONTRACT END DATE: No End			
PURPOSE OF CONTRACT: To provide insurance benefits from the Public Employees Benefits Board (PEBB) Program through HCA for the eligible members of the group(s) of Employees identified in this Agreement and their Dependents.					
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Agreement. The parties signing below warrant that they have read and understand this Agreement and have authority to execute this Agreement. This Agreement is binding on the parties only upon signature by an authorized representative of each.					
EMPLOYER SIGNATURE	PRINTED NAME AND TITLE				DATE SIGNED
HCA SIGNATURE	PRINTED NAME AND TITLE				DATE SIGNED

Commented [LM(1)]: Please provide phone number.

1. PURPOSE

The purpose of this Agreement is to establish the terms and conditions under which HCA will provide certain benefits to Contractor and certain of Contractor's Employees and their Dependents. The scope and coverage of the benefits of PEBB Insurance Coverage will be those PEBB Insurance Coverage benefit plans approved by the Public Employees Benefits Board (PEBB). Contractor understands and agrees that these PEBB Insurance Coverage benefits may be changed from time to time by HCA in its sole discretion. Contractor's continued participation in PEBB Insurance Coverage under this Agreement will indicate Contractor's acceptance of such changes in PEBB Insurance Coverage.

2. DEFINITIONS

Capitalized terms in this Agreement and not otherwise defined herein shall have the same definitions as those stated in Title 182 WAC.

Whenever used in this Agreement, the following terms will have these meanings:

"Business Day" means all days except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Confidential Information" means information that may be exempt from disclosure to the public or unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or state or federal statutes. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.

"Contract Manager" means the authorized agent who administers this Agreement on behalf of a party, ensures compliance with the terms of this Agreement, and acts as the point of contact when one party contacts the other with questions regarding the terms of this Agreement.

"Coverage Period" means the period during a Plan Year when Enrollees are enrolled in PEBB Insurance Coverage.

"Dependent" shall have the meaning set forth in WAC 182-12-109.

"Employee" means individuals employed by Contractor who fall within the meaning of "Employee" set forth in WAC 182-12-109.

"Employer Group Rate Surcharge" means the rate surcharge described in RCW 41.05.050(2).

“Enrollee” shall have the meaning set forth in WAC 182-12-109.

“ERISA” means the federal Employee Retirement Income Security Act of 1974.

“HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, as now in effect and as modified from time to time. In part 164 of title 45 CFR, the “Security Rule” is subpart C (beginning with §164.302), the “Breach Notification Rule” is subpart D (beginning with § 164.400), and the “Privacy Rule” is subpart E (beginning with § 164.500).

“Key” or “Keying” means the process by which Contractor or HCA enters the data of Enrollees directly into a computer system of HCA’s choice.

“PEBB” means the Public Employees Benefits Board.

“PEBB Insurance Coverage” or “Insurance Coverage” shall have the meaning set forth in WAC 182-12-109.

“PEBB Program” shall have the meaning set forth in WAC 182-12-109.

“PEBB Rules” means all applicable statutory and regulatory eligibility, enrollment, and appeals requirements in Chapter 41.05 RCW, and Chapters 182-08, 182-12, and 182-16 WAC.

“PEBB Wellness Incentive Program” shall mean the wellness program described and governed by WAC 182-12-300.

“Plan Year” means the calendar year, beginning January 1st and ending December 31st.

“Premium Surcharge” shall have the meaning set forth in WAC 182-12-109.

“Protected Health Information” or “PHI” has the same meaning as in the HIPAA Rules except that in this Contract the term includes only information created by Contractor, or received from or on behalf of HCA, and relating to Employees or their Dependents.

“Rate Book” means the then current PEBB rate tables showing contributions rates, surcharges, and premiums for all eligible persons covered by PEBB (for instance, State Actives, Retirees, and COBRA).

“RCW” means the Revised Code of Washington. Any references to specific titles, chapters, or sections of the RCW includes any substitute, successor, or replacement title, chapter, or section.

“WAC” means the Washington Administrative Code. Any references to specific titles, chapters, or sections of the WAC includes any substitute, successor or replacement title, chapter, or section.

3. WARRANTY

Contractor represents and warrants it has authority to purchase benefits on behalf of its Employees, and it meets the criteria for purchasing benefits on behalf of its Employees as provided by Chapter 41.05 RCW, RCW 41.04.205, Chapter 182-08 WAC, and Chapter 182-12 WAC.

4. PERIOD OF PERFORMANCE

The term of this Agreement begins on the latest date of execution by a party (“Effective Date”) and will remain in effect until the parties enter into a new agreement or terminate this Agreement pursuant to Section 30.

5. Obligations of Contractor

A. Responsibility For Enrollment and Enrollment Data

- i. Contractor must determine the eligibility of Contractor’s Employees and their Dependents for PEBB Insurance Coverage in accordance with Exhibit A, Eligibility Rules for Contractor.
- ii. Contractor must review any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees to ensure that enrolling in PEBB Insurance Coverage conforms to the terms and conditions of such agreement(s).
- iii. Upon HCA’s request, Contractor will provide HCA all required information to ensure the accurate Keying in of benefits in accordance with the terms of Section 10 of this Agreement, and for HCA to issue accurate invoices.
- iv. Upon HCA’s request, Contractor will furnish HCA with enrollment forms and supporting documentation no later than fifteen (15) Business Days after HCA sends the request.
- v. Contractor will promptly cooperate with any reasonable HCA requests to verify the accuracy of enrollment information.
- vi. Contractor will supplement and update enrollment information within five (5) Business Days after any changes occur. If Contractor submits enrollment information showing a change in an Enrollee’s enrollment status after the 20th

of the month, that change may not be reflected in HCA's enrollment data and monthly invoice until the subsequent month.

- vii. Upon HCA's request, Contractor will provide the following information for each individual enrolled in the Contractor's health plan continuation coverage (such as Consolidated Omnibus Budget Reconciliation Act [COBRA] continuation coverage) no later than fifteen (15) Business Days after HCA sends the request:
 - (a) Social Security Number;
 - (b) Name;
 - (c) Mailing Address;
 - (d) Eligibility Type; and
 - (e) End Date for COBRA or other continuation coverage.
- viii. Contractor understands that the terms of this Agreement will continue to apply if Contractor enters into a new collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees. Contractor shall therefore consider the benefits, rights, obligations, requirements, restrictions, and limitations set forth herein, in PEBB Insurance Coverage, and in applicable laws, rules, and regulations when entering into such new agreement. HCA is and shall be under no obligation to grant exceptions to PEBB Rules requested because of the terms or conditions of such new or existing agreement.
- ix. Contractor is responsible for notice and reporting requirements under Internal Revenue Code ("IRC") §6056 and reporting on behalf of an employer sponsored self-funded plan under IRC§6055.
- x. Contractor must have and implement a cafeteria plan per IRC §125, and the implementing regulations for the cafeteria plan, to ensure correct tax treatment of monies deposited into a health savings account. Contractor agrees such cafeteria plan will be in effect by the first Effective Date of PEBB Benefits for Employees.

B. PEBB Insurance Coverage Information

- i. Contractor agrees it will provide either (a) the then current Employee Enrollment Guide, or (b) a link to the electronic version of the Employee Enrollment Guide maintained on HCA's website, within five (5) Business Days of (c) the start date of newly hired Employees, or (d) a change in an Employee's work pattern such that the Employee's eligibility status changes.
- ii. Contractor agrees it will provide eligibility information for PEBB Insurance Coverage to Employees within five (5) Business Days of (a) start date of newly

hired employees, or (b) a change in an Employee's work pattern such that the Employee's eligibility status changes. Such notice will include a description of Contractor's eligibility appeal process required under Section 5.H.

- iii. Contractor may produce its own additional materials on PEBB Insurance Coverage for its Employees. Any such materials must first receive written approval from HCA before being provided to Employees. In addition, Contractor must annually submit all material, including any previously approved materials, by September 15.
- iv. As set forth in WAC 182-12-116, Employees are not eligible to participate in the benefits provided under the Salary Reduction Plan as authorized under Chapter 41.05 RCW.

C. Notifications upon Termination of Participation in PEBB Insurance Coverage

If Contractor terminates its participation in PEBB insurance coverage, they must notify their Employees, Dependents of Employees, retirees, and COBRA Enrollees of the intent to end its participation in PEBB insurance coverage. Contractor shall provide this notice at least 45 days in advance of termination and shall provide assistance to retirees as described in RCW 41.04.208.

D. Remittance

- i. Contractor shall remit the monthly Premium, Premium Rate Owed When an Employee Waives Medical, Employer Group Rate Surcharge, and the full amount of any Premium Surcharges (*see*, Section 7), within twenty (20) days of the end of each month of the Coverage Period. Partial payment by Contractor will be deemed nonpayment.
- ii. Contractor shall be solely responsible for collecting from Employees (a) any applicable Premium Surcharge, and (b) any Employee share of the Premium.
- iii. Contractor shall be solely responsible for refunding any charge paid by the Employee to Contractor and not remitted to HCA.
- iv. Any and all deductions made by Contractor from an Enrollee's salary for the payment of premiums for (a) Life insurance, (b) Long Term Care, and/or (c) Long Term Disability, must be made on a post-tax basis.

E. Resolving Discrepancies

- i. When an Enrollee's enrollment in PEBB Insurance Coverage is terminated, or the Employee's salary changes, Contractor agrees to update the change in the

insurance system (e.g., Benefits 24/7). Failure to update the insurance system may result in Contractor liability for premium adjustments not made.

- ii. Contractor is solely responsible for the completeness and accuracy of all updates it makes in the insurance system and all forms it sends to HCA.

F. Benefits Limitations

- i. For any PEBB Insurance Coverage in which an Employee can enroll, Contractor will ensure that such benefits are the only Contractor-sponsored benefits available to its PEBB Insurance Coverage eligible Employees. Contractor may purchase benefits from third parties only if (a) such benefits are not included in the PEBB Insurance Coverage, or (b) are not otherwise offered or available under this Agreement.
- ii. Contractor shall not transfer Employees to other similar or competing benefits while this Agreement is in effect. HCA will only consider transfers for all of Contractor's Enrollees and will not approve any proposed transfer of individual Employees and their Dependents.
- iii. Contractor shall not pay premiums related to optional Long Term Disability (LTD) or optional Life insurance benefits purchased from ERB-contracted LTD and Life insurance vendors.
- iv. Contractor shall not pay any Premium Surcharges on behalf of its Employees. Employees are solely responsible for the timely payment of any applicable Premium Surcharges.

G. Certification of Eligibility

- i. Contractor represents and warrants all Enrollees meet PEBB Rules throughout the enrollment term.
- ii. Contractor represents and warrants that it has reviewed the PEBB Rules and determined that enrolling in the PEBB Insurance Coverage does not violate or conflict with any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees.

H. Employer Group Scope

The following group(s) of Employees and their Dependents will be provided Insurance Coverage pursuant to this Agreement:

[Full Employee](#)

Contractor may not extend eligibility for Insurance Coverage to any person outside of the defined group(s) of Employees and their Dependents without the express, written consent of HCA.

