

COMMISSION AGENDA

Item No: 5C

Meeting: 09/20/2018

DATE: September 13, 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: Evette Mason, Government Affairs Manager

SUBJECT: APPROVAL TO ENTER INTO AN 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 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 or as amended. The Port's contribution is up to \$500,000.

B. BACKGROUND

City of Tacoma staff initially met with Port of Tacoma staff to discuss the merits of a subarea plan for the Tideflats approximately four years ago. Over the years, both agencies have discussed a possible partnership on a subarea plan. In 2017, Commissioner Marzano began discussions with then-Tacoma Mayor Strickland on a cost sharing agreement for a subarea plan. In July 2017, Port staff began negotiating an Interlocal Agreement with staff representatives from the City of Tacoma (City), Puyallup Tribe of Indians (Tribe) and Pierce County (County). In January 2018, staff recognized the need to engage respective elected officials into the process as policy decisions impeded progress on an agreement.

On September 10, 2018, two elected representatives from the City, Tribe, County and Port met to draft an Intergovernmental Agreement (IGA) for the consideration of each agencies' governing body. The draft document is attached for your consideration.

The effectiveness of this proposed cost sharing IGA and the transfer of funds is expressly contingent upon the Steering Committee's 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.

Key dates of previous actions and meetings regarding the Tideflats Subarea Plan:

March 30, 2017 – Tacoma Mayor Strickland and Port of Tacoma Commission President Marzano announce both agencies will begin to negotiate an ILA to facilitate the development of a Tacoma Tideflats Subarea Plan.

May 9, 2017 – Tacoma City Council adopts an amended Resolution 39723 and instructs city staff to begin the process of completing an ILA with the Port of Tacoma and the Puyallup Tribe of Indians. Amendments were proposed at the Council Meeting without prior notice to the Port.

May 11, 2017 – Port Commission adopts Resolution 2017-03-PT to enter into an agreement with the City of Tacoma and Pierce County to initiate discussions for an Interlocal Agreement, which would outline the partnership, including roles, responsibilities, timing and funding for the subarea plan process.

June 15, 2017 – City of Tacoma staff provides a general briefing at the Commission Meeting on the mechanics of subarea planning.

November 2017 – City of Tacoma adopts Interim Regulations for twelve months for certain land uses in the Tidelands and other industrial zoned areas in the City of Tacoma.

December 4, 2017 – Joint meeting of the City, Tribe, County and the Port to discuss the subarea planning process.

December 5, 2017 – Pierce County Council adopts Resolution 2017-131 regarding the County's participation in the Tidelands subarea planning process and requests the County Executive engage in the Interlocal Agreement process to determine an appropriate role for the County in the process.

December 21, 2017 – Port Commission adopts Resolution 2017-12-PT to formally add the Puyallup Tribe of Indians as the fourth partner in the Tidelands Subarea Plan. This resolution supersedes Resolution 2017-03-PT.

January 2018 – Staff members from City, Tribe, County and Port are at an impasse on policy issues.

August 30 to Sept 7 – Several meetings between the City staff, Port staff and elected officials to draft a Cost Sharing Agreement for the September 10 meeting.

September 7 - City staff communicates to Port staff that the City Manager and Mayor agree on the draft Cost Sharing Agreement.

The Mayor hosted a meeting on September 10 of two elected representatives from the City, Tribe, County and Port. Several key amendments are proposed and approved. Please see Attachment A for the red-line version of the draft agreement showing the changes from September 7 to September 10. At meeting's conclusion, the funding partners agreed to take the draft IGA back to their respective boards for signing. There may still be substantive amendments that would require a meeting of the funding parties, and approval by each parties' governing board.

C. SCOPE OF WORK

Under the current draft IGA, the Steering Committee consists of two elected official representatives from the City, Tribe, County, Fife and the Port who will prepare a work plan clarifying the scope of the subarea plan by December 1, 2018. The IGA recognizes the need for

a plan timeline, budget, deliverables and clarity on the input/outreach process. In addition, the draft IGA states, "...Some key elements will include: Economic prosperity for all; environmental remediation and protection; transportation and capital facilities plan; and public participation and outreach."

D. TIMEFRAME/PROJECT SCHEDULE (ESTIMATED)

Three funding parties sign IGA	By September 26*
Steering Comm approves work plan	By November 25
RFP process begins	By December 1

** 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

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

Another 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 require the approval of the City and Tribe.
- 2) The Port may choose not to participate as a funding partner, and instead negotiate a role as a Steering Committee member.

