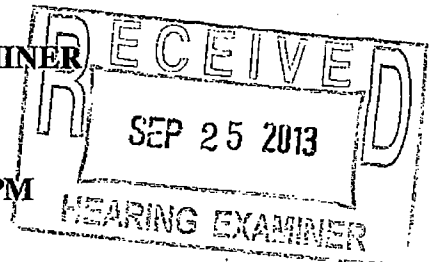


PRELIMINARY REPORT

**PREPARED FOR THE HEARING EXAMINER
BY REAL PROPERTY SERVICES**

For the Hearing to be Held
Thursday, September 26, 2013 at 1:00 PM



PETITIONER: CITY OF TACOMA / PORT OF TACOMA

FILE NO. 124.1108

A. SUMMARY OF REQUEST:

The City of Tacoma ("City") hereby requests a second public hearing for the City-initiated petition to vacate that portion of Milwaukee Way between East 11th Street and Lincoln Avenue. The City agreed to vacate this section of Milwaukee Way via an interlocal agreement approved by the City Council in 1994. The Hearing Examiner's Office conducted the first public hearing on this matter on January 18, 2000, and issued its Report on January 21, 2000. See Report attached hereto as Exhibit 2.

Due to the passage of time and changes to road infrastructure and traffic conditions in the Port, a second public hearing is requested to address emergency response and traffic concerns. A general depiction of the vacation area has been included in this report for reference as Exhibit 7.

B. BACKGROUND

Historical

In 1994, the City enacted Ordinance 25591 authorizing an Interlocal Agreement ("Agreement") between the City and the Port of Tacoma ("Port") which set forth the parties' obligations pursuant to the Washington State Department of Transportation State Route 509 Highway Project. See 1994 Interlocal Agreement attached hereto as Exhibit 3. Pursuant to the Agreement, the City agreed to vacate certain City rights of way for use by the Port for expansion purposes, and the Port agreed to compensate the City in order to mitigate the impacts of the project upon emergency services. To that end, the Port agreed to pay the City \$1,930,000 for financing certain Tacoma Fire capital facility improvements, including improvements to the Fire Training Center located at 2124 Marshall Avenue.

One of the City's obligations under the Agreement was the street vacation of Milwaukee Way lying between East 11th Street and Lincoln Avenue. The City further agreed to waive any fees for the vacation. However, the City was not obligated to proceed with the street vacation until after the Port acquired all the properties on the west side of Milwaukee Way. By 2000, the Port obtained all the properties on the west side of Milwaukee Way, paid the requisite monies to the City, and the Tacoma Fire capital facility improvements were completed.

In 2000, the City and the Port began the street vacation process. A Public Hearing before the Hearing Examiner was held on January 18, 2000 and the former Hearing Examiner finalized his Report and Recommendation to the City Council on January 21st, 2000. See Exhibit 2. The first reading of the ordinance was held on February 22, 2000, however final reading was postponed. Based on the records available, it is unclear why no final reading of the street vacation ever occurred.^{1,2}

Of note, Tacoma Rail is the fee owner of property located on the easterly side of Milwaukee Way. This property is currently leased to the Port and operated as a domestic cargo container facility, referred to as the South Intermodal Yard. As an abutting property owner, Tacoma Rail has an interest in a portion of the proposed vacated street. Pursuant to the street vacation and by operation of law, Tacoma Rail will become the owner of a portion of the right of way as it will 'attach' to Tacoma Rail's ownership. Because the Port desires to own the entire vacated right of way, on February 23, 2000, the Tacoma Public Utility Board, by Resolution No. U-9516, approved a 'proposed understanding' that would allow the transfer of Tacoma Rail's interest in the vacated right of way to the Port in exchange for payment from the City's general government to Tacoma Rail for the value of Tacoma Rail's vacated land. The Hearing Examiner had previously stated (in 2000) that this matter could be negotiated and finalized outside of the street vacation process. Thus, the street vacation could move forward while the parties work to resolve this matter. While this matter has not been resolved, the Port and Tacoma Rail are currently engaged in discussions related thereto. It is the City's preference that the Hearing Examiner, again, allow this matter to be resolved outside the street vacation process.

Renewal of Street Vacation

In 2012, the Port requested that the City proceed with obtaining final City Council approval for the street vacation. Real Property Services ("RPS") staff circulated the request to departmental stakeholders to determine if the conditions of the hearing examiner's report had been satisfied and to determine if there were additional comments or concerns based on the passage of time and changes to road infrastructure and traffic conditions in the Port. On April 23, 2013, RPS received a letter from the Tacoma Fire Department which expressed concerns with the street vacation given the intervening changes to emergency access within the Port. In addition, RPS received feedback from the City's Traffic Engineer expressing concerns regarding the potential lack of connection between Lincoln Avenue and Milwaukee Way as well as the need to provide appropriate signage, detour routes, and traffic analysis.

Based on this feedback, RPS met with the affected City departments and the Port to discuss mitigation requirements necessary to address the emergency response and traffic concerns. Based on these discussions, staff is confident that the Port and the City could come to agreement upon the appropriate mitigation and thus additional conditions to be incorporated into the street vacation of Milwaukee Way.

¹ Also See Preliminary Report prepared for the Hearing Examiner on January 18, 2000 attached as Exhibit C.

