

No. FD-3591340



Before the SURFACE TRANSPORTATION BOARD

TRI-CITY RAILROAD COMPANY, LLC, a Washington limited liability company,

Petitioner,

vs.

THE CITY OF KENNEWICK, of the State of Washington, located in Benton County, Washington; THE CITY OF RICHLAND, of the State of Washington, located in Benton County, Washington,

Respondents.

SUPPLEMENTAL AFFIDAVIT OF COUNSEL RE: NOTICE OF CONDEMNATION PROCEEDINGS

[CONTAINS COLOR] 238133

ENTERED Office of Proceedings April 7, 2015 Part of Public Record

STATE OF WASHINGTON) : ss. County of Spokane)

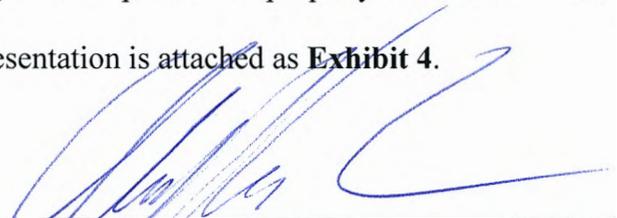
WILLIAM C. SCHROEDER, being first duly sworn on oath, does hereby depose and state:

1. I am one of the attorneys for Petitioner Tri-City Railroad Company, LLC (TCRY) in the above-captioned matter. I am over the age of eighteen (18), am competent to testify to the matters contained herein, and all matters contained herein are based upon personal knowledge.

2. On April 2, 2015, TCRY received at its P.O. Box in Richland via certified mail the following three documents: Notice of Planned Final Action,

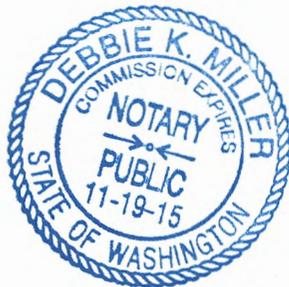
Eminent Domain Proceeding, dated March 25, 2015 (**Exhibit 1**); City of Richland Ordinance No. 17-15, with signature for City Attorney Heather Kintzley (**Exhibit 2**); City of Kennewick Ordinance No. 5592, with signature for City Attorney Lisa Beaton, et al. (**Exhibit 3**).

3. TCRY asked an engineering firm, HDJ Design Group, to prepare a visual representation of the legal descriptions of property contained within Exhibits 2 and 3. That visual representation is attached as **Exhibit 4**.



WILLIAM C. SCHROEDER

SUBSCRIBED AND SWORN to before me this 6th day of April, 2015,
by WILLIAM C. SCHROEDER.

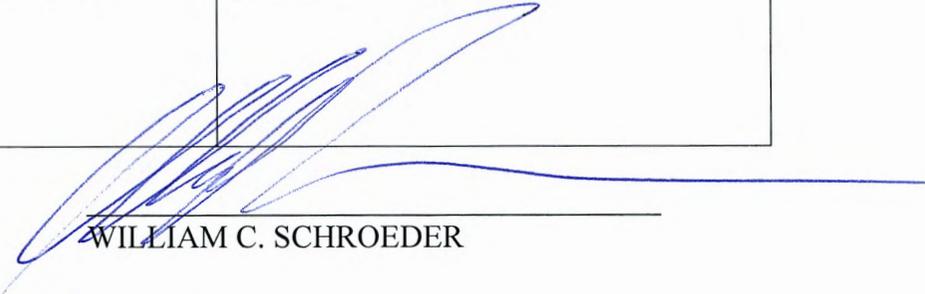



Notary Public in and for the State of
Washington, residing at Spokane
My Commission Expires: 11-19-15

CERTIFICATE OF SERVICE

I hereby certify that on this 6 day of April, 2015, I caused to be served a true and correct copy of the foregoing SUPPLEMENTAL AFFIDAVIT OF COUNSEL RE NOTICE OF CONDEMNATION PROCEEDINGS, by the method indicated below and addressed to the following:

Heather Kintzley Richland City Attorney 975 George Washington Way Richland, WA 99352	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	U.S. MAIL HAND DELIVERED OVERNIGHT MAIL TELECOPY
Lisa Beaton Kennewick City Attorney 210 West 6 th Avenue Kennewick, WA 99336	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	U.S. MAIL HAND DELIVERED OVERNIGHT MAIL TELECOPY
P. Stephen DiJulio Jeremy Eckert Foster Pepper PLLC 1111 Third Avenue, Suite 3400 Seattle, WA 98101	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	U.S. MAIL HAND DELIVERED OVERNIGHT MAIL TELECOPY



WILLIAM C. SCHROEDER

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EXHIBIT 1



NOTICE OF PLANNED FINAL ACTION
City of Kennewick Eminent Domain Proceedings
City of Richland Eminent Domain Proceedings
(RCW 8.25.090)



March 25, 2015

VIA CERTIFIED AND REGULAR MAIL

Randolph Peterson, Manager
Tri-City Railroad Company
PO Box 1700
Richland, WA 99352

Subject Property: Railroad Corridor
Kennewick, WA 99336
Benton County Tax Parcel No.: N/A

Record Property Owner shown on County Tax Roll: Port of Benton

Pursuant to a 2001 Interlocal Cooperation Agreement (ICA), the Cities of Richland and Kennewick are collectively pursuing extension of Center Parkway between Gage Boulevard in the City of Kennewick and Tapteal Drive in the City of Richland. The action to extend Center Parkway impacts properties located in both the City of Kennewick and the City of Richland. Under the ICA, the City of Richland will, as agent for the City of Kennewick, prosecute all condemnation proceedings instituted under either jurisdiction's eminent domain authority.

