

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
SKAGIT COUNTY AND PORT OF ANACORTES
CURTIS WHARF ACCESS IMPROVEMENT**

THIS INTERLOCAL AGREEMENT is entered into this 21 day of November, 2022 between Skagit County, Washington (the "County") and Port of Anacortes (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 only use the funds distributed under this agreement as allowed RCW 82.14.370 and only for the Public Facility Project described in Recipient's Economic Development Application, which is attached to this document as Exhibit "A", including revisions of **Phase 1 Work: This project will include 26,000 square feet of paving improvements from gravel at the entrance to the Wharf and the Port controlled section of 2nd Street, security fencing and gate improvements, and new stormwater infrastructure for the site and completion date of 3/31/2023.**

3. Payment: County will compensate Recipient a maximum of \$250,000, chargeable to GL expenditure code # 342 58502284109. 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 to return any and all funds provided under this agreement, including any penalties and interest, if the Recipient uses the funds outside the limitations set forth in Paragraph 2.

4.1. Use of funds outside the limitations in Paragraph include (A) any finding, by the county or other state or federal agency, that the funds distributed pursuant to this agreement violate any state or federal laws or regulations, and (B) Recipient using the funds for a purpose other than what was originally described in its application of funds.

4. If there is a finding as described in Paragraph 4.1(A), Recipient agrees to hold County harmless and indemnify County for any losses arising from the County distributing such funds to the Recipient contrary to state or federal law.

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 Port 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. R20220174. Work on the project shall be substantially complete and contract shall expire March 31, 2023. 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


Signature

(Date November 10, 2022)

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 21 day of November, 2022.

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




Peter Browning, Chair



Ron Wesen, Commissioner

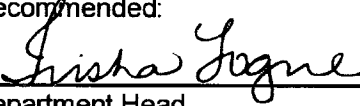


Lisa Janicki, Commissioner

Attest:


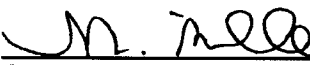
Clerk of the Board

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

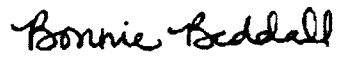
Recommended:


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

Attached.



Economic Development Public Facility Project Application

Board of County Commissioners · 1800 Continental Place · Mount Vernon WA 98273
 voice 360-416-1300 · www.skagitcounty.net

Part 1 Applicant Information

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

Part 2 Project Information

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.

Project Name Curtis Wharf Access Improvements Location Anacortes, WA
 Project Type Commercial Infrastructure Start Date 5/2/2022

Description The Port of Anacortes operates three major deep-water marine terminal facilities on Guemes Channel: Curtis Wharf, Pier 1, and Pier 2. These terminals are all located in the City’s Manufacturing and Shipping Zone, which is at the heart of Anacortes’ working waterfront. The Port of Anacortes purchased Curtis Wharf in the 1990s, and since then has made several upgrades to the wharf including dock, dolphin catwalks, fenders, cathodic protection for pilings (partially funded by Skagit County .09 funds in 2020), and fire suppression improvements.

This project will include the replacement of 21,000 square feet of asphalt on the wharf, 26,000 square feet of paving improvements from gravel at the entrance to the Wharf and the Port controlled section of 2nd Street, security fencing and gate improvements, and new stormwater infrastructure for the site.

Use of funds Describe the specifics of what funds will be spent on (e.g., labor, equipment, material, etc.):
 Grant dollars shall be spent on construction elements only. Construction elements shall include the following: Contractor mobilization, site demolition, excavation elements, site preparation, installation of stormwater infrastructure, site backfill, installation of asphalt and concrete paved surfacing, and fencing and gate improvements.

Part 3 Required Resources

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.

Budget	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	\$	325,000
	Other Funding Source:	\$	
	Other Funding Source:	\$	
	Other Funding Source:	\$	
	Other Funding Source:	\$	
	Other Funding Source:	\$	
	Total Project Cost	\$	825,000

Comments Describe impact to project if not fully funded:

If Skagit County grant funds are not awarded, the Port's ability to meet other economic development goals will be impacted or this project's scope of work will be scaled back, postponing expansion of services offered using Curtis Wharf as a maritime hub. Of the \$825,000 estimated project costs, \$702,000 represents the eligible construction costs, with this funding request reimbursing approximately 71% of construction costs.

Part 4 Growth Management

Planning Per RCW 82.14.370(3)(a), the project must be listed as an item in the County's adopted overall economic development plan, or the economic development section of the County's comprehensive plan, or your city or town's comprehensive plan. Under which plan is the proposed project contained? (Please attach a resolution or ordinance documenting that the appropriate authority has included the project in one of the above plans.)