² See Ordinance No. 26607 enacted April 4, 2000, removing the proposed vacated area of Milwaukee Way from the City's Arterial Street Designation attached as Exhibit D.

The City's formal comments related to this Street Vacation, including emergency response and traffic concerns are included in Section 10 below entitled 'Recommended Conditions of Approval.'

New Hearing

Because it has been over thirteen years since public notice was provided and a public hearing was held on this matter, and because there have been substantial changes in conditions related to this vacation, including impacts to traffic and emergency response, the City and the Port have a requested a new public hearing before the Hearing Examiner and believe that a new hearing will provide the appropriate public process for renewed consideration of this matter.

C. GENERAL INFORMATION:

1. Legal Description of Vacation:

Milwaukee Way lying between the southerly line of the 100 foot East 11th Street right of way and the northerly line of the 160 foot Lincoln Avenue right of way, located within the South half of Section 34, Township 21 North, Range 03 East and the Northwest Quarter of Section 3, Township 20 North, Range 3 East of the Willamette Meridian.

2. Notification: The following public notice has been provided. See Certification of Notices provided in Street Vacation 'Jacket':

On August 19, 2013, the City mailed Public Notice to 641 postal addresses within the 98421 zip code, which was intended to include all property owners and tenants in the port area.

On August 20, 2013, the City provided the following notice below:

Public notice memo placed into the glass display case located on the second floor of the Municipal Building abutting the City Clerk's Office.

Public notice memo placed into the glass display case located on the first floor of the Municipal building abutting the Finance Department.

Public notice memo advertised on the City of Tacoma web site at address:
<http://www.cityoftacoma.org/page.aspx?nid=596>

Public Notice advertised in the Daily Index newspaper.

Public Notice advertised on Municipal Television Channel 12.

On August 26th, Public Hearing Notice signs were posted as follows to the specific locations described below:

Placed a 4' x 8' yellow public notice sign at the southeast corner of Milwaukee Way and East 11th Street.

Placed a 4' x 8' yellow public notice sign under the Lincoln Avenue overpass on the Milwaukee Way right of way.

Code Requirements:

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

D. PURPOSE OF REQUEST:

The purpose of this street vacation is to fulfill the 1994 Interlocal Agreement between the City and the Port. This street vacation will provide continuity of railroad operations abutting Milwaukee Way and will provide long term opportunities for Port of Tacoma terminal expansion and redevelopment.

In the short term, the Port intends to continue to operate the vacated area for port-related traffic and will utilize the vacated area to transfer containers between the South Intermodal Yard and the Union Pacific Yard. In the long term, the Port may utilize the vacated area for the expansion or redevelopment of a cargo terminal.

Pending final approval of the street vacation, the City has granted a temporary Street Occupancy Permit No. 473 to the Port on August 1, 2013, and filed under Auditor's File Number 201308020774, for the purpose of creating a private roadway to allow for the free movement of cargo from the South Intermodal Yard to the Union Pacific Yard. See Exhibit 6 for copy of the Street Occupancy Permit. This permit will terminate upon completion of the street vacation.

E. HISTORY (Property Assemblage):

The assemblage of Milwaukee Way is composed of several plat dedications and dedication deeds. Map of Tacoma tidelands, recorded September 3, 1895 dedicates a portion of Sitkum Avenue (now portion of Milwaukee Way). Lincoln Avenue Addition to Tacoma dedicates a portion of Sitkum Avenue (now Milwaukee Way) for public use. Chicago, Milwaukee and Puget Sound Railway Company dedicates by Deed (D-87) and filed under AFN 321690 to Pierce County/City of Tacoma a portion of Sitkum Avenue (Milwaukee Way), and allegedly establishes reversionary rights when Milwaukee Way is no longer used for street purposes. (The Port is currently working with the successor in interest to the alleged reversionary rights to resolve). Ashton's Replat of Portions of Tacoma Tidelands, recorded December 23, 1918 re-dedicatès Sitkum Avenue for public use. See property Assemblage Map attached as Exhibit 8.

F. PHYSICAL LAND CHARACTERISTICS:

Milwaukee Way is improved as an oil mat street with gravel shoulders and is currently listed as a heavy haul route corridor that will need to be declassified from the plan as this request moves towards closure. The road way had a pavement condition rating of 79 in 2007. The right of way is of varying widths and does not contain curb, gutter or sidewalks that would be included in a fully improved street section.

G. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:

9.22.010 PETITION TO VACATE AUTHORIZED: The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

In this case, the parties entered the 1994 Interlocal Agreement whereby the City agreed to waive the vacation fees in consideration of the Port's contributions for emergency services improvements. See Exhibit 3.

9.22.040 PUBLIC'S RIGHT TO TRAVEL – UTILITIES: Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

This portion of Milwaukee Way, classified as a minor arterial, was removed from the arterial street plan within TMC 11.05.490 by Ordinance No. 26607, passed by City Council on April 4, 2000, See Exhibit 5.

CRITERIA: Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

H. ADDITIONAL INFORMATION:

The area to be vacated has not been assessed for sanitary sewers and is subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350. Should the petitioner wish to clear this item from title, please contact Sue Simpson of the Public Works Department, L.I.D. Section, at 591-5529 for the assessment amount. Please note that the ordinance establishing the rate of assessment is updated every few years, and the amount quoted may increase in the future. When the petitioner has submitted a development plan, an in lieu of amount will be computed.