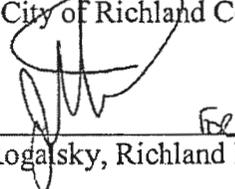
THEREFORE, NOTICE IS HEREBY GIVEN that the City Councils of the City of Kennewick and the City of Richland, condemnors, will consider taking final action by approval and passage of condemnation ordinances that will authorize commencement of eminent domain (condemnation) proceedings against the above-described subject property. Draft copies of the proposed ordinances are attached to this certified letter.

The date, time and location fixed for the City of Kennewick's council consideration of its proposed condemnation ordinance is **Tuesday, April 14, 2015 at 6:30 p.m.** in the City of Kennewick Council Chambers, located at 210 W. 6th Avenue, Kennewick, WA 99336.

The dates, times and location fixed for the City of Richland's council consideration of its proposed condemnation ordinance are:

- First Reading: **Tuesday, April 7, 2015 at 7:30 p.m.**
- Second Reading and Passage: **Tuesday, April 21, 2015 at 7:30 p.m.**

In the City of Richland Council Chambers, located at 505 Swift Blvd., Richland, WA 99352.



Pete Rogalsky, Richland Public Works Director

DECLARATION OF SERVICE

I declare as follows:

1. I am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, competent to be a witness herein, and have personal knowledge of the facts stated below.
2. On March 25, 2015, and in a manner indicated below, I caused the foregoing **Notice of Planned Final Action** and this **Declaration of Service** to be served upon the following and in the manner indicated:

Randolph Peterson, Manager
Tri-City Railroad Company
PO Box 1700
Richland, WA 99352

- By U.S. Mail – First Class, Postage Pre-Paid
- By U.S. Mail – Certified Mail/Return Receipt Requested, Postage Pre-Paid
Article # 91 7199 9991 7031 9509 3627
- By Facsimile: _____
- By Email: _____

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Richland, Benton County, Washington on March 25, 2015.

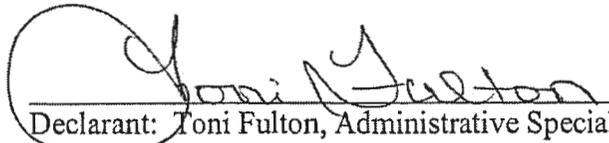

Declarant: Toni Fulton, Administrative Specialist
Richland City Attorney's Office

EXHIBIT 2

ORDINANCE NO. 17-15

AN ORDINANCE of the City of Richland, Washington, authorizing the City Manager to acquire certain real property interests by negotiated voluntary purchase under threat of condemnation, by condemnation, or by settling condemnation litigation or entering administrative settlements for the purpose of extending Center Parkway from Tapteal Drive in Richland to Gage Boulevard in Kennewick; providing for severability; and establishing an effective date.

WHEREAS, in order to improve mobility, meet the current and planned travel demands of the Cities of Richland and Kennewick, and satisfy the current and future requirements and goals of the City of Richland Comprehensive Plan, it will be necessary for the City to construct a new street segment called Center Parkway; and

WHEREAS, the planned Center Parkway crosses the municipal boundary joining the City of Richland with the City of Kennewick; and

WHEREAS, the Cities of Richland and Kennewick have entered in an interlocal agreement, dated September 18, 2001, documenting the Cities' partnership to complete Center Parkway; and

WHEREAS, the interlocal agreement, specifically Supplement No. 2 to the interlocal agreement, assigns the lead role for completing the Center Parkway project to the City of Richland; and

WHEREAS, in its lead role, the City of Richland has planned and budgeted to complete Center Parkway from Tapteal Drive in Richland to Gage Boulevard in Kennewick; and

WHEREAS, in order to complete the Center Parkway Project, it has been determined that the City of Richland and the City of Kennewick must acquire the property and property rights described in Exhibit 1, falling within their respective jurisdictions, for the public uses of public travel and public parking; and

WHEREAS, Chapter 8.12 RCW authorizes the Cities to exercise the power of eminent domain for the purpose of condemning property for certain public needs; and

WHEREAS, the City of Richland has commissioned appraisals to determine the fair market value of the properties identified herein and will continue to negotiate in good faith with the owners of the properties authorized to be acquired with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, in the event voluntary negotiated agreements are not reached, eminent domain proceedings will be required to complete the required acquisitions; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation shall be paid from City of Richland funds.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Richland as follows:

Section 1. Public Use and Necessity Declared: The City of Richland City Council finds construction of the Center Parkway Project to be a public use, specifically the construction of public streets and public parking. Further, the City Council finds construction of the Center Parkway Project to be necessary and in the best interests of the citizens and motorists within the City of Richland.

Section 2. Agency Acknowledged: Pursuant to interlocal agreement and ordinance, the City of Kennewick has delegated to the City of Richland the authority to initiate and prosecute any action necessary, including condemnation, to acquire the property and property rights described in attached Exhibit 1 that are located within the City of Kennewick. The City of Richland accepts this delegation of authority.

