

ACTION ITEM MEMO

Port of Tacoma Commission



Item No: 6C
Meeting Date: 10/15/24

DATE: October 3, 2024
TO: Port of Tacoma Commission
FROM: Eric Johnson, Executive Director
Sponsor: Commissioner Dick Marzano
Project Manager: Sean Eagan, Government and Community Affairs Director
SUBJECT: WSDOT/Port of Tacoma Phase 2b State Route 167 Completion Project ILA

A. **ACTION REQUESTED**

Request authorization for the Executive Director to sign interlocal agreement GCB 3338 with the Washington State Department of Transportation revoking interlocal agreement GCB 3736 with the Department and making a financial contribution of \$15,798,026 to Phase 2b of the State Route 167 Completion Project.

Strategic Plan Initiative: TA-1

B. **BACKGROUND**

1. **Puget Sound Gateway**

In July 2015, the Washington State Legislature and Governor Inslee acted to fund the Puget Sound Gateway Program through the *Connecting Washington* statewide transportation package. The Puget Sound Gateway Program is comprised of two projects: the State Route 167 Completion Project and the State Route 509 Completion Project. These projects provide essential connections to the ports of Tacoma and Seattle and will help ensure people and goods move more reliably through the Puget Sound region.

The Washington State Department of Transportation (WSDOT) is the lead project sponsor and is responsible for the planning, design, and construction of the Gateway Program, as well as for its overall financial management. The program has been guided from its beginning by a Joint SR 167/SR 509 Executive Committee, made up primarily of elected representatives of local jurisdictions served by the Puget Sound Gateway Program (Algona, Auburn, Burien, Des Moines, Edgewood, Federal Way, Fife, Kent, Milton, Pacific, Puyallup, SeaTac, Sumner and Tacoma) as well the Port of Tacoma, the Port of Seattle, Federal Highway Administration, Washington State Transportation Commission, WSDOT, the Puget Sound Regional Council, Sound Transit, King County Metro, Pierce Transit, and the Freight Mobility Strategic Investment Board. Commissioner Dick Marzano is the Port's representative on this committee.

Funding for the total Gateway Program will come from the state gas tax, tolls, local contributions, and potential federal and state grants. Total funding for the project from the 2015 *Connecting Washington* transportation funding package is \$1.875 billion. This includes a local match of \$130 million. More recently, the state approved the *Move Ahead WA* transportation package which provided an additional \$433 million in state dollars to the program. The program has been funded over a 13-year timeline. Former House Transportation Committee chair Judi Clibborn developed the concept of the \$130 million local match in consultation with the SR 167 Completion Coalition. Commissioner Marzano was the Port's representative on the Coalition.

2. **Memorandum of Understanding**

The Legislature in 2017 passed legislation (Engrossed Senate Bill 5096 § 306(20)(b)) requiring the local agency partners and WSDOT develop a Memorandum of Understanding (MOU). The Legislature directed that:

The secretary of transportation must develop a memorandum of understanding with local project stakeholders that identifies a schedule for stakeholders to provide local matching funds for the Puget Sound Gateway project. Criteria for eligibility of local match includes matching funds and equivalent in-kind contributions including, but not limited to, land donations. The memorandum of understanding must be finalized by July 1, 2018. The department must submit a copy of the memorandum of understanding to the transportation committees of the legislature and report regularly on the status.

On May 17, 2018, the Port of Tacoma Commission authorized John Wolfe to sign a MOU with WSDOT and other local government project stakeholders. The MOU summarizes the timing of their planned, future commitments to contribute to the Gateway Program.

The MOU lays out a local funding strategy, with a focus on projects in the Gateway Program that provide measurable benefits to local jurisdictions. In the Gateway Program, these are called "Local Nexus Projects," designed to:

- Create a positive business case for local partners by focusing on the parts of the program that are most relevant and important to local jurisdictions;
- Leverage the potential to access significant grant funding to support local funding assumptions;
- Participate, co-fund match, and submit grant applications with support from Subcommittee staff;
- Combine local contributions and project funds to ensure fully funded applications; and
- Support the grant effort and avoid competition with the local projects in the year of application.

If grant funds are received for these Local Nexus Projects, these dollars will contribute toward the Legislative requirement for local match.

Following approval of the MOU, interlocal agreements (ILAs) between WSDOT and local jurisdictions were to be drafted for subsequent approval. Anticipated contributions contained in the MOU only become binding commitments when embedded in ILAs, and the conditions therein are approved by the proposed funding entity. ILAs must be in place prior to issuance of the request for qualifications for any proposed construction contract.

Signatories to this MOU consider that the local contribution requirement set forth in ESB 5096 will be fulfilled once the \$130 million requirement is achieved, via an ILA from each signing party that contains the commitment for project funding.