I. PROJECT RECOMMENDATIONS:

As part of the City's review process for street vacation petitions, notice of this application was mailed to affected stakeholders including City departments and private utilities. These entities, as

noted below, have provided comments and recommended conditions to Real Property Services. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

The following exhibits are attached hereto:

Background Documents

- Exhibit 2 - Hearing Examiner Report – January 18, 2000 - 1st Hearing
- Exhibit 3 - 1994 Interlocal Agreement
- Exhibit 4 - Preliminary Report prepared for HEX - January 18, 2000
- Exhibit 5 - Ordinance No. 26607 - Removal from Arterial Street Plan
- Exhibit 6 - Street Occupancy Permit No. 473

Map Exhibits

- Exhibit 7 - Map of Vacation Area
- Exhibit 8 - Property Assemblage Map

Department/Utility Stakeholder Comments

- Exhibit 9 – Environmental Services
- Exhibit 10 – Tacoma Rail
- Exhibit 11 – Tacoma Water
- Exhibit 12 – Tacoma Power
- Exhibit 13 – Tacoma Fire Department
- Exhibit 14 – Public Works/Engineering Division/LID
- Exhibit 15 – Comcast Communications
- Exhibit 16 – Century Link Communications
- Exhibit 17 – Public Works/Engineering Division/Planning

J. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, RPS recommends that the following conditions be made conditions of approval for this street vacation petition.

1. Payment of Fees

The City agreed to waive any additional fees for the vacation by the 1994 Interlocal Agreement. See Exhibit 3. The Port and Tacoma Rail are the abutting owners. It is hereby requested that the street vacation fees required by TMC 9.22 be waived.

Code Requirements:

The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraised value of the area vacated; provided that if the street or alley has been a public right-of-way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the

vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total of the revenue received hereunder shall be devoted to transportation projects in the tide flats area. *TMC 9.22.010.*

2. ENVIORNMENTAL SERVICES

- a. Please contact Olivia Mathison at 502-2285 regarding Environmental Services' comments.
- b. An easement shall be retained over the entire vacated area for the existing sanitary and storm sewer system. The entire length of the proposed Milwaukee Way vacation contains a 60-inch diameter sanitary sewer outfall for the City of Tacoma's Central Wastewater Treatment Plant, an 18-inch diameter sanitary sewer main, and an 18-inch diameter storm sewer main.
- c. No permanent structure(s) shall be erected within the public easement area(s) unless specifically approved in writing by the City of Tacoma Environmental Services Director. Permanent structures shall include but not limited to any concrete foundation, wall, rockery, building, portable sheds, private utilities, fences, or other site improvement that will unreasonably interfere with the need to access or construct public storm and/or sanitary sewer utilities in said easement. Permanent structures shall not mean improvements such as normal landscaping, asphalt paving, concrete road paving, gravel, or other similar site improvements that do not prevent the access of men, materials, and machinery across, along, and within the said easement area.

3. TACOMA RAIL

- a. Please contact Gloria Fletcher at 502-8573 for questions regarding Tacoma Rail's Comments.
- b. The property to be vacated is parallel and adjacent to Tacoma Rail's South Intermodal Rail (SIM) yard. Currently, Tacoma Rail has an existing railroad track crossing in place near Lincoln Avenue.

- c. Tacoma Rail requests a perpetual easement over, under, across, and through the remainder of the existing right of way for maintenance, repair, modification, and replacement of Rail facilities to include the above mentioned crossing.
- d. The easement shall include unlimited access to the easement area, as well as provide for access to Tacoma Rail's property as necessary to allow for its railroad operations.
- e. To avoid conflicts with existing facilities and access, Tacoma Rail requests review and approval rights for any proposed improvements within the easement area.
- f. Any relocation or adjustment of existing Tacoma Rail infrastructure requested by the Port will be done by Tacoma Rail at the expense of the Port of Tacoma.
- g. Tacoma Rail will not be responsible for restoration of Port improvement within the easement area as a result of its maintenance or construction activity.
- h. Damage to any Tacoma Rail facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by Tacoma Rail at the expense of the Port of Tacoma.
- i. Any equipment which can be used to load shipping containers from trucks onto rail cars will be prohibited from crossing or otherwise traversing the easement area.

4. TACOMA WATER

- a. Please contact Gloria Fletcher at 502-8573 for questions regarding Tacoma Water's Comments.
- b. The requested vacation area contains major trunk mains which supply fire and domestic service to the tide flats industrial area and Northeast Tacoma. This includes a 24 inch steel main in Milwaukee Way.
- c. Tacoma Water requests a perpetual easement over, under, across, and through the existing right of way for maintenance, repair, construction, modification, and replacement of existing and future Tacoma Water facilities.
- d. The easement shall include unlimited access to the easement area.
- e. To avoid conflicts with existing facilities and access, Tacoma Water requests review and approval rights for any proposed improvements within the easement area.
- f. Any relocation or adjustment of existing Tacoma Water infrastructure requested by the Port will be done by Tacoma Water at the expense of the Port of Tacoma.
- g. Tacoma Water will not be responsible for restoration of Port improvements within the easement area as a result of its maintenance or construction activity.

