

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
201205029
Amendment No. 2

Originating Department:	Planning and Development Services
Contact Person:	Tyler Schroeder
Contractor's Name:	Pacific International Terminals, Inc. and BNSF Railway
Is this a New Contract? If not, is this an Amendment to an Existing Contract? Yes ___ No <u>X</u> Yes <u>X</u> No ___ If an Amendment, previous number(s): <u>201205029</u>	
Is this a renewal? Yes ___ No <u>X</u>	
Contract Amount: (sum of orig contract amt and any prior amendments) \$1,288,741.84 This Amendment Amount: \$ 100,426.00 Total Amended Amount: \$1,389,167.84	
Scope of Services This contract is between Whatcom County, Pacific International Terminals, Inc., and BNSF Railway Company for reimbursement of all costs and fees for the EIS for the Gateway Pacific Terminal and BNSF Custer Spur Modification Project.	
Nature of Contract Amt: (Check one)	Fixed Amount ___ Not to Exceed <u>X</u> Open Ended ___
Term of Contract:	Expiration Date: November 30, 2012
Renewal Option: Yes <u>X</u> No ___	Last Renewal Expires: May 31, 2013
Special Dates or clauses that require calendaring: N/A	

Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]

1. Prepared by: <u>TKS</u>	Date <u>3/13/13</u>
2. Attorney reviewed: <u>A. G. A.</u>	Date <u>3-20-13</u>
3. AS-Finance reviewed: <u>bbennett</u>	Date <u>3/20/13</u>
4. Corrections made: _____	Date _____
5. Attorney signoff: <u>A. G.</u>	Date <u>3-20-13</u>
6. Contractor signed: <u>✓</u>	Date <u>3-6-13</u>
7. Submitted to Exec Office <u>✓</u>	Date <u>3/20/13</u>
8. Reviewed by DCA	Date _____
9. Council approved (if necessary) _____	Date _____
10. Executive signed: <u>✓</u>	Date <u>3-21-13</u>
11. Contractor Original Returned to dept: <u>✓</u>	Date <u>3-21-13</u>
12. County Original to Council <u>✓</u>	Date <u>3/22/13</u>

COUNTY ORIGINAL

Whatcom County Contract No.
201205029
Amendment No. 2

AMENDMENT NO. 2 TO
AGREEMENT BETWEEN WHATCOM COUNTY,
PACIFIC INTERNATIONAL TERMINALS, INC., AND BNSF RAILWAY
COMPANY FOR REIMBURSEMENT OF COSTS AND FEES

This Amendment No. 2 to the June 12, 2012 Agreement for Reimbursement of Costs and Fees ("Amendment No. 2") is made as of the date executed below (the "Effective Date") by and between Whatcom County (the "County"), Pacific International Terminals, Inc. and BNSF Railway (collectively, the "Parties").

Recitals

- A. Whereas the Parties executed an Agreement for Reimbursement of Costs and Fees (the "Agreement") on June 12, 2012 and a subsequent Amendment No. 1 executed on January 25, 2013, whereby the Parties agreed to pay for the preparation of an Environmental Impact Statement ("EIS") for the proposed Gateway Pacific Terminal Project and Custer Spur Improvements Project on terms described in the Agreement;
- B. Whereas Section 3.11 of the Agreement provides that any amendments to the Agreement, including work beyond that described in Attachment A of the Agreement, shall be only mutually agreed by the Parties and the County in writing;
- C. Whereas the County has requested that Pacific International Terminals, Inc. and BNSF Railway amend the Agreement to provide for additional funding to cover the staffing necessary to go through the abundance of scoping comments as well as the addition of one subconsultant to develop the rail portion of the analyses.
- D. Whereas the Agreement, the Amendment No. 1, (and this Amendment No. 2) is a reimbursement contract with no County money expended; and
- E. Whereas the Parties now wish to amend Attachment A of the Agreement as described more specifically below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. The Agreement and the subsequent Amendment No. 1 provided for the expenditure of up to \$1,288,741.84 for work described in Attachment A of the Agreement. To permit additional work to be performed, the Parties and County now agree to amend Attachment A of the Agreement to provide for the expenditure of an additional \$100,426.00. These changes are summarized below in Attachment A to this Amendment No. 2. The total expenditure now authorized under this Agreement shall not exceed \$1,389,167.84.
- 2. This Amendment No. 2 shall be executed by the Whatcom County Executive without further modification by the Whatcom County Executive or Whatcom County Council.
- 3. This Amendment No. 2 may be executed in identical counterparts. Each of the counterparts will be deemed an original for all purposes and all counterparts will collectively constitute one agreement.

