

# CONTRACT

Between  
PACIFIC COUNTY, WASHINGTON  
And  
THE PACIFIC COUNTY ECONOMIC DEVELOPMENT COUNCIL

**THIS CONTRACT** is made between Pacific County – P.O. Box 187, South Bend, Washington, 98586-0187 (the “COUNTY”), and the Pacific County Economic Development Council, 600 Washington Avenue, Raymond, Washington, 98577 (the “RECIPIENT”).

**WHEREAS**, the RECIPIENT is eligible for funding for personnel expenditures through Public Facilities Improvement Fund 126 in accordance with Chapter 82.14.370(3)(a) RCW; and

**WHEREAS**, RCW 82.14.370 provides statutory authority for rural (distressed) counties to impose sales and use taxes to finance public facilities in rural counties as deductions from the tax otherwise required to be collected or paid over to the state department of revenue under chapters 82.08 or 82.12 RCW; and

**WHEREAS**, finding Pacific County to be a rural “distressed county” in need of public facilities, the Board of Pacific County Commissioners enacted Ordinance No. 148 which imposed a sales and use tax under RCW 82.14.370(1) for twenty-five (25) years at the rate of four one-hundredths percent (0.04%) effective July 1, 1998, and established the Public Facilities Improvements Fund No. 126 within the COUNTY treasury to finance public facilities within Pacific County; and

**WHEREAS**, finding Pacific County a “rural county” in need of additional “public facilities” financing, the Board of County Commissioners enacted Ordinance No. 148-A increasing the locally retained sales and use tax rate under Ordinance No. 148 to eight one-hundredths percent (0.08%) effective August 1, 1999, and subsequently the Board of County Commissioners enacted Ordinance No. 148-B further increasing the locally retained sales and use tax rate under Ordinance No. 148-A to nine one-hundredths percent (0.09%) effective August 1, 2007; and

**WHEREAS**, the COUNTY has the statutory authority under Chapter 82.14.370(3)(a) RCW to finance personnel in economic development offices; and

**WHEREAS**, the Pacific County Council of Governments has recommended that this expenditure be provided with public facility financial assistance from the COUNTY; and

**WHEREAS**, the RECIPIENT wishes to enter into this CONTRACT for personnel expenditures to perform services as listed in Section 3. Scope of Work.

**NOW, THEREFORE**, in consideration of covenants, conditions, performances and promises hereinafter contained, the parties hereto agree as follows:

1. **FUNDING**

Up to ten thousand dollars (\$10,000) for the time period July 1, 2016-March 31, 2017 has been pledged within Pacific County Public Facilities Improvement Fund No. 126 for RECIPIENT’s personnel expenses incurred specific to the development of the Pacific County Overall Economic Development Plan (OEDP). Said amount shall constitute the maximum reimbursement the RECIPIENT is eligible to receive from the COUNTY under this CONTRACT. These funds are to be dispersed on a reimbursement basis only. **Final billing and reports must be received by the County on or before March 31<sup>st</sup>, 2017. Any billings received after that date will not be honored.**

2. **USE OF FUNDS**

The RECIPIENT shall use these COUNTY funds solely for personnel and contract service expenses to complete Section 3, Scope of Work.

3. **SCOPE OF WORK**

Funding shall only be used to convene and coordinate the OEDP workgroup, and complete the following deliverables per Attachment A, "Draft Scope of Work Pacific County Overall Economic Development Plan":

- A. Convene and Coordinate the OEDP workgroup and subcommittees.
- B. Schedule and Facilitate Public Meetings as directed by the OEDP workgroup to gather input from local stakeholders and residents.
- C. Present monthly status reports to the Board of County Commissioners including drafts of sections of the plans included as deliverables via this contract.
- D. Provide formal status report to the Board of County Commissioners at its regularly scheduled public meeting on December 13<sup>th</sup>, 2016.
- E. Completion of a Comprehensive Asset Map (Section I-Attachment A).
- F. Completion of the Local Economic Situation/Economic Base Analysis (Section II-Attachment A).
- G. Prepare initial economic development assessment (Additional Workplan-Attachment A)

4. **PAYMENT PROVISIONS**

Funds shall be disbursed to the RECIPIENT as per the terms listed within Section 1. Funding by warrant within forty-five (45) days of billing.