- h. Damage to any Tacoma Water facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by the Tacoma Water at the expense of the Port of Tacoma.
- i. No permanent structures shall be placed within the easement area.
- j. Due to the potential for damage to Tacoma Water underground infrastructure, no heavy equipment shall be used within the easement area that exceeds legal load requirements in place at the time of the street vacation.
- k. No grading will be allowed within the easement area without prior consent of Tacoma Water. No removal of material over Tacoma Water infrastructure will be allowed which will produce a depth of cover of less than 3 feet. No filling over Tacoma Water infrastructure will be allowed which will produce a depth of cover of greater than 5 feet.

5. TACOMA POWER

- a. Please contact Gloria Fletcher at 502-8573 for questions regarding Tacoma Power's Comments.
- b. Tacoma Power has significant overhead and underground infrastructure in the area, specifically within the current right of way. This infrastructure serves properties adjoining Milwaukee Way and beyond.
- c. Tacoma Power requests a perpetual easement over, under, across, and through the existing right of way as currently described for maintenance, repair, modification, and replacement of its transmission and distribution infrastructure.
- d. The easement shall include unlimited access to the easement area at all times.
- e. To avoid conflicts with existing facilities and access, Tacoma Power requests review and approval rights for any proposed improvements within the easement area.
- f. Any relocation or adjustment of existing Tacoma Power infrastructure requested by the Port will be done by Tacoma Power at the expense of the Port of Tacoma.
- g. Tacoma Power will not be responsible for restoration of Port improvements within the easement area as a result of its maintenance or construction activity.
- h. Damage to any Tacoma Power facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by the Tacoma Power at the expense of the Port of Tacoma.
- i. No permanent structures shall be placed within the easement area.

- j. Tacoma Power shall have the right to place and modify Tacoma Power facilities, including overhead and underground structures, wires, conduits, cables, and appurtenant equipment with the easement area without prior approval of the Port.

6. TACOMA FIRE DEPARTMENT

- a. Please contact Mike Fitzgerald at 591-5157 for questions regarding Tacoma Fire Department's comments.
- b. Fire Department administrative staff agreed to the Port of Tacoma's proposal to vacate Milwaukee between 11th Street and Lincoln Avenue fifteen years ago, before several subsequent Port sponsored projects further reduced the street network within the Port area while increasing rail and truck traffic on the remaining roadway.
- c. Because of the previous agreement and because the Port used its awareness of the agreement to plan subsequent Port development, Fire cannot reasonably refuse to support completion of the vacation process.
- d. However, it is apparent to Tacoma Fire that the Port's development plans have led to a shortage of usable transportation corridors within the Port and its vicinity. Those corridors are needed for timely emergency response and for evacuation. Fire strongly recommends that the Port consider preserving Milwaukee Way as a roadway for these purposes or that the Port propose acceptable alternative corridors to be used for those purposes.
- e. More generally, Fire observes that the ad hoc nature of the street vacation process is not an adequate substitute for true long-term bilateral planning involving the City and the Port for Port area public safety and emergency response. The quantity, nature, and size of the Port's development projects are transforming the Tide flats, and the City's need to assess and properly support that development has not been adequately addressed through the episodic opportunities presented by street vacations.

7. PUBLIC WORKS / ENGINEERING DIVISION / LID

- a. Please contact Sue Simpson at 591-5529 for questions regarding LID's comments.
- b. *Advisory Comment* – the parcel has been partially assessed for sewer. An In Lieu sewer assessment fee for sanitary sewer is due in the amount of \$12,273.66.

8. COMCAST COMMUNICATIONS

- a. Please contact Aaron Cantrell at 864-4281 for questions regarding Comcast's comments.

- b. Comcast is currently attached to Tacoma Public Utility's poles throughout the vacation limits. Comcast's easement is currently protected under the Master Pole (Attachment) Agreement with TPU and the Cable Act.

9. CENTURY LINK COMMUNICATIONS

- a. Please contact R. Jeff Lawrey, at (206) 345-0333 regarding Century Link's comments.
- b. Century Link has facilities in the area addressed by this action and wishes to retain any and all rights to remain in said area and to add facilities in the future as needed.
- c. Century Link does not object to the vacation so long as provisions are made to retain its rights by means of an easement containing explicit language granting to "Qwest Corporation d/b/a QC and its successors" rights that will cover its existing and future facilities.
- d. The easement must contain a notation stating that Century Link must have 24/7 access to all equipment, and "no cargo containers shall be stacked on top of vault lids."