I. NEXT STEPS

The IGA and transfer of funds is expressly contingent upon the Steering Committee's 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 September 26. The three approvals start the 60-day period ending Sunday, November 25. Concurrently, staff members from the five governmental entities will meet to draft a work plan for the Steering Committee's consideration tentatively set for the week of October 15.

More Steering Committee meetings may be required and scheduled approximately every two weeks until the work plan is complete.

**ATTACHMENT A – LANGUAGE OF DRAFT IGA FROM MAYOR’S
SEPTEMBER 10, 2018 MEETING AT URBAN WATERS – RED-LINE VERSION**

DRAFT

**~~INTERAGENCY-INTERGOVERNMENTAL~~ AGREEMENT BETWEEN
THE PORT OF TACOMA, THE PUYALLUP TRIBE AND THE CITY OF TACOMA
CONCERNING COST SHARING FOR
SUBAREA PLANNING IN THE TACOMA TIDEFLATS**

This Interagency Agreement ("Agreement") is made by and between the Port of Tacoma ("Port"), the Puyallup Tribe of Indians ("Tribe and the City of Tacoma ("City), (collectively "Funding Parties" or "Parties").

WHEREAS, the Tacoma Tideflats are designated as one of nine Manufacturing Industrial Centers in the Puget Sound Regional Council’s ("PSRC") regional development plan, VISION 2040; and

WHEREAS, the State Growth Management Act (GMA) requires that local comprehensive plans comply with VISION 2040, and directs local jurisdictions having one or more regionally designated centers to prepare a subarea plan for each such center, and

WHEREAS, the Tacoma Tideflats are of great significance to the Tribe, the Port, the City, the County and the entire region and state for reasons of economics, employment and the preservation and protection of natural and cultural resources, and

WHEREAS, the Parties acknowledge that a well-developed Plan for the Tideflats will provide mutual benefit, and wish to share in the costs of the Plan, and

NOW, THEREFORE, subject to the terms and conditions contained herein, the Port, Tribe, and City agree as follows:

Section 1. Objective

The Parties agree that the objective of this Agreement is to participate in funding a subarea planning process and plan that fully complies with all substantive and procedural requirements of the GMA, including the container port element RCW 36.70A.085.

Section 2. Work Plan.

The effectiveness of this Agreement and transfer of the funds is expressly contingent upon the Steering Committee’s approval on a mutually satisfactory subarea planning and approval process ("Work Plan") no later than 60 days after signature of this Cost Sharing Agreement by all parties. The Work Plan should include at a minimum but not be limited to a timeline, budget, deliverables and ~~decision-making~~input/outreach process. Some key

elements will include: Economic prosperity for all; environmental remediation and protection; transportation and capital facilities plan; and public participation and outreach.

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, ~~the Northwest Seaport Alliance (NWSA)~~ and Fife (“Regional Agencies”). The Steering Committee shall consist of two elected leaders, and alternates from each Regional Agency. 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.

Section 4. Cost Sharing for Planning Work

The City and the Port each agree to provide \$500,000, and the Tribe \$200,000 for a total of \$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.

Section 5. Invoicing and Reimbursements

The City agrees to invoice the Port and Tribe for their respective portions of the costs every month. The Port and Tribe agree to reimburse the City for its respective portion of the costs within 30 days of receiving an invoice. As an alternative, the Port or Tribe may advance their portion of the costs via a lump sum payment. Following completion of the consulting work, the City will refund any unspent sums.

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.

Section 7. Effective Date, Duration and Termination

Expressly subject to Section 2 above, this Agreement shall be effective upon adoption by the Port of Tacoma Commission, and signature of the Mayor and/or City Manager of the City and the Chair of the Tribal Council. This Agreement shall remain in effect until completion of consulting work for a Tidelands Subarea Plan.

IN WITNESS WHEREOF, the Parties hereto have executed this Interagency Agreement.

PORT OF TACOMA

CITY OF TACOMA

Chief Executive Officer
Date: _____

City Manager
Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Port Legal Counsel
Date: _____

Deputy City Attorney
Date: _____

PUYALLUP TRIBE

Tribal Chair
Date: _____

APPROVED AS TO FORM:

Tribal Counsel
Date: _____