

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
SKAGIT COUNTY AND PORT OF ANACORTES
FOR PIER 2 MARINE TERMINAL OPERATIONAL AREA RECONFIGURATION**

THIS INTERLOCAL AGREEMENT is entered into this 25th day of June, 2018 between Skagit County, Washington (the "County") and Port of Anacortes, a Washington Municipal Corporation (the "Recipient") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT, and in consideration of the mutual benefits do hereby agree as follows:

1. Purpose: The purpose of the contract is to distribute economic development funds pursuant to RCW 82.14.370.
2. Scope of Work: Recipient will use the funds distributed under this agreement pursuant to the intent and purpose of RCW 82.14.370. Further, Recipient is to use such funds only for the Public Facility Project described in Recipient's Economic Development Application submitted to the County which is attached to this document as Exhibit "A".
3. Payment: County will compensate Recipient a maximum of \$250,000, chargeable to GL expenditure code # 342 58502165200. Recipient shall submit an invoice describing the use of funds to be distributed by the County and the County upon receipt of appropriate documentation shall distribute a portion of the awarded funding as determined by the County Contract Representative described in Paragraph 6.1 of this Contract. However, such payments shall not occur more often than monthly, through the County voucher system. The County Contract Representative has the sole discretion of determining what appropriate documentation is required in order for Recipient to receive a distribution of funds under this Agreement.
4. Recipient agrees that in the event the county or other state or federal agency finds that the funds distributed pursuant to this agreement violate any state or federal laws including but not limited to the primary purpose for which funds pursuant to this agreement are being given, Recipient agrees to return the funds provided by County under this agreement to County including any penalties and interest, and agrees to hold County harmless and indemnify County for distributing such funds contrary to state or federal law. Further, in the event that funds provided to Recipient under this agreement are used for a purpose other than what was originally described in its application of funds, then Recipient agrees to return such funds to the County upon demand.
5. The parties agree that Recipient is an independent contractor and not an employee, or agent of Skagit County. Recipient hereby agrees not to make any representations to any third party or to allow such third party to remain under the misimpression that Recipient is an employee, independent contractor, or agent of Skagit County. All payments made hereunder and all services performed shall be made and performed pursuant to this Agreement. Recipient will defend, indemnify and hold harmless the

County, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph. Further the Recipient represents that all employees and sub-contractors are covered under Industrial Insurance in compliance with R.C.W. Title 51.

6. Administration: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party in writing.

6.1 The County's representative shall be the Budget and Finance Director:
Trisha Logue
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

6.2 Recipient's representative shall be Executive Director:
Daniel C. Worra
100 Commercial Avenue
Anacortes, WA 98221

All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

7. Defense & Indemnity Agreement: The Recipient agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Recipient, its subcontractors, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. Recipient insurance shall be primary. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Recipient's insurance and shall not contribute to it.

8. This Agreement shall become effective upon execution, per Resolution No. R20180116. Work on the project shall be substantially complete and contract shall expire September 30, 2019. For the purposes of this paragraph, the term “substantially complete” shall mean “when the contract work has progressed to the extent that the Recipient has full use and benefit of the facilities, both from the operational and safety standpoint, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remains to physically complete the total contract.” Upon termination of this Agreement, all property acquired by the Recipient shall remain the Recipient’s property, with no obligation to pay the County therefore.

9. The Recipient shall not assign any interest in this Contract and shall not transfer any interest in same without prior written County consent.

10. The Recipient will secure, at his own expense, all personnel required in performing said services under this Contract. Recipient shall be personally liable for applicable payroll, Labor and Industries premiums, and all taxes, and shall hold the County harmless from any claims related thereto.

11. Right to Review: This contract is subject to review by the State Auditor's office. The County or its designee shall have the right to review and monitor the financial components of this project. Such review may include, but is not limited to, on-site inspection by County agents or employees, and inspection of all records of other materials, which the County deems pertinent to the Agreement and its performance. Recipient shall preserve and maintain all financial records and records relating to this project under this Agreement for 3 years after contract termination, and shall make them available for such review, within Skagit County, State of Washington, upon request.

12. Acknowledgement of Funding: All books, informational pamphlets, press releases, research reports, articles, requests for information, signs or other public notices developed for or referring to the activities or programs funded by this agreement shall include the statement, “This project received funding from Skagit County,” or similar language acknowledging Skagit County’s funding contribution. Further, Recipient shall notify the County (or Administrative Services) no later than two weeks before a dedication ceremony or public event for any activities or programs funded by this agreement. Recipient shall also make efforts to verbally acknowledge the County’s contributions to the Recipient at all dedication ceremonies or other public events relating to any programs or projects funded by this agreement.