Section 3. City Manager Authorized: The City Manager is hereby authorized to negotiate and prepare such agreements as are customary and necessary for the acquisition of the real property interests described in Exhibit 1, said property to be used for the public use of construction of the Center Parkway Project. Execution of such final agreements by the City Manager shall occur only after approval by the Richland City Council at an open public meeting.

Section 4. Settlement: The City Manager is further authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit 1. Such settlements shall be made only upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and shall be subject to final approval by the Richland City Council at an open public meeting.

Section 5. Condemnation Proceedings Authorized: In addition to the authority granted to the City Manager in Sections 3 and 4 above, the City Manager may further authorize the City Attorney to commence any such condemnation proceedings as may be useful or necessary to acquire the properties and property rights described in the attached Exhibit 1, to include prosecuting condemnation actions as the Agent of the City of Kennewick as directed in City of Kennewick Ordinance No. 5592.

Section 6. Property Descriptions: The City Manager is additionally authorized to make minor amendments to the legal descriptions of properties described in the

attached Exhibit 1 as may be necessary to correct scrivener's errors or to conform any legal description to the precise boundaries of the property actually acquired for construction of the Center Parkway Project.

Section 7. Funds: The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from the City of Richland's Capital Improvement Plan funds.

Section 8. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 9. Effective Date: This ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

PASSED by the City Council of the City of Richland, at a regular meeting on the _____ day of _____, 2015.

DAVID W. ROSE
Mayor

ATTEST:

APPROVED AS TO FORM:

MARCIA HOPKINS
City Clerk

HEATHER KINTZLEY
City Attorney

Date Published: _____, 2015.

EXHIBIT 1

Property Descriptions

All of PID# 1-3099-300-0001-007

That portion of the West ½ of the Southeast ¼ of Section 30, Township 9 North, Range 29 East of the Willamette Meridian, City of Richland, Benton County, Washington, described as follows:

Beginning at the Northeast corner of Parcel 1 of Record of Survey No. 2966, as recorded in Volume 1 of Surveys on Page No. 2966, records of said County and State; Said corner is lying on the Southerly right-of-way of Taptéal Drive as shown on said Survey; Thence North 69°56'55" West a distance of 230.22 feet along the Northerly line of said Parcel and said Southerly right-of-way, to the Northwest corner of said Parcel 1, and the **TRUE POINT of BEGINNING**, and the beginning of a 30.00 foot radius tangent curve to the left; Thence Southwesterly a distance of 48.19 feet along the arc of said curve through a central angle of 92°01'52" along the Westerly line of said Parcel 1, to the beginning of a 700.00 foot radius tangent compound curve to the left; Thence Southwesterly a distance of 227.91 feet along the arc of said curve through a central angle of 18°39'16", along the Westerly line of said Parcel 1, to its point of tangency. (Said point of tangency is lying North 00°38'03" West from the Northwest corner of Parcel 2 of said Record of Survey No. 2966); Thence South 00°38'03" East a distance of 335.03 feet along the Westerly line of said Parcel 2, to a point on the Northerly right-of-way of the Port of Benton / Tri-City Railroad, (formerly A.E.C. Hanford Works Railroad), and the beginning of a 2242.01 foot radius non-tangent curve having a radial bearing of North 23°31'03" East; Thence Northwesterly along said right-of-way a distance of 92.36 feet along the arc of said curve through a central angle of 02°21'37" to the Southeast corner of Record of Survey No. 3241 as recorded in Volume 1 of Surveys on Page No. 3241, records of said County and State; Thence North 01°50'14" East a distance of 299.50 feet, leaving said Northerly right-of-way, to the Northeast corner of said Record of Survey No. 3241, said corner is also the East/ Southeasterly corner of Record of Survey No. 3245, records of said County and State; Thence continuing North 01°50'14" East a distance of 29.53 feet along the Easterly line of said Record of Survey No. 3245, leaving the Northeast corner of said Record of Survey No. 3241, to the beginning of a 770.00 foot radius tangent curve to the right; Thence Northeasterly a distance of 221.92 feet along the arc of said curve and said Easterly line of said Record of Survey No. 3245, through a central angle of 16°30'48" to the beginning of a 30.00 foot radius tangent reverse curve to the left; Thence Northwesterly a distance of 46.23 feet along the arc of said curve and said Easterly line of said Record of Survey No. 3245 to its Northeast corner, through a central angle of 88°17'57", to a point on said Southerly right-of-way of Taptéal Drive; Thence South 69°56'55" East a distance of 130.07 feet leaving said Record of Survey No. 3245, back to the true point of beginning.

Containing 43,870 square feet, more or less, according to the bearings and distances listed above.

All of PID # 1-3099-400-0010-000

That Portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29, lying south of the Union Pacific Railroad right of way, defined as follows: Beginning at the Southwest corner of said subdivision; Thence South $89^{\circ}23'43''$ East along the South line thereof 686.76 Feet to a point in the West line of the East 615.9 Feet of the said subdivision; Thence North $00^{\circ}15'13''$ West along said West line 350 feet to the TRUE POINT OF BEGINNING; Thence continuing North $00^{\circ}15'13''$ West, 170.18 feet to a point which is 200 feet South of the South right of way line of the Union Pacific Railroad; Thence South $89^{\circ}22'17''$ West: Parallel with said right of way line, 80 feet; Thence South $00^{\circ}15'13''$ East, 168.46 Feet to a point which is 350 feet from the South line of said subdivision; Thence South $89^{\circ}23'43''$ East parallel with said South line 80 feet to the True Point of Beginning. Containing 13,543.7 square feet, more or less, according to the bearings and distances listed above.

