

BK1078PG3535

ORIGINAL**INTERLOCAL AGREEMENT**

THIS AGREEMENT, entered into on this 1st day of November, 1994, between the Port of Tacoma (hereinafter referred to as the "Port"), and the City of Tacoma (hereinafter referred to as the "City"),

WITNESSETH:

1. **Recitals.** The Port and the City are desirous of entering into an agreement pursuant to RCW 39.34, the Interlocal Cooperation Act. This agreement is intended to set forth the rights and obligations of the parties pursuant to the SR-509 Highway Project, Port Resolution 90-28 and City Resolution 31026.

It is, further, the purpose of this agreement to provide a means of joint cooperation in furtherance of the City's meeting the requirements for fire protection in the Port area.

2. **Port Obligations.** Pursuant to this interlocal agreement, the Port will provide to the City One Million Nine Hundred and Thirty Thousand Dollars (\$1,930,000) for fire-service-related improvements in the Tidelands area. The improvements shall include:

- a. The City shall remodel and add to the existing training facility on Marshall Avenue to include approximately 4,500 square feet for three classrooms. The final determination as to remodel specifications shall be made by the Tacoma Fire Chief or his designee.
- b. In the Port's willingness to support the hazardous materials training efforts of the Tacoma Fire Department, the Port will provide \$200,000 to benefit the educating of the Port industrial community in HazMat training efforts. The City shall provide hazardous-material training and education to the HazMat community, at a time and place designated by the Tacoma Fire Chief or his designee.
- c. The City shall remodel and provide an addition to Fire Station 18 on East 11th Street and the Thea Foss Waterway to provide for cross-staffing the fire boat "Commencement" with an engine company. The final determination as to the remodel specifications shall be made by the Tacoma Fire Chief or his designee.
- d. The District 10 Fire Station shall be remodeled under the direction of the Tacoma Fire Chief or his designee.
- e. Upon the execution of this agreement, the Port's obligation, pursuant to Port Resolution 90-28 and City Resolution 31026, to provide up to two

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acres for location of a fire service facility in the vicinity of East West Road and Taylor Way (sometimes referred to as the "Alexander site"; see attached Exhibit "A") shall be modified. The Port shall grant an option for a 10-year term, commencing upon the entry of this agreement by the Parties, whereby the City may acquire the "Alexander site" or a mutually agreeable fire service site of no more than two acres in the general vicinity.

At the time of bid selection for the above-referenced projects, the City shall provide the Port with an invoice for the estimated project amount. The Port shall remit payment upon receipt of the invoice. It is anticipated that the project costs shall be incurred in 1994 (33 percent) and 1995 (67 percent). All funds paid by the Port pursuant to this agreement shall be used for the aforementioned projects. Should more than 30 calendar days pass without payment, the City shall collect interest on the invoice amount at the rate of 1 1/2 percent per month until paid, or the interlocal fund rate, whichever is higher. In no case will the obligations under this section be less than or more than One Million Nine Hundred and Thirty Thousand Dollars (\$1,930,000).

3. City Obligations. The City, in exchange for Port obligations, will provide the following property or services to the Port:

- a. The City shall vacate and waive any additional fees for the vacation of Milwaukee Avenue between Lincoln Avenue and the termination of Milwaukee Way at Sitcum Plaza, pursuant to Tacoma Municipal Code 9.22.010. This provision will not take effect until the Port secures all properties on the west side of Milwaukee Way. Should the Port not be able to acquire all properties on the west side of Milwaukee Way, the City and the Port shall negotiate for an alternative exchange of equivalent value at a later date.
- b. The City agrees to forgive the Port the 11th Street property value that was to be exchanged per agreement during the development of the SR-509 Environmental Impact Statement.
- c. The City shall work with the Port and the Washington State Patrol to develop and implement an 18-month test program for the use of the overweight zones in the Port area. The information developed in the test program will be used to determine if the continuation of overweight zones is necessary, as well as to provide the basis for the negotiation of a final agreement regarding overweight zones.
- d. The City shall allow the Port of Tacoma the use of approximately 33 feet of the right-of-way on the east side of Port of Tacoma Road from East West Road to the north boundary of the proposed "West Blair Terminal." This use will be effectuated by the City's granting a street-occupancy

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permit to the Port for a minimum period of 10 years. This will allow the Port to provide a queuing of truck traffic or additional rail track to better improve its delivery of services as well as lessen the impact of traffic on Port of Tacoma Road.

