

COMMISSION AGENDA

Item No: 3A

Meeting: 10/01/2018

DATE: September 26, 2018

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer
Sponsor: Nick Demerice, NWSA Director Public Affairs
Jason Jordan, Port of Tacoma Director Environmental Programs
Project Manager: Deirdre Wilson, NWSA Senior Planning Manager
Evette Mason, Port of Tacoma Government Affairs Manager

SUBJECT: APPROVAL TO ENTER INTO AN AMENDED INTERGOVERNMENTAL AGREEMENT FOR THE TIDEFLATS SUBAREA PLAN

A. ACTION REQUESTED

Request Commission approval to delegate signing authority to the Port's CEO or his designee to enter into an amended Intergovernmental Agreement (IGA) with the Puyallup Tribe of Indians and the City of Tacoma ("funding parties") concerning cost sharing for a subarea plan of the Tacoma Tideflats, as currently proposed. The Port's contribution is up to \$500,000.

The Commission's vote is expressly contingent upon:

- 1) The Commission's understanding, shared by the City as expressed at the City Study Session of September 19, 2018, that approval of the Work Plan referenced in the IGA requires agreement by each Steering Committee member, and
- 2) That there are no further changes to the IGA as approved by the City of Tacoma and Puyallup Tribe of Indians.

This action supersedes the September 20, 2018 IGA action.

B. BACKGROUND

Please see commission agenda memorandum for agenda item 5C of the September 20, 2018 commission meeting for a detailed background summary from March 30, 2017 to September 19, 2018. The following is a summary of the commission action on the IGA for the Tideflats Subarea Plan at the September 20 commission meeting and the activities through September 25, 2018:

Four Port of Tacoma commissioners were present at the September 20, 2018 commission meeting. Commissioner Petrich was excused.

The commissioners in attendance unanimously approved to delegate the signing authority of an Intergovernmental Agreement between the Puyallup Tribe of Indians and the City of Tacoma concerning the cost sharing of a Tideflats Subarea Plan to the CEO or his designee. The action was contingent that there would be no language changes to the IGA. The following day, port staff was notified of changes by one of the funding parties. Port staff requested clarifying language on one of the amendments and an amended draft was sent by the City of Tacoma to

the Puyallup Tribe and the Port of Tacoma. Although the amendments are not substantive, Port staff adhered to the September 20 IGA action conditions, and returns to the Commission for approval of the amended IGA on October 1, 2018.

The City of Tacoma unanimously approved the IGA at their September 25, 2018 council meeting. The Puyallup Tribal Council is expected to approve the IGA “in principle” at their meeting on September 26 or 27.

C. SCOPE OF WORK

The three amendments in red-line from the September 20 version, and Port staff’s explanation:

Section 3. Regional Participation. The Parties agree that the subarea planning process funded through this Agreement will include regular consultation and information sharing among Tacoma, the Tribe, the Port, the County, and Fife (~~“Regional Agencies”~~). The Steering Committee shall consist of two elected leaders, and alternates from each ~~Regional Agency~~ **named party**. The County’s representatives shall consist of the County Executive and Chair of the County Council. The City’s representatives shall consist of the Mayor, and the Chair of the Council’s IPS Committee.

Staff explanation: At the September 10 meeting, the leadership of the Puyallup Tribe reminded the other parties that the Puyallup Tribe is a nation and asked that the document be called an Intergovernmental Agreement. Removing “Regional Agencies” aligns with the September 10 amendment.

Section 4. Cost Sharing for Planning Work The City and the Port each agree to provide up to \$500,000, and the Tribe up to \$200,000 for a total of up \$1,200,000 for a subarea process and plan that meets the requirements of the PSRC and the GMA, including the extensive transportation element and the required Container Port element. **These contributions are contingent on approval by all Steering Committee members of the Work Plan under Section 2.**

Staff explanation: The Puyallup Tribe requested the contribution contingency language (red text). The blue language confirms the approval process as discussed at the City of Tacoma’s September 18, 2018 Study Session.

Section 6. No Limit on Existing Authority This Agreement does not affect, enhance or diminish the underlying responsibilities or rights of any Party or transfer the responsibilities or rights of any Party to any other Party or any other entity, **including the rights and responsibilities of the parties under the Puyallup Tribal Land Claims Settlement Agreement.**

Staff explanation: A reference to the Puyallup Tribal Land Claims Settlement Agreement is acceptable and approved in a previous version of the IGA.

A clean version of the draft document IGA is attached to this memo.

D. TIMEFRAME/PROJECT SCHEDULE (ESTIMATED)

Three funding parties sign IGA

Approx October 2*

Steering Comm approves work plan
RFP process begins

Approx December 2
By December 31

** If one or more of the three funding parties makes substantive changes to the IGA, an additional meeting of the City, Tribe and Port will be required and the timing delayed.*

E. FINANCIAL SUMMARY

This action has no additional financial impacts beyond that contained in the September 20 commission action.

The City of Tacoma estimates the cost of a Tideflats Subarea Plan up to \$1.2 million. The plan is intended to meet the requirements of the Puget Sound Regional Council and the Growth Management Act, and include a transportation element and the required Container Port Element. The City and Port each agree to provide up to \$500,000 and the Puyallup Tribe up to \$200,000.

The City agrees to invoice the Port for their respective portion of the costs every six months. The Port agrees to reimburse the City for its respective portion of the costs within 30 days of receiving an invoice. **Source of Funds:** The Port of Tacoma's operating budget.

F. ECONOMIC INVESTMENT / JOB CREATION

One of the key elements of the work plan is identified as "economic prosperity for all".

G. ENVIRONMENTAL IMPACTS / REVIEW

An identified key element in the IGA is an environmental remediation and protection component. The subarea planning process will include a State Environmental Policy Act (SEPA) review.

H. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- 1) If the Commission makes substantive amendments to the draft IGA, the changes may require the approval of the City and Tribe.
- 2) The Port may choose not to participate as a funding partner.

I. NEXT STEPS

The IGA and transfer of funds is expressly contingent upon the Steering Committee's unanimous approval on a mutually satisfactory subarea planning and approval process no later than 60 days after signature of the cost sharing agreement by all parties.

The following dates are predicated on the City of Tacoma Council, Puyallup Tribal Council and Port of Tacoma Commission independently signing the current draft Intergovernmental Agreement by October 2. The three approvals start the 60-day period ending approximately Sunday, December 2.

Staff from the five governmental bodies will meet in early October to create an outline of a work

plan for the Steering Committee's consideration tentatively set for mid-October. Additional Steering Committee meetings may be required and scheduled approximately every two weeks until the work plan is complete.