4. The Agreement, Amendment No. 1, and this Amendment No. 2 constitute the entire agreement of the Parties regarding matters in these documents. Except as expressly provided herein, nothing in this Amendment No. 2 alters any of the obligations of the Parties contained in the Agreement.
5. Each signatory to this Amendment No. 2 certifies that he or she is authorized to execute this Amendment No. 2 and to legally bind the party he or she represents, and that such party shall be fully bound by the terms hereof upon such signature without any further act, approval, or authorization by such party.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 this 21st day of March, 2013.

APPLICANT

Pacific International Terminals, Inc.

Bob Watters

Bob Watters,
Senior Vice President

3/6/13

Date

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

On this 6th day of March, 2013, before me personally appeared to me known to be the Senior Vice President of Pacific International Terminals, Inc. and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Elizabeth A. Proctor

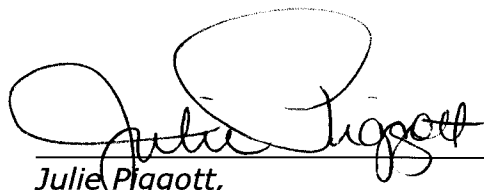
NOTARY PUBLIC in the State of
Washington, residing at
Bremerton, WA

My commission expires 12-31-13.



APPLICANT

BNSF Railway Co.

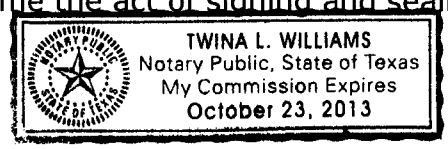


Julie Piggott,
Vice President, Planning & Studies and Controller

3-7-2013
Date

STATE OF TEXAS)
COUNTY OF Tarrant) ss.

On this 7th day of March, 2013, before me personally appeared to me known to be the Vice President of BNSF Railway Co. and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



NOTARY PUBLIC in the State of Texas,
residing at Ft. Worth, TEXAS

My commission expires 10-23-13.

**ATTACHMENT A
CHANGES TO ORIGINAL CONTRACT
(EXHIBIT A: SCOPE OF WORK)**



CH2MHILL

CH2M HILL
1100 112th Avenue NE
Suite 400
Bellevue, WA 98004-4504
P.O. Box 91500
Bellevue, WA 98009-2050
Tel 425.453.5000
Fax 425.468.3100

February 11, 2013

Tyler Schroeder, Whatcom County Planning Supervisor
Whatcom County Planning and Development Services
5280 Northwest Dr.
Bellingham, WA 98225

Subject: Contract No. 201205028 (CH2M HILL Project No. 439402)
Gateway Pacific Terminal and BNSF Custer Spur Modification Projects
Additional level of effort

Dear Mr. Schroeder:

I am submitting a request for a modification to the budget of the EIS Gateway Pacific Terminal and Custer Spur as a result of the abundance of scoping comments received in the final week of the scoping period and the need for an additional subconsultant to prepare the rail analysis methodology.

CH2MHILL has been overwhelmed with the amount of comments received in the final week. Prior to those last few days for the public scoping period, we had received about 14,000 total comments of which approximately 4,000 were unique/non-form letters. As evident by the summary table below, we now have over 15,000 unique comments and nearly 125,000 submittals total. We have had to make several adjustments in our approach to meet this demand and maximize efficiencies.