The MOU is identified as Exhibit A of the ILA.

3. SR 167 Phase 1A/70th Avenue East Bridge Relocation Project

In December 2018, the Port of Tacoma Commission approved an ILA with WSDOT to provide a \$3 million cash contribution to Phase 1A of SR 167—the 70th Avenue East Bridge Relocation Project. This project was identified as an example of a Local Nexus Project referenced in the MOU. The current bridge, which spans Interstate 5 in Fife, is in the footprint of the proposed State Route 167/Interstate 5 interchange. Relocation of the 70th Avenue East bridge is a necessary pre-condition for this project. The bridge will also be widened, improving access to Fife’s industrial and warehouse sector which supports the Port’s marine terminal operations. WSDOT estimates that the project, which is currently under construction, will be completed in 2021.

4. Recognition of expense

Because anticipated contributions contained in the MOU only become binding commitments when embedded in ILAs, the full expense of the Port of Tacoma’s \$30 million commitment was not recognized in the organization’s profit and loss statement at the time the MOU was adopted.

The Port of Tacoma Commission in December 2019 adopted a resolution formally acknowledging the Port’s remaining financial commitment of \$27 million to the Puget Sound Gateway Program and allowing \$22 million to be recognized as a Special Item expense and deferred liability on the balance sheet in 2019 with the remaining \$5 million as an in-kind contribution. In 2022 the in-kind contributions were revalued bring the total up by \$7.8 million for a total of \$12.8 million to reflect the mitigation bank credit and reducing the expense by \$7.8 million.

5. SR 167 Stage 1B

In March 2021, the Port of Tacoma Commission approved an ILA with WSDOT to provide an in-kind contribution to Stage 1B of SR 167 for a total value of \$11.2 million. The in-kind contribution consisted of real property for right-of-way, fill material and fencing. This project was identified as an example of a Local Nexus Project referenced in the MOU and will result in the construction of the segment from Interstate 5 to State Route 509. WSDOT, which has entered a design-build contract for the project, estimates it will be completed in 2026.

6. Strategic Plan Goal TA-1

In 2022 the Port of Tacoma updated its Strategic Plan. Included in that plan is Goal TA-1 which identifies the completion of SR 167 as a strategic priority for the Port. SR 167 is one of only two projects identified by name in the Strategic Plan, highlighting its importance.

7. SR 167 Stage 2 mitigation

In July 2022, the Port of Tacoma Commission approved ILA number GCB 3736 with WSDOT to provide an in-kind contribution to Stage 2 of SR 167 in the form of up to 2 universal mitigation bank credits for construction mitigation of Stage 2. After adoption of the ILA, WSDOT completed permitting for this stage and has determined that the Port’s mitigation credits are no longer needed for the project.

8. Further staging

Due to challenges in the procurement climate, WSDOT has divided Stage 2 into two substages—2a and 2b. WSDOT believed that breaking the project into smaller and less expensive pieces would attract more bidders which—in turn—would produce more attractive bid proposals. WSDOT initiated a request for proposals for Stage 2a last fall and received multiple bids for the work. The state will make a final decision on that contract this fall. Phase 2a entails construction of the SR 167/SR 161 interchange in Puyallup.

C. SCOPE OF WORK

The ILA, number GCB 3338, would revoke the previous ILA, number GCB 3736.

Phase 2b of SR 167 will include completing the segment of SR 167 between Interstate 5 and SR 161. This will include the construction of a four-lane highway between SR 161 (North Meridian Avenue) and I-5, along with a new interchange at Valley Avenue. (See Exhibit B)

The Port would contribute \$15,798,026 to WSDOT for the construction cost associated with the project. These funds are considered obligated upon execution of this agreement.

WSDOT would provide the Port with written notice of commencement of the project’s construction at least thirty days prior to the commencement date. WSDOT would invoice the Port with evidence that it has made payments of at least \$15,798,026 for the project. The Port would pay the invoice within thirty days of receiving WSDOT’s invoice for payment and supporting evidence.

The agreement would be effective upon the signature of both parties and would terminate upon the sooner of project completion, or December 31, 2024, if WSDOT has not issued a request for qualifications for construction of Stage 2b.

D. TIMEFRAME/PROJECT SCHEDULE

SR 167 Project Development	
NEPA re-evaluation	2017-2018
Interchange Justification Report	2017-2018
Traffic and revenue analysis for tolling	2017-2018

Legislative authorization for tolling	2019
SR 167 Stage 1A (70th Avenue East Bridge Relocation)	
Design	2017-2019
Right-of-way	2017-2019
Construction	2019-2021
SR 167 Stage 1B (I-5 to SR-509)	
Design	2017-2021
Right-of-way	2017-2021
Construction	2022-2026
SR 167 Stage 2a (SR 167/SR 161 interchange)	
Design	2020-2024
Right-of-way	2020-2024
Construction	2024-2028
SR 167 Stage 2b (I-5 to SR 161)	
Design	2020-2025
Right-of-Way	2017-2025
Construction	2025-2029

E. FINANCIAL SUMMARY

1. Cost

The Port will contribute \$15,798,026 to the project.

