

**INTERLOCAL AGREEMENT BETWEEN BEN FRANKLIN PUBLIC  
TRANSPORTATION BENEFIT AUTHORITY AREA AND  
THE CITY OF PROSSER FOR SHARED USE OF  
BURLINGTON NORTHERN RAILROAD LEASED PROPERTY**

THIS AGREEMENT, made by and between **BEN FRANKLIN PUBLIC TRANSPORTATION BENEFIT AUTHORITY AREA**, a municipal corporation, hereinafter referred to as "BEN FRANKLIN TRANSIT" and the **CITY OF PROSSER**, a municipal corporation of the State of Washington, hereinafter referred to as "CITY",

IN CONSIDERATION of the shared use of the Burlington Northern Santa Fe (BNSF) Railway Company's property which is leased by the City of Prosser, as described below, and the terms, conditions and covenants herein set forth, it is hereby agreed as follows:

1. BEN FRANKLIN TRANSIT desires to continue its usage of a transit park and ride facility at property located Southeasterly of the intersection of Stacy Street and Seventh Street in the City of Prosser, Washington. The property is located north of the BNSF Railroad Main Line and is all property north of the railroad track legally described in the BNSF Lease, which legal description is hereby incorporated, as if fully set forth.
2. BEN FRANKLIN TRANSIT agrees that it is the responsible party to the CITY, and to any other persons to whom responsibility is owed by reason of the use by BEN FRANKLIN TRANSIT, and its lessees or permittees, of the Burlington Northern Santa Fe Railroad leased property at Prosser, Washington.
3. BEN FRANKLIN TRANSIT promises and agrees to comply with and perform all the terms and conditions of and the Sub-Lease Agreement and the Indefinite Term Lease Land Contract No. 524532 between BNSF and the CITY, dated 14<sup>th</sup> May, 2010 (herein BNSF Lease), and any and all extensions or leases thereof, as may pertain or be allocable to the property used as a transit park and ride facility, used or utilized by BEN FRANKLIN TRANSIT. BEN FRANKLIN TRANSIT agrees that the CITY shall have the same rights to enforce all of the terms of the BNSF Lease against BEN FRANKLIN TRANSIT as if the CITY were the lessor under such agreement and BEN FRANKLIN TRANSIT was the lessee under such agreement. The amount of rent due to the CITY shall be as provided for in this agreement.
4. Not in the way of limitation of the foregoing, BEN FRANKLIN TRANSIT agrees to indemnify and save harmless the CITY from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, cost and expenses incidental thereto, including attorney's fees, which the CITY may hereafter suffer, incur, be responsible for, or pay out as a result of damage to any property; injury to any person or persons; violation or alleged violation of statutes, laws, orders, rules or regulations of any governmental entity or agency, directly or indirectly caused by or arising out of BEN FRANKLIN TRANSIT'S use of the transit park and ride facility, as referred to hereinabove.
5. Not in the way of limitation of the foregoing, BEN FRANKLIN TRANSIT shall carry public liability and property damage insurance in the minimum amount required by the BNSF Lease, with the CITY as an additional named insured. A certificate of such insurance policy

shall be deposited annually with the City Clerk. BEN FRANKLIN TRANSIT shall pay all premiums timely, and shall not permit insurance to lapse or be cancelled without previously thereto obtaining other like insurance.

6. BEN FRANKLIN TRANSIT agrees to reimburse the CITY the sublease application fee paid by the CITY to BNSF in the amount of \$500 on or before 30 days from receipt of an invoice from CITY. CITY shall not send such invoice until the BNSF Lease is in full force and effect. BEN FRANKLIN TRANSIT agrees reimburse the CITY 20% of the total rent paid by the CITY under the BNSF Lease each year on or before January 30<sup>th</sup> each year during the term of this agreement. For example if the CITY pays \$4,305.00 then BEN FRANKLIN TRANSIT'S rent due to the CITY shall be calculated as follows:  $\$4,305.00 \times 20\% = \$861.00$  (rent due to CITY). All Rent shall be non-refundable. The CITY shall provide proof to BEN FRANKLIN TRANSIT on or before January 2 each year of the amount of the rent it paid under the BNSF Agreement. Notwithstanding anything to the contrary herein, BEN FRANKLIN TRANSIT shall pay rent in the amount of \$861 to CITY within 30 days from receipt of an invoice from CITY, as and for the 2010 rent. CITY shall not send the invoice for 2010 rent until the BNSF Lease is in full force and effect.

7. The CITY shall administer this agreement. No joint property will be owned by the parties hereto. Other than the mutual obligations created hereby, no joint liabilities will be created by this agreement.

8. BEN FRANKLIN TRANSIT'S right to use the leased premises shall terminate on the same date as the BNSF Lease. Either party to this agreement may terminate this agreement upon six months advance written notice to the other party. All notices shall be served by certified mail and shall be effective upon receipt by the other party. Notices to the CITY shall be sent to: City Clerk, 601 Seventh Street, Prosser, Washington 99350 or at such other place as the CITY may from time to time designate by notice to BEN FRANKLIN TRANSIT. Notices to BEN FRANKLIN TRANSIT shall be sent to: General Manager, 1000 Columbia Park Trail, Richland, Washington 99352 or at such other place as BEN FRANKLIN TRANSIT may from time to time designate by notice to the CITY.

IN WITNESS WHEREOF, the parties have executed this Agreement this 14<sup>th</sup> day of May, 2010.

BEN FRANKLIN PUBLIC TRANSPORTATION  
BENEFIT AUTHORITY AREA

ATTEST

By

  
General Manager

By

Secretary

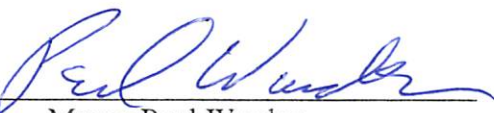
1000 Columbia Park Trail  
Richland, WA 99352


Approved as to Form:

By   
Patrick T. Roach  
Ben Franklin Transit Legal Counsel

CITY OF PROSSER


ATTEST

By   
Mayor Paul Warden

By   
Sherry Biggs, City Clerk

601 7<sup>th</sup> Street  
Prosser, WA 99350

Approved as to Form:

By   
Howard M. Saxton, III  
City Attorney