Portion of PID # 1-3099-401-0192-001

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

A portion of Lot 1 of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State, more particularly described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, and the TRUE POINT OF BEGINNING; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Southeasterly a distance of 48.23 feet,

along the arc of said curve through a central angle of 03°38'09", leaving said Northerly line to a point of reverse curve, to the beginning of a 490.00 foot radius tangent curve to the right; Thence Southeasterly a distance of 11.75 feet along the arc of said curve, through a central angle of 01°22'28", back to the true point of beginning. Containing 497.3 square feet, more or less, according to the bearings and distances listed above.

Together with a temporary construction easement lying within said parcel described as follows:

A portion of the Southwest ¼ of the Southeast ¼ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

Lot 1 of Short Plat No. 192 as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State, more particularly described as follows:

Beginning at South ¼ corner of said Section 30; Thence South 89°48'03" East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North 00°41'35" West a distance of 350.02 feet along said West line; Thence North 89°48'03" West a distance of 0.86 feet, leaving said West line; Thence continuing North 89°48'03" West a distance of 90.21 feet along the Southerly line of said Lot, to the beginning of a 460.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South 85°56'01" West; and the TRUE POINT of BEGINNING; Thence Northwesterly a distance of 114.93 feet along the arc of said curve, through a central angle of 14°18'53", leaving said Southerly line of said Lot 1, to the beginning of a 790.00 foot radius tangent reverse curve, concave to the Northeast, having a radial bearing of North 71°37'09" East; Thence Northwesterly a distance of 57.44 feet along the arc of said curve, through a central angle of 04°09'58", to a point on a Northerly line of said Lot 1; Thence North 88°58'02" East leaving said curve to the beginning of a 760.00 foot radius non-tangent curve, concave to the Northeast, having a common with the aforementioned 790.00 foot radius curve; Thence Southeasterly a distance of 48.23 feet along the arc of said curve, through a central angle of 03°38'09", leaving said Northerly line of said Lot 1, to the beginning of a 490.00 foot radius tangent reverse curve, concave to the Southwest, having a radial bearing of South 71°37'09" West; Thence Southeasterly a distance of 11.75 feet along the arc of said curve, through a central angle of 01°22'28", to a point on the Westerly line of a Parcel described by Parcel Identifications number (P.I.D.) 1-3099-400-0010-000, records of said County and State; Thence South 00°41'35" East leaving said curve, along said Westerly line, to a point on said Southerly line of said Lot 1; Thence North 89°48'03" West a distance of 11.07 feet along said Southerly line, back to the true point of beginning. Containing 3,882.37 square

feet, more or less, according to the bearings and distances listed above.

Portion PID# 1-3099-400-0009-000

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1, and the TRUE POINT of BEGINNING; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence North $88^{\circ}58'44''$ East a distance of 60.02 feet along said Southerly line to the beginning of a 700.00 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of South $89^{\circ}24'34''$ East; Thence Southeasterly a distance of 202.04 feet along the arc of said curve, through a central angle of $16^{\circ}32'14''$, to a point on the Southerly line of said P.U.D. Substation Parcel; Thence South $88^{\circ}58'02''$ West a distance of 45.30 feet, leaving said curve, back to the true point of beginning. Containing 12,112.8 square feet, more or less, according to the bearings and distances listed above.

Portion of PID# 1-3099-304-0009-000

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Northerly of the Union Pacific Railroad, and Southerly of the Port of Benton and Tri-City Railroad Company LLC, right-of-way described as follows:

A portion of Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and

State, more particularly described as follows:

Beginning at South ¼ corner of said Section 30; Thence South 89°48'03" East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North 00°41'35" West a distance of 350.02 feet along said West line; Thence North 89°48'03" West a distance of 0.86 feet, leaving said West line; Thence continuing North 89°48'03" West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South 86°11'43" West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of 13°12'06" to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North 00°41'35" West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South 88°58'02" West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North 75°15'18" East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of 15°12'31" to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South 88°58'44" West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South 89°33'21" East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a central angle of 01°23'35", leaving said Southerly line, to its point of tangency; Thence North 01°50'14" East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2; Thence North 88°56'20" East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line, to the TRUE POINT of BEGINNING; Thence North 01°50'14" East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North 24°10'23" East; Thence Southeasterly a distance of 64.51 feet along the arc of said curve, through a central angle of 01°34'41", along said Northerly and Southerly lines; Thence South 01°50'14" West a distance of 112.53 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence South 88°56'20" West a distance of 60.08 feet along said right-of-way, back to the true point of beginning. Containing 7,544.3 square feet, more or less, according to the bearings and distances listed above.