I. Appeal Rights

- i. Contractor agrees it will establish an appeal system for its Enrollees who are denied by Contractor all or part of benefits under the PEBB Insurance Coverage. Contractor agrees it will provide Enrollees notice of the opportunity to appeal at the time of such denial. Within five (5) Business Days of a request by HCA, Contractor will provide HCA a description of its appeal process and a copy of the form or template used by Contractor to provide such notices.
- ii. In accordance with WAC 182-16-2010(2), Contractor is responsible for adjudicating appeals for its Employees on decisions made by the Contractor with regard to PEBB eligibility, enrollment, or a premium surcharge.
 - (a) Contractor must provide information to Enrollees to direct to HCA appeals arising from aggrieved decisions regarding life insurance, LTD insurance, eligibility to participate in the PEBB wellness incentive program, or eligibility to receive PEBB wellness incentive.
 - (b) When Enrollees want to appeal an aggrieved decision regarding the administration of a PEBB Insurance Coverage, Contractor must direct the Enrollee to the appeal provisions of the plan.
- iii. Enrollee appeals arising from alleged errors in LTD benefits, Life benefits, eligibility to participate in the PEBB Wellness Incentive Program, or eligibility to receive a PEBB Wellness Incentive will be referred to HCA in accordance with WAC 182-16-2030.
- iv. Enrollee appeals arising from alleged errors in completion of PEBB Wellness Incentive Program requests, or a request for a reasonable alternative to a PEBB Wellness Incentive requirement, will be referred to the third party under contract with HCA to administer the PEBB Wellness Incentive Program.
- v. Contractor agrees to furnish any information and documentation related to individual appeals to HCA upon HCA's request. Such information and documents will be provided at no cost.
- vi. Contractor will implement any determination made by HCA following an appeal to HCA.

6. OBLIGATIONS OF HCA

A. Provision of Benefits

HCA agrees to provide the following PEBB Insurance Coverage benefits indicated below to Contractor's PEBB enrollees:

- ☐ PEBB Medical benefits (including the PEBB Wellness Incentive Program) only.
- ☒ PEBB Medical (including the PEBB Wellness Incentive Program), Dental, Life, LTD, property and casualty insurance, and LTC (not currently accepting new enrollment) benefits.

B. Provision of Rate Book; Notice of Changes

HCA shall either (i) publish the Rate Book on its Internet site; or (ii) provide Contractor the Rate Book (a) prior to the enrollment start date indicated in Section 8.B. and (b) at least fifteen (15) calendar days prior to the effective date of any changes to the fees and charges listed in Section 7.

C. Invoicing

HCA will issue invoices on a monthly basis to Contractor. The invoice amount will be based on the enrollment information provided by Contractor.

7. HCA CHARGES

A. Start-Up Fee

Contractor shall pay a one-time start-up fee as authorized by WAC 182-08-245(1)(a) and set forth in the Rate Book ("Start-Up Fee"). The Start-Up Fee shall be due and payable on the Effective Date.

B. Employer Group Rate Surcharge

Pursuant to RCW 41.05.050(2), HCA has developed an Employer Group Rate Surcharge to be paid by participating counties, municipalities, other political subdivisions, and tribal governments, including Contractor. The Employer Group Rate Surcharge to be paid by Contractor will be calculated as set forth in the Rate Book then in effect for the Plan Year.

C. Premium Surcharge

HCA collects Premium Surcharges in accordance with the requirements of WAC 182-08-185. The amount of the Premium Surcharge shall be set in the Rate Book.

D. Premium Rates Owed When an Employee Waives Medical

For Employees who waive the PEBB Medical benefit, HCA requires Contractor to pay a Premium Rate Owed When an Employee Waives Medical. The amount of the Premium Rate Owed When an Employee Waives Medical shall be set in the Rate Book.

8. INITIAL EFFECTIVE DATE OF BENEFITS

A. Contractor agrees that before Employees and Dependents may be enrolled in Insurance Coverage, it will:

- i. Remit to HCA the required Start-up Fee,
- ii. Sign this Agreement,
- iii. Determine Employee and Dependent eligibility and terms of enrollment for Insurance Coverage in accordance with the criteria outlined in this Agreement,
- iv. Determine eligibility in order to ensure the Insurance Coverage's continued status as a "governmental plan" under Section 3(32) of ERISA (as amended),
- v. Comply with the benefits limitations in Section 5.F. of this Agreement, and
- vi. Determine that enrolling in the Insurance Coverage does not violate or conflict with any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees.

B. The start date of enrollment for Contractor's initial Enrollees is [June 12, 2023](#), provided all contractual and regulatory requirements are completed on or before that date.

9. CONTRACT MANAGEMENT

The following individuals will be the Contract Managers responsible for communicating with the other party regarding this Agreement and its performance. The named Contract Manager for Contractor must have authority to act on behalf of Contractor for purposes of participation in the Insurance Coverages and must have access to information regarding Enrollees.

The Contract Manager for HCA is:

Name: Amy Corrigan
Title: Management Analyst
Address: PO Box 45530
Olympia, WA 98504-5530
Phone: 1-800-700-1555
Email: amy.corrigan@hca.wa.gov

The Contract Manager for Contractor is:

Name: [Nick Kooiker](#)
Title: [Chief Financial Officer](#)
Address: [350 Clover Island Drive](#)
[Kennewick, WA 99336](#)
Phone:
Email: nick@portofkennewick.org

Commented [LM(2)]: Please provide.

Each party must provide written notice of any changes to its designated Contract Manager, or in the Contract Manager's contact information, no later than thirty (30) days after such change occurs.

10. KEYING IN DATA

- A. Contractor shall Key in data for the term of this Agreement. At HCA's sole discretion, it may perform the initial Keying of Enrollee information prior to the initial effective date of Insurance Coverage as set forth in Section 8.B. Contractor shall continue Keying in data unless the parties otherwise agree in writing.
- B. If HCA is Keying in data pursuant to the terms of this section, Contractor agrees to provide HCA with all information requested by HCA for the accurate Keying in of data.
- C. Contractor must (i) Key in all requests to waive enrollment in Insurance Coverage; or (ii) if HCA is Keying in data, provide HCA with all information requested by HCA.
- D. Contractor may not subcontract or assign its Keying in tasks to a third party without the express, written consent of HCA.
- E. Regardless of which party is Keying in data pursuant to the terms of this section, Contractor will be responsible for errors made Keying in any and all applicable Enrollee data, including additional charges under this Agreement, payment of any amounts to Employees or Enrollees, and any other claim, judgment, penalty, fee, or fine arising out of such error. Upon discovery of any such error, or upon receiving notice of such error from HCA, Contractor has five (5) Business Days to (i) if Contractor is Keying in data, correct the erroneous data, or (ii) if HCA is Keying in the data, to provide HCA with corrected information in writing.
- F. Contractor may not Key in retroactive changes to an Enrollee's Insurance Coverage benefits. If Contractor determines that an Enrollee's benefits must be retroactively changed, such as after an appeal, within thirty (30) days of determining a need for such change, Contractor will provide HCA with a written request (i) stating the retroactive change sought, (ii) enumerating the grounds for such change, and (iii) including any other documentation supporting the change.

11. AMENDMENTS

This Agreement may be amended by written mutual agreement of the parties. Such amendments will not be binding, and no payments will be made under an amendment's terms, unless the amendment is signed by authorized agents of HCA and Contractor.

12. ASSIGNMENT

- A.** Contractor cannot assign its responsibilities under this Agreement to a third party without the prior written consent of HCA. HCA's written consent, which shall not be unreasonably withheld, can condition an assignment on proof that the assignee's qualifications and ability to perform is at least equal to those of Contractor. Such assignment shall not operate to relieve Contractor of the performance of any of its duties and obligations hereunder, and such assignment shall not affect any remedies available to HCA that may arise from any breach of any provision in this Agreement.
- B.** HCA may assign all or any part of this Agreement to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, provided that such assignment shall not operate to relieve HCA of any of its duties and obligations hereunder.

13. ATTORNEY'S FEES

In the event of litigation or other action brought to enforce the terms of this Agreement, each party shall bear its own costs and attorney's fees.

14. CHANGE IN PERSONNEL

As soon as reasonably possible, but no later than thirty (30) days after any changes, Contractor shall update the insurance system (e.g., Benefits 24/7) with changes to Contractor's key personnel, including, but not limited to, key personnel in human resources and payroll. Contractor will update HCA to any change in the Contractor's Contract Manager. Failure to make a timely notice may result in missed training opportunities for Contractor's key personnel, missed adjustments, and potential processing delays or errors.

15. CONFIDENTIAL INFORMATION AND PROTECTED HEALTH INFORMATION

Contractor is required to comply with Exhibit B, Data Use, Security, and Confidentiality incorporated into this Agreement, and all applicable federal and state laws and administrative regulations governing use of Confidential Information and Protected Health Information (PHI). Contractor agrees to limit access to Confidential Information and Protected Health Information to the minimum amount of information necessary, to the fewest number of people, and for the least amount of time required to perform its duties under this Agreement. The obligations set forth in this Section shall survive the termination or expiration of this Agreement.

16. CONFORMANCE

If any provision of this Agreement conflicts with any applicable state or federal law or regulation, the Agreement language is amended to conform to the minimum requirements of the conflicting law or regulation. A provision of this Agreement that is stricter than such laws or regulations will not be deemed a conflict.

17. DISPUTES

- A. The parties shall use good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. Both parties will continue, without delay, to carry out their respective responsibilities under this Agreement while attempting to resolve any dispute.
- B. The respective Contract Managers for each party will first attempt to resolve the dispute. Either Contract Manager will provide notice of a request to meet to resolve the matter in dispute. Such notice will include a brief summary of the disputed issue, each parties' position, and a proposed resolution.
- C. If the Contract Managers cannot resolve the dispute within ten (10) Business Days after the initial request for a meeting, then either party may submit a request for a dispute resolution to the HCA Contract Administrator. The contact information for the HCA Contract Administrator is as follows:

HCA Contract Administrator
Address: Post Office Box 42702
Olympia, WA 98504-2702
Phone: (360) 725-1271
E-mail: contracts@hca.wa.gov

- D. A party's request for a dispute resolution must be in writing and must clearly state all of the following:
 - i. The disputed issue(s);
 - ii. Any additional facts necessary to explain completely and accurately the nature of the dispute; and
 - iii. A description of the remedies sought.
- E. The HCA Contract Administrator shall oversee the following Dispute Resolution Process:

Within thirty (30) days after the submission of a request for dispute resolution,

 - i. HCA shall appoint a representative to a Dispute Board;

- ii. Contractor shall appoint a representative to the Dispute Board;
- iii. HCA's and Contractor's representatives shall mutually agree on a third person to chair the Dispute Board.

The Dispute Board shall thereafter decide the dispute within thirty (30) days of the date the Dispute Board was created, with the majority prevailing.

- F. The Dispute Board will review the facts, the terms of the Agreement, and applicable statutes and rules, and make a determination resolving the dispute within the authority of applicable statutes, rules, administrative policies, and written guidance provided by PEBB Program.
- G. The dispute resolution process set forth in this Section is in addition to and not in replacement of any other rights, duties, and obligations set forth in this Agreement. The time frame for a party to cure any breach of the terms of the Agreement or comply with any corrective action plan shall not be tolled by the pendency of any dispute resolution procedures.

18. ENTIRE AGREEMENT

This Agreement, together with all of its Schedules, Exhibits, Appendices and Attachments, constitutes the final, complete and exclusive statement of the agreement of the parties relative to the subject matter hereof, and supersedes all previous or contemporaneous oral and written proposals, negotiations, representations or understandings, including any preceding Interlocal Agreements, amendments, or other agreements between HCA and Contractor in connection with enrollment in the PEBB Insurance Coverage.