As a provision for receiving funding, the RECIPIENT shall provide the following with every request for reimbursement:

- A. a copy of personnel time sheets evidencing hours worked along with backup documentation for each item listed in Section 3. Scope of Work
- B. evidence of completion of Section 3. Scope of Work with final reimbursement request

5. **CONTRACT PERIOD**

The terms of this CONTRACT and the performance of the parties hereto shall commence the 1<sup>st</sup> day of July 2016. It will continue in effect through the 31<sup>st</sup> day of March 2017 unless sooner terminated or extended as provided herein.

6. **EVALUATION AND MONITORING**

- A. The RECIPIENT shall maintain books, records, documents and other evidence and accounting procedures and practices that sufficiently and properly reflect the performance of this CONTRACT. The RECIPIENT will retain all books, records, documents and other material relevant to this CONTRACT for six (6) years after expiration of the CONTRACT, or from the date final payment hereunder is made, whichever is later.

- B. The COUNTY or the State Auditor and any of their representatives shall have full access to and the right to examine during normal business hours and as often as the COUNTY or the State Auditor may deem necessary, those books, records, documents and other evidence retained by the RECIPIENT with respect to all matters covered in this CONTRACT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by this CONTRACT. These rights shall last for six (6) years after expiration of the CONTRACT, or from the date final payment hereunder is made, whichever is later.
- C. The COUNTY will use reasonable security procedures and protections to assure that related records and documents provided by the RECIPIENT are not erroneously disclosed to third parties. To the extent chapter 42.56 RCW permits, pertinent records and other documents in any medium furnished by the RECIPIENT will remain its property unless otherwise agreed. The COUNTY will not disclose or make this material available to anyone other than those authorized by/in the above paragraph without first providing notice to the RECIPIENT and giving the RECIPIENT a reasonable opportunity to respond.
- D. The RECIPIENT shall cooperate with and freely participate in any other monitoring or evaluation activities pertinent to this CONTRACT that the COUNTY needs to have conducted.

7. **RECAPTURE PROVISION**

- A. In the event the RECIPIENT fails to expend these funds in accordance with state law and/or the provisions of this CONTRACT, the COUNTY reserves the right to recapture funds in an amount equivalent to the extent of noncompliance.
- B. Such right of recapture shall exist for six (6) years after expiration of this CONTRACT or final payment hereunder, whichever occurs later. Repayment by the RECIPIENT of funds under this recapture provision shall occur within twenty (20) days of demand. In the event the COUNTY is required to institute legal proceedings to enforce this recapture provision, the COUNTY shall be entitled to its costs thereof, including reasonable attorney's fees.

8. **NONDISCRIMINATION**

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to chapter 49.60 RCW – Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq. – the Americans with Disabilities Act (ADA) as amended.

9. **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

In the event the RECIPIENT fails or refuses to comply with any nondiscrimination law, regulation, or policy, this CONTRACT may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared by the COUNTY ineligible for further Public Facilities Improvement Funds. The RECIPIENT shall be given a reasonable time in which to cure any such noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

10. **EMPLOYMENT RELATIONSHIPS**

The RECIPIENT, its employees or agents performing under this CONTRACT are not deemed to be employees of the COUNTY nor agents of the COUNTY in any manner whatsoever. No officer, employee or agent of the RECIPIENT will hold themselves out as, or claim to be, an officer, employee or agent of the COUNTY by reason hereof, nor will they make any claim, demand or application to or for any right or privilege applicable to an officer, employee or agent of the COUNTY.

11. **INDUSTRIAL INSURANCE COVERAGE**

The parties agree that the COUNTY will not be responsible for the payment of any industrial insurance premiums or related claims or other benefits that may arise during the performance of services under this CONTRACT for any RECIPIENT employee, or for any consultant, contractor or subcontractor, or employee(s) thereof retained by the RECIPIENT.

12. **INDEMNIFICATION/HOLD HARMLESS**

A. **Indemnification by RECIPIENT.** To the fullest extent permitted by law, the RECIPIENT agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of the RECIPIENT, its employees, agents or volunteers or RECIPIENT's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) are based upon the RECIPIENT'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the RECIPIENT shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the RECIPIENT shall not be limited in any way by the Washington State Industrial Insurance Act RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the RECIPIENT hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the RECIPIENT are a material inducement to COUNTY to enter into the Contract, are reflected in the RECIPIENT's compensation, and have been mutually negotiated by the parties.