10. PUBLIC WORKS/ENGINEERING DIVISION/PLANNING

- a. Please contact Josh Diekmann at 591-5756 for questions regarding Traffic Engineering's comments.
- b. The City Public Works Engineering Division has reviewed the applicant's proposed street vacation request for a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue. The proposal was reviewed in 2000 with limited conditions. Since then, there have been substantial changes to the City's arterial street system serving the Port-area properties, which warrant revisions to the previously recommended conditions of approval.
- c. The Engineering Division understands that emergency access provisions are being arranged in conjunction with Tacoma Fire. Similarly, the comments herein are provided in the context of the established process for right-of-way (ROW) vacations, which includes public outreach. The Engineering Division believes it is important to capture the comments from other area businesses, particularly from those properties on East 11th Street and Thorne Road which may rely on Milwaukee Way as the alternate point of connection to Lincoln west of Milwaukee Way.
- d. Based on review of the proposal and existing traffic conditions, staff provides the following comments and recommended conditions:
 - i. In 2011, the Lincoln Avenue Grade Separation was constructed to eliminate rail and car conflicts. As a result, the overpass limits access to Lincoln Avenue from Milwaukee Way. By vacating Milwaukee Way north of Lincoln Avenue, the

proposal creates a dead end, adversely impacting an arterial and heavy haul route. The applicant must provide a public roadway connection from Milwaukee Way to Lincoln Loop Road. The roadway must be designed to accommodate truck traffic commensurate with its anticipated role as a heavy haul route. The roadway could include providing a public easement over the private drive that connects Lincoln Loop Road to Milwaukee Way or improving the roadway adjacent to the Lincoln Avenue Grade Separation. If the roadway is not a public right-of-way maintained by the City, the easement must specifically allow Heavy Haul traffic, and must stipulate that the owner maintains the roadway in a condition suitable to support heavy-haul traffic. Construction of the new public roadway connection may require a Work Order.

- ii. The following amendments to the Tacoma Municipal Code will be required within 180 days of approval of the proposed vacation:
- Delete Milwaukee Way between Lincoln Avenue and East 11th Street from TMC 11.05.540 Forty miles per hour limit – Streets designated.
 - Delete Milwaukee Way between Lincoln Avenue and East 11th Street from TMC 11.55.020 Defined Terms that identifies this section as a “Heavy Haul Industrial Corridor”
 - In the case that the alternate street connection is a Public Highway as defined in TMC 11.55.020, the new connection between Lincoln Loop Road and Milwaukee Way, and Lincoln Loop Road, shall be described in TMC 11.55.020.C.

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.

ORD 25571

10/4/94

EXHIBIT 3

INTERLOCAL AGREEMENT

Paul L. City For File ORIGINAL

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 Tideflats 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

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

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

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.

Countersigned:

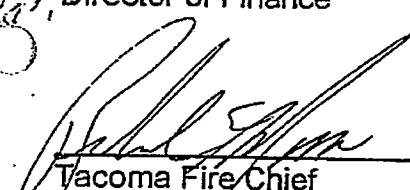
CITY OF TACOMA




Director of Finance

By: 

RAY E. CORPUZ, JR.
City Manager

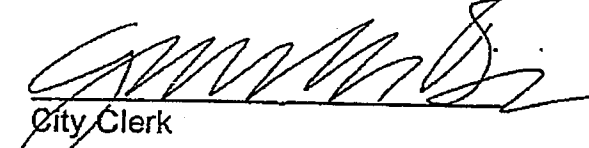


Tacoma Fire Chief

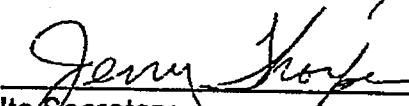
PORT OF TACOMA
By: 

Its President

Attest:



City Clerk

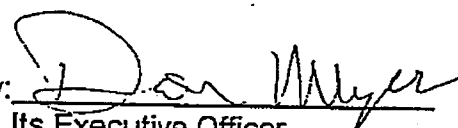
By: 

Its Secretary

Approved as to form and legality:




Assistant City Attorney

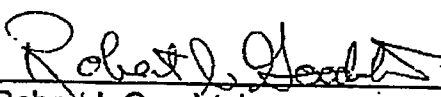
By: 

Its Executive Officer

Approved as to form and legality:

