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PIERCE COUNTY, WASHINGTON

When Recorded, Return To:

City of Tacoma
City Clerk's Office
747 Market Street, Room 220
Tacoma WA 98402-3769

ORIGINAL

DOCUMENT TITLE Interlocal Agreement
Grantor City of Tacoma
Grantee Town of Ruston
Description Interlocal Agreement with the Town of Ruston for paving, street lighting, and utilities project.
Reference Number
Assessor's Parcel Number

**INTERLOCAL AGREEMENT
BETWEEN THE TOWN OF RUSTON AND THE CITY OF TACOMA
FOR PAVING, STREETLIGHTING AND UTILITIES PROJECT**

THIS AGREEMENT is made and entered into this 17th day of Sept., 2008, by and between the City of Tacoma, Washington ("Tacoma") and the Town of Ruston, Washington ("Ruston" and, together with Tacoma, the "Municipalities"). The parties agree as follows:

Section 1. Recitals.

1.1. The City of Tacoma is a first class city, and the Town of Ruston is a town. Both Municipalities are duly organized and legally existing under the laws of the State of Washington.

1.2. The parties share a common boundary in Pierce County, Washington. Tacoma, Ruston and the owners of the properties on either side of the shared municipal boundary wish to make certain improvements to Ruston Way, Baltimore Street and certain other streets as described below in Paragraph 1.4.

1.3. The nature of the intended project is such that it can best and most efficiently be accomplished by the joint cooperation and participation of the parties in what shall be known as the Ruston Way Local Improvement District Project (the "Project"). The Project is expected to serve properties within Ruston and properties within Tacoma, with an estimated total acquisition and installation cost between \$12 million and \$16 million.

1.4. The proposed Project will consist of: establishing a grade and the realignment of Ruston Way, an arterial roadway, together with all utilities, concrete curb and gutters, bike lanes, sidewalks, roundabouts, street lighting and landscaping, as well as closing of the existing vehicle tunnel; completion of the Baltimore Street connection between Ruston Way and 46th Street;

construction of a new street referred to as “Yacht Club Road,” from Ruston Way to Metro Parks’ property on the peninsula; and placing thereon a permanent pavement, together with the installation of concrete curbs and gutters, surface-water mains and surface water catch basins, where needed, wastewater mains, water mains, ornamental streetlighting, and a new three-phase primary underground electrical system and other improvements.

1.5. Pursuant to RCW 35.51.020, Tacoma and Ruston agree that the planning, financing, property acquisition and construction for the Project should be undertaken and administered on a mutually cooperative basis between the two Municipalities as provided in this Agreement.

1.6. The parties intend this Agreement to be supplemented by other, more specific agreements related to formation of each Municipality’s Local Improvement District and to construction management for the Project.

Section 2. Project Declared Joint Project. The Project is declared to be a joint project and undertaking by Tacoma and Ruston under RCW 35.51.020, and the respective Municipalities hereby pledge their good faith cooperation in connection with the Project and direct their respective officials and departments to collaborate and work together to accomplish the Project.

Section 3. Primary Agency and Project Administrator. Tacoma is designated as the primary agency in connection with the Project and its Public Works Department is designated as the “Project Administrator.” As primary agency, Tacoma shall have discretion, authority and responsibility to negotiate with the developer, Point Ruston, LLC, on behalf of both Municipalities. The negotiations will include, but are not limited to, the scope of the project – specifically whether it will be limited to the right of way projects along Ruston Way and

Baltimore Street, whether it will include roadways and other infrastructure within the proposed development; whether the proposed esplanade will be part of the Project; estimated construction costs.

Section 4. Costs, Billing and Payment Responsibilities.

Until the parties sign a supplemental agreement for LID and construction management, the City shall absorb the staff costs of negotiating with the developer. Supplemental agreements shall contain a provision for allocation of costs. Any contract with the developer shall include a provision that requires the developer to pay the LID pre-formation costs for both municipalities.

Section 5. Delegation and Authority to Act. For purposes of this Agreement, Ruston authorizes Tacoma to provide information that is, and do all other things that are, reasonable and necessary to effectively and efficiently accomplish negotiation of the scope of the Project. Ruston agrees to provide information and documents requested by Tacoma in a timely manner. Tacoma agrees that any policy or legislative decisions that need to be made by both Municipalities will be presented to the legislative authority of both Municipalities in a timely manner.

Section 8. Entire Agreement, Integration and Amendment. Except for the supplemental agreements contemplated in Section 1.6, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, all prior communications of the parties on such subject being integrated and merged into this document, which may be modified only by an agreement in writing signed after due authorization by both parties.

Section 9. Binding Effect. All of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective successors, and assigns, and are not for the benefit of third parties.

Section 10. Disputes. In the event of any dispute with regard to this Agreement, venue shall be in the Superior Court of the State of Washington for Pierce County. The parties may mutually determine to resolve disputes through mediation or other alternative process. The parties shall have the right of specific performance of the terms hereof.

Section 11. Waiver. No covenant, term, or condition, or the breach thereof, shall be deemed waived except by the express written consent of the party against whom waiver is claimed, and any waiver or breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition. Acceptance by one party of any performance by the other after the time the same shall have become due shall not constitute a waiver of the breach or default of any covenant, term, or condition unless otherwise expressly agreed to in writing.

