

## ALEXANDER AVENUE INTERLOCAL AGREEMENT

The Port of Tacoma, a port district organized under the laws of the State of Washington (hereafter, "Port") and the City of Tacoma, a municipal corporation (hereafter, "City") enter into this Interlocal Agreement under authority of the Interlocal Cooperation Act (RCW 39.34), the laws governing the operation of the Port, and the - State constitution Art. XI § 10, RCW 35.22.030. General Powers - RCW 35.21.010 and RCW chapter 35.22, the laws governing the City.

### RECITALS

The Port of Tacoma is a port district organized under the authority of RCW 53.

The City of Tacoma is a Charter city organized pursuant to and the - State constitution Art. XI § 10, RCW 35.22.030. General Powers - RCW 35.21.010 and RCW chapter 35.22.

The Port has filed with the City of Tacoma a petition requesting vacation of a portion of Alexander Avenue located in Tacoma in connection with Port development of a marine terminal on the Blair Waterway in the Tacoma tidelands area.

By letter countersigned by the parties, the Port's Executive Director and the City Manager previously entered into agreement on issues regarding the major bridge projects in the Tidelands, a copy of which letter is attached hereto.

The City Of Tacoma's Hearing Examiner in his Report and Recommendation dated March 22, 2004 included a condition that the parties' agreement be written and executed.

This Agreement is hereby entered into by the parties to fulfill the Hearing Examiner's Special Condition and based on both parties' recognition of the opportunities for increased economic development presented by the Port's Street vacation action, and on the mutual responsibilities and benefits described in this Interlocal.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the parties agree as follows:

### TERMS OF AGREEMENT

1. The Port and City will jointly pursue BRAC funding for the full rehabilitation of the Hylebos Bridge, currently estimated at \$13.3 million.
2. If the full funding of the bridge rehabilitation is not available to accomplish the total rehabilitation, the Port and City agree to pursue the rehabilitation of the

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Hylebos Bridge in two phases, utilizing Port, City, and the BRAC funding which is currently available in the amount of \$4 million for Phase I.

3. The current estimated cost of the Phase I rehabilitation project of the Hylebos Bridge, which will return the bridge to full operation is \$8.0 million. The costs for Phase I will be shared as follows:

BRAC Funding:	\$4.0 million
City Funding:	\$2.0 million
Port Funding:	\$2.0 million

Phase I work shall commence upon adoption of this Agreement with the current funding as shown above. BRAC funding will be used to the greatest degree possible, and the balance of the cost of the Phase I rehabilitation will be borne equally by the Port and the City up to \$2 million each as shown. Should funding from BRAC for a project beyond the currently available \$4 million become available, the Port and City will share equally in the balance of costs necessary for Phase I work. The Port and City will utilize an independent third-party agreed to by both parties to proportionately allocate 1) any costs of Phase I in excess of \$8 million before the project is bid and 2) the cost of Phase II Hylebos Bridge improvements.

4. Phase II of the project, that work necessary to complete the long-term rehabilitation of the Hylebos Bridge, is currently estimated at \$5.3 million. The City will accomplish all engineering and contracting for both phases of the rehabilitation, the reasonable cost of which will be counted toward the City's proportional share. The Port will participate in all engineering studies and design projects.
5. Concurrent with the Phase I rehabilitation, the Port and City will jointly pursue funding strategies that would enable necessary infrastructure improvements in the Tideflats, including the Hylebos Bridge Phase II rehabilitation projects.
6. Based on the agreement previously reached by the authorized representatives of the both the Port and the 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 the rehabilitation of the Murray Morgan Bridge.
7. This Agreement shall be effective upon execution by all parties hereto and shall be of indefinite duration; provided, however, that this Agreement shall terminate and neither party shall have any obligation to the other hereunder if the Port's petition to vacate a portion of Alexander Avenue, modified as stated herein, is not granted.