19. FORCE MAJEURE

- A. Neither party will be liable for failure to perform under this Agreement if such failure arises out of events beyond the control of, and without the fault or negligence of, the non-performing party. Such causes may include, but are not limited to: natural disasters, fires, floods, earthquakes, landslides, riots, strikes or labor disputes, major epidemics, acts of God, war, terrorist acts, embargoes, or any other similar event.
- B. This provision will become effective only if the party failing to perform notifies the other of the extent and nature of the problem no later than seventy-two (72) hours after discovery of the event and takes reasonable steps to limit any delay in performance of this Agreement caused by the event. The notifying party is only excused from the requirements of this Section when the failure to notify is beyond the control and without the fault or negligence of the notifying party.

- C. Nothing in this Section shall be construed to prevent HCA from terminating this Agreement for reasons other than for default during the period of the events set forth above, or for default, if such default occurred prior to such event.

20. GOVERNING LAW AND VENUE

This Agreement will be governed by, and be construed and interpreted in accordance with, the laws of the State of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the State of Washington and the venue of any action brought under this Agreement will be the Superior Court for Thurston County in the State of Washington.

21. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall defend, indemnify, and hold HCA harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, in the performance of this Contract. Contractor's obligation to defend, indemnify, and hold HCA harmless shall not be eliminated or reduced by any alleged concurrent HCA negligence.

22. INDEPENDENT CAPACITY

Contractor and his or her employees or agents performing under this Agreement are not employees or agents of HCA or the State of Washington. Neither Contractor nor any of its employees or agents performing under this Agreement will hold themselves out as, or claim to be, officers or employees of HCA or the State of Washington by reason of this Agreement. Contractor, its employees, and its agents will not make any claim of right, privilege, or benefit that would accrue to employees of the State of Washington or HCA under law. Contractor acknowledges and certifies that neither HCA nor the State of Washington is a guarantor of any obligations or debts of Contractor.

23. ORDER OF PRECEDENCE

In the event of an inconsistency between the terms of this Agreement, the incorporated Exhibits and Appendices, or any applicable statute or regulation, the inconsistency will be resolved by giving precedence in the following order:

- A. Applicable federal statutes and regulations;
- B. Applicable Washington statutes and regulations;
- C. Any term or condition in this Agreement;
- D. Any Exhibit(s) to this Agreement in alphabetical order; and

- E. Any other provision, term, or material incorporated herein by reference or otherwise incorporated.

24. NOTICES

- A. Whenever one party is required to give notice to the other under this Agreement, notice shall be deemed given if mailed by United States Postal Service, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

- i. In the case of notice to Contractor, notice will be sent to:

Attention: Nick Kooiker
Organization: Port of Kennewick
Address: 350 Clover Island Drive
Kennewick, WA 99336

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- ii. In the case of notice to HCA, the notice must be sent to the Contract Manager at the mailing address included in Section 9 of this Agreement.
- B. Notices shall be effective on the date delivered, as evidenced by the return receipt or the date returned to the sender for non-delivery other than for insufficient postage.
- C. Either party may change its address for notification purposes at any time by mailing a notice in accordance with this Section. Changes made pursuant to this subsection will be effective on the tenth (10th) Business Day following receipt of the notice unless a later date is specified in the notice.

25. RECORDS MAINTENANCE AND OWNERSHIP

- A. The parties will each maintain books, records, documents, and other materials that sufficiently reflect all direct and indirect costs expended by either party in the performance of the service(s) described in this Agreement. When either party requests, these records will be presented in a timely manner for inspection, review, or audit by personnel of both parties and other personnel duly authorized by state or federal law.
- B. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after the expiration of this Agreement. At no additional cost to HCA or the State of Washington during this period, the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties will have full access to and the right to examine any of the retained books, records, documents, and other materials.
- C. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained for one (1) year after all litigation, claims, or audit findings involving the records have been resolved.

- D. Unless otherwise agreed, records and other documents, in any medium, furnished by one party to the other will remain the property of the furnishing party. The receiving party will not disclose or make available this material to any third parties without first giving the furnishing party timely notice and a reasonable opportunity to respond.
- E. Each party will utilize reasonable security procedures and protections to ensure that records and documents are not erroneously disclosed to third parties as required under any applicable state and federal laws.

26. PUBLIC RECORDS ACT

Both parties acknowledge that this Agreement is subject to the applicable provisions of the Washington State Public Records Act (Chapter 42.56 RCW) and its exceptions and is a “public record” as defined in RCW 42.56.010. An unredacted copy of this Agreement will be released if HCA or a court of competent jurisdiction determines releasing such a copy is responsive to a public records request under the Public Records Act.

27. PRIVACY LAWS

Contractor will comply with all applicable privacy laws, including but not limited to the Health Insurance Portability and Accountability Act and its implementing regulations, the Washington State Uniform Health Care Information Act (Chapter 70.02 RCW), and the Washington State Patient Bill of Rights (RCW 48.43.500).

28. SEVERABILITY

If a court of appropriate jurisdiction invalidates any provision of this Agreement or any provision of any document incorporated by reference, such invalidation will not affect the other provisions of this Agreement still operational under applicable law without the invalid provision.

29. SURVIVAL

Any terms of this Agreement that would, by their nature or through the express terms of the Agreement, survive the expiration or termination of the Agreement shall so survive, including the terms of Sections 3, 13, 15, 21, 25, and 27.

30. TERMINATION

A. Termination For Convenience

- i. Beginning one year after the Effective Date, Contractor may terminate this Agreement for its convenience, but only if the effective date of such termination is (a) December 31st, or (b) another date agreed to in writing by HCA.

Contractor must give HCA written notice of its intent to terminate no later than sixty (60) Days prior to the effective date of termination. The written notice must include documentation from the board of directors or the legislative body governing Contractor indicating the authority to terminate the Agreement.

- ii. At any time, HCA, at its sole discretion, may terminate this Agreement in whole or in part by providing twenty-eight (28) Days written notice to Contractor.

B. Termination for Nonpayment

- i. If payment of an undisputed amount invoiced by HCA or an HCA contracted vendor is more than sixty (60) Days delinquent, Contractor will receive a written notice. If HCA or such vendor does not receive the entirety of the overdue amount from Contractor within thirty (30) Days of receipt of such notice, Contractor and each Enrollee may be disenrolled from PEBB Medical (including the PEBB Wellness Incentive Program), Dental, Life, and LTD insurance effective the last day of the last month for which full payment is received.
- ii. Upon disenrollment, HCA will send notification to both Contractor and each affected Enrollee. Any partial payment made by Contractor for the month of termination will be refunded by HCA to Contractor. Claims incurred by Enrollees after disenrollment will not be covered.
- iii. HCA reserves the right to recover from Contractor any expenses incurred by HCA as a result of Contractor's nonpayment of the monthly amount invoiced by HCA.

C. Termination for Cause

- i. In the event Contractor violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its material obligations under this Agreement, HCA has the right to suspend or terminate this Agreement in whole or in part.
- ii. HCA has the right to suspend or terminate this Agreement, in whole or in part, upon learning that Contractor provided false or incomplete information during the employer group application process.
- iii. If Contractor fails to apply the PEBB Rules, HCA shall give Contractor written notice of such failure. Upon receipt of such notice, HCA and Contractor will work together to develop a corrective action plan to cure such failure. The parties will have ten (10) Business Days to finalize such a plan, and HCA will have sole discretion to extend this period. If no agreed upon plan is developed in such period, HCA may terminate this Contract by written notice.

- iv. After a corrective action plan is approved, Contractor will have thirty (30) Days to implement such plan and apply the PEBB Rules as required under this Agreement. If Contractor's failure or violation is not so corrected, HCA may terminate this Agreement by written notice.

D. Parties' Responsibilities after Termination of Agreement

- i. Upon termination of this Agreement for any reason, Contractor will assume all responsibilities for maintaining benefits for its Employees, Dependents of the Employees, and retirees as may be required by legal or contractual obligations Contractor may have to such Employees, Dependents, or retirees.
- ii. Upon termination of this Agreement for any reason, Enrollees, or retirees included in the transfer unit when this Agreement took effect, cease to be eligible for Insurance Coverage as of the date the Agreement ends. Such Enrollees and retirees may not continue their enrollment in Insurance Coverage beyond the last day of the month in which the Agreement terminated.
- iii. If Contractor later decides it wants to again enroll Employees and Dependents of the Employees in Insurance Coverage, Contractor must re-apply and meet HCA's then existing employer group participation criteria.

31. IMMUNITY

Nothing in this Agreement shall be construed as a waiver (A) by HCA of the State of Washington's immunity under the 11th Amendment to the United States Constitution, or (B) by any Indian Nation of its sovereign immunity.

32. WAIVER

A failure by any party to enforce its rights under this Agreement will not be deemed a waiver by that party as to subsequent enforcement of rights. A waiver must be in writing, signed by an authorized representative for the waiving party, and identify which right(s) the party is waiving. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement.

EXHIBIT A
ELIGIBILITY RULES FOR CONTRACTOR

The PEBB Rules that Contractor must use in determining the eligibility of Employees and Dependents for the PEBB Insurance Coverage are as follows:

- 1) Title 182 WAC, and
- 2) Any additional policies, procedures, or written guidance issued by the PEBB Program.

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EXHIBIT B

DATA USE, SECURITY, AND CONFIDENTIALITY

1. Definitions

The definitions below apply to this Exhibit B:

“Authorized User” means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Agreement.

“Breach” means the unauthorized acquisition, access, use, or disclosure of Data shared under this Agreement that compromises the security, confidentiality or integrity of the Data.

“Data” means the information that is disclosed or exchanged as described by this Agreement. For purposes of this Exhibit B, Data means the same as “Confidential Information.”

“Disclosure” means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

“Hardened Password” means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
Passwords for external authentication must be a minimum of 10 characters long.
Passwords for internal authentication must be a minimum of 8 characters long.
Passwords used for system service or service accounts must be a minimum of 20 characters long.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 (“ARRA”), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).

“Portable/Removable Media” means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).

“Portable/Removable Devices” means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC’s, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.

“Transmitting” means the transferring of data electronically, such as via email, secure file transfer protocol (SFTP), webservices, AWS Snowball, or other similar methods.

“Trusted System(s)” means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

“U.S.C.” means the United States Code. All references in this Exhibit to U.S.C. chapters or sections will include any successor, amended, or replacement statute. The U.S.C. may be accessed at <http://uscode.house.gov/>

“Use” includes the sharing, employment, application, utilization, examination, or analysis, of Data.

2. Description of Data

A. Data Description. Data includes the following:

- i. Aggregate Claims Data for Plan Year(s) specified in a written request to the HCA Contract Manager
- ii. Upon request, HCA will provide copies of Governmental Accounting Standards Board (GASB) files containing Enrollee enrollment information.
- iii. Upon request, HCA will provide premium payment information sufficient to support balancing against invoices received from HCA.
- iv. Upon request, HCA will provide Employee eligibility files to allow Contractor to verify enrollment data against Contractor payroll systems.
- v. HCA will provide reports during and after open enrollment period(s) to show online changes made by Employees of Contractor.
- vi. Monthly Billing File information sent to agencies (e.g. showing them what their monthly bill would be)

B. File Format. The Data may be provided, in Excel format, via SFT with password protection (HCA would provide access) or secure email. Attachment 1 is a sample of the excel files that will be provided, in the agreed upon format.

C. Data Use Purpose. Pursuant to 45 C.F.R. § 164.504(f), the Data may only be used by Contractor to obtain bids, or to modify, amend, or terminate a plan.

3. Data Classification

- A. The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, *Data Security*, of *Securing IT Assets Standards* No. 141.10 in the *State Technology Manual* at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. Section 4 is hereby incorporated by reference.)
- B. The Data that is the subject of this Agreement may be in any of the Categories indicated below:

☐ Category 1 – Public Information

Public information is information that can be or currently is released to the public. It does not need protection from unauthorized disclosure, but does need integrity and availability protection controls.

