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PIERCE COUNTY, WASHINGTON

AFTER RECORDING RETURN

City of Tacoma  
Public Works Department  
Real Property Services  
747 Market Street, Room 737  
Tacoma, WA 98402-3701

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Document Title: INTERLOCAL AGREEMENT, SUPPLEMENT &  
AMENDMENT TO ALEXANDER AVENUE AGREEMENT

Reference No: 200812310923

Grantor: CITY OF TACOMA

Grantee: PORT OF TACOMA

Project: HYLEBOS BRIDGE REHABILITATION

Purpose: FUNDING OF PROJECT

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## SUPPLEMENT AND AMENDMENT TO ALEXANDER AVENUE INTERLOCAL AGREEMENT

The Port of Tacoma, a municipal corporation and port district organized under the laws of the State of Washington (hereafter, "Port") and the City of Tacoma, a municipal corporation of the State of Washington (hereafter, "City"), (collectively the "Parties") herein supplement and amend their Alexander Avenue Interlocal Agreement of September 29, 2004, recorded under Pierce County Auditor File Number 200812310923 (hereinafter referred to as the "2004 Agreement"), and supersede said 2004 Agreement only to the extent it is inconsistent with this Supplement and Amendment to said 2004 Agreement.

The TERMS OF AGREEMENT of the 2004 Agreement are herein supplemented, amended, deleted, replaced and superseded as follows:

1. The Port and City will jointly pursue BRAC funding for the full rehabilitation of the Hylebos Bridge ("Project"), currently estimated at \$25.72 million.
2. If BRAC funding is insufficient to accomplish the full rehabilitation, the Port and City agree to pursue the Project utilizing Port, City and available BRAC funding, as apportioned in paragraph 6 below.

3. The Port intends to petition the City for vacation of public street right of way in connection with its Blair Hylebos Peninsula Terminal Redevelopment Project (BHPTRP) including, but not limited to, portions of Alexander Avenue and East 11<sup>th</sup> Street, and will compensate the City for vacation of Street Vacation areas in accordance with TMC Chapter 9.22. The interests of Tacoma Public Utilities (TPU) and status of utilities within said Street Vacation areas shall be addressed by separate agreement.
4. The fair market value of each of the Street Vacation areas shall be determined by a valuation process mutually agreeable to both Parties and consistent with RCW 35.79 and TMC Chapter 9.22.
5. Revenues from any Street Vacations in the Tideflats area, including compensation paid by other petitioners, will be devoted to funding priority projects in the Tideflats as mutually agreed upon by the City and Port: the first priority being rehabilitation of the Hylebos Bridge.
6. The current estimated cost of the City's Project to return the Hylebos Bridge ("Bridge") to full operation is \$25.72 million. Project costs will be shared as follows:

City & Port BRAC funding	\$11.75 million
City funding	\$ 2.00 million
Port funding	\$ 2.00 million
Street Vacation funding from Port	<u>\$ 9.97 million</u>
TOTAL PROJECT ESTIMATE	\$25.72 million

7. The Port Commission has authorized by formal action the Port's Executive Director's acquisition of street Right of Way and/or real property from the City, for an amount of up to \$10 million dollars. The City agrees this action is a funding commitment sufficient for the City to let/open bids for the Project to rehabilitate the Hylebos Bridge.
8. Payment for the Street Vacation share of Project costs shall be provided by the Port to the City upon invoicing by the City's Project Manager. The City will utilize BRAC and other funding sources to the extent possible prior to requesting any such advance of Street Vacation funding. Under no circumstances will the Port's obligation pursuant to this Agreement exceed the ten (10) million dollar amount authorized in Paragraph 7 above, plus the Port's previous \$2 million commitment stated in the 2004 Agreement. Should Project costs exceed the estimated costs, the City and Port shall work together to seek the additional funding required, which would be the subject of an additional agreement between the Parties.