Together with a temporary construction easement lying within said parcel described as follows:

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Northerly of the Union Pacific Railroad, and Southerly of the Port of Benton and Tri-City Railroad Company LLC, right-of-way described as follows:

A portion of Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and State, more particularly described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South $88^{\circ}58'44''$ West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South $89^{\circ}33'21''$ East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a central angle of $01^{\circ}23'35''$, leaving said Southerly line, to its point of tangency; Thence North $01^{\circ}50'14''$ East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2; Thence North $88^{\circ}56'20''$ East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line, to the TRUE POINT of BEGINNING; Thence North $01^{\circ}50'14''$ East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-

tangent curve, concave to the Northeast, having a radial bearing of North 24°10'23" East; Thence Northwesterly a distance of 6.49 feet along the arc of said curve, through a central angle of 00°09'32", along said Northerly and Southerly lines; Thence South 01°50'14" West a distance of 142.04 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence North 88°56'20" East a distance of 6.01 feet along said right-of-way, back to the true point of beginning.

Together With: Beginning at the aforementioned true point of beginning; Thence North 88°56'20" East a distance of 60.08 feet along said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B", to the TRUE POINT of BEGINNING; Thence North 01°50'14" East a distance of 112.53 feet to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North 22°35'42" East; Thence Southeasterly a distance of 29.87 feet along the arc of said curve, through a central angle of 00°43'34", along said Northerly and Southerly lines; Thence South 01°50'14" West a distance of 100.71 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence North 88°56'20" East a distance of 28.04 feet along said right-of-way, back to the true point of beginning. Containing 3,828.3 square feet, more or less, according to the bearings and distances listed above.

**A portion of Port of Benton and Tri-City Railroad right-of-way – No PID# assigned
Street Crossing & Utility Easement**

A portion of the Southwest ¼ of the Southeast ¼ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying within, Port of Benton and Tri-City Railroad right-of-way, described as follows:

Beginning at South ¼ corner of said Section 30; Thence South 89°48'03" East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North 00°41'35" West a distance of 350.02 feet along said West line; Thence North 89°48'03" West a distance of 0.86 feet, leaving said West line; Thence continuing North 89°48'03" West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South 86°11'43" West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of 13°12'06" to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page

No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South $88^{\circ}58'44''$ West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South $89^{\circ}33'21''$ East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a central angle of $01^{\circ}23'35''$, leaving said Southerly line, to its point of tangency; Thence North $01^{\circ}50'14''$ East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and State; Thence North $88^{\circ}56'20''$ East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line; Thence North $01^{\circ}50'14''$ East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), to the TRUE POINT of BEGINNING; said point being at (Station 16+39.17 at 30.00' Left as shown on Center Parkway Right-of-way Plans) and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $24^{\circ}10'23''$ East; Thence Northwesterly a distance of 21.66 feet along the arc of said curve through a central angle of $00^{\circ}31'48''$; Thence North $01^{\circ}50'14''$ East a distance of 104.28 feet, leaving said Northerly and Southerly lines, and said curve, to a point on the Northerly line of said Port of Benton and Tri-City Railroad Company LLC, right-of-way, and the beginning of a 2242.01 foot radius non-tangent curve, concave to the Northeast, and having a radial bearing of North $26^{\circ}17'06''$ East; Thence Southeasterly a distance of 108.69 feet, along the arc of said curve, through a central angle of $02^{\circ}46'40''$, along said Northerly right-of-way; to a point on the proposed Easterly proposed right-of-way of Center Parkway; Thence continuing along said curve and Northerly line of said Port of Benton and Tri-City Railroad Company LLC, right-of-way Southeasterly a distance of 0.40 feet, along the arc of said curve, through a central angle of $00^{\circ}00'37''$, along said Northerly right-of-way; Thence South $01^{\circ}50'14''$ West a distance of 101.21 feet leaving said Northerly right-of-way to a point on said Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, said point is also lying on a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $22^{\circ}04'22''$ East; Thence Northwesterly a distance of 85.86 feet along the arc of said curve through a central angle of $02^{\circ}06'01''$ back to the true point of beginning.

Containing 10,270.8 square feet, more or less, according to the bearings and distances listed above.

EXHIBIT 3

CITY OF KENNEWICK
ORDINANCE NO. 5592

AN ORDINANCE RELATING TO TRANSPORTATION FACILITIES;
AUTHORIZING THE CITY OF RICHLAND TO ACQUIRE CERTAIN REAL
PROPERTY INTERESTS BY NEGOTIATED VOLUNTARY PURCHASE UNDER
THREAT OF CONDEMNATION, BY CONDEMNATION, OR BY SETTLING
CONDEMNATION LITIGATION OR ENTERING ADMINISTRATIVE
SETTLEMENTS FOR THE PURPOSE OF EXTENDING CENTER PARKWAY
FROM TAPTEAL DRIVE IN RICHLAND TO GAGE BOULEVARD IN
KENNEWICK; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE

WHEREAS, in order to improve mobility, meet the current and planned travel demands of the Cities of Kennewick and Richland, and satisfy the current and future requirements and goals of the City of Kennewick Comprehensive Plan, it will be necessary for the City to construct a new street segment called Center Parkway; and

WHEREAS, the planned Center Parkway crosses the municipal boundary joining the City of Richland with the City of Kennewick; and

WHEREAS, the Cities of Richland and Kennewick have entered into an interlocal agreement, dated September 18, 2001, documenting the Cities' partnership to complete Center Parkway; and