13. Prevailing Wages: If Prevailing Wages are applicable to the work provided under the Agreement then Recipient shall submit a “Statement of Intent to Pay Prevailing Wages” prior to submitting first application for payment. Each statement of intent to pay prevailing wages must be approved by the Industrial Statistician of the Department of Labor and Industries before it is submitted to the County. Unless otherwise authorized by the Department of Labor and Industries, each voucher claim submitted by a Recipient for payment on a project estimate shall state that the prevailing wages have been paid in

accordance with the pre-filed statement or statements of Intent to Pay Prevailing Wages on file with the public agency.

14. Nondiscrimination: During the performance of this contract, the Recipient shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

a. Nondiscrimination in Employment: The Recipient shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.

15. Compliance with Applicable Law: The Recipient and all subcontractors of Recipient shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies. This obligation includes, but is not limited to, nondiscrimination laws and/or policies; the Americans with Disabilities Act (ADA); Ethics in Public Service (RCW 42.52); Covenant Against Contingent Fees (48 C.F.R. Sec. 52.203-5); safety and health regulations. In the event of the Recipient's or a subcontractor's noncompliance or refusal to comply with any law or policy, the Department may rescind, cancel, or terminate the contract in whole or in part. The Recipient is responsible for any and all costs or liability arising from the Recipient's failure to so comply with applicable law.

16. Venue and Choice of Law: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Skagit. This Agreement shall be governed by the laws of the State of Washington.

17. No Separate Legal Entity: It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of the Agreement.

18. Termination of Contract for Cause

a. If, through any cause, the Recipient shall fail to fulfill in a timely and proper manner its obligations under this contract or if the Recipient shall violate any of its covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate this contract and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to the Recipient describing such default or violation. Further, in the event Recipient fails to

expend funds under this contract in accordance with State or Federal laws and/or the provisions of the agreement, the County reserves to right to recapture funds expended to Recipient in an amount equal to the extent of the noncompliance.

b. The County may unilaterally terminate all or part of this contract, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this contract.

19. Termination for Public Convenience: The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Recipient shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County. If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the County in the event this provision applies.

20. Nonassignability: Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Recipient.

21. Taxes: All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Recipient or its staff shall be the sole responsibility of the Recipient.

Port of Anacortes

Daniel C. Worra
Signature

(Date 6-13-2018)

Daniel C. Worra
Print Name

Executive Director
Title


Mailing Address:

100 Commercial Ave.
Anacortes, WA 98221

Telephone No. 360.293.3134
Fed. Tax ID # 91-6001013
Contractor Lic. #. N/A

DATED this 25 day of June, 2018.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

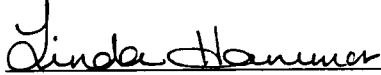

Kenneth A. Dahlstedt, Chair


Lisa Janicki, Commissioner

ABSENT

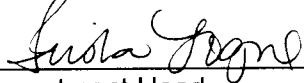
Ron Wesen, Commissioner

Attest:


Clerk of the Board

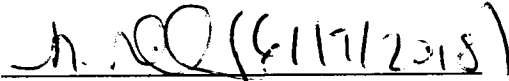
For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:


Department Head

County Administrator

Approved as to form:


Civil Deputy Prosecuting Attorney

Approved as to indemnification:


Risk Manager

Approved as to budget:



Budget & Finance Director

Exhibit A



Economic Development Public Facility Project Application

Board of County Commissioners · 1800 Continental Place · Mount Vernon WA 98273

voice 360-416-1300 · fax 360-336-9307 · www.skagitcounty.net



Part 1	Applicant Information
Organization	Port of Anacortes
Address	100 Commercial Avenue, Anacortes
State	WA
Zip	98221
Primary Contact	Becky Darden
Phone	360.299.1831
E-mail Address	becky.darden@portofanacortes.com