Item	Budget estimate	Expenditure to date	Additional future expenditures	Anticipated total expenditures
Stage 2b	\$15,798,026	\$0	\$15,798,026	\$15,798,026
TOTAL	\$15,798,026	\$0	\$15,798,026	\$15,798,026

2. Source of Funds

The Port’s tax levy in excess of what is needed to pay General Obligation bond debt service, general fund cash, or some combination of both will be used to pay the \$15,798,026.

3. Financial impacts

The Port of Tacoma Commission in December 2019 adopted a resolution formally acknowledging the Port’s remaining financial commitment to the Gateway Program and allowing the Port to recognize the contribution as a Special Item expense and a deferred

liability on the balance sheet in 2019. Allowing \$22 million to be recognized as a Special Item expense and deferred liability on the balance sheet in 2019 with the remaining \$5m as in-kind contributions. In 2022 the in-kind contributions were revalued increasing the total by \$7.8m for a total of \$12.8m, including the mitigation bank credit, and reducing the expense by \$7.8m. With the removal of the mitigation bank credit from the in-kind contribution an additional \$1.9m expense will be recognized in 2024.

The \$15,798,026 cost of this ILA will fulfill the Port's remaining commitment to the Puget Sound Gateway Program as outlined under the MOU with WSDOT.

F. ECONOMIC INVESTMENT / JOB CREATION

The Puget Sound Gateway Program, of which Phase 1B of the SR 167 Completion Project is a component, is key to enhancing the state's economic competitiveness, both nationally and globally, by connecting the state's largest ports to key distribution centers in King and Pierce counties and to eastern Washington. Completion of the program will provide a direct link to the Green and Puyallup river valleys, home to the second largest distribution center complex on the West Coast; 44 percent of regional truck trips by the ports of Seattle and Tacoma are destined for this area. Travel time between Puyallup and Tacoma would improve by 15 percent, saving 13,915 person-hours. The economic benefit of saved travel time over 30 years along SR 167 is \$940 million.

A completed SR 167 could fuel job growth to the tune of \$10.1 billion, according to WSDOT. That is the size of the new payroll expected to be generated by an expansion of the Port of Tacoma's international cargo and other operations — an expansion that is contingent on good transportation connections to move the freight to and from the docks.

The Gateway Program is estimated to support 2,437 construction jobs throughout the project's life.

G. ENVIRONMENTAL IMPACTS / REVIEW

According to an earlier WSDOT Record of Decision, the overall Puget Sound Gateway project will improve air quality by reducing congestion, improve truck mobility, and smooth traffic flow levels. The build alternative would reduce CO emissions, for example, by an estimated 26 percent along the SR 167 corridor compared to the no-build alternative. Additionally, the proposed SR 167 project mitigation links multiple fragmented habitats together, providing over 1,000 acres of contiguous habitat and resulting in a cumulative 70 percent increase in ecological services in the area. Finally, the project's proposed mitigation enhancements will reduce predicted flooding along Hylebos Creek from 246 acres to 187 acres—a 50 percent reduction.

H. ALTERNATIVE ANALYSIS

Alternative 1—Do nothing (i.e., do not sign the ILA): The Port of Tacoma is considered the most prominent proponent for a completed SR 167 and the largest single beneficiary of the overall project. If the Port were to decline to sign the ILA, it would signal a lack of support for the SR 167 project. The local match has been identified as a funding component in various grant applications submitted by WSDOT (e.g., U.S. Department of Transportation's INFRA (Infrastructure For Rebuilding America) grant, Freight Mobility Strategic Investment Board,

Puget Sound Regional Council's Surface Transportation Program grant); grant award institutions would be discouraged from investing in the project. This, in turn, would result in project scope reduction. The Port would have less influence on these scoping decisions than it would if it were a financial contributor. Finally, the MOU approved by the Commission in 2019 assumes a Port contribution. Failure to approve the ILA would harm the credibility and reputation of the Port with fellow project funders, stakeholders, WSDOT, state and federal lawmakers.

Alternative 2—The recommended alternative.

I. **NEXT STEPS**

Assuming adoption of the ILA, the Executive Director and WSDOT Puget Sound Gateway Program Manager will sign the ILA. This will allow WSDOT to begin the procurement process for the final stage of SR 167 through the issuance of a call for qualifications before the end of 2024.