9. Should the total value of the proposed Street Vacation areas exceed the gap in Project funding, currently estimated at \$9.97 million, then the remainder of the Street Vacation revenue shall be used in accordance with TMC Chapter 9.22 to fund other transportation related projects in the Tideflats area, as mutually agreed to by the City and Port.
10. If the Port, in its sole discretion, defers finalizing its petition to vacate Alexander Avenue or any other street right of way in the Tideflats, the Port will provide ROW and or street vacation funding in an amount necessary to complete the Project or up to \$10 Million, whichever is less; the actual amount of which will be credited in full by the City against the actual compensation ultimately due for any Port-initiated street vacations; or for purchase of City of Tacoma Public Works real property by the Port, as mutually agreed to by the Port and City.
11. The valuation of any street right of way or real property acquired with funds paid by the Port in accordance with paragraph 10 above will be based on the appraised market value as of the date of the Port's actual payment of funds to the City.
12. If the City should not approve any or all of the Port's Street Vacation petitions, or should approval of any such Street Vacation(s) be judicially invalidated, or should the Port withdraw or discontinue any such Street Vacation petition(s), then any payments made by the Port under this Supplement and Amendment, other than the previous \$2 million commitment per the 2004 Alexander Avenue Interlocal Agreement, shall be credited to future Port Street Vacations or to the Port's purchase of City of Tacoma Public Works real property as set forth in paragraph 10 above.
13. The Port and City will jointly pursue funding strategies that would enable necessary infrastructure improvements in the Tideflats, including the Project. The City and Port also agree to pursue other funding opportunities, should they become available, in order to reduce reliance on Street Vacation funds.
14. The City will accomplish all engineering and contracting for the Project, the reasonable administrative costs of which will be counted toward the City's proportional funding share of \$2 million.
15. Based on the agreement previously reached by authorized representatives of both the Port and City, the Port withdrew its objections to the application of the balance of funds remaining from the SR-509 project resulting from the Tribal Settlement Agreement to rehabilitate the Murray Morgan Bridge.

16. This Supplement and Amendment shall be effective upon execution by all Parties hereto and shall be of indefinite duration; provided, however, this Supplement and Amendment shall not terminate the Port's payment obligation contained in the 2004 Agreement of \$2 million, even if the Port's petitions to vacate various street right of way are not granted, as referenced in Paragraph 12.
17. The City commits that the Bridge will be re-opened upon completion of the Project, which is anticipated to occur on or before 528 working days after the City's prime Project contractor ("Contractor") receives its Notice to Proceed as specified in the Project Contract and after the Contractor has mobilized to the site (Liquidated Damages Trigger Date) with a target bridge opening date of on or before December 1, 2011.
18. The City shall include in its Project Contract for the renovation / rehabilitation of the Hylebos Bridge, a provision that if the Bridge opening does not occur by the Liquidated Damages Trigger Date, the City will take reasonable action to pursue liquidated damages from the Contractor. Any liquidated damages collected or withheld by the City, at its discretion, from its Contractor will be used to reduce Project costs, with savings being shared equally between the Port and the City.
19. The Parties do not by this Agreement create any separate or additional organization, legal or administrative entity.
20. Except as provided above, the Parties shall finance their own conduct of responsibilities under this Agreement.
21. The terms of this Agreement shall be administered jointly by the Parties. Each of the Parties shall designate from its respective staff or consultants a contact person with responsibility for administration of the terms of this Agreement.
22. This Agreement does not relieve either Party of any obligation or responsibility imposed upon it by law.
23. The requirements of this Supplement and Amendment shall be pursued in a timely manner by the Parties.
24. This Supplement and Amendment to the 2004 Alexander Avenue Interlocal Agreement and said 2004 Agreement constitutes the complete and final agreement of the Parties with respect to the Project, and replaces and supersedes all oral and/or written proposals and agreements heretofore

made by the Parties on the subject matter; provided however that this Supplement and Amendment to the 2004 Agreement supersedes said 2004 Agreement only to the extent it is inconsistent with this Supplement and Amendment to said 2004 Agreement. These Agreements may be modified only by a written instrument signed by the Parties hereto.