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PORT OF TACOMA- CITY OF TACOMA  
ALEXANDER AVENUE INTERLOCAL AGREEMENT  
July 15, 2004

8. The parties do not by this Agreement create any separate or additional organization, legal or administrative entity.
9. Except as provided above, the parties shall finance its own conduct of responsibilities under this Agreement.
10. This Agreement shall not be terminated prior to the accomplishment of the responsibilities spelled out above. Ownership of property is not expected to be acquired by the parties in order to carry out the provisions of this Agreement.
11. 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.
12. This Agreement does not relieve either party of any obligation or responsibility imposed upon it by law.
13. The requirements of this Agreement shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the parties.
14. This Agreement constitutes the complete and final agreement of the parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made by the parties on the subject matter, and may be modified only by a writing signed by the parties hereto.
15. 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 15th day of July, 2004.

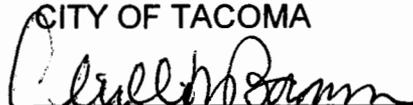
**PASSED BY** the City Council of the City of Tacoma, State of Washington and signed in authentication thereof this 29<sup>th</sup> day of July, 2004.

September

PORT OF TACOMA:

  
Ted Bottiger, Acting President  
Port of Tacoma Commissioners

CITY OF TACOMA

  
Mayor William Baarsma  
City of Tacoma

APPROVED AS TO FORM:

  
Robert Goodstein,  
General Counsel

APPROVED AS TO FORM:

  
City Attorney  
Assistant

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PORT OF TACOMA- CITY OF TACOMA  
ALEXANDER AVENUE INTERLOCAL AGREEMENT  
July 15, 2004  
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ATTEST:

  
\_\_\_\_\_  
Timothy J. Farrell  
Port of Tacoma Acting Exec. Director

Attest:

  
\_\_\_\_\_  
By: City Clerk  
Its City of Tacoma

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March 1, 2004

Mr. James Walton  
City Manager  
City of Tacoma  
747 Market Street, Room 1200  
Tacoma, WA 98402

Dear Jim:

Thank you for your continuing efforts to work with the Port on resolution of the issues facing us regarding the major bridge projects in the Tidelands.

Based on our discussions this afternoon and evening, I believe that we have agreed on the following points:

1. The Port and City will jointly pursue BRAC funding for the full rehabilitation of the Hylebos Bridge, currently estimated at \$13.3 million.
2. If the full funding of the bridge rehabilitation is not available to accomplish the total rehabilitation, the Port and City agree to pursue the rehabilitation of the Hylebos Bridge in two phases, utilizing Port, City, and the BRAC funding which is currently available in the amount of \$4 million for Phase I.
3. The current estimated cost of the Phase I rehabilitation project of the Hylebos Bridge, which will return the bridge to full operation is \$8.0 million. The costs for Phase I will be shared as follows:

BRAC Funding:	\$4.0 million
City Funding:	\$2.0 million
Port Funding:	\$2.0 million

BRAC funding will be used to the greatest degree possible, and the balance of the cost of the Phase I rehabilitation will be borne equally by the Port and the City up to \$2 million each as shown. Should funding from BRAC for a project beyond the currently available \$4 million become available, the Port and City will share equally in the balance of costs necessary for Phase I work. The Port and City will utilize an independent third-party agreed to by both parties to proportionately

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allocate 1) any costs of Phase I in excess of \$8 million before the project is bid and 2) the cost of Phase II Hylebos Bridge improvements.