☐ Category 2 – Sensitive Information

Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.

☐ Category 3 – Confidential Information

Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:

- Personal Information about individuals, regardless of how that information is obtained;
- Information concerning employee personnel records;
- Information regarding IT infrastructure and security of computer and telecommunications systems;

☒ Category 4 – Confidential Information Requiring Special Handling.

Category 4 Data is information that is specifically protected from disclosure and for which:

- Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

4. Constraints on Use of Data

- A. The Data being shared/accessed is owned and belongs to HCA.
- B. This Agreement does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Agreement only to carry out the purpose identified in Section 2(1)(a), Data Use

Purpose, of this Exhibit. Any derivative data products created to be published for external customers, or use, not including care coordination, must be sent to HCA for review and approval. Any ad hoc analyses or other use or reporting of the Data is not permitted without HCA's prior written consent.

- C. Any disclosure of Data contrary to this Agreement is unauthorized and is subject to penalties identified in law.
- D. The Contractor must comply with the *Minimum Necessary Standard*, which means that Contractor will use the least amount of PHI necessary to accomplish the Purpose of this Agreement.
- E. Contractor must identify:
 - vii. Those persons or classes of persons in the Contractor's workforce who need access to PHI to carry out their duties; and
 - viii. For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.
- F. Contractor must implement policies and procedures that limit the PHI disclosed to such persons or classes of persons to the amount reasonably necessary to achieve the purpose of the disclosure, in accordance with this Agreement.

5. Security of Data

A. Data Protection

The Contractor must protect and maintain all Confidential Information gained by reason of this Agreement, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

- i. Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
- ii. Physically securing any computers, documents, or other media containing the Confidential Information.

B. Data Security Standards

Contractor must comply with the Data Security Requirements set out in this section and the Washington OCIO Security Standard, 141.10, which will include any successor, amended, or replacement regulation (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>.) The Security Standard 141.10 is hereby incorporated by reference into this Agreement.

C. Data Transmitting

When transmitting Data electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.

When transmitting Data via paper documents, the Contractor must use a Trusted System.

D. Protection of Data.

The Contractor agrees to store and protect Data as described.

- i. Data at Rest:
Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems that contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- ii. Data stored on Portable/Removable Media or Devices:
 - Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
 - HCA's Data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within the Agreement. If so authorized, the Contractor must protect the Data by:
 - Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
 - Controlling access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 - Keeping devices in locked storage when not in use;
 - Using check-in/check-out procedures when devices are shared;
 - Maintaining an inventory of devices; and
 - Ensuring that when being transported outside of a Secured Area, all devices containing Data are under the physical control of an Authorized User.
- iii. Paper Documents:

Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

E. Data Segregation

- i. HCA Data received under this Agreement must be segregated or otherwise distinguishable from non-HCA Data. This is to ensure that when no longer needed by the Contractor, all of HCA's Data can be identified for return or destruction. It also aids in determining whether HCA's Data has or may have been compromised in the event of a security breach.
- ii. HCA's Data must be kept in one of the following ways:
 - On media (e.g. hard disk, optical disc, tape, etc.) which contains only HCA Data;
 - In a logical container on electronic media, such as a partition or folder dedicated to HCA's Data;
 - In a database that contains only HCA Data;
 - Within a database – HCA data must be distinguishable from non-HCA Data by the value of a specific field or fields within database records;
 - Physically segregated from non-HCA Data in a drawer, folder, or other container when stored as physical paper documents.
- iii. When it is not feasible or practical to segregate HCA's Data from non-HCA data, both HCA's Data and the non-HCA data with which HCA's Data is commingled must be protected as described in this Exhibit.
- iv. Contractor must designate and be able to identify all computing equipment on which they store, process, and maintain HCA Data. No Data at any time may be processed on or transferred to any portable storage medium. Laptop/tablet computing devices are not considered portable storage medium devices for purposes of this Contract provided it is installed with end-point encryption.

F. Data Disposition

- i. Upon request by HCA, or when no longer needed, or 6 years after the end of the fiscal year in which the Data is received (for the purposes of this section, "fiscal year" is from July 1 to June 30). Confidential Information/Data must be returned to HCA or disposed of as set out below, except as required to be maintained for compliance or accounting purposes.
- ii. Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs.html>).

- iii. For Data stored on network disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section D, above. Destruction of the Data as outlined in this section of this Exhibit may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

6. Data Confidentiality and Non-Disclosure

A. Data Confidentiality

The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Agreement for any purpose that is not directly connected with the purpose of this Agreement, except:

- i. as provided by law; or
- ii. with the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.

B. Non-Disclosure of Data

- i. The Contractor will ensure that all employees or Subcontractors who will have access to the Data described in this Agreement (including both employees who will use the Data and IT support staff) are instructed and aware of the use restrictions and protection requirements of this Exhibit before gaining access to the Data identified herein. The Contractor will ensure that any new employee is made aware of the use restrictions and protection requirements of this Exhibit before the new employee can gain access to the Data.
- ii. The Contractor will ensure that each employee or Subcontractor who will access the Data signs a non-disclosure of confidential information agreement regarding confidentiality and non-disclosure requirements of Data under this Agreement. The Contractor must retain the signed copy of employee non-disclosure agreement in each employee's personnel file for a minimum of six years from the date the employee's access to the Data ends. The Contractor will make this documentation available to HCA upon request.

C. Penalties for Unauthorized Disclosure of Data

- i. The Contractor must comply with all applicable federal and state laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.
- ii. The Contractor accepts full responsibility and liability for any noncompliance with applicable laws or this Agreement by itself, its employees, and its Subcontractors.

7. Data Shared with Subcontractors

If Data access is to be provided to a Subcontractor under this Agreement, the Contractor must include all of the Data security terms, conditions and requirements set forth in this Exhibit B in any such Subcontract. However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Agreement nor for oversight of any functions and/or responsibilities the Contractor delegates to any subcontractor.

8. Data Breach Notification

- A.** The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov within one (1) Business Day of discovery. If the Contractor does not have full details, Contractor will report what information Contractor has available, and provide full details of the breach within 15 Business Days of discovery. To the extent possible, these reports must include the following:
- i. The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
 - ii. The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
 - iii. A description of the types of PHI involved;
 - iv. The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
 - v. Any details necessary for a determination of the potential harm to Enrollees whose PHI is believed to have been used or disclosed and the steps those Enrollees should take to protect themselves; and
 - vi. Any other information HCA reasonably requests.
- B.** The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.
- C.** The Contractor must notify HCA in writing, as described in the *General Terms and Conditions* section, *Notices*, within two (2) Business Days of determining notification must be sent to Enrollees.
- D.** At HCA's request, the Contractor will provide draft Enrollee notification to HCA at least five (5) Business Days prior to notification and allow HCA an opportunity to review and comment on the notifications.

- E. At HCA's request, the Contractor will coordinate its investigation and notifications with HCA and the Office of the State of Washington Chief Information Officer (OCIO), as applicable.

9. HIPAA Compliance

- A. The Contractor must perform all of its duties, activities, and tasks under this Agreement in compliance with HIPAA, the HIPAA Rules, and all applicable regulations as promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable. The Contractor and Contractor's subcontracts must fully cooperate with HCA efforts to implement HIPAA requirements.
- B. Within ten Business Days, Contractor must notify the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov of any complaint, enforcement, or compliance action initiated by the Office for Civil Rights based on an allegation of violation of HIPAA or the HIPAA Rules and must inform HCA of the outcome of that action. Contractor bears all responsibility for any penalties, fines, or sanctions imposed against Contractor for violations of HIPAA or the HIPAA Rules and for any sanction imposed against its Subcontractors or agents for which it is found liable.

10. Inspection

HCA reserves the right to monitor, audit, or investigate the use of Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the terms of this Agreement. All HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

11. Material Breach

The Contractor must indemnify and hold HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI of Enrollees.

ATTACHMENT 1 – SAMPLE DATA

Washington State Health Care Authority
PEBB Political Subdivision: SAMPLE 2016 Experience Summary
Membership Base: Member Months
Plan Selection: All Plans

Active Employees

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
Member Months	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
MEDICAL													
Medical Allowed	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$6,000,000
Medical Paid	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$4,800,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$1,800,000
Pharmacy Paid	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$1,440,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$7,800,000
Total Paid	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$6,240,000
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.
- 2) This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.

Early Retirees

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
Member Months	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
MEDICAL													
Medical Allowed	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$6,000,000
Medical Paid	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$4,800,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$1,800,000
Pharmacy Paid	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$1,440,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$7,800,000
Total Paid	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$6,240,000
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.
- 2) This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.

Total – Non-Medicare Risk Pool

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
Member Months	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000
MEDICAL													
Medical Allowed	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	#####
Medical Paid	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$9,600,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$3,600,000
Pharmacy Paid	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$2,880,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	#####
Total Paid	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	#####
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.
- 2) This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.

Washington State Health Care Authority
PEBB Political Subdivision: SAMPLE
Large Claims Summary
Large Claims Threshold: \$100,000 Allowed / Year

Period	Members Exceeding \$100,000
2016	5

➤ *This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product*

Washington State Health Care Authority
PEBB Political Subdivision: SAMPLE
Large Claims Summary
Large Claims Threshold: \$100,000 Allowed / Year

MaskedID	Year	Allowed	Member Type
1	2016	110,000	Employee
2	2016	110,000	Spouse
3	2016	110,000	Child
4	2016	110,000	Employee
5	2016	110,000	Spouse

- *This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product*

Bridgette Scott

From: Nick Kooiker
Sent: Wednesday, May 10, 2023 9:00 AM
To: Bridgette Scott
Cc: Tim Arntzen
Subject: FW: Please review and Confirm: K2031-1-Port of Kennewick_draft 1
Attachments: K2031-1-Port of Kennewick_draft 1.docx

Importance: High

Can you please add this to consent on the 5/23 meeting? I will have to sign it before, so the commission will just have to approve it retroactively.

Thanks,
Nick

From: Ledesma, Mayra (HCA) <mayra.ledesma@hca.wa.gov>
Sent: Tuesday, May 9, 2023 4:02 PM
To: Nick Kooiker <nick@portofkennewick.org>
Subject: Please review and Confirm: K2031-1-Port of Kennewick_draft 1
Importance: High

Hello,

My name is Mayra and I work in the Contracts dept. at the WA State Health Care Authority (HCA). I am reaching out today to inform you that HCA is restating a number of the PEBB Employer Group Agreements due to changes on the template and adding reference to the "insurance system". Attached is the latest version for revision and confirmation. Please do not sign this copy as this is just a draft. The final draft will come to you via an email or DocuSign notification once we have confirmed the Agreement.


Please review the redline changes, provide the requested information, and confirm the agreement on or before **5/19/23**.

Let me know if you have any questions.