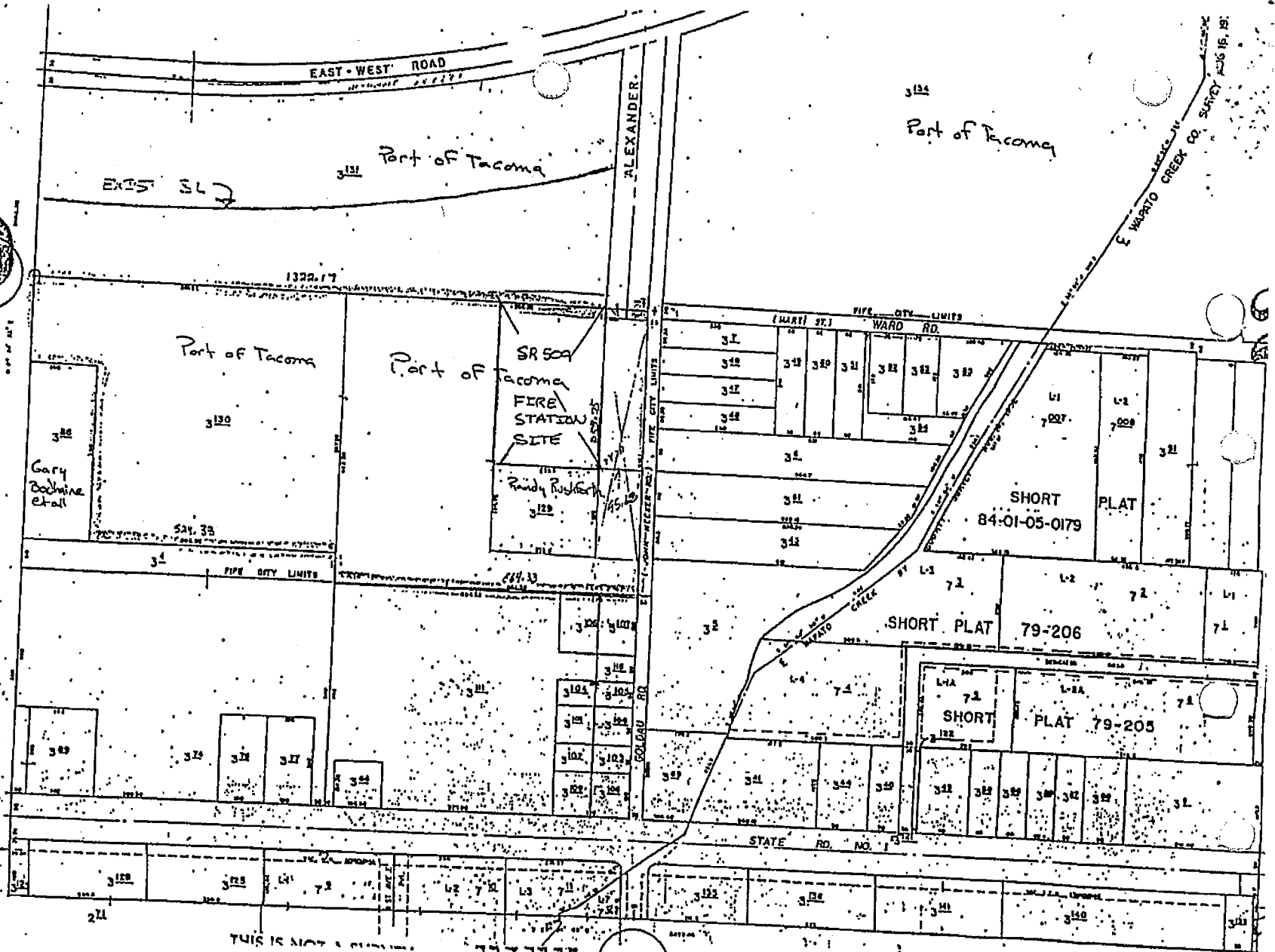


Andrew Michels, Risk Manager



Robert I. Goodstein
Attorney for the Port of Tacoma

230



THIS IS NOT A SURVEY



TO: Richard Price, Real Property Services

FROM: Olivia Mathison, Environmental Services, Science & Engineering Division

SUBJECT: Street Vacation Request No. 124.1108
Vacation of Milwaukee Way between East 11th Street and Lincoln Avenue

DATE: September 13, 2013

The following information was provided to Environmental Services for evaluation as part of this proposal:

- Memorandum Re: Street Vacation Request No. 124.1108; Milwaukee Way Lying Between 11th Street and Lincoln Avenue from Richard Price (August 12, 2013)
- Map of Proposed Street Vacation Request No. 124.1108 (August 12, 2103)
- Hearing Examiner Report File No. 124.1108 (January 21, 2000)

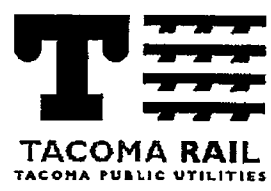
Environmental Services has the following Conditions of Approval for the subject street vacation:

1. An easement shall be retained over the entire vacated area for the existing sanitary and storm sewer system. The entire length of the proposed Milwaukee Way vacation contains a 60-inch diameter sanitary sewer outfall for the City of Tacoma's Central Wastewater Treatment Plant, an 18-inch diameter sanitary sewer main, and an 18-inch diameter storm sewer main.
2. No permanent structure(s) shall be erected within the public easement area(s) unless specifically approved in writing by the City of Tacoma Environmental Services Director. Permanent structures shall include but not limited to any concrete foundation, wall, rockery, building, portable sheds, private utilities, fences, or other site improvement that will unreasonably interfere with the need to access or construct public storm and/or sanitary sewer utilities in said easement. Permanent structures shall not mean improvements such as normal landscaping, asphalt paving, concrete road paving, gravel, or other similar site improvements that do not prevent the access of men, materials, and machinery across, along, and within the said easement area.

MEMORANDUM

RECEIVED
SEP 16 2013

CITY OF TACOMA
FACILITIES MANAGEMENT



DATE: September 13, 2013

TO: RICH PRICE, Senior Real Estate Officer
Department of Public Work, Facilities Division

FROM: DALE KING, Superintendent *Dale King*
Tacoma Rail

SUBJECT: Street Vacation Request No. 124-1108
(Milwaukee – E. 11th to Lincoln)

Tacoma Rail has reviewed the above-referenced street vacation and has the following comments:

1. The property to be vacated is parallel and adjacent to Tacoma Rail's South Intermodal Rail (SIM) yard. Currently, Tacoma Rail has an existing railroad track crossing in place near Lincoln Avenue.
2. Tacoma Rail requests a perpetual easement over, under, across, and through the remainder of the existing right-of-way for maintenance, repair, modification, and replacement of Rail facilities to include the above-mentioned crossing.
3. The easement shall include unlimited access to the easement area, as well as provide for access to Tacoma Rail's property as necessary to allow for it's railroad operations.
4. To avoid conflicts with existing facilities and access, Tacoma Rail requests review and approval rights for any proposed improvements within the easement area.
5. Any relocation or adjustment of existing Tacoma Rail infrastructure requested by the Port will be done by Tacoma Rail at the expense of the Port of Tacoma.
6. Tacoma Rail will not be responsible for restoration of Port improvements within the easement area as a result of its maintenance or construction activity.
7. Damage to any Tacoma Rail facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by the Tacoma Rail at the expense of the Port of Tacoma.
8. Any equipment which can be used to load shipping containers from trucks onto rail cars will be prohibited from crossing or otherwise traversing the easement area.