B. **Participation County – No Waiver.** The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of RECIPIENT's indemnity obligations under the Contract.

C. **Survival of RECIPIENT's Indemnity Obligations.** The RECIPIENT agrees all RECIPIENT'S indemnity obligations shall survive the completion, expiration or termination of this Contract.

13. **ENTIRE CONTRACT**

This CONTRACT represents all the terms and conditions agreed to by the parties. No other understandings, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind any parties hereto.

14. **CONTRACT MODIFICATIONS**

The COUNTY and the RECIPIENT may, from time to time, request changes in services being performed with these funds. Any such changes that are mutually agreed upon shall be incorporated herein by written amendment to this CONTRACT. It is mutually agreed and understood that no alteration or variation of the terms of this CONTRACT shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein shall not be binding. For example, and without limitation, an amendment to this CONTRACT must be approved in writing by the COUNTY prior to the RECIPIENT expending funds for the items covered within that amendment. Costs incurred by the RECIPIENT in contravention of this Paragraph are the sole responsibility of the RECIPIENT.

15. **TERMINATION OF CONTRACT**

- 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, 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 twenty (20) days after submitting written notice to the RECIPIENT describing such default or violation.
- B. Notwithstanding any provisions of this CONTRACT, either party may terminate this CONTRACT by providing written notice of such termination, specifying the effective date thereof, at least twenty (20) days prior to such date. Payment for Project-related expenses incurred by the RECIPIENT and not otherwise paid for by the COUNTY prior to the effective date of such termination shall be as the COUNTY reasonably determines.
- C. The COUNTY may unilaterally terminate all or part of this CONTRACT, or reduce the Scope of Work, if the Public Facilities Improvements funds are reduced as a result of a reduction or loss of the rural sales and use taxing authority or a substantial reduction in taxable activity.

16. **SPECIAL PROVISION**

The failure of the COUNTY to insist upon the strict performance of any provision of this CONTRACT or to exercise any right based upon breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this CONTRACT.

17. **SEVERABILITY**

In the event any provision, or any portion thereof, contained in this CONTRACT is held to be unconstitutional, invalid or unenforceable, said provision(s) or portion(s) thereof shall be deemed severed and the remainder of this CONTRACT shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

18. **DISPUTE RESOLUTION**

Except as otherwise provided in this CONTRACT, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by the COUNTY, a representative appointed by the RECIPIENT and a third party mutually agreed upon by both parties. This team shall attempt, by majority vote, to resolve the dispute. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

19. **GOVERNING LAW AND VENUE**

This CONTRACT shall be construed and enforced in accordance with, and its validity and performance governed by, the laws of the state of Washington. The superior court of Pacific County, Washington shall be the venue for any suit between the parties arising out of this CONTRACT.

20. **PUBLIC RECORDS ACT**

This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the CONTRACTOR are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the CONTRACTOR agrees to make them promptly available to the COUNTY. If the CONTRACTOR considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the CONTRACTOR shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the CONTRACTOR and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify the CONTRACTOR (a) of the request and (b) of the date that such information will be released to the requester unless the CONTRACTOR obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the CONTRACTOR fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of the CONTRACTOR to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the CONTRACTOR for releasing records not clearly identified by the CONTRACTOR as confidential or proprietary. The COUNTY shall not be liable to the CONTRACTOR for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

21. **ADMINISTRATION**

The following individuals are designated to co-administer this CONTRACT. They shall also serve as their respective party's contact person for any and all communications relative to this CONTRACT.

For the COUNTY: Kathy Spoor, County Administrative Officer  
Dept. of General Administration  
P.O. Box 6  
South Bend, WA 98586-0006  
Telephone: (360) 875-9334

For the RECIPIENT: Paul Philpot, Executive Director  
Pacific County EDC  
600 Washington Street  
Telephone: (360) 875-9330

**IN WITNESS WHEREOF**, representatives of both the RECIPIENT and the COUNTY executed this CONTRACT the date(s) so noted below.