Part 2	Project Information
<p>RCW 82.14.370 (3) defines "public facilities" as bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, commercial infrastructure, and port facilities in the state of Washington.</p>	
Project Name	Pier 2 Marine Terminal Operational Area Reconfiguration
Location	Port of Anacortes · Pier 2 Marine Terminal
Project Type	Port Facilities
Start Date	7/1/2018
Description	<p>In reviewing recent business inquiries as well as capabilities of the nearest peer port, the Port of Bellingham in Whatcom County, the Port of Anacortes is at a significant disadvantage when developing business opportunities due to the lack of covered warehousing and upland square footage for laydown purposes in the current configuration of Pier 2. Currently Transpac Marinas ("Transpac") leases a 30,000 square foot permanent structure for manufacturing/production purposes and leases flexible laydown space that utilizes anywhere from 8,000 – 15,000 square feet of pier space. This leased structure is located directly next to the truck route and stationary loader used for loading break bulk commodities. The flexible laydown space utilized by Transpac is directly south of the loading area. The objective of this project is to relocate Transpac to a new facility that continues to support their operational needs, which will open up the existing covered storage facility and laydown space within the primary footprint of the marine terminal operational area.</p>
Use of funds	<p>Describe the specifics of what funds will be spent on (e.g., labor, equipment, material, etc.):</p> <p>Funds will be spent on construction elements only, which include the following: contractor mobilization, site preparation, utility installations, building construction, and landscape/hardscape.</p>

Part 3	Required Resources																								
<p>Provide a budget that shows a breakdown of project costs. Please also provide a breakdown of current and proposed funding that clearly illustrates the total funding required for the project listed by individual funding source, including any money from the Public Facilities fund. Specify any conditions attached to any funding sources.</p>																									
Budget	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Total funding requested from Distressed/Rural County Sales and Use Tax to fund public facilities projects in Skagit County (not to exceed \$500,000)</td> <td style="width: 10%; text-align: right;">\$</td> <td style="width: 20%; text-align: right;">500,000</td> </tr> <tr> <td>Amount primary sponsor/organization is contributing to the project</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">2,663,282</td> </tr> <tr> <td>Other Funding Source: Click here to enter text.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">text</td> </tr> <tr> <td>Other Funding Source: Click here to enter text.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">text</td> </tr> <tr> <td>Other Funding Source: Click here to enter text.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">text</td> </tr> <tr> <td>Other Funding Source: Click here to enter text.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">text</td> </tr> <tr> <td>Other Funding Source: Click here to enter text.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">text</td> </tr> <tr> <td>Total Project Cost</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">3,163,282</td> </tr> </table>	Total funding requested from Distressed/Rural County Sales and Use Tax to fund public facilities projects in Skagit County (not to exceed \$500,000)	\$	500,000	Amount primary sponsor/organization is contributing to the project	\$	2,663,282	Other Funding Source: Click here to enter text.	\$	text	Other Funding Source: Click here to enter text.	\$	text	Other Funding Source: Click here to enter text.	\$	text	Other Funding Source: Click here to enter text.	\$	text	Other Funding Source: Click here to enter text.	\$	text	Total Project Cost	\$	3,163,282
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Business Is this project supportive of a specific business? If so, how many? Please provide names of businesses if known.

Metropolitan Stevedoring ("METRO"), International Longshoreman and Warehouse Union ("ILWU"), Transpac Marinas, Port of Anacortes

Jobs Describe, in specific detail, how this project will create jobs and/or allow for the retention of current jobs.

Relocating Transpac into a new facility is vital in order to free up the primary marine terminal operational area at Pier 2, allowing the existing structure and laydown space to be utilized for break bulk export commodities.

The use of a covered storage facility and laydown space that is located centrally on Pier 2 specifically for marine terminal purposes will significantly increase the capacity and capability for loading operations, thereby providing an opportunity to retain and increase the number of loading days that occur at Pier 2 annually. Currently, Pier 2 loads two primary commodities, petroleum coke and sulfur, and handles opportunistic incoming and outgoing heavy lifts. In evaluating capacity utilization rates over the last 5 years, Pier 2 averages 116 loading days per year, which equals a 32% utilization rate. Each loading day equals a minimum of 15 jobs per shift, or 120 labor hours per shift, for METRO, ILWU and the Port. In addition, there are several ancillary jobs required for logistics, material handling, shipping, and support services. The number of ancillary jobs is dependent on the type of material being loaded, but can range as high as 23 jobs per shift. In total, man hours associated with the current 116 loading days per year equates to 13 FTEs. The covered storage facility and flexible laydown space will provide capability to obtain and off-load additional and alternative commodities that will increase the loading days and labor hours. For example, a current new business inquiry requires 30,000 square feet of laydown area on the marine terminal and 1 loading day each week to ship 5,200 tons of material via barge. This one opportunity would:

- Add an estimated 5 new jobs by increasing average loading days from 116 days to 168 days, which is a 14% increase in utilization
- Add an estimated 4 new jobs (ILWU and METRO) to manage and off-load material in the laydown space, and for maintenance of loading equipment for additional commodity type and demand

In addition to the marine terminal operational advantages for the Port, the relocation also supports the business growth and profitability of the Port's valued long-term tenant. The new buildings for Transpac will provide the company with an up-to-date building, additional warehouse and office space which will provide a more efficient manufacturing space designed for production purposes and flow, and will consolidate their facilities into one area. Transpac's current operations in Anacortes supports up to 30 FTEs which include fabricators, warehouseman, and office staff. These jobs are not included in the below Job Detail, but is important to note, given the increased operational efficiencies gained through their relocation could also support both job retention and creation.