RECEIVED
SEP 12 2013



CITY OF TACOMA
FACILITIES MANAGEMENT

TACOMA WATER
TACOMA PUBLIC UTILITIES

DATE: September 10, 2013

TO: RICH PRICE, Senior Real Estate Officer
Department of Public Work, Facilities Division

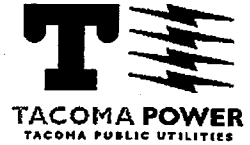
FROM: TONY LINDGREN, Water Distribution Engineering Manager
Tacoma Water *Tony Lindgren*

SUBJECT: Street Vacation Request No. 124-1108

Tacoma Water has reviewed the above-referenced street vacation and has the following comments:

1. The requested vacation area contains major trunk mains which supply fire and domestic service to the tideflats industrial area and Northeast Tacoma. This includes a 24-inch steel main in Milwaukee Way.
2. Tacoma Water requests a perpetual easement over, under, across, and through the existing right-of-way for maintenance, repair, construction, modification, and replacement of existing and future Tacoma Water facilities.
3. The easement shall include unlimited access to the easement area.
4. To avoid conflicts with existing facilities and access, Tacoma Water requests review and approval rights for any proposed improvements within the easement area.
5. Any relocation or adjustment of existing Tacoma Water infrastructure requested by the Port will be done by Tacoma Water at the expense of the Port of Tacoma.
6. Tacoma Water will not be responsible for restoration of Port improvements within the easement area as a result of its maintenance or construction activity.
7. Damage to any Tacoma Water facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by the Tacoma Water at the expense of the Port of Tacoma.
8. No permanent structures shall be placed within the easement area.
9. Due to the potential for damage to Tacoma Water underground infrastructure, no heavy equipment shall be used within the easement area that exceeds legal load requirements in place at the time of the street vacation.
10. No grading will be allowed within the easement area without prior consent of Tacoma Water. No removal of material over Tacoma Water infrastructure will be allowed which will produce a depth of cover of less than 3 feet. No filling over Tacoma Water infrastructure will be allowed which will produce a depth of cover of greater than 5 feet.

EXHIBIT 12



DATE: September 10, 2013

TO: RICH PRICE, Senior Real Estate Officer
Department of Public Work, Facilities Division

FROM: DOLORES STEGEMAN, Interim T&D Manager
Tacoma Power

SUBJECT: Street Vacation Request No. 124-1108
(Milwaukee – E. 11th to Lincoln)

Dolores Stegeman

Tacoma Power has reviewed the above-referenced street vacation and has the following comments:

1. Tacoma Power has significant overhead and underground infrastructure in the area, specifically within the current right-of-way. This infrastructure serves properties adjoining Milwaukee Way and beyond.
2. Tacoma Power requests a perpetual easement over, under, across, and through the existing right-of-way as currently described for maintenance, repair, modification, and replacement of its transmission and distribution infrastructure.
3. The easement shall include unlimited access to the easement area at all times.
4. To avoid conflicts with existing facilities and access, Tacoma Power requests review and approval rights for any proposed improvements within the easement area.
5. Any relocation or adjustment of existing Tacoma Power infrastructure requested by the Port will be done by Tacoma Power at the expense of the Port of Tacoma.
6. Tacoma Power will not be responsible for restoration of Port improvements within the easement area as a result of its maintenance or construction activity.
7. Damage to any Tacoma Power facilities within the easement area by the Port of Tacoma or their lessee shall be repaired by the Tacoma Power at the expense of the Port of Tacoma.
8. No permanent structures shall be placed within the easement area.
9. Tacoma Power shall have the right to place and modify Tacoma Power facilities, including overhead and underground structures, wires, conduits, cables, and appurtenant equipment within the easement area without prior approval of the Port.

EXHIBIT 13



City of Tacoma
Tacoma Fire Department

Memorandum

TO: Richard Price, Sr. Real Estate Officer, Public Works/Real Estate Services
FROM: James P. Duggan, Fire Chief *D*
SUBJECT: **PORT OF TACOMA MILWAUKEE WAY VACATION**
DATE: September 13, 2013

Fire Department administrative staff agreed to the Port of Tacoma's proposal to vacate Milwaukee Way between 11th Street and Lincoln Avenue fifteen years ago, before several subsequent Port sponsored projects further reduced the street network within the Port area while increasing rail and truck traffic on the remaining roadway.

Because of that previous agreement and because the Port used its awareness of the agreement to plan subsequent Port development, we cannot reasonably refuse to support completion of the vacation process.