This project aligns well with the planning priority of maintaining deep-water moorage, piers, and upland facilities to support maritime customers and tenants, as identified in the 2008 Port of Anacortes Comprehensive Plan for the Guemes Channel Properties (copy of Port Resolution No. 1195 attached, as requested). Additionally, several recent plans identify the economic significance of maintaining/improving this maritime property, including the Port's 2020 Marine Terminal Modernization Plan and the 2018 Anacortes Maritime Strategic Plan jointly developed with the Economic Development Alliance of Skagit County, the City of Anacortes, and the Port. All of the above supporting plans can be found on the Port' website here: <https://www.portofanacortes.com/governance/guiding-documents/>. The project is also included in the Port's adopted 2022 Budget and the work is identified in the current 5-Year Capital Improvement Plan (CIP), (copy of Port Resolution No. 1379 attached, as requested) and corresponding update to the Port's Comprehensive Scheme of Harbor Improvements, both authorized by the Port Commission on November 4th, 2021. The Port was granted control of the project area of 2nd Street from the City of Anacortes in January 2022 via Interlocal Agreement (copy of Interlocal Agreement attached), an important milestone for supporting the Port's economic goals and objectives related to maritime industry.

Project location Incorporated Area

Zoning: Manufacturing Shipping

Part 5**Value Proposition**

Business Is this project supportive of a specific business? If so, how many? Please provide names of businesses if known.

Curtis Wharf Marine Terminal is essential to the following marine oriented businesses: vessel assist work boats, tugboat operators, commercial fishing vessels, spill response, tenants staging project cargoes, and short-term project assembly tenants. Among the many users of Curtis Wharf include: shipbuilding and repairs (Dakota Creek Industries), food processing (Pacific Dream Seafood & Cooke Aquaculture), vessels transport & petroleum carrier (Crowley Maritime & Foss Maritime), travels & leisure (American Cruise Lines), commercial fishing industry (America's Finest and others), spill response contractors (NRC & MSRC), and marine contractors (Culbertson Marine and others).

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

Curtis Wharf Marine Terminal currently provides a home for approximately 214 critical full time and seasonal jobs including boat repairs, commercial fishing, commercial maritime, seafood processing and distribution, and the cruise line industry. It also provides seasonal commercial fishing dockage year round which further creates and maintains jobs. This critical infrastructure repair project would allow for retention of the jobs listed below and allow for more intensity in usage that would potentially increase the number of jobs accommodated at the site.

Dakota Creek Industries - 28 full time staff

Cooke Aquaculture - 2 full time staff

Pacific Dream Seafood - 20 full time staff plus 100 +/- seasonal staff

American Cruise Lines - 42 full time staff (Passengers average per year is 5,200 post-pandemic)

Crowley Maritime - 20 full time staff (4-man crew/boat, 5 boats)

Q3 Marine Training Solutions - 2 full time staff

Potential tenant at Quiet Cove Development - Future jobs created by development are estimated to range from 15 to 60 full time employees over a 4 year period.

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	~164 FTEs	15-20 FTEs	5-60 FTEs
	\$64,001 maritime		
Average Wage/FTE	\$37,220 fishing	Same as current	Same as current
	\$64,653 boat repair		

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: 5/2/2022 – 11/30/2022

Design/Engineering, Bidding, and Contracting Complete 7/14/2022; Site Construction begins 8/8/2022; Substantial Completion 11/30/2022.

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

All elements of the project will be completed in one phase.

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

11/30/2022 is the estimated project completion date.

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 project has been adopted and programmed in the Port's 2022 Budget. The Port has engaged in a needs analysis to facilitate future development and preliminary design discussions with civil engineers.

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 90% level of design/engineering; Submittal of project permit applications; Issuance of project permits; Completion of final design/engineering; Solicitation of public works bid documents; Contractor selection following conclusion of public works bid process; Contract executed with selected contractor; Contractor site mobilization and commencement of construction activities; and Contractor substantial completion.

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.

A working waterfront has been a critical part of Anacortes from its founding in 1891 to the present. As a main component of the Port of Anacortes Marine Terminal, Curtis Wharf is one of the few berthings in the area capable of serving MV and FV type vessels, shallow draft work boats and passenger ferries, and cruise vessels. In 2018 the Port of Anacortes, in partnership with the City of Anacortes and Economic Development Alliance of Skagit County (EDASC), developed the Anacortes Maritime Strategic Plan, which promotes and sustains the expanding maritime industry in Anacortes that is critical in driving economic development and job creation in our community. The upgrade of 2nd Street pavement is critical in providing necessary infrastructure needed for the variety of commercial and other vessels accessing Curtis Wharf.

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

DocuSigned by:
John Dumas
D12BEB27E4A9417...

Date 4/15/2022

Printed Name John Dumas

Title Director of Operations