WHEREAS, the interlocal agreement, specifically Supplement No. 2 to the interlocal agreement, assigns the lead role for completing the Center Parkway project to the City of Richland, including specifically acquisition of right of way; and

WHEREAS, in its lead role the City of Richland has planned and budgeted to complete Center Parkway from Tapteal Drive in Richland to Gage Boulevard in Kennewick; and

WHEREAS, in its lead role, the City of Richland will assign staff and hire contractors as required to complete the Center Parkway project; and

WHEREAS, in order to complete the Center Parkway Project, it has been determined that several parcels of right of way must be acquired within the City of Kennewick. The required property rights are described in Exhibit 1 for the public uses of public travel and public parking; and

WHEREAS, Chapter 8.12 RCW delegates to cities the authority to use eminent domain for the purpose of condemning property for certain public needs; and

WHEREAS, the City of Richland, in its lead role, has commissioned appraisals to determine the fair market value of the properties and will negotiate in good faith with the owners of the properties authorized to be acquired with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, in the event voluntary negotiated agreements are not reached, eminent domain proceedings will be required to complete the required acquisitions; and

WHEREAS, the intent of the Cities' interlocal agreement and Supplement No. 2 is that the City of Richland will administer processes, including eminent domain proceedings, on behalf of the Cities of Richland and Kennewick for completion of the required property acquisitions; and

WHEREAS, the intent of the Cities' interlocal agreement is that the Cities will own and operate the portions of the completed Center Parkway within their municipal boundaries; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation, shall be paid from City of Richland funds;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Public Use and Necessity Declared. The City of Kennewick City Council finds construction of the Center Parkway Project to be a public use, specifically the construction of public streets and public parking. Further, the City Council finds construction of the Center Parkway Project to be necessary and in the best interests of the citizens and motorists within the City of Kennewick.

Section 2. Richland Authorized. The City of Richland, as Agent on behalf of the City of Kennewick, is hereby authorized to negotiate, prepare and execute such agreements as are customary and necessary for the acquisition of the real property interests described in Exhibit 1, said property to be used for the public use of construction of the Center Parkway Project. Execution of such final agreements by the City of Richland shall occur only after approval by the Richland City Council at an open public meeting.

Section 3. Settlement. The City of Richland is further authorized, as Agent on behalf of the City of Kennewick, to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit 1. Such settlements shall be made only upon the recommendation of legal counsel, for amounts deemed to be a reasonable estimation of fair market value, and shall be subject to final approval by the Richland City Council at an open public meeting.

Section 4. Condemnation Proceedings Authorized. In addition to the authority granted to the City of Richland in Sections 2 and 3 above, the City of Richland is hereby authorized to initiate condemnation proceedings as Agent on behalf of the City of Kennewick, and directed to prosecute the actions and proceedings necessary to acquire the properties and property rights described in the attached Exhibit 1. The City of Richland shall promptly provide copies of all pleadings to the Kennewick City Attorney.

Section 5. Property Descriptions. The City of Richland is additionally authorized to make minor amendments to the legal descriptions of properties described in the attached Exhibit 1 as may be necessary to correct scrivener's errors or to conform any legal description to the precise boundaries of the property actually acquired for construction of the Center Parkway Project.

Section 6. Funds. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from the City of Richland's Capital Improvement Plan funds.

Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 8. Effective Date. This ordinance shall take effect five days from and after its approval, passage and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 14th day of April, 2015, and signed in authentication of its passage this 14th day of April, 2015.

Attest:

STEVE C. YOUNG, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5592 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 14th day of March, 2015.

Approved as to form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

EXHIBIT 1

Property Descriptions

All of PID # 1-3099-400-0010-000:

That Portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29, lying south of the Union Pacific Railroad right of way, defined as follows: Beginning at the Southwest corner of said subdivision; Thence South $89^{\circ}23'43''$ East along the South line thereof 686.76 Feet to a point in the West line of the East 615.9 Feet of the said subdivision; Thence North $00^{\circ}15'13''$ West along said West line 350 feet to the TRUE POINT OF BEGINNING: Thence continuing North $00^{\circ}15'13''$ West, 170.18 feet to a point which is 200 feet South of the South right of way line of the Union Pacific Railroad; Thence South $89^{\circ}22'17''$ West: Parallel with said right of way line, 80 feet: Thence South $00^{\circ}15'13''$ East, 168.46 Feet to a point which is 350 feet from the South line of said subdivision: Thence South $89^{\circ}23'43''$ East parallel with said South line 80 feet to the True Point of Beginning. Containing 13,543.7 square feet, more or less, according to the bearings and distances listed above.

Portion of PID # 1-3099-401-0192-001:

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

A portion of Lot 1 of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State, more particularly described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, and the TRUE POINT of BEGINNING; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Southeasterly a distance of 48.23 feet, along the arc of said curve through a central angle of $03^{\circ}38'09''$, leaving said Northerly line to a point of reverse curve, to the beginning of a 490.00 foot radius tangent curve to the right; Thence Southeasterly a distance of 11.75 feet along the arc of said curve, through a central angle of $01^{\circ}22'28''$, back to the true point of beginning. Containing 497.3 square feet, more or less, according to the bearings and distances listed above.