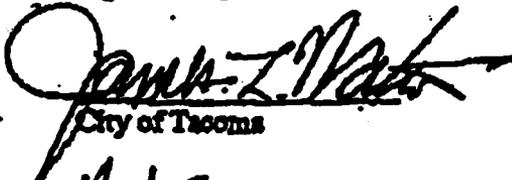
4. Phase II of the project, that work necessary to complete the long-term rehabilitation of the Hylebos Bridge, is currently estimated at \$5.3 million. The City will accomplish all engineering and contracting for both phases of the rehabilitation, the reasonable cost of which will be counted toward the City's proportional share. The Port will participate in all engineering studies and design projects.
5. Concurrent with the Phase I rehabilitation, the Port and City will jointly pursue funding strategies that would enable necessary infrastructure improvements in the Tidelands, including the Hylebos Bridge Phase II rehabilitation projects.
6. Should the points above be agreed to by both the Port and the City, the Port will immediately withdraw all objections to the application of the balance of funds remaining from the SR 509 project resulting from the Tribal Settlement Agreement to the rehabilitation of the Murray Morgan Bridge.

Sincerely,



Andrea Riniker  
Executive Director

Agreed to by:



James L. Vato  
City of Tacoma

March 1, 2007  
Date

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TOTAL P. 03

TOTAL P. 05



200812310923 7 PGS  
12/31/2008 3:35pm \$0.00  
PIERCE COUNTY, WASHINGTON

When Recorded, Return To:

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

**COPY**

**DOCUMENT TITLE**

**Alexander Avenue Interlocal Agreement**

A-119

**Grantor**

**CITY OF TACOMA**

**Grantee**

**PORT OF TACOMA**

**Legal Description -**

**Southwest Quarter of Section 1, Township 20 North, Range 3 East, W.M.**

**Reference Number**

**Assessor's Parcel Number**

N/A



200902090362 6 PGS  
02/09/2009 1:26pm \$0.00  
PIERCE COUNTY, WASHINGTON

**AFTER RECORDING RETURN**

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

*Duplicate*  
**ORIGINAL**

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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

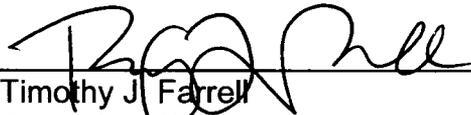
made by the Parties on the subject matter; provided however that this Supplement and Amendment to the 2004 Agreement supersedes said 2004 Agreement only to the extent it is inconsistent with this Supplement and Amendment to said 2004 Agreement. These Agreements may be modified only by a written instrument 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 18<sup>th</sup> day of December, 2008.

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

PORT OF TACOMA

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

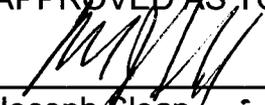
CITY OF TACOMA

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

APPROVED AS TO FORM

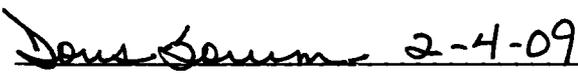
  
\_\_\_\_\_  
Robert Goodstein  
General Counsel

APPROVED AS TO FORM

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

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

CITY OF TACOMA

  
\_\_\_\_\_  
Doris Sorum, City Clerk

STATE OF WASHINGTON )  
 ) SS  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that **Eric A. Anderson** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **City Manager** of the **City of Tacoma**, a municipal corporation of the State of Washington, to be the free and voluntary act and deed of such corporation for the uses and purposes mentioned in the instrument.

Dated this 4<sup>th</sup> day of FEBRUARY, 2008<sup>9</sup>.



April A. Hansen  
Notary Public in and for the State of Washington  
My Commission Expires 04-13-12

STATE OF WASHINGTON )  
 ) SS  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that **Timothy J. Farrell** is the person who appeared before me, and said person acknowledged that he signed this instrument, and on oath stated that he was authorized to execute the instrument and acknowledged it as the **Executive Director** for the **Port of Tacoma**, a municipal corporation and port district organized under the laws of the State of Washington, to be the free and voluntary act and deed of such corporation for the uses and purposes mentioned in the instrument.

Dated this 23<sup>rd</sup> day of January, ~~2008~~ 2009.

Judith L. Doremus  
Notary Public in and for the State of Washington  
My Commission Expires January 22, 2012

JUDITH L. DOREMUS  
Notary Public - State of Washington  
My Appointment Expires  
January 22, 2012