Mayra Ledesma
Contracts Specialist
Office of Contracting & Procurement
Division of Legal Services
Office: 360-725-1453
mayra.ledesma@hca.wa.gov

Washington State
Health Care Authority
www.hca.wa.gov



		PEBB EMPLOYER GROUP INTERLOCAL AGREEMENT Restated Contract		HCA Contract Number: K2031 HCA Contract Amendment Number: 1 Employer Group Agency Number: 955	
Washington State Health Care Authority is the single state agency that administers the medical, dental, life, and disability insurance coverage for the Employees of the State of Washington and for contracted employer groups, as set forth in Title 41 RCW. THIS Interlocal Agreement made by and between Washington State Health Care Authority, hereinafter referred to as "HCA," and Port of Kennewick , hereinafter referred to as the "Contractor."					
EMPLOYER NAME Port of Kennewick			EMPLOYER doing business as (DBA)		
EMPLOYER GROUP ADDRESS 350 Clover Island Drive Kennewick, WA 99336			FEDERAL TAX ID #: 91-6009781		WA STATE UBI #:
EMPLOYER BARGAINING GROUP: All Employees					
EMPLOYER CONTACT Nick Kooiker		EMPLOYER TELEPHONE 509-586-1186		EMPLOYER E-MAIL ADDRESS nick@portofkennewick.org	
HCA PROGRAM PEB Outreach and Training		HCA DIVISION/SECTION Employees and Retirees Benefits (ERB) Division		HCA CONTRACT CODE	
HCA CONTACT NAME AND TITLE Amy Corrigan Management Analyst			HCA CONTACT ADDRESS Post Office Box 45530 Olympia, WA 98504-5330		
HCA CONTACT TELEPHONE (360) 725-0826			HCA CONTACT E-MAIL ADDRESS amy.corrigan@hca.wa.gov		
EFFECTIVE DATE OF BENEFITS: June 12, 2023		CONTRACT START DATE: Date of Execution		CONTRACT END DATE: No End	
PURPOSE OF CONTRACT: To provide insurance benefits from the Public Employees Benefits Board (PEBB) Program through HCA for the eligible members of the group(s) of Employees identified in this Agreement and their Dependents.					
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Agreement. The parties signing below warrant that they have read and understand this Agreement and have authority to execute this Agreement. This Agreement is binding on the parties only upon signature by an authorized representative of each.					
EMPLOYER SIGNATURE		PRINTED NAME AND TITLE			DATE SIGNED
HCA SIGNATURE		PRINTED NAME AND TITLE			DATE SIGNED

1. PURPOSE

The purpose of this Agreement is to establish the terms and conditions under which HCA will provide certain benefits to Contractor and certain of Contractor's Employees and their Dependents. The scope and coverage of the benefits of PEBB Insurance Coverage will be those PEBB Insurance Coverage benefit plans approved by the Public Employees Benefits Board (PEBB). Contractor understands and agrees that these PEBB Insurance Coverage benefits may be changed from time to time by HCA in its sole discretion. Contractor's continued participation in PEBB Insurance Coverage under this Agreement will indicate Contractor's acceptance of such changes in PEBB Insurance Coverage.

2. DEFINITIONS

Capitalized terms in this Agreement and not otherwise defined herein shall have the same definitions as those stated in Title 182 WAC.

Whenever used in this Agreement, the following terms will have these meanings:

"Business Day" means all days except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Confidential Information" means information that may be exempt from disclosure to the public or unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or state or federal statutes. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.

"Contract Manager" means the authorized agent who administers this Agreement on behalf of a party, ensures compliance with the terms of this Agreement, and acts as the point of contact when one party contacts the other with questions regarding the terms of this Agreement.

"Coverage Period" means the period during a Plan Year when Enrollees are enrolled in PEBB Insurance Coverage.

"Dependent" shall have the meaning set forth in WAC 182-12-109.

"Employee" means individuals employed by Contractor who fall within the meaning of "Employee" set forth in WAC 182-12-109.

"Employer Group Rate Surcharge" means the rate surcharge described in RCW 41.05.050(2).

“Enrollee” shall have the meaning set forth in WAC 182-12-109.

“ERISA” means the federal Employee Retirement Income Security Act of 1974.

“HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, as now in effect and as modified from time to time. In part 164 of title 45 CFR, the “Security Rule” is subpart C (beginning with §164.302), the “Breach Notification Rule” is subpart D (beginning with § 164.400), and the “Privacy Rule” is subpart E (beginning with § 164.500).

“Key” or **“Keying”** means the process by which Contractor or HCA enters the data of Enrollees directly into a computer system of HCA’s choice.

“PEBB” means the Public Employees Benefits Board.

“PEBB Insurance Coverage” or **“Insurance Coverage”** shall have the meaning set forth in WAC 182-12-109.

“PEBB Program” shall have the meaning set forth in WAC 182-12-109.

“PEBB Rules” means all applicable statutory and regulatory eligibility, enrollment, and appeals requirements in Chapter 41.05 RCW, and Chapters 182-08, 182-12, and 182-16 WAC.

“PEBB Wellness Incentive Program” shall mean the wellness program described and governed by WAC 182-12-300.

“Plan Year” means the calendar year, beginning January 1st and ending December 31st.

“Premium Surcharge” shall have the meaning set forth in WAC 182-12-109.

“Protected Health Information” or **“PHI”** has the same meaning as in the HIPAA Rules except that in this Contract the term includes only information created by Contractor, or received from or on behalf of HCA, and relating to Employees or their Dependents.

“Rate Book” means the then current PEBB rate tables showing contributions rates, surcharges, and premiums for all eligible persons covered by PEBB (for instance, State Actives, Retirees, and COBRA).

“RCW” means the Revised Code of Washington. Any references to specific titles, chapters, or sections of the RCW includes any substitute, successor, or replacement title, chapter, or section.

“WAC” means the Washington Administrative Code. Any references to specific titles, chapters, or sections of the WAC includes any substitute, successor or replacement title, chapter, or section.

3. WARRANTY

Contractor represents and warrants it has authority to purchase benefits on behalf of its Employees, and it meets the criteria for purchasing benefits on behalf of its Employees as provided by Chapter 41.05 RCW, RCW 41.04.205, Chapter 182-08 WAC, and Chapter 182-12 WAC.

4. PERIOD OF PERFORMANCE

The term of this Agreement begins on the latest date of execution by a party (“Effective Date”) and will remain in effect until the parties enter into a new agreement or terminate this Agreement pursuant to Section 30.

5. Obligations of Contractor

A. Responsibility For Enrollment and Enrollment Data

- i. Contractor must determine the eligibility of Contractor’s Employees and their Dependents for PEBB Insurance Coverage in accordance with Exhibit A, Eligibility Rules for Contractor.
- ii. Contractor must review any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees to ensure that enrolling in PEBB Insurance Coverage conforms to the terms and conditions of such agreement(s).
- iii. Upon HCA’s request, Contractor will provide HCA all required information to ensure the accurate Keying in of benefits in accordance with the terms of Section 10 of this Agreement, and for HCA to issue accurate invoices.
- iv. Upon HCA’s request, Contractor will furnish HCA with enrollment forms and supporting documentation no later than fifteen (15) Business Days after HCA sends the request.
- v. Contractor will promptly cooperate with any reasonable HCA requests to verify the accuracy of enrollment information.
- vi. Contractor will supplement and update enrollment information within five (5) Business Days after any changes occur. If Contractor submits enrollment information showing a change in an Enrollee’s enrollment status after the 20th

of the month, that change may not be reflected in HCA's enrollment data and monthly invoice until the subsequent month.

- vii. Upon HCA's request, Contractor will provide the following information for each individual enrolled in the Contractor's health plan continuation coverage (such as Consolidated Omnibus Budget Reconciliation Act [COBRA] continuation coverage) no later than fifteen (15) Business Days after HCA sends the request:
 - (a) Social Security Number;
 - (b) Name;
 - (c) Mailing Address;
 - (d) Eligibility Type; and
 - (e) End Date for COBRA or other continuation coverage.
- viii. Contractor understands that the terms of this Agreement will continue to apply if Contractor enters into a new collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees. Contractor shall therefore consider the benefits, rights, obligations, requirements, restrictions, and limitations set forth herein, in PEBB Insurance Coverage, and in applicable laws, rules, and regulations when entering into such new agreement. HCA is and shall be under no obligation to grant exceptions to PEBB Rules requested because of the terms or conditions of such new or existing agreement.
- ix. Contractor is responsible for notice and reporting requirements under Internal Revenue Code ("IRC") §6056 and reporting on behalf of an employer sponsored self-funded plan under IRC§6055.
- x. Contractor must have and implement a cafeteria plan per IRC §125, and the implementing regulations for the cafeteria plan, to ensure correct tax treatment of monies deposited into a health savings account. Contractor agrees such cafeteria plan will be in effect by the first Effective Date of PEBB Benefits for Employees.

B. PEBB Insurance Coverage Information

- i. Contractor agrees it will provide either (a) the then current Employee Enrollment Guide, or (b) a link to the electronic version of the Employee Enrollment Guide maintained on HCA's website, within five (5) Business Days of (c) the start date of newly hired Employees, or (d) a change in an Employee's work pattern such that the Employee's eligibility status changes.
- ii. Contractor agrees it will provide eligibility information for PEBB Insurance Coverage to Employees within five (5) Business Days of (a) start date of newly

hired employees, or (b) a change in an Employee's work pattern such that the Employee's eligibility status changes. Such notice will include a description of Contractor's eligibility appeal process required under Section 5.H.

- iii. Contractor may produce its own additional materials on PEBB Insurance Coverage for its Employees. Any such materials must first receive written approval from HCA before being provided to Employees. In addition, Contractor must annually submit all material, including any previously approved materials, by September 15.
- iv. As set forth in WAC 182-12-116, Employees are not eligible to participate in the benefits provided under the Salary Reduction Plan as authorized under Chapter 41.05 RCW.

C. Notifications upon Termination of Participation in PEBB Insurance Coverage

If Contractor terminates its participation in PEBB insurance coverage, they must notify their Employees, Dependents of Employees, retirees, and COBRA Enrollees of the intent to end its participation in PEBB insurance coverage. Contractor shall provide this notice at least 45 days in advance of termination and shall provide assistance to retirees as described in RCW 41.04.208.

D. Remittance

- i. Contractor shall remit the monthly Premium, Premium Rate Owed When an Employee Waives Medical, Employer Group Rate Surcharge, and the full amount of any Premium Surcharges (*see*, Section 7), within twenty (20) days of the end of each month of the Coverage Period. Partial payment by Contractor will be deemed nonpayment.
- ii. Contractor shall be solely responsible for collecting from Employees (a) any applicable Premium Surcharge, and (b) any Employee share of the Premium.
- iii. Contractor shall be solely responsible for refunding any charge paid by the Employee to Contractor and not remitted to HCA.
- iv. Any and all deductions made by Contractor from an Enrollee's salary for the payment of premiums for (a) Life insurance, (b) Long Term Care, and/or (c) Long Term Disability, must be made on a post-tax basis.

E. Resolving Discrepancies

- i. When an Enrollee's enrollment in PEBB Insurance Coverage is terminated, or the Employee's salary changes, Contractor agrees to update the change in the

insurance system (e.g., Benefits 24/7). Failure to update the insurance system may result in Contractor liability for premium adjustments not made.

- ii. Contractor is solely responsible for the completeness and accuracy of all updates it makes in the insurance system and all forms it sends to HCA.

F. Benefits Limitations

- i. For any PEBB Insurance Coverage in which an Employee can enroll, Contractor will ensure that such benefits are the only Contractor-sponsored benefits available to its PEBB Insurance Coverage eligible Employees. Contractor may purchase benefits from third parties only if (a) such benefits are not included in the PEBB Insurance Coverage, or (b) are not otherwise offered or available under this Agreement.
- ii. Contractor shall not transfer Employees to other similar or competing benefits while this Agreement is in effect. HCA will only consider transfers for all of Contractor's Enrollees and will not approve any proposed transfer of individual Employees and their Dependents.
- iii. Contractor shall not pay premiums related to optional Long Term Disability (LTD) or optional Life insurance benefits purchased from ERB-contracted LTD and Life insurance vendors.
- iv. Contractor shall not pay any Premium Surcharges on behalf of its Employees. Employees are solely responsible for the timely payment of any applicable Premium Surcharges.

G. Certification of Eligibility

- i. Contractor represents and warrants all Enrollees meet PEBB Rules throughout the enrollment term.
- ii. Contractor represents and warrants that it has reviewed the PEBB Rules and determined that enrolling in the PEBB Insurance Coverage does not violate or conflict with any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees.

H. Employer Group Scope

The following group(s) of Employees and their Dependents will be provided Insurance Coverage pursuant to this Agreement:

Full Employee

Contractor may not extend eligibility for Insurance Coverage to any person outside of the defined group(s) of Employees and their Dependents without the express, written consent of HCA.

I. Appeal Rights

- i. Contractor agrees it will establish an appeal system for its Enrollees who are denied by Contractor all or part of benefits under the PEBB Insurance Coverage. Contractor agrees it will provide Enrollees notice of the opportunity to appeal at the time of such denial. Within five (5) Business Days of a request by HCA, Contractor will provide HCA a description of its appeal process and a copy of the form or template used by Contractor to provide such notices.
- ii. In accordance with WAC 182-16-2010(2), Contractor is responsible for adjudicating appeals for its Employees on decisions made by the Contractor with regard to PEBB eligibility, enrollment, or a premium surcharge.
 - (a) Contractor must provide information to Enrollees to direct to HCA appeals arising from aggrieved decisions regarding life insurance, LTD insurance, eligibility to participate in the PEBB wellness incentive program, or eligibility to receive PEBB wellness incentive.
 - (b) When Enrollees want to appeal an aggrieved decision regarding the administration of a PEBB Insurance Coverage, Contractor must direct the Enrollee to the appeal provisions of the plan.
- iii. Enrollee appeals arising from alleged errors in LTD benefits, Life benefits, eligibility to participate in the PEBB Wellness Incentive Program, or eligibility to receive a PEBB Wellness Incentive will be referred to HCA in accordance with WAC 182-16-2030.
- iv. Enrollee appeals arising from alleged errors in completion of PEBB Wellness Incentive Program requests, or a request for a reasonable alternative to a PEBB Wellness Incentive requirement, will be referred to the third party under contract with HCA to administer the PEBB Wellness Incentive Program.
- v. Contractor agrees to furnish any information and documentation related to individual appeals to HCA upon HCA's request. Such information and documents will be provided at no cost.
- vi. Contractor will implement any determination made by HCA following an appeal to HCA.

6. OBLIGATIONS OF HCA

A. Provision of Benefits

HCA agrees to provide the following PEBB Insurance Coverage benefits indicated below to Contractor's PEBB enrollees:

- ☐ PEBB Medical benefits (including the PEBB Wellness Incentive Program) only.
- ☒ PEBB Medical (including the PEBB Wellness Incentive Program), Dental, Life, LTD, property and casualty insurance, and LTC (not currently accepting new enrollment) benefits.

B. Provision of Rate Book; Notice of Changes

HCA shall either (i) publish the Rate Book on its Internet site; or (ii) provide Contractor the Rate Book (a) prior to the enrollment start date indicated in Section 8.B. and (b) at least fifteen (15) calendar days prior to the effective date of any changes to the fees and charges listed in Section 7.

C. Invoicing

HCA will issue invoices on a monthly basis to Contractor. The invoice amount will be based on the enrollment information provided by Contractor.

7. HCA CHARGES

A. Start-Up Fee

Contractor shall pay a one-time start-up fee as authorized by WAC 182-08-245(1)(a) and set forth in the Rate Book ("Start-Up Fee"). The Start-Up Fee shall be due and payable on the Effective Date.

B. Employer Group Rate Surcharge

Pursuant to RCW 41.05.050(2), HCA has developed an Employer Group Rate Surcharge to be paid by participating counties, municipalities, other political subdivisions, and tribal governments, including Contractor. The Employer Group Rate Surcharge to be paid by Contractor will be calculated as set forth in the Rate Book then in effect for the Plan Year.

C. Premium Surcharge

HCA collects Premium Surcharges in accordance with the requirements of WAC 182-08-185. The amount of the Premium Surcharge shall be set in the Rate Book.

D. Premium Rates Owed When an Employee Waives Medical

For Employees who waive the PEBB Medical benefit, HCA requires Contractor to pay a Premium Rate Owed When an Employee Waives Medical. The amount of the Premium Rate Owed When an Employee Waives Medical shall be set in the Rate Book.

8. INITIAL EFFECTIVE DATE OF BENEFITS

A. Contractor agrees that before Employees and Dependents may be enrolled in Insurance Coverage, it will:

- i. Remit to HCA the required Start-up Fee,
- ii. Sign this Agreement,
- iii. Determine Employee and Dependent eligibility and terms of enrollment for Insurance Coverage in accordance with the criteria outlined in this Agreement,
- iv. Determine eligibility in order to ensure the Insurance Coverage's continued status as a “governmental plan” under Section 3(32) of ERISA (as amended),
- v. Comply with the benefits limitations in Section 5.F. of this Agreement, and
- vi. Determine that enrolling in the Insurance Coverage does not violate or conflict with any collective bargaining agreement, employment agreement, or other agreement affecting the rights of, or granting rights to, its Employees.

B. The start date of enrollment for Contractor’s initial Enrollees is June 12, 2023, provided all contractual and regulatory requirements are completed on or before that date.

9. CONTRACT MANAGEMENT

The following individuals will be the Contract Managers responsible for communicating with the other party regarding this Agreement and its performance. The named Contract Manager for Contractor must have authority to act on behalf of Contractor for purposes of participation in the Insurance Coverages and must have access to information regarding Enrollees.

The Contract Manager for HCA is:

Name: Amy Corrigan
Title: Management Analyst
Address: PO Box 45530
Olympia, WA 98504-5530
Phone: 1-800-700-1555
Email: amy.corrigan@hca.wa.gov

The Contract Manager for Contractor is:

Name: Nick Kooiker
Title: Chief Financial Officer
Address: 350 Clover Island Drive
Kennewick, WA 99336
Phone:
Email: nick@portofkennewick.org

Each party must provide written notice of any changes to its designated Contract Manager, or in the Contract Manager's contact information, no later than thirty (30) days after such change occurs.

10. KEYING IN DATA

- A.** Contractor shall Key in data for the term of this Agreement. At HCA's sole discretion, it may perform the initial Keying of Enrollee information prior to the initial effective date of Insurance Coverage as set forth in Section 8.B. Contractor shall continue Keying in data unless the parties otherwise agree in writing.
- B.** If HCA is Keying in data pursuant to the terms of this section, Contractor agrees to provide HCA with all information requested by HCA for the accurate Keying in of data.
- C.** Contractor must (i) Key in all requests to waive enrollment in Insurance Coverage; or (ii) if HCA is Keying in data, provide HCA with all information requested by HCA.
- D.** Contractor may not subcontract or assign its Keying in tasks to a third party without the express, written consent of HCA.
- E.** Regardless of which party is Keying in data pursuant to the terms of this section, Contractor will be responsible for errors made Keying in any and all applicable Enrollee data, including additional charges under this Agreement, payment of any amounts to Employees or Enrollees, and any other claim, judgment, penalty, fee, or fine arising out of such error. Upon discovery of any such error, or upon receiving notice of such error from HCA, Contractor has five (5) Business Days to (i) if Contractor is Keying in data, correct the erroneous data, or (ii) if HCA is Keying in the data, to provide HCA with corrected information in writing.
- F.** Contractor may not Key in retroactive changes to an Enrollee's Insurance Coverage benefits. If Contractor determines that an Enrollee's benefits must be retroactively changed, such as after an appeal, within thirty (30) days of determining a need for such change, Contractor will provide HCA with a written request (i) stating the retroactive change sought, (ii) enumerating the grounds for such change, and (iii) including any other documentation supporting the change.

11. AMENDMENTS

This Agreement may be amended by written mutual agreement of the parties. Such amendments will not be binding, and no payments will be made under an amendment's terms, unless the amendment is signed by authorized agents of HCA and Contractor.

12. ASSIGNMENT

- A.** Contractor cannot assign its responsibilities under this Agreement to a third party without the prior written consent of HCA. HCA's written consent, which shall not be unreasonably withheld, can condition an assignment on proof that the assignee's qualifications and ability to perform is at least equal to those of Contractor. Such assignment shall not operate to relieve Contractor of the performance of any of its duties and obligations hereunder, and such assignment shall not affect any remedies available to HCA that may arise from any breach of any provision in this Agreement.
- B.** HCA may assign all or any part of this Agreement to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, provided that such assignment shall not operate to relieve HCA of any of its duties and obligations hereunder.

13. ATTORNEY'S FEES

In the event of litigation or other action brought to enforce the terms of this Agreement, each party shall bear its own costs and attorney's fees.

14. CHANGE IN PERSONNEL

As soon as reasonably possible, but no later than thirty (30) days after any changes, Contractor shall update the insurance system (e.g., Benefits 24/7) with changes to Contractor's key personnel, including, but not limited to, key personnel in human resources and payroll. Contractor will update HCA to any change in the Contractor's Contract Manager. Failure to make a timely notice may result in missed training opportunities for Contractor's key personnel, missed adjustments, and potential processing delays or errors.

15. CONFIDENTIAL INFORMATION AND PROTECTED HEALTH INFORMATION

Contractor is required to comply with Exhibit B, Data Use, Security, and Confidentiality incorporated into this Agreement, and all applicable federal and state laws and administrative regulations governing use of Confidential Information and Protected Health Information (PHI). Contractor agrees to limit access to Confidential Information and Protected Health Information to the minimum amount of information necessary, to the fewest number of people, and for the least amount of time required to perform its duties under this Agreement. The obligations set forth in this Section shall survive the termination or expiration of this Agreement.

16. CONFORMANCE

If any provision of this Agreement conflicts with any applicable state or federal law or regulation, the Agreement language is amended to conform to the minimum requirements of the conflicting law or regulation. A provision of this Agreement that is stricter than such laws or regulations will not be deemed a conflict.

17. DISPUTES

- A. The parties shall use good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. Both parties will continue, without delay, to carry out their respective responsibilities under this Agreement while attempting to resolve any dispute.
- B. The respective Contract Managers for each party will first attempt to resolve the dispute. Either Contract Manager will provide notice of a request to meet to resolve the matter in dispute. Such notice will include a brief summary of the disputed issue, each parties' position, and a proposed resolution.
- C. If the Contract Managers cannot resolve the dispute within ten (10) Business Days after the initial request for a meeting, then either party may submit a request for a dispute resolution to the HCA Contract Administrator. The contact information for the HCA Contract Administrator is as follows:

HCA Contract Administrator
Address: Post Office Box 42702
Olympia, WA 98504-2702
Phone: (360) 725-1271
E-mail: contracts@hca.wa.gov

- D. A party's request for a dispute resolution must be in writing and must clearly state all of the following:
 - i. The disputed issue(s);
 - ii. Any additional facts necessary to explain completely and accurately the nature of the dispute; and
 - iii. A description of the remedies sought.
- E. The HCA Contract Administrator shall oversee the following Dispute Resolution Process:

Within thirty (30) days after the submission of a request for dispute resolution,

- i. HCA shall appoint a representative to a Dispute Board;

- ii. Contractor shall appoint a representative to the Dispute Board;
- iii. HCA's and Contractor's representatives shall mutually agree on a third person to chair the Dispute Board.

The Dispute Board shall thereafter decide the dispute within thirty (30) days of the date the Dispute Board was created, with the majority prevailing.

- F. The Dispute Board will review the facts, the terms of the Agreement, and applicable statutes and rules, and make a determination resolving the dispute within the authority of applicable statutes, rules, administrative policies, and written guidance provided by PEBB Program.
- G. The dispute resolution process set forth in this Section is in addition to and not in replacement of any other rights, duties, and obligations set forth in this Agreement. The time frame for a party to cure any breach of the terms of the Agreement or comply with any corrective action plan shall not be tolled by the pendency of any dispute resolution procedures.

18. ENTIRE AGREEMENT

This Agreement, together with all of its Schedules, Exhibits, Appendices and Attachments, constitutes the final, complete and exclusive statement of the agreement of the parties relative to the subject matter hereof, and supersedes all previous or contemporaneous oral and written proposals, negotiations, representations or understandings, including any preceding Interlocal Agreements, amendments, or other agreements between HCA and Contractor in connection with enrollment in the PEBB Insurance Coverage.

19. FORCE MAJEURE

- A. Neither party will be liable for failure to perform under this Agreement if such failure arises out of events beyond the control of, and without the fault or negligence of, the non-performing party. Such causes may include, but are not limited to: natural disasters, fires, floods, earthquakes, landslides, riots, strikes or labor disputes, major epidemics, acts of God, war, terrorist acts, embargoes, or any other similar event.
- B. This provision will become effective only if the party failing to perform notifies the other of the extent and nature of the problem no later than seventy-two (72) hours after discovery of the event and takes reasonable steps to limit any delay in performance of this Agreement caused by the event. The notifying party is only excused from the requirements of this Section when the failure to notify is beyond the control and without the fault or negligence of the notifying party.

- C. Nothing in this Section shall be construed to prevent HCA from terminating this Agreement for reasons other than for default during the period of the events set forth above, or for default, if such default occurred prior to such event.

20. GOVERNING LAW AND VENUE

This Agreement will be governed by, and be construed and interpreted in accordance with, the laws of the State of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the State of Washington and the venue of any action brought under this Agreement will be the Superior Court for Thurston County in the State of Washington.

21. INDEMNIFICATION AND HOLD HARMLESS

Contractor shall defend, indemnify, and hold HCA harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, or agents, in the performance of this Contract. Contractor's obligation to defend, indemnify, and hold HCA harmless shall not be eliminated or reduced by any alleged concurrent HCA negligence.

22. INDEPENDENT CAPACITY

Contractor and his or her employees or agents performing under this Agreement are not employees or agents of HCA or the State of Washington. Neither Contractor nor any of its employees or agents performing under this Agreement will hold themselves out as, or claim to be, officers or employees of HCA or the State of Washington by reason of this Agreement. Contractor, its employees, and its agents will not make any claim of right, privilege, or benefit that would accrue to employees of the State of Washington or HCA under law. Contractor acknowledges and certifies that neither HCA nor the State of Washington is a guarantor of any obligations or debts of Contractor.

23. ORDER OF PRECEDENCE

In the event of an inconsistency between the terms of this Agreement, the incorporated Exhibits and Appendices, or any applicable statute or regulation, the inconsistency will be resolved by giving precedence in the following order:

- A. Applicable federal statutes and regulations;
- B. Applicable Washington statutes and regulations;
- C. Any term or condition in this Agreement;
- D. Any Exhibit(s) to this Agreement in alphabetical order; and

- E. Any other provision, term, or material incorporated herein by reference or otherwise incorporated.

24. NOTICES

- A. Whenever one party is required to give notice to the other under this Agreement, notice shall be deemed given if mailed by United States Postal Service, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
- i. In the case of notice to Contractor, notice will be sent to:

Attention: Nick Kooiker
Organization: Port of Kennewick
Address: 350 Clover Island Drive
Kennewick, WA 99336
 - ii. In the case of notice to HCA, the notice must be sent to the Contract Manager at the mailing address included in Section 9 of this Agreement.
- B. Notices shall be effective on the date delivered, as evidenced by the return receipt or the date returned to the sender for non-delivery other than for insufficient postage.
- C. Either party may change its address for notification purposes at any time by mailing a notice in accordance with this Section. Changes made pursuant to this subsection will be effective on the tenth (10th) Business Day following receipt of the notice unless a later date is specified in the notice.

25. RECORDS MAINTENANCE AND OWNERSHIP

- A. The parties will each maintain books, records, documents, and other materials that sufficiently reflect all direct and indirect costs expended by either party in the performance of the service(s) described in this Agreement. When either party requests, these records will be presented in a timely manner for inspection, review, or audit by personnel of both parties and other personnel duly authorized by state or federal law.
- B. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after the expiration of this Agreement. At no additional cost to HCA or the State of Washington during this period, the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties will have full access to and the right to examine any of the retained books, records, documents, and other materials.
- C. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained for one (1) year after all litigation, claims, or audit findings involving the records have been resolved.

- D.** Unless otherwise agreed, records and other documents, in any medium, furnished by one party to the other will remain the property of the furnishing party. The receiving party will not disclose or make available this material to any third parties without first giving the furnishing party timely notice and a reasonable opportunity to respond.
- E.** Each party will utilize reasonable security procedures and protections to ensure that records and documents are not erroneously disclosed to third parties as required under any applicable state and federal laws.

26. PUBLIC RECORDS ACT

Both parties acknowledge that this Agreement is subject to the applicable provisions of the Washington State Public Records Act (Chapter 42.56 RCW) and its exceptions and is a “public record” as defined in RCW 42.56.010. An unredacted copy of this Agreement will be released if HCA or a court of competent jurisdiction determines releasing such a copy is responsive to a public records request under the Public Records Act.

27. PRIVACY LAWS

Contractor will comply with all applicable privacy laws, including but not limited to the Health Insurance Portability and Accountability Act and its implementing regulations, the Washington State Uniform Health Care Information Act (Chapter 70.02 RCW), and the Washington State Patient Bill of Rights (RCW 48.43.500).

28. SEVERABILITY

If a court of appropriate jurisdiction invalidates any provision of this Agreement or any provision of any document incorporated by reference, such invalidation will not affect the other provisions of this Agreement still operational under applicable law without the invalid provision.

29. SURVIVAL

Any terms of this Agreement that would, by their nature or through the express terms of the Agreement, survive the expiration or termination of the Agreement shall so survive, including the terms of Sections 3, 13, 15, 21, 25, and 27.

30. TERMINATION

A. Termination For Convenience

- i. Beginning one year after the Effective Date, Contractor may terminate this Agreement for its convenience, but only if the effective date of such termination is (a) December 31st, or (b) another date agreed to in writing by HCA.

Contractor must give HCA written notice of its intent to terminate no later than sixty (60) Days prior to the effective date of termination. The written notice must include documentation from the board of directors or the legislative body governing Contractor indicating the authority to terminate the Agreement.

- ii. At any time, HCA, at its sole discretion, may terminate this Agreement in whole or in part by providing twenty-eight (28) Days written notice to Contractor.

B. Termination for Nonpayment

- i. If payment of an undisputed amount invoiced by HCA or an HCA contracted vendor is more than sixty (60) Days delinquent, Contractor will receive a written notice. If HCA or such vendor does not receive the entirety of the overdue amount from Contractor within thirty (30) Days of receipt of such notice, Contractor and each Enrollee may be disenrolled from PEBB Medical (including the PEBB Wellness Incentive Program), Dental, Life, and LTD insurance effective the last day of the last month for which full payment is received.
- ii. Upon disenrollment, HCA will send notification to both Contractor and each affected Enrollee. Any partial payment made by Contractor for the month of termination will be refunded by HCA to Contractor. Claims incurred by Enrollees after disenrollment will not be covered.
- iii. HCA reserves the right to recover from Contractor any expenses incurred by HCA as a result of Contractor's nonpayment of the monthly amount invoiced by HCA.

C. Termination for Cause

- i. In the event Contractor violates any material term or condition of this Agreement or fails to fulfill in a timely and proper manner its material obligations under this Agreement, HCA has the right to suspend or terminate this Agreement in whole or in part.
- ii. HCA has the right to suspend or terminate this Agreement, in whole or in part, upon learning that Contractor provided false or incomplete information during the employer group application process.
- iii. If Contractor fails to apply the PEBB Rules, HCA shall give Contractor written notice of such failure. Upon receipt of such notice, HCA and Contractor will work together to develop a corrective action plan to cure such failure. The parties will have ten (10) Business Days to finalize such a plan, and HCA will have sole discretion to extend this period. If no agreed upon plan is developed in such period, HCA may terminate this Contract by written notice.

- iv. After a corrective action plan is approved, Contractor will have thirty (30) Days to implement such plan and apply the PEBB Rules as required under this Agreement. If Contractor's failure or violation is not so corrected, HCA may terminate this Agreement by written notice.

D. Parties' Responsibilities after Termination of Agreement

- i. Upon termination of this Agreement for any reason, Contractor will assume all responsibilities for maintaining benefits for its Employees, Dependents of the Employees, and retirees as may be required by legal or contractual obligations Contractor may have to such Employees, Dependents, or retirees.
- ii. Upon termination of this Agreement for any reason, Enrollees, or retirees included in the transfer unit when this Agreement took effect, cease to be eligible for Insurance Coverage as of the date the Agreement ends. Such Enrollees and retirees may not continue their enrollment in Insurance Coverage beyond the last day of the month in which the Agreement terminated.
- iii. If Contractor later decides it wants to again enroll Employees and Dependents of the Employees in Insurance Coverage, Contractor must re-apply and meet HCA's then existing employer group participation criteria.

31. IMMUNITY

Nothing in this Agreement shall be construed as a waiver (A) by HCA of the State of Washington's immunity under the 11th Amendment to the United States Constitution, or (B) by any Indian Nation of its sovereign immunity.

32. WAIVER

A failure by any party to enforce its rights under this Agreement will not be deemed a waiver by that party as to subsequent enforcement of rights. A waiver must be in writing, signed by an authorized representative for the waiving party, and identify which right(s) the party is waiving. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement.

EXHIBIT A
ELIGIBILITY RULES FOR CONTRACTOR

The PEBB Rules that Contractor must use in determining the eligibility of Employees and Dependents for the PEBB Insurance Coverage are as follows:

- 1) Title 182 WAC, and
- 2) Any additional policies, procedures, or written guidance issued by the PEBB Program.

DRAFT

EXHIBIT B

DATA USE, SECURITY, AND CONFIDENTIALITY

1. Definitions

The definitions below apply to this Exhibit B:

“Authorized User” means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Agreement.

“Breach” means the unauthorized acquisition, access, use, or disclosure of Data shared under this Agreement that compromises the security, confidentiality or integrity of the Data.

“Data” means the information that is disclosed or exchanged as described by this Agreement. For purposes of this Exhibit B, Data means the same as “Confidential Information.”

“Disclosure” means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

“Hardened Password” means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.

Passwords for external authentication must be a minimum of 10 characters long.

Passwords for internal authentication must be a minimum of 8 characters long.

Passwords used for system service or service accounts must be a minimum of 20 characters long.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 (“ARRA”), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).

“Portable/Removable Media” means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).

“Portable/Removable Devices” means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC’s, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.

“Transmitting” means the transferring of data electronically, such as via email, secure file transfer protocol (SFTP), webservices, AWS Snowball, or other similar methods.

“Trusted System(s)” means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

“U.S.C.” means the United States Code. All references in this Exhibit to U.S.C. chapters or sections will include any successor, amended, or replacement statute. The U.S.C. may be accessed at <http://uscode.house.gov/>

“Use” includes the sharing, employment, application, utilization, examination, or analysis, of Data.

2. Description of Data

A. Data Description. Data includes the following:

- i. Aggregate Claims Data for Plan Year(s) specified in a written request to the HCA Contract Manager
- ii. Upon request, HCA will provide copies of Governmental Accounting Standards Board (GASB) files containing Enrollee enrollment information.
- iii. Upon request, HCA will provide premium payment information sufficient to support balancing against invoices received from HCA.
- iv. Upon request, HCA will provide Employee eligibility files to allow Contractor to verify enrollment data against Contractor payroll systems.
- v. HCA will provide reports during and after open enrollment period(s) to show online changes made by Employees of Contractor.
- vi. Monthly Billing File information sent to agencies (e.g. showing them what their monthly bill would be)

B. File Format. The Data may be provided, in Excel format, via SFT with password protection (HCA would provide access) or secure email. Attachment 1 is a sample of the excel files that will be provided, in the agreed upon format.

C. Data Use Purpose. Pursuant to 45 C.F.R. § 164.504(f), the Data may only be used by Contractor to obtain bids, or to modify, amend, or terminate a plan.

3. Data Classification

A. The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, *Data Security*, of *Securing IT Assets Standards* No. 141.10 in the *State Technology Manual* at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. Section 4 is hereby incorporated by reference.)

B. The Data that is the subject of this Agreement may be in any of the Categories indicated below:

☐ Category 1 – Public Information

Public information is information that can be or currently is released to the public. It does not need protection from unauthorized disclosure, but does need integrity and availability protection controls.

☐ Category 2 – Sensitive Information

Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.

☐ Category 3 – Confidential Information

Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:

- Personal Information about individuals, regardless of how that information is obtained;
- Information concerning employee personnel records;
- Information regarding IT infrastructure and security of computer and telecommunications systems;

☒ Category 4 – Confidential Information Requiring Special Handling.

Category 4 Data is information that is specifically protected from disclosure and for which:

- Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

4. Constraints on Use of Data

A. The Data being shared/accessed is owned and belongs to HCA.

B. This Agreement does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Agreement only to carry out the purpose identified in Section 2(1)(a), Data Use

Purpose, of this Exhibit. Any derivative data products created to be published for external customers, or use, not including care coordination, must be sent to HCA for review and approval. Any ad hoc analyses or other use or reporting of the Data is not permitted without HCA's prior written consent.

- C. Any disclosure of Data contrary to this Agreement is unauthorized and is subject to penalties identified in law.
- D. The Contractor must comply with the *Minimum Necessary Standard*, which means that Contractor will use the least amount of PHI necessary to accomplish the Purpose of this Agreement.
- E. Contractor must identify:
 - vii. Those persons or classes of persons in the Contractor's workforce who need access to PHI to carry out their duties; and
 - viii. For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.
- F. Contractor must implement policies and procedures that limit the PHI disclosed to such persons or classes of persons to the amount reasonably necessary to achieve the purpose of the disclosure, in accordance with this Agreement.

5. Security of Data

A. Data Protection

The Contractor must protect and maintain all Confidential Information gained by reason of this Agreement, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

- i. Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
- ii. Physically securing any computers, documents, or other media containing the Confidential Information.

B. Data Security Standards

Contractor must comply with the Data Security Requirements set out in this section and the Washington OCIO Security Standard, 141.10, which will include any successor, amended, or replacement regulation (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>.) The Security Standard 141.10 is hereby incorporated by reference into this Agreement.

C. Data Transmitting

When transmitting Data electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.

When transmitting Data via paper documents, the Contractor must use a Trusted System.

D. Protection of Data.

The Contractor agrees to store and protect Data as described.

i. Data at Rest:

Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems that contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

ii. Data stored on Portable/Removable Media or Devices:

- Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
- HCA's Data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within the Agreement. If so authorized, the Contractor must protect the Data by:
 - Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
 - Controlling access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 - Keeping devices in locked storage when not in use;
 - Using check-in/check-out procedures when devices are shared;
 - Maintaining an inventory of devices; and
 - Ensuring that when being transported outside of a Secured Area, all devices containing Data are under the physical control of an Authorized User.

iii. Paper Documents:

Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

E. Data Segregation

- i. HCA Data received under this Agreement must be segregated or otherwise distinguishable from non-HCA Data. This is to ensure that when no longer needed by the Contractor, all of HCA's Data can be identified for return or destruction. It also aids in determining whether HCA's Data has or may have been compromised in the event of a security breach.
- ii. HCA's Data must be kept in one of the following ways:
 - On media (e.g. hard disk, optical disc, tape, etc.) which contains only HCA Data;
 - In a logical container on electronic media, such as a partition or folder dedicated to HCA's Data;
 - In a database that contains only HCA Data;
 - Within a database – HCA data must be distinguishable from non-HCA Data by the value of a specific field or fields within database records;
 - Physically segregated from non-HCA Data in a drawer, folder, or other container when stored as physical paper documents.
- iii. When it is not feasible or practical to segregate HCA's Data from non-HCA data, both HCA's Data and the non-HCA data with which HCA's Data is commingled must be protected as described in this Exhibit.
- iv. Contractor must designate and be able to identify all computing equipment on which they store, process, and maintain HCA Data. No Data at any time may be processed on or transferred to any portable storage medium. Laptop/tablet computing devices are not considered portable storage medium devices for purposes of this Contract provided it is installed with end-point encryption.

F. Data Disposition

- i. Upon request by HCA, or when no longer needed, or 6 years after the end of the fiscal year in which the Data is received (for the purposes of this section, "fiscal year" is from July 1 to June 30). Confidential Information/Data must be returned to HCA or disposed of as set out below, except as required to be maintained for compliance or accounting purposes.
- ii. Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs.html>).

- iii. For Data stored on network disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section D, above. Destruction of the Data as outlined in this section of this Exhibit may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

6. Data Confidentiality and Non-Disclosure

A. Data Confidentiality

The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Agreement for any purpose that is not directly connected with the purpose of this Agreement, except:

- i. as provided by law; or
- ii. with the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.

B. Non-Disclosure of Data

- i. The Contractor will ensure that all employees or Subcontractors who will have access to the Data described in this Agreement (including both employees who will use the Data and IT support staff) are instructed and aware of the use restrictions and protection requirements of this Exhibit before gaining access to the Data identified herein. The Contractor will ensure that any new employee is made aware of the use restrictions and protection requirements of this Exhibit before the new employee can gain access to the Data.
- ii. The Contractor will ensure that each employee or Subcontractor who will access the Data signs a non-disclosure of confidential information agreement regarding confidentiality and non-disclosure requirements of Data under this Agreement. The Contractor must retain the signed copy of employee non-disclosure agreement in each employee's personnel file for a minimum of six years from the date the employee's access to the Data ends. The Contractor will make this documentation available to HCA upon request.

C. Penalties for Unauthorized Disclosure of Data

- i. The Contractor must comply with all applicable federal and state laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.
- ii. The Contractor accepts full responsibility and liability for any noncompliance with applicable laws or this Agreement by itself, its employees, and its Subcontractors.

7. Data Shared with Subcontractors

If Data access is to be provided to a Subcontractor under this Agreement, the Contractor must include all of the Data security terms, conditions and requirements set forth in this Exhibit B in any such Subcontract. However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Agreement nor for oversight of any functions and/or responsibilities the Contractor delegates to any subcontractor.

8. Data Breach Notification

A. The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov within one (1) Business Day of discovery. If the Contractor does not have full details, Contractor will report what information Contractor has available, and provide full details of the breach within 15 Business Days of discovery. To the extent possible, these reports must include the following:

- i. The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
- ii. The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
- iii. A description of the types of PHI involved;
- iv. The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
- v. Any details necessary for a determination of the potential harm to Enrollees whose PHI is believed to have been used or disclosed and the steps those Enrollees should take to protect themselves; and
- vi. Any other information HCA reasonably requests.

B. The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.

C. The Contractor must notify HCA in writing, as described in the *General Terms and Conditions* section, *Notices*, within two (2) Business Days of determining notification must be sent to Enrollees.

D. At HCA's request, the Contractor will provide draft Enrollee notification to HCA at least five (5) Business Days prior to notification and allow HCA an opportunity to review and comment on the notifications.

- E. At HCA's request, the Contractor will coordinate its investigation and notifications with HCA and the Office of the State of Washington Chief Information Officer (OCIO), as applicable.

9. HIPAA Compliance

- A. The Contractor must perform all of its duties, activities, and tasks under this Agreement in compliance with HIPAA, the HIPAA Rules, and all applicable regulations as promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable. The Contractor and Contractor's subcontracts must fully cooperate with HCA efforts to implement HIPAA requirements.
- B. Within ten Business Days, Contractor must notify the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov of any complaint, enforcement, or compliance action initiated by the Office for Civil Rights based on an allegation of violation of HIPAA or the HIPAA Rules and must inform HCA of the outcome of that action. Contractor bears all responsibility for any penalties, fines, or sanctions imposed against Contractor for violations of HIPAA or the HIPAA Rules and for any sanction imposed against its Subcontractors or agents for which it is found liable.

10. Inspection

HCA reserves the right to monitor, audit, or investigate the use of Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the terms of this Agreement. All HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

11. Material Breach

The Contractor must indemnify and hold HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI of Enrollees.

ATTACHMENT 1 – SAMPLE DATA

Washington State Health Care Authority
 PEBB Political Subdivision: SAMPLE 2016 Experience Summary
 Membership Base: Member Months
 Plan Selection: All Plans

Active Employees

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
Member Months	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
MEDICAL													
Medical Allowed	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$6,000,000
Medical Paid	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$4,800,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$1,800,000
Pharmacy Paid	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$1,440,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$7,800,000
Total Paid	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$6,240,000
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) *Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.*
- 2) *This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.*

Early Retirees

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
Member Months	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
MEDICAL													
Medical Allowed	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$6,000,000
Medical Paid	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$4,800,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$1,800,000
Pharmacy Paid	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$1,440,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$650,000	\$7,800,000
Total Paid	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000	\$6,240,000
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) *Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.*
- 2) *This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.*

Total – Non-Medicare Risk Pool

Member Months	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	CY 2016
	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000
MEDICAL													
Medical Allowed	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	#####
Medical Paid	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000	\$9,600,000
Medical Allowed PMPM	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Medical Paid PMPM	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
PHARMACY													
Pharmacy Allowed	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000	\$3,600,000
Pharmacy Paid	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$240,000	\$2,880,000
Pharmacy Allowed PMPM	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00	\$150.00
Pharmacy Paid PMPM	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00	\$120.00
TOTAL													
Total Allowed	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000	#####
Total Paid	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	\$1,040,000	#####
Total Allowed PMPM	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00	\$650.00
Total Paid PMPM	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00

- 1) *Financials do not include adjustment for IBNP. Claim amounts are incurred and paid through March 2017. Actual incurred claims will be significantly higher.*
- 2) *This work product was prepared solely to provide assistance to the Washington State Health Care Authority. Milliman does not intend to benefit and assumes no duty or liability to other parties who receive this work. Milliman recommends any third party recipient be aided by its own actuary or other qualified professional when reviewing the Milliman work product.*

Washington State Health Care Authority
PEBB Political Subdivision: SAMPLE
Large Claims Summary
Large Claims Threshold: \$100,000 Allowed / Year

Period	Members Exceeding \$100,000
2016	5

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Washington State Health Care Authority
PEBB Political Subdivision: SAMPLE
Large Claims Summary
Large Claims Threshold: \$100,000 Allowed / Year

MaskedID	Year	Allowed	Member Type
1	2016	110,000	Employee
2	2016	110,000	Spouse
3	2016	110,000	Child
4	2016	110,000	Employee
5	2016	110,000	Spouse

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