Together with a temporary construction easement lying within said parcel described as follows:

A portion of the Southwest ¼ of the Southeast ¼ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

Lot 1 of Short Plat No.192 as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State, more particularly described as follows:

Beginning at South ¼ corner of said Section 30; Thence South 89°48'03" East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North 00°41'35" West a distance of 350.02 feet along said West line; Thence North 89°48'03" West a distance of 0.86 feet, leaving said West line; Thence continuing North 89°48'03" West a distance of 90.21 feet along the Southerly line of said Lot, to the beginning of a 460.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South 85°56'01" West; and the TRUE POINT of BEGINNING; Thence Northwesterly a distance of 114.93 feet along the arc of said curve, through a central angle of 14°18'53", leaving said Southerly line of said Lot 1, to the beginning of a 790.00 foot radius tangent reverse curve, concave to the Northeast, having a radial bearing of North 71°37'09" East; Thence Northwesterly a distance of 57.44 feet along the arc of said curve, through a central angle of 04°09'58", to a point on a Northerly line of said Lot 1; Thence North 88°58'02" East leaving said curve to the beginning of a 760.00 foot radius non-tangent curve, concave to the Northeast, having a common with the aforementioned 790.00 foot radius curve; Thence Southeasterly a distance of 48.23 feet along the arc of said curve, through a central angle of 03°38'09", leaving said Northerly line of said Lot 1, to the beginning of a 490.00 foot radius tangent reverse curve, concave to the Southwest, having a radial bearing of South 71°37'09" West; Thence Southeasterly a distance of 11.75 feet along the arc of said curve, through a central angle of 01°22'28", to a point on the Westerly line of a Parcel described by Parcel Identifications number (P.I.D.) 1-3099-400-0010-000, records of said County and State; Thence South 00°41'35" East leaving said curve, along said Westerly line, to a point on said Southerly line of said Lot 1; Thence North 89°48'03" West a distance of 11.07 feet along said Southerly line, back to the true point of beginning. Containing 3,882.37 square feet, more or less, according to the bearings and distances listed above.

Portion PID# 1-3099-400-0009-000:

A portion of the Southwest ¼ of the Southeast ¼ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Southerly of the Union Pacific Railroad, described as follows:

Beginning at South ¼ corner of said Section 30; Thence South 89°48'03" East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North 00°41'35" West a distance of 350.02 feet along said West line; Thence North 89°48'03" West a distance of 0.86 feet, leaving said West line; Thence continuing North 89°48'03" West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South 86°11'43"

West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1, and the TRUE POINT of BEGINNING; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence North $88^{\circ}58'44''$ East a distance of 60.02 feet along said Southerly line to the beginning of a 700.00 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of South $89^{\circ}24'34''$ East; Thence Southeasterly a distance of 202.04 feet along the arc of said curve, through a central angle of $16^{\circ}32'14''$, to a point on the Southerly line of said P.U.D. Substation Parcel; Thence South $88^{\circ}58'02''$ West a distance of 45.30 feet, leaving said curve, back to the true point of beginning. Containing 12,112.8 square feet, more or less, according to the bearings and distances listed above.

Portion of PID# 1-3099-304-0009-000:

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Northerly of the Union Pacific Railroad, and Southerly of the Port of Benton and Tri-City Railroad Company LLC, right-of-way described as follows:

A portion of Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and State, more particularly described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South $88^{\circ}58'44''$ West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South $89^{\circ}33'21''$ East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a

central angle of $01^{\circ}23'35''$, leaving said Southerly line, to its point of tangency; Thence North $01^{\circ}50'14''$ East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2; Thence North $88^{\circ}56'20''$ East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line, to the TRUE POINT of BEGINNING; Thence North $01^{\circ}50'14''$ East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $24^{\circ}10'23''$ East; Thence Southeasterly a distance of 64.51 feet along the arc of said curve, through a central angle of $01^{\circ}34'41''$, along said Northerly and Southerly lines; Thence South $01^{\circ}50'14''$ West a distance of 112.53 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence South $88^{\circ}56'20''$ West a distance of 60.08 feet along said right-of-way, back to the true point of beginning. Containing 7,544.3 square feet, more or less, according to the bearings and distances listed above.

Together with a temporary construction easement lying within said parcel described as follows:

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying Northerly of the Union Pacific Railroad, and Southerly of the Port of Benton and Tri-City Railroad Company LLC, right-of-way described as follows:

A portion of Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and State, more particularly described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South $88^{\circ}58'44''$ West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South $89^{\circ}33'21''$ East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a

central angle of $01^{\circ}23'35''$, leaving said Southerly line, to its point of tangency; Thence North $01^{\circ}50'14''$ East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2; Thence North $88^{\circ}56'20''$ East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line, to the TRUE POINT of BEGINNING; Thence North $01^{\circ}50'14''$ East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $24^{\circ}10'23''$ East; Thence Northwesterly a distance of 6.49 feet along the arc of said curve, through a central angle of $00^{\circ}09'32''$, along said Northerly and Southerly lines; Thence South $01^{\circ}50'14''$ West a distance of 142.04 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence North $88^{\circ}56'20''$ East a distance of 6.01 feet along said right-of-way, back to the true point of beginning.