25. A copy of this Agreement shall be recorded in the Office of the Pierce County Auditor as provided by law.

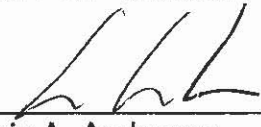
PASSED BY the Commissioners of the Port of Tacoma, State of Washington and signed in authentication thereof this 18th day of December, 2008.

PASSED BY the City Council of the City of Tacoma, State of Washington and signed in authentication thereof this 6th day of January, 2009.

PORT OF TACOMA

  
\_\_\_\_\_  
Timothy J. Farrell  
Executive Director


CITY OF TACOMA

  
\_\_\_\_\_  
Eric A. Anderson  
City Manager

APPROVED AS TO FORM

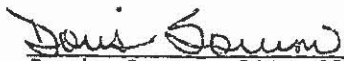
  
\_\_\_\_\_  
Robert Goodstein  
General Counsel

APPROVED AS TO FORM

  
\_\_\_\_\_  
Joseph Sloan  
Assistant City Attorney

CITY OF TACOMA

  
\_\_\_\_\_  
Richard E. McKinley  
Public Works Director

 2-4-09  
\_\_\_\_\_  
Doris Sorum, City Clerk







## RESOLUTION NO. 37693

1 A RESOLUTION relating to public works; authorizing the execution of a  
2 supplement and amendment to an interlocal agreement with the Port of  
3 Tacoma, in the amount of \$11.97 million, to be budgeted from the  
4 Streets Special Revenue Fund, for the rehabilitation of the Hylebos  
5 Bridge.

6 WHEREAS, on August 3, 2004, the City Council adopted  
7 Resolution No. 36271, authorizing the execution of an interlocal agreement with  
8 the Port of Tacoma ("Port") to affirm the terms, conditions, and responsibilities  
9 relating to the full rehabilitation of the Hylebos Bridge ("Bridge"), and

10 WHEREAS a portion of Alexander Avenue was vacated in connection with  
11 the development of the Pierce County Terminal on the Blair Waterway,

12 WHEREAS, in order to provide two means of ingress/egress for the Blair  
13 Hylebos Peninsula, the Bridge must be brought back into service, and

14 WHEREAS, due to vandalism and price escalation, the estimate for the  
15 rehabilitation of the Bridge has increased, and

16 WHEREAS the cost for full rehabilitation of the Bridge is estimated at  
17 \$25.72 million, which funding will be shared by (1) the Bridge Replacement  
18 Advisory Committee, in the amount of \$11.75 million; (2) the Port of Tacoma, in  
19 the amount of \$2.0 million; and (3) the City of Tacoma, in the amount of  
20 \$11.97 million, and

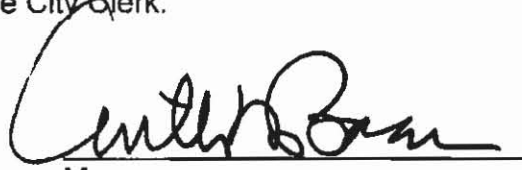
21 WHEREAS it is in the City's best interest to amend the existing interlocal  
22 agreement between the Port and the City for the rehabilitation of the Bridge; Now,  
23 Therefore,  
24




BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute a supplement and amendment to the interlocal agreement with the Port of Tacoma, in the amount of \$11.97 million, to be budgeted from the Streets Special Revenue Fund, for the rehabilitation of the Hylebos Bridge, said document to be substantially in the form of the proposed supplement and amendment on file in the office of the City Clerk.


Adopted JAN 06 2009

  
Mayor

Attest:

  
City Clerk

Approved as to form:

  
Chief Assistant City Attorney