Job Detail Provide information on the following: (a) the average wage, including benefits, and the number of new jobs/FTEs; and (b) the average wage, including benefits, as the result of the project. Please be specific as possible. *Generic information may not be scored. Do not include any construction-related jobs.*

	Jobs/FTEs Retained	Jobs/FTEs Created 1-3 Years	Jobs/FTEs Created 4 Years
Number of Jobs/FTEs	13 FTEs	9 FTEs	0
Average Wage/FTE	\$67.05 (includes benefits)	\$67.05 (includes benefits)	0

Infrastructure How will this project improve local infrastructure capacity? How much additional capacity will be provided for future development? Please be specific in your answer.

Relocating Transpac out of the current structure creates a 30,000 square foot secured and covered storage facility located centrally on Pier 2 within the marine terminal operational area and directly next to loading equipment. This capacity does not exist in the current configuration. The relocation also removes current utilization for 8,000 – 15,000 square feet of flexible laydown space for manufacturing purposes and opens it for marine terminal utilization.

Part 6 Project Timeline

Timeline Provide a timeline for the project. Please include specific deadlines for segments or phases of the project, including total project begin date and completion date.

Total Project Duration: 7/1/18 - 9/30/19. Preliminary Design/Engineering Complete: 9/30/18; Permitting Complete: 12/31/18; Final Design/Engineering Complete: 1/31/19; Bidding/Contracting Complete: 3/31/19; Begin Procurement/Construction: 4/1/19; Substantial Completion: 9/30/19

Phasing If this is a phased project, for which phase are you applying for funding?

All elements of the project will be completed under one phase. Funding awarded by Skagit County will only be used towards the construction elements of the project.

Completion By what date will the project (or this phase) be complete? Funds will lapse and may not be spent after this date.

9/30/19 is the estimated completion date for construction elements of the project.

Efforts So Far Summarize efforts taken to date regarding the project. What planning has taken place? Have engineering reports and feasibility studies been prepared? If so, describe them.

The proposed reconfiguration of the marine terminal operational area has been discussed with all project stakeholders. Scoping has been completed in partnership with Transpac for the relocation of their business.

Part 7 Action Plan

What quantifiable measures are you going to track to measure the success of the project?

The following project elements will serve as quantifiable measures for the project: Completion of preliminary engineering and design; Submittal of project permits; Completion of final engineering and design; Solicitation of project bid documents; Award and contracting with prime contractor; Site mobilization and start of construction; Contractor substantial completion; and the Existing structure/laydown space vacated by Transpac following relocation to their newly constructed facility.

Part 8 Miscellaneous

Include information related to the project, if any, that would assist the Economic Development Advisory Committee and the Board of County Commissioners in evaluating the funding request, such as emergency declarations, bird-in-hand industry, volunteer efforts, links to other priority projects, etc.

The current configuration at the Pier 2 Terminal will continue to negatively impact the Port's ability to increase existing break bulk export commodities and/or add new commodities that require on-site covered storage and laydown facilities. Of greater significance is the potential for Shell Oil's Puget Sound Refinery ("Shell") to no longer utilize Pier 2 for exporting their bulk shipments of petroleum coke. Based on current negotiations with Shell, the limitations of Pier 2 are affecting the refinery's ability to create needed efficiencies for maintaining their competitiveness and profitability. Completing the proposed project is essential for both maintaining and creating family wage jobs supported by the Port's marine terminal operations.

Part 9

Applicant Certification

The applicant here certifies and affirms (1) that it does not now, nor will it during the performance of any contract arising from this application, unlawfully discriminate against any employee, applicant for employment, client, customer, or other person who might benefit from said contract, by reason of age, race, color, ethnicity, sex, religion, creed, place of birth, or degree of handicap; (2) that it will abide by all relevant local, state and federal laws and regulations; and (3) that it has read and understood the provisions and restrictions in each part above and will comply with all provisions thereof.

Signature



Date

5/11/2018

Printed Name Brenda Treadwell

Title

Director, Planning, Prop+Env