Many of the form letters below are only found as 1-group submittal on the web for instance (but each submittal is counted in the total). We will not be documenting each and every name of persons submitting their comments. We will be 'scrolling' through large number of comments to search of any potential unique comment on the form letters so as to review 10's per minute in order to make it through this stack. We had to engage several persons for several days to scan the letters that were brought in by the box full. Additionally, our web email account had been compromised through 'phishing', whereby misinformation was sent via our email to persons submitting comments. For 2 days, the email was closed, causing many emails to be diverted to the Co-Leads. The duplication and tracking of comments became timely consuming and cumbersome.

So, while I would rather resist another change order, I am compelled to demonstrate that this effort is well over what anyone could have anticipated. The subtotal of 14,000 was already 10 times more than we had originally budgeted.

Jodi Ketelsen
 Whatcom County Contract No. 201205028
 CH2M HILL Project No. 439402
 February 11, 2013

This has resulted in several adjustments in the level of effort:

- 1) Required upgrading of the website server size and additional efforts to maintain the database (Subconsultant: Critigen)
- 2) Several additional staff to review and summarize the comments
- 3) Additional time to develop the Scoping Summary and,
- 4) A larger Scoping Summary Report than anticipated

Table 1: Tally of scoping comment submittals received

Form/Bulk Comments	
Emailed	
<i>Public - Form Comments from SC Online Form</i>	4,221
<i>Public - Form Comments from Power Past Coal Online Form</i>	3,320
<i>Public - Form Comments from Greenpeace Online Form</i>	1,170
<i>Public - Form Comments from National Wildlife Fund Online Form</i>	2,976
<i>Public - Form email "Approve Gateway Pacific Terminal"</i>	172
<i>Public - Form email/online from Credo Action</i>	72,241
<i>Public - Form Comments from EcoWatch Online Form</i>	1,293
<i>Public - Form Comments from WORC Online Form</i>	139
<i>Public - Form Comments from FOCG Online Forms</i>	453
<i>Public - Form email "I Support GPT"</i>	114
<i>Public - Form email from PSR</i>	948
<i>Public - Form email "Stop GPT"</i>	12,591
<i>Public - Form Comments from Fuse Online Comment Form</i>	322
<i>Public - Form "Complete a Thorough Review" from Cascadia Wildlands</i>	143
Hardcopies	
<i>Earth Ministry - Power Past Coal Forms - Mailed comments</i>	400
<i>Friends of the Colombia Gorge Mailed comments</i>	516
<i>Northern Plains Mailed Comments</i>	155
<i>Sierra Club Portland Mailed form and individual comments</i>	450
<i>Sierra Club Seattle Mailed form and individual comments</i>	1,800
<i>Sierra Club Spokane Mailed form and individual comments</i>	850
<i>Public - Form letter from "CoalTrainFacts.org" mailed in</i>	340
<i>Public - "I Support GPT" cards and individual comments mailed in</i>	213
<i>Public - Form cards from Resources for Sustainable Communities</i>	251
<i>Public - Form letters from 350.org</i>	3,948

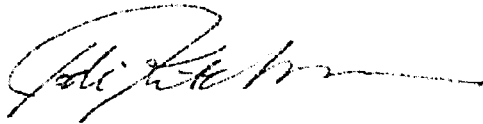
Jodi Ketelsen
Whatcom County Contract No. 201205028
CH2M HILL Project No. 439402
February 11, 2013

TOTAL FORM COMMENTS	109,026
Unique Comments	
Comments on the web	12,513
Comments to be uploaded on the web (email & hardcopy)	1,547
Verbal Comments from Meetings	1,207
TOTAL UNIQUE COMMENTS	15,267
TOTAL COMMENTS TO DATE (Approx)	124,293

Additionally, one subconsultant was not included in the original contract for methodologies development task. I would like to use this opportunity to add Mainline Management to develop the rail portion of the analyses. Mainline Management were in the original team proposal. Many scoping comments have mentioned concerned over rail traffic issues. It is valuable to include their expertise now as we plan for the subsequent phases of the EIS process.