4. **Mutual Obligations.** The City shall vacate Lincoln Avenue as requested by the Port of Tacoma in Vacation Action No. 124.996 and also vacate waterfront street ends at 11th Street on either side of the "Blair Bridge." The value for Lincoln Avenue and the 400 feet of designated shoreline area shall be exchanged for title to a habitat/public-viewing area being developed as part of the Port's "West Blair Terminal" development plans as specified in Shoreline Management Substantial Development Permit Action No. 141.562(A). The value of this exchange satisfies the requirements of RCW 35.79.035.

5. **Amendments.** This instrument constitutes the entire agreement between the parties and supersedes all prior agreements. No modification or amendment shall be valid unless evidenced in writing, properly agreed to and signed by both parties.

6. **Notices.** All notices, requests, demands, and other communications required by this agreement shall be in writing and, except as expressly provided elsewhere in this agreement, shall be deemed to have been given at the time of delivery, if personally delivered, or at the time of mailing, if mailed by first-class, postage prepaid, and addressed to the other party at its address as stated in this agreement, or at such address as any party may designate at any time in writing.

a. Notice to the City shall be sent to:

Tacoma Fire Department
901 South Fawcett Street
Tacoma, WA 98402-5699

and

Tacoma Public Works Department
747 Market Street, Suite 420
Tacoma, WA 98402

Notice to the Port shall be sent to:

Executive Director
Port of Tacoma
P. O. Box 1837
Tacoma, WA 98401-1837

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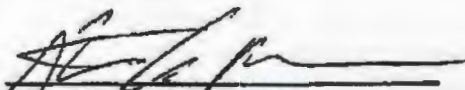
7. Arbitration. Any controversy which shall arise between the City and the Port regarding the rights, duties, or liabilities under this agreement of either party shall be settled by arbitration. Such arbitration shall be before one disinterested arbitrator, if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the City, one named by the Port, and one named by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of the State of Washington as applied to the facts found by the arbitrator or arbitrators. The determination by the arbitrator(s) will be binding on both parties.

8. Benefits. This agreement is entered into for the benefit of the parties to this agreement only and shall confer no benefits, direct or implied, on any third person.

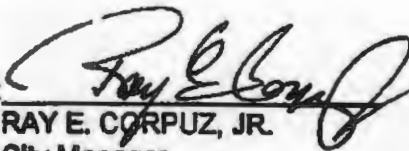
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by having their duly authorized representatives affix their signatures hereto.

CITY OF TACOMA

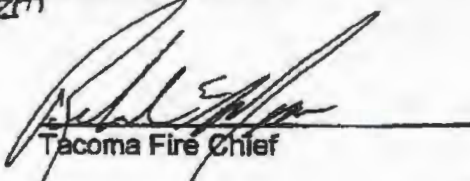
Countersigned:

AKH


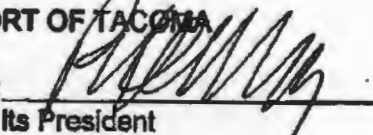
Director of Finance

By: 

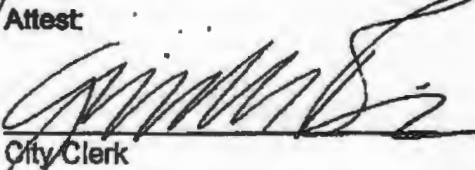
RAY E. CORPUZ, JR.
City Manager



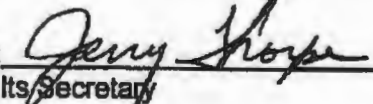
Tacoma Fire Chief

PORT OF TACOMA
By: 

Its President

Attest:


City Clerk

By: 

Its Secretary

Approved as to form and legality:



Assistant City Attorney

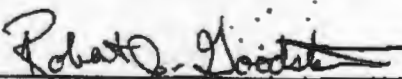
By: 

Its Executive Officer

Approved as to form and legality:



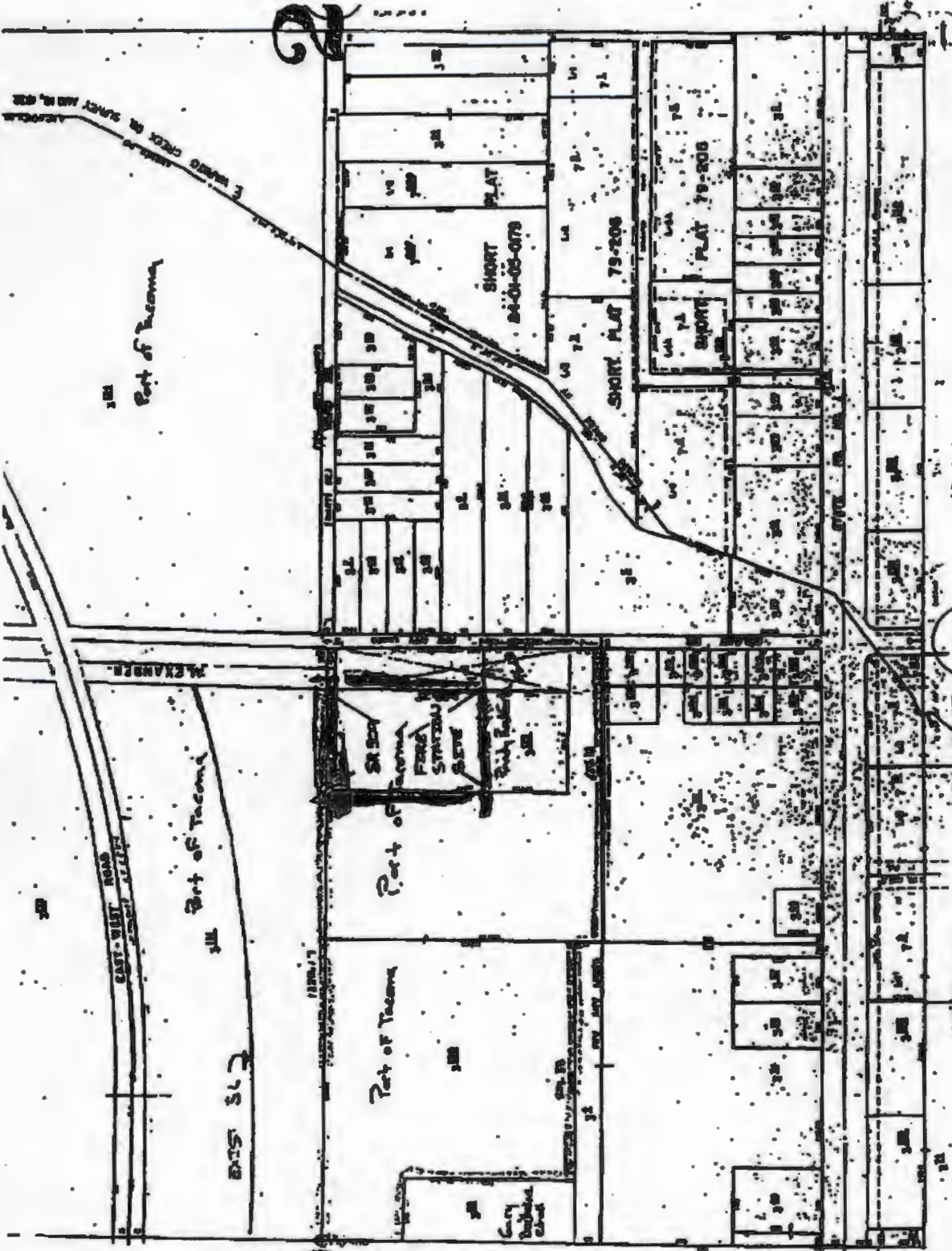
Andrew Michels, Risk Manager



Robert I. Goodstein
Attorney for the Port of Tacoma

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SCALE 1"=200'

EXHIBIT A

230

9#11210146

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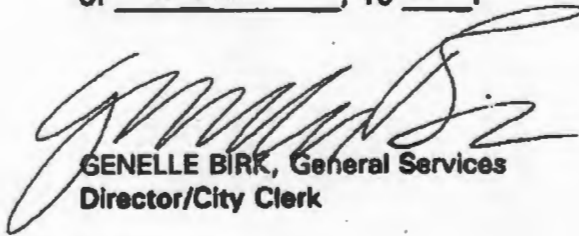


City of Tacoma
General Services Department

CITY CLERK'S CERTIFICATE

I, **GENELLE BIRK**, City Clerk of the City of Tacoma, Pierce County, Washington, do hereby certify that the attached interlocal agreement with Port of Tacoma and executed on November 1, 1994, is a full, true and correct copy.

WITNESS MY HAND and the seal of said City this 14th day of November, 19 94.



GENELLE BIRK, General Services
Director/City Clerk

Crt/Fms44

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