**RECIPIENT**  
**Pacific County EDC**

**BOARD OF COUNTY COMMISSIONERS**  
**PACIFIC COUNTY, WASHINGTON**

\_\_\_\_\_  
Paul Philpot, Executive Director

\_\_\_\_\_  
Frank Wolfe, Chair

\_\_\_\_\_  
Steve Rogers, Commissioner

\_\_\_\_\_  
Lisa Ayers, Commissioner

**ATTEST:**

\_\_\_\_\_  
Marie Guernsey, Clerk of the Board

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Prosecuting Attorney's Office      WSBA#

**DRAFT SCOPE OF WORK  
PACIFIC COUNTY OVERALL ECONOMIC DEVELOPMENT PLAN**

**ORGANIZATION**

The economic development planning process has been initiated by the Pacific County Board of County Commissioners. The ongoing process will be directed by the OEDP workgroup, and facilitated by the Pacific County Economic Development Council. The primary focus will be on contributions to economic development by local governments and other public entities. PCOG will administer the list of OEDP Adopted Projects eligible for .09 Funding. The EDC and other partners will provide support to the working groups and track their progress in accomplishing identified action items and producing outcomes. The EDC director will report on their progress and outcomes to BOCC. This process will also emphasize the public's role by making public input a key component of the plan's development.

**PURPOSE**

The Pacific County Overall Economic Development Plan embraces a dynamic, ongoing planning and development process focused on enhancing the community's well-being through sustainable job creation, business retention, expansion, recruitment, and local wealth retention.

**Project Deliverables**

As noted above, public input has been cited as a key component of the desired outcome for this process; therefore, it has been suggested that a proposed sub-committee/working group structure will be integral to the project and long-term success of the goals, objectives, strategies, steps, tasks, etc., that must be carried out to create buy-in and to encourage the plan's implementation. In the case of items I, II, and III, below, it is understood that certain amounts of work will be conducted prior to the public phase. Tasks such as collecting and downloading some data, doing research, compiling reports, running portions of the analysis to prepare for public meetings, gathering information, assembling plans and outlines, and similar activities involved in setting the stage for the OEDP process, will utilize EDC staff, primarily, and some working groups, and that these activities are understood to be included in the planning process.

The Overall Economic Development Plan will result in producing the following elements:

**I. A Comprehensive Asset Map**

- Natural features (ocean, bay, rivers, forests)
  - Recreational
  - Cultural
  - Industrial
  - Commercial
  - Infrastructure (services, transportation, utilities)
  - Schools/Educational
  - Hospitals/Medical services
  - Social services
  - Environment
  - Other

ATTACHMENT A

**II. An Inventory of the Local Economic Situation/Economic Base Analysis**

*Data concerning the following should be collected:*

- a. **Community Assets** – a brief recapitulation of those items found in I. (above)
- b. **Demographic Data** – population growth/decline; distribution by age, gender, ethnicity; economic values - income, housing, education; life expectancy; etc.
- c. **Business Inventory** – a business census showing type by NAICS code
- d. **Business Survey** – to determine
  - Current conditions or relative economic health
  - Which businesses, if any, are expanding
  - Which businesses, if any, face closure
  - What the EDC or local government entities could do to help
  - What other (non-economic) issues they face, such as:
    - Workforce
    - Regulations
    - Logistics
- e. **Retail Market Analysis** – to determine
  - Disposable income levels
  - Retail trade area
  - Retail spending by local residents
  - Leakage (by volume and total value)
- f. **Workforce Demographics** – labor supply and skills, training acquired, etc.
- g. **Housing/Property Values** – time-series, growth or decline, rental v. owner occ.
- h. **Industrial Land and Building Supply** – zoning and availability
- i. **Commercial Land and Building Supply** – zoning and availability
- j. **Community Presentation/Image** – research to identify SWOTs
- k. **Governmental Services** – conduct research to measure public perception of:
  - Administration
  - Permitting
  - Zoning
  - Utilities (capacity/rates)
  - Ports
  - Fire/Police
  - Streets and Transportation