These two efforts, \$89,426 (including \$10,000 for web support) for Comment Management and Summarizing Scoping Report and \$10,000 for the addition of Mainline Management are outlined in Attachment A, for a total modification of \$100,426 including the 5 percent mark-up on subconsultants.

Sincerely,



Jodi Ketelsen
Project Manager

Modification #3 to the GPT/Custer Spur Modification EIS

Attachment A

Task - Scoping Report	Hours	Rate	Amount	
Bradbury, Kate	JR ENGINEER / SCIENTIST	40	\$90.00	\$3,600.00
Gault, Jaclyn	JR ENGINEER / SCIENTIST	120	\$90.00	\$10,800.00
Abel, Lisa	PROJECT ASSISTANT / REPROGRAPHICS	12	\$75.00	\$900.00
Stander, Carol	PROJECT ASSISTANT / REPROGRAPHICS	34	\$75.00	\$2,550.00
Geller, Betsy	PROJECT ENGINEER/SCIENTIST	120	\$127.00	\$15,240.00
Loeffler, Heidi Elizabeth	PROJECT ENGINEER/SCIENTIST	40	\$127.00	\$5,080.00
Steffen, Brandy	SR. TECHNICIAN	80	\$107.00	\$8,560.00
Crisafulli, Jeffery	SR. TECHNICIAN	64	\$174.00	\$11,136.00
Fusetti, Karin T	TASK ENGINEER	80	\$172.00	\$13,760.00
Ketelsen, Jodi	PROJECT MANAGER	40	\$195.00	\$7,800.00
Subtotal for GP.02.04 - Scoping Report			630	\$79,426.00
Task GP.SC.CR - CRITIGEN				
Subcontractor for web support				\$10,000.00
Subtotal for GP.SC.CR - CRITIGEN				\$10,000.00
Task GP.SC.ML - MainlineManagement				
Subcontractor for rail methodology				\$10,000.00
Subtotal for GP.SC.ML - MainlineManagement				\$10,000.00
5% Markup on Subs				\$1,000.00
Total				\$100,426.00

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
360-738-2525 Fax



J.E. "Sam" Ryan
Director

RECEIVED

Memorandum

MAR 20 2013

JACK LOUWS
COUNTY EXECUTIVE

TO: Jack Louws, County Executive
FROM: Tyler Schroeder, SEPA Official *TS*
DATE: March 13, 2013

SUBJECT: Contract Amendment between Whatcom County, Pacific International Terminals, Inc., and BNSF Railway Company for reimbursement of all costs and fees for the EIS preparation for the Gateway Pacific Terminal and BNSF Custer Spur Modification Project (Contract No. 201205029)

Enclosed are three (3) originals of Amendment No. 2 to the Reimbursement of Costs and Fees Agreement between Whatcom County, Pacific International Terminals, Inc., and BNSF Railway Company for your review and signature.

Requested Action

Whatcom County Planning & Development Services respectfully requests the Executive to sign the attached contract amendment. This is a reimbursement contract, with no county money expended.

Background and Purpose

This contract Amendment No. 2 acknowledges the updates to Contract No. 201205028 between Whatcom County and CH2M Hill. The updates include the following:

- This contract amendment is specific to Section 2.4 of the "Exhibit A: Scope of Work" within the original contract. These changes result in a \$100,426.00 increase in total budget and are outlined in "Attachment A." The scope and budget changes generally include the following:
 - Additional time spent reviewing, summarizing, and tracking scoping comments.
 - Additional subcontractor support for web support (Critigen).
 - Additional subcontractor for rail methodology (Mainline Management).

Funding Amount and Source

The original contract with Amendment No. 1 was for \$1,288,741.84, all of which is being fully funded by the applicants in this agreement. The new amount for reimbursement to CH2M Hill is \$1,389,167.84.

Please contact Tyler Schroeder at extension 50202 if you have any questions or concerns regarding the terms of this agreement.