Together With: Beginning at the aforementioned true point of beginning; Thence North $88^{\circ}56'20''$ East a distance of 60.08 feet along said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B", to the TRUE POINT of BEGINNING; Thence North $01^{\circ}50'14''$ East a distance of 112.53 feet to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $22^{\circ}35'42''$ East; Thence Southeasterly a distance of 29.87 feet along the arc of said curve, through a central angle of $00^{\circ}43'34''$, along said Northerly and Southerly lines; Thence South $01^{\circ}50'14''$ West a distance of 100.71 feet, leaving said lines, to a point on said Northerly line of the Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B"; Thence North $88^{\circ}56'20''$ East a distance of 28.04 feet along said right-of-way, back to the true point of beginning. Containing 3,828.3 square feet, more or less, according to the bearings and distances listed above.

**A portion of Port of Benton and Tri-City Railroad right-of-way – No PID# assigned
Street Crossing & Utility Easement:**

A portion of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 30, Township 9 North, Range 29 East, W.M., City of Kennewick, Benton County, Washington, lying within, Port of Benton and Tri-City Railroad right-of-way, described as follows:

Beginning at South $\frac{1}{4}$ corner of said Section 30; Thence South $89^{\circ}48'03''$ East a distance of 686.76 feet along the South line of said Section 30, to a point on the West line of the East 615.90 feet of said subdivision; Thence North $00^{\circ}41'35''$ West a distance of 350.02 feet along said West line; Thence North $89^{\circ}48'03''$ West a distance of 0.86 feet, leaving said West line; Thence continuing North $89^{\circ}48'03''$ West a distance of 60.13 feet to the beginning of a 490.00 foot radius non-tangent curve, concave to the Southwest, having a radial bearing of South $86^{\circ}11'43''$ West; Thence Northwesterly a distance of 112.90 feet along the arc of said curve, through a central angle of $13^{\circ}12'06''$ to a point on the Easterly line of said Lot 1, of Short Plat No. 192, as

recorded in Volume 1 of Short Plats on Page No. 192, records of said County and State; Thence North $00^{\circ}41'35''$ West a distance of 57.72 feet along said Easterly line, to a corner of said Lot 1; Thence South $88^{\circ}58'02''$ West a distance of 16.62 feet, along a Northerly line of said Lot 1, and the Southerly line of a P.U.D. Substation Parcel, to the beginning of a 760.00 foot radius non-tangent curve concave to the Northeast, having a radial bearing of North $75^{\circ}15'18''$ East; Thence Northwesterly a distance of 201.73 feet along the arc of said curve, through a central angle of $15^{\circ}12'31''$ to a point on the Southerly line of the Union Pacific Railroad right-of-way; Thence South $88^{\circ}58'44''$ West a distance of 10.00 feet along said Southerly line, and the beginning of a 770.00 foot radius non-tangent curve, concave to the Southeast, having a radial bearing of South $89^{\circ}33'21''$ East; Thence Northerly a distance of 18.72 feet along the arc of said curve, through a central angle of $01^{\circ}23'35''$, leaving said Southerly line, to its point of tangency; Thence North $01^{\circ}50'14''$ East a distance of 81.28 feet, leaving said curve, to a point on the Northerly line of said Union Pacific Railroad right-of-way, and the Southerly line of said Tract "B" of the Plat Alteration of Columbia Center Estates No. 2, as recorded in Volume 14 of Plats, on Page No. 74, records of said County and State; Thence North $88^{\circ}56'20''$ East a distance of 10.01 feet, along said Northerly right-of-way and said Southerly line; Thence North $01^{\circ}50'14''$ East a distance of 139.26 feet, to the Northerly line of said Tract "B", and the Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, (see Memorandum of Lease recorded under Auditor's File No. 2004-030381, records of said County and State.), to the TRUE POINT of BEGINNING; said point being at (Station 16+39.17 at 30.00' Left as shown on Center Parkway Right-of-way Plans) and the beginning of a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $24^{\circ}10'23''$ East; Thence Northwesterly a distance of 21.66 feet along the arc of said curve through a central angle of $00^{\circ}31'48''$; Thence North $01^{\circ}50'14''$ East a distance of 104.28 feet, leaving said Northerly and Southerly lines, and said curve, to a point on the Northerly line of said Port of Benton and Tri-City Railroad Company LLC, right-of-way, and the beginning of a 2242.01 foot radius non-tangent curve, concave to the Northeast, and having a radial bearing of North $26^{\circ}17'06''$ East; Thence Southeasterly a distance of 108.69 feet, along the arc of said curve, through a central angle of $02^{\circ}46'40''$, along said Northerly right-of-way; to a point on the proposed Easterly proposed right-of-way of Center Parkway; Thence continuing along said curve and Northerly line of said Port of Benton and Tri-City Railroad Company LLC, right-of-way Southeasterly a distance of 0.40 feet, along the arc of said curve, through a central angle of $00^{\circ}00'37''$, along said Northerly right-of-way; Thence South $01^{\circ}50'14''$ West a distance of 101.21 feet leaving said Northerly right-of-way to a point on said Southerly line of the Port of Benton and Tri-City Railroad Company LLC, right-of-way, said point is also lying on a 2342.34 foot radius non-tangent curve, concave to the Northeast, having a radial bearing of North $22^{\circ}04'22''$ East; Thence Northwesterly a distance of 85.86 feet along the arc of said curve through a central angle of $02^{\circ}06'01''$ back to the true point of beginning. Containing 10,270.8 square feet, more or less, according to the bearings and distances listed above.

EXHIBIT 4