**III. A Countywide Economic Development Plan with Specific Goals & Objectives**

- To bolster business retention and expansion efforts
- To expand and create a more diverse manufacturing base
- To enhance attraction efforts with increased ROI
- To develop industrial property and/or buildings
- To redevelop Central Business Districts (see downtowns)
- To develop a Small Business Incubator/Maker Space (at Ports?)
- To encourage value-added wood and seafood processing
- To enhance/expand the development of supply chain connections

**a. To Revitalize Downtown Areas or Central Business Districts**

- Recruit/support retail businesses
- Facilitate or broker business sales (i.e. rather than allow businesses to close)
- Improve presentation (signage, cleanup, painting, design guidelines, etc.)
- Create local investment fund or other alternative means to raise capital

**b. To Maximize Local Wealth Retention**

- Promote local shopping
- Promote local entrepreneurs
- Promote local investing in local businesses, property, housing, etc.
- Promote local business ownership
- Promote selling local products locally (lumber, agriculture, seafood, etc.)

**c. To Increase Tourism**

- Develop and promote outdoor recreation
- Develop marijuana tourism
- Expand marketing

**l. To Increase Access to Capital for Local Businesses**

**m. To Cultivate Potential Entrepreneurs and Local Leaders**

- Develop business mentoring program
- Host business forums and workshops
- Outreach to local schools
- Develop local leadership program

**n. Other**

**[For the next deliverable, the Adopted Public Projects (formerly the WA-CERT list), will continue to be administered by PCOG, as they have in the past. PCOG will function in the same role as it has in the past, conducting and overseeing the process on behalf of the Board of County Commissioners. Other projects on the list will be tracked by the EDC but are not official County projects, i.e., not necessarily receiving any public funds. The list of Adopted Public Projects will be used as the County's CEDS for Federal purposes.]**

## ATTACHMENT A

### IV. Adopted Projects & Prioritized Action Items

PCOG and the EDC will maintain a List of Projects/Action Items

Each of these items will include the following:

1. Project Title
2. Lead Entity/Lead Person
3. Scope of Work, Schedule and budget
4. Metrics for Measuring Progress/Outcomes - Community wide metrics will be used to track broad outcomes.

#### Additional Work Product-Initial Economic Development Assessment

In addition to those products listed above, this assessment will include:

- Review of Business Retention & Expansion Program Effectiveness
- Conditions Limiting Manufacturing Diversity
- Situation Resulting in Lack of Industrial Lands and Buildings
- Factors in Deteriorating Downtowns
- Circumstances Leading to Lack of Retail and Service Options
- Elements in High Rate of Wealth Leakage/Disinvestment
- Causes of Elevated Rates of Unemployment and Poverty
- Issues Limiting Access to Investment Capital
- Environmental Regulations Checklist
- Workforce Concerns: Availability; Quality; Lack of Desired & Soft Skills
- Additional Opportunities Based Upon Inventory/Public Input

#### Schedule

The OEDP project will be initiated in July 2016 and will proceed until its completion, which is anticipated to be during 2017. Status reports will be made on a monthly basis to BOCC, and formal reports will be provided to the Pacific County Board of County Commissioners in March 2017.

During the project's early phase it is understood that the tasks will include both data gathering and research, and work by sub-committees and work groups, which may include public meetings. During the project's latter phase, the work may still include work by sub-committees and work groups, along with additional data gathering, with an emphasis on preparation of reports and documents.

#### Price

During the initial phase of the OEDP, Pacific County has allocated \$10,000.00 from Fund 126 to underwrite the costs associated with the project. The EDC will be responsible for billing the County for the hours its personnel spend on the project, to pay subcontractors directly and to bill the County for these expenditures, and to close out the first phase with at least 5% of the allocation in place, in order to cover any unforeseen expenses.

## ATTACHMENT A

### Assumptions

It is assumed that the EDC will conduct the work necessary to complete the project without undue delay, that all of the members of OEDP workgroup will help to move the project forward in a timely manner, that any and all sub-committees and/or work groups will carry out their tasks with diligence, and that those things which are beyond the control of the parties (that may affect the project's outcome) will be acknowledged in writing in a timely manner.

### Acceptance

Upon completion, the OEDP will be submitted to the Pacific County Board of Commissioners for its review and approval. Upon the Board's approval, the final billing will be processed for payment.