Section 12. Notices. Any notice to be given, or any documents or information to be delivered by either party to the other party shall be delivered in person or mailed by certified mail and addressed to the respective parties at the following addresses, unless a different addressee or address has been designated by proper notice:

To Tacoma:
Eric A. Anderson, City Manager
747 Market Street, Room 1200
Tacoma, Washington 98402

To Ruston:
ATTN: Mayor
5117 N. Winnifred Street
Ruston, Washington 98407-6597

Section 13. Saving Clause. If any section or provision of this Agreement is held by the final decision of a court of competent jurisdiction to be invalid, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

Section 14. Ratification. All actions heretofore taken by or on behalf of either party consistent with the provisions or in furtherance of the purposes of this Agreement are ratified and confirmed in all respects.

Section 15. Captions. Section captions used in this Agreement are for convenience of reference only, and shall not be used to resolve any question of interpretation of this document.

Section 16. Effective Date. This Agreement shall take effect upon authorized execution and delivery to be effective as of the day and year first above written.

Section 17. Execution. This Agreement may be signed in counterparts and, if so signed, shall be deemed a single document. Each party represents that the person signing this Agreement on its behalf is duly authorized to do so.

IN WITNESS WHEREOF, the parties have duly executed this Agreement in duplicate.

CITY OF TACOMA
By: [Signature]
Eric A. Anderson, City Manager

TOWN OF RUSTON
By: [Signature] 09 Sept 2008
Mayor

ATTEST:
[Signature] 9-17-08
Doris Sorum, City Clerk

APPROVED AS TO FORM:
TOWN ATTORNEY

APPROVED AS TO FORM:
[Signature]
Assistant City Attorney

By: [Signature] 11 sept 2008



RESOLUTION NO. 37578

1 A RESOLUTION relating to infrastructure improvements; authorizing the execution
2 of an interlocal agreement with the Town of Ruston for paving,
3 streetlighting, and utilities improvements related to the Point Ruston
4 neighborhood development.

5 WHEREAS the former Asarco smelter site, located near
6 Commencement Bay and Ruston Way and located in both the City of
7 Tacoma ("City") and the Town of Ruston ("Ruston"), is being redeveloped as an
8 urban neighborhood that crosses the municipal boundary between the City and
9 Ruston and known as Point Ruston, and

10 WHEREAS the City and Ruston agree that the planning, financing, and
11 construction for the Point Ruston project should be undertaken on a
12 cooperative basis, and

13 WHEREAS RCW 35.51.020 authorizes municipalities to contract with
14 each other to conduct joint public improvement projects and to pay for those
15 improvements from assessments from local improvement districts ("L.I.D."), and

16 WHEREAS, on March 17, 2008, Ruston adopted Resolution No. 412,
17 stating its intent to enter into an interlocal agreement with the City to undertake
18 this joint project, and

19 WHEREAS, on April 1, 2008, the City Council adopted
20 Resolution No. 37441, declaring the City's intent to enter into an interlocal
21 agreement with Ruston for the administration of an L.I.D. for street, lighting, and
22 utility improvements, in connection with the Point Ruston neighborhood
23 development, and
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WHEREAS this agreement is intended to be the first of several agreements between the City and Ruston needed to conduct the joint public improvements related to the Point Ruston neighborhood development; Now, Therefore,

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

That the proper officers of the City are hereby authorized to execute an interlocal agreement with the Town of Ruston for paving, streetlighting, and utilities improvements related to the Point Ruston neighborhood development, said document to be substantially in the form of the proposed interlocal agreement on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:



Assistant City Attorney



REQUEST FOR
ORDINANCE RESOLUTION

RECEIVED
2008 AUG -4 AM 8: 37

Request #: 11944
Ord./Res. #: 37578

1. DATE: August 1, 2008

2. SPONSORED BY: COUNCIL MEMBER(S) N/A

CITY CLERK'S OFFICE

Form with sections 3a, 3b, 4a, 4b, 4c. Includes fields for REQUESTING, CONTACT, PERSON PRESENTING, ATTORNEY, and signatures for Department Director, Budget Officer, and City Manager.

5. REQUESTED EFFECTIVE DATE: August 26, 2008

(If a specific council meeting date is required, explain why; i.e., grant application deadline, contract expiration date, required contract execution date, public notice or hearing required, etc.)

6. SUMMARY AGENDA TITLE: (A concise sentence, as it will appear on the Council agenda.)

Authorizing execution of an interlocal agreement between the City of Tacoma and the Town of Ruston for a paving, streetlighting and utilities project.

7. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

On April 1, 2008 City Council approved a resolution declaring its intent to enter into an interlocal agreement with the Town of Ruston for the administration of a Local Improvement District to construct infrastructure improvements that would serve the Pt. Ruston multi-family, mixed use development project, located in both jurisdictions.

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED: Source Documents/Backup Material Location of Document

9. FINANCIAL IMPACT: A. [X] NO IMPACT (NO FISCAL NOTE)
B. [] YES, OVER \$100,000, Fiscal Note Attached
C. [] YES, UNDER \$100,000, (NO FISCAL NOTE) Provide funding source information below:

FUNDING SOURCE: (Enter amount of funding from each source)

Fund Number & Name: State \$ City \$ Other \$ Total Amount

If an expenditure, is it budgeted? [] Yes [] No Where? Cost Center:

Acct #: