

CONTRACT FOR SERVICES

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, 530 Commercial Street, Raymond , Washington 98577 (the “RECIPIENT”).

WHEREAS, to foster and retain economic viability of the Pacific County community, the RECIPIENT desires to conduct Strategic Marketing Efforts for Pacific County; and

WHEREAS, the RECIPIENT’S Strategic Marketing Efforts project meets the definition of a public facility funding eligible activity as defined by Chapter 82.14.370 RCW; and

WHEREAS, the RECIPIENT’S Strategic Marketing Efforts project implements the economic development purposes identified in Chapter 82.14.370 RCW by expanding economic development opportunities and promoting job creation and retention in Pacific County; and

WHEREAS, the RECIPIENT’S Strategic Marketing Efforts project will require substantial financial support from multiple sources; and

WHEREAS, the RECIPIENT’S Strategic Marketing Efforts project is listed on the Pacific County WACERT project ranking list and/or the Overall Economic Development Plan; 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. 148A to nine one-hundredths percent (0.09%) effective August 1, 2007; and

WHEREAS, the COUNTY has the statutory authority under RCW 82.14.370 to assist with financing public facilities throughout Pacific County; and

WHEREAS, the COUNTY desires to financially assist the RECIPIENT with its Project; and

WHEREAS, the COUNTY has authorized expenditure of funds retained from sales and use taxes as per RCW 82.14.370 on this Project following a public review process, and

WHEREAS, the Pacific County Council of Governments has reviewed applications for public facility funding, and has recommended that this project be provided with public facility financial assistance from the County; and

WHEREAS, the RECIPIENT wishes to enter into this CONTRACT to perform these services on behalf of Pacific County.

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

1. **FUNDING**

Twenty-one thousand dollars (\$21,000) has been pledged within Pacific County Public Facilities Improvement Fund No. 126 to assist the RECIPIENT with this “public facilities” improvement. 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 in three annual payments of \$7,000 during the years 2012 through 2014.

These funds are to be dispersed in a single “up front” payment each calendar year. Payment in 2013 and 2014 is contingent on demonstration of satisfactory completion of expected outcomes for the previous year.

2. **USE OF FUNDS**

The RECIPIENT shall use these COUNTY funds solely for the development of Strategic Marketing Efforts for Pacific County. The Strategic Marketing Efforts project will include; placement of ads in trade and economic development magazines, printing of the Pacific County Economic Development booklet, development of individual marketing materials for site specific locations, continuation of the Pacific County Economic Vitality Report, update of the PCEDC’s website, mail out marketing materials to targeted businesses, continue contract with Site Location Partnership and trade show attendance. The RECIPIENT shall comply with all applicable public works and competitive bidding laws, and shall provide documentation thereof. The RECIPIENT shall also comply with all applicable local, state and/or federal laws or regulations that assure quality of the services being performed, including standards for licensing, certification and operation of facilities, and any other standards or criteria herein described.

3. **SCOPE OF WORK**

Funding shall only be used for expenses incurred for completing the Strategic Marketing Efforts for Pacific County as specified in the 2012 Pacific County Economic Development Council’s Infrastructure Funding Application (Attachment A).

4. **LOCAL FUNDING**

The RECIPIENT affirms its pledge to use its own funds and grant and loan funds in support of the Project as needed to complete Strategic Marketing Efforts for Pacific County.

5. **PAYMENT PROVISIONS**

The COUNTY, from the Pacific County Public Facilities Improvement Fund (No. 126), has pledged twenty-one thousand dollars (\$21,000) to assist the RECIPIENT to complete this project. These 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 information to the COUNTY in a final project report:

- Project expenditure details, and
- Identification of the economic benefits to Pacific County resulting from the project, including the projected number of jobs preserved and/or created.

Said final project report(s) are to be submitted to the County by December 31st of each year of this project.

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. **HOLD HARMLESS**

- A. It is understood and agreed that this CONTRACT 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 this CONTRACT. Each party hereto agrees to be responsible and assumes liability for its own negligent acts or omissions, or those of its officers, employees or agents to the fullest extent required by law, and agrees to save, indemnify, defend and hold the other party harmless from any such liability. In the case of negligence of both the COUNTY and the RECIPIENT, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.
- B. The RECIPIENT agrees to and shall indemnify and hold harmless the COUNTY, its employees and agents from any suit at law or equity or claim or demand, and from any loss or cost of any nature, including reasonable attorney fees, from any failure of the RECIPIENT to fulfill any of its obligations under 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. **CONTRACT PERIOD**

The terms of this CONTRACT and the performance of the parties hereto shall be deemed to have commenced the 1st day of July 2012. It will continue in effect through the 31st day of December 2014 unless sooner terminated or extended as provided herein.

16. **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.

17. **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.

18. **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.

19. **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.

20. **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.

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: Cathy Russ, Director
Pacific County EDC
530 Commercial Street
Raymond, WA 98577
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

Name Title

Lisa Ayers, Chair

ATTEST:

Norman “Bud” Cuffel, Commissioner

Name Title Date

Vacant

Commissioner

APPROVED AS TO FORM:
DR. DAVID J. BURKE
Pacific County Prosecuting Attorney

ATTEST:

By: _____

Clerk of the Board Date

PACIFIC COUNTY
RURAL ECONOMIC DEVELOPMENT
INFRASTRUCTURE FUNDING APPLICATION

Project Title: Strategic Marketing Efforts for PC Annual Long-term

Applicant: Pacific County Economic Development Council

Contact: Name Cathy Russ

Address: 530 Commercial St.

City, state, zip: Raymond, WA 98577

Phone #: 875-9330 E-Mail: caruss@pacificedc.org

Name of person authorizing submittal (print or type): Cathy Russ

Signature of person authorizing submittal: _____

1. Is project listed in the County's Comprehensive Economic Development Strategy (WA-CERT List) or with your city's or county's comprehensive plan? (Attach copy of WA-CERT list or comprehensive plan).
If no, do not submit application.

Yes

2. Briefly describe your project:

The continued marketing plan will build upon the two studies completed over the last two years; the Economic Opportunity Study of 2009 and the Commercial/Service Study of 2011 along with the marketing efforts completed in 2011. This plan will continue to move forward the strategic marketing efforts in place for expansion and recruitment activities for Pacific County as outlined below.

- a. Continue ad placement in trade and economic development magazines for positive identification of Pacific County.
- b. Printing of the Pacific County Economic Development booklet.
- c. Development of individual marketing materials for site specific locations.
- d. Continuation of the Pacific County Economic Vitality Report – the county's economic performance report.
- e. Update of PCEDC's website to include site selector's page, with commercial/industrial maps and other information.
- f. Mail-out marketing materials to targeted businesses.
- g. Continued contract with Site Location Partnership.
- h. Buy local awareness efforts.

3. Describe the current status of your project: (Include work completed or in progress)

This project is dependent on this funding request. Data has been collected through the previous studies which will be utilized to accomplish many of the tasks above. In 2011 strong effort was placed on getting Pacific County recognized in the global market place as a place to live, work and play.

4. State why this project meets the standard of HB2660 passed during the Washington State 1999 Legislative Session:

In accordance with RCW 82.14.370 - Sales and use tax for public facilities in rural counties, Associate Development Organizations (PCEDC) are eligible to apply for 0.09% sales tax for the purpose to finance personnel in economic development offices and/or economic development purposes.

- (ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.
- (iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

5. Total project cost: \$25,000 _____

6. Yearly amount requested from this funding: \$25,000 _____

7. Number of years funding is requested: 1 _____

8. Is this a phased project? Yes _____ No (Describe)

Project would conclude June 30, 2013

9. List all other approved funding sources and amounts and describe why this funding request is necessary to complete the "funding package":

PCEDC in-kind match - \$5,000

10. Have you applied for any other sources to complete your funding? Yes _____ No (List)

Source	Amount	Status
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11. Describe project specific employment benefits as follows:

Additional _____ FTE During Construction
Additional _____ FTE Employed by Facility when complete
Additional _____ FTE hired as a direct result of this project
Retained _____ FTE as a direct result of this project

Explain in detail the basis for the numbers of FTEs and provide any supporting documentation from employers.

Additional _____ Businesses Created by Facility when complete
Retained 1.5 _____ Businesses as a direct result of this project

12. What quantifiable outcomes are you going to track to measure the success of this project:

Development of printed economic vitality index
Development of professional site selector portfolio
Development of database of targeted businesses for recruitment
Track number of mail-outs
Minimum of two ad placements

Long term – Will assist with the development of necessary information and implementation of effective marketing and recruitment efforts for new industrial and commercial/service businesses to Pacific County.

Upon the completion of the economic vitality index in 2012 a marketing strategy will be developed to target specific types of businesses through external marketing efforts; advertisement, mail-outs and web page development.

13. Describe any other economic benefits of this project:

This project will provide information on Pacific County as a viable county as a place for expansion or start-up. Along with the marketing of target industries through trade show attendance and mail-out campaign.

14. List any other information you feel is pertinent to this application:

- a. Prepare for the future
- b. Sustain economic development
- c. Grow economic base
- d. Provide diversification of existing economy
- e. Construct necessary infrastructure
- f. Provide a cohesive county wide strategy