However, it is apparent to us that the Port's development plans have led to a shortage of usable transportation corridors within the Port and its vicinity. Those corridors are needed for timely emergency response and for evacuation. We strongly recommend that the Port consider preserving Milwaukee Way as a roadway for these purposes or that the Port propose acceptable alternative corridors to be used for those purposes.

Second and more generally, we observe that the ad hoc nature of the street vacation process is not an adequate substitute for true long-term bilateral planning involving the City and the Port for Port area public safety and emergency response. The quantity, nature, and size of the Port's development projects are transforming the Tideflats, and the City's need to assess and properly support that development has not been adequately addressed through the episodic opportunities presented by street vacations.

Thank you for the opportunity to comment further concerning the proposed street vacation. If you have questions or desire additional information, please contact me directly at 591-5700.

JPD:MF:mw



City of Tacoma

EXHIBIT 14

Memorandum

TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: RICHARD PRICE
PUBLIC WORKS /REAL PROPERTY SERVICES**

**SUBJECT: STREET VACATION REQUEST NO. 124.1108; MILWAUKEE WAY LYING
BETWEEN EAST 11TH STREET AND LINCOLN AVENUE**

DATE: August 12, 2013

On September 26, 2013, at 1:30 pm in City of Tacoma Council Chambers, a second public hearing will be held before the Hearing Examiner on the proposed street vacation of a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue. This action constitutes a City-initiated street vacation being undertaken pursuant to an Interlocal Agreement entered between the City of Tacoma and the Port of Tacoma in 1994.

This will be the second public hearing for this proposed street vacation. The original hearing was held on January 18, 2000. At that time, the Hearing Examiner considered the comments expressed by affected utilities and stakeholders. The former Hearing Examiner finalized his Report and Recommendation to the City Council on January 21st, 2000. (See Report and Recommendation to the City Council attached). A first reading of the ordinance was held on February 22, 2000, however final reading was postponed to a date to be determined.

At this time, the Port of Tacoma has requested that the City proceed with obtaining final City Council approval for the street vacation pursuant to the Interlocal Agreement. Because it has been over thirteen years since a public hearing was held on this matter, and because there have been substantial changes in conditions related to this proposed street vacation, including impacts to traffic and emergency response, a new public hearing has been set.

Therefore, please be advised that interested parties are hereby afforded the opportunity to update and/or provide additional comments as necessary in regards to protecting infrastructure interests, for the proposed street vacation of a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue.

In order to be considered, your comments must be received by **Real Property Services** by **September 13, 2013**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

COMMENTS SHOULD BE SENT TO (e-mail is acceptable):

Richard Price
rprice@cityoftacoma.org
City of Tacoma, Real Property Services
747 Market Street, Rm 737 Tacoma, WA 98402
(253) 591-5515 (phone)
(253) 594-7941 (fax)

RESPONSE

_____ No Objections

_____ Comments Attached

8/13/13

_____ Date

[Handwritten Signature]

_____ Signature

PW - ENGR - HID

_____ Department

ASSESSMENT IN LIEU FOR
SANITARY SEWER
\$12,273.⁶⁶



EXHIBIT 15

TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: RICHARD PRICE
PUBLIC WORKS /REAL PROPERTY SERVICES**

**SUBJECT: STREET VACATION REQUEST NO. 124.1108; MILWAUKEE WAY LYING
BETWEEN EAST 11TH STREET AND LINCOLN AVENUE**

DATE: August 12, 2013

On September 26, 2013, at 1:30 pm in City of Tacoma Council Chambers, a second public hearing will be held before the Hearing Examiner on the proposed street vacation of a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue. This action constitutes a City-initiated street vacation being undertaken pursuant to an Interlocal Agreement entered between the City of Tacoma and the Port of Tacoma in 1994.

This will be the second public hearing for this proposed street vacation. The original hearing was held on January 18, 2000. At that time, the Hearing Examiner considered the comments expressed by affected utilities and stakeholders. The former Hearing Examiner finalized his Report and Recommendation to the City Council on January 21st, 2000. (See Report and Recommendation to the City Council attached). A first reading of the ordinance was held on February 22, 2000, however final reading was postponed to a date to be determined.

At this time, the Port of Tacoma has requested that the City proceed with obtaining final City Council approval for the street vacation pursuant to the Interlocal Agreement. Because it has been over thirteen years since a public hearing was held on this matter, and because there have been substantial changes in conditions related to this proposed street vacation, including impacts to traffic and emergency response, a new public hearing has been set.

Therefore, please be advised that interested parties are hereby afforded the opportunity to update and/or provide additional comments as necessary in regards to protecting infrastructure interests, for the proposed street vacation of a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue.

In order to be considered, your comments must be received by **Real Property Services** by **September 13, 2013**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

COMMENTS SHOULD BE SENT TO (e-mail is acceptable):

Richard Price
rprice@cityoftacoma.org
City of Tacoma, Real Property Services
747 Market Street, Rm 737 Tacoma, WA 98402
(253) 591-5515 (phone)
(253) 594-7941 (fax)

RESPONSE

No Objections

Comments Attached

8/13/2013 *Date*

Aaron Cantrell *Signature*

Engineering / Construction *Department*

Comments:

Comcast is currently attached to Tacoma Public Utility's pole throughout the Vacation limits. Comcast's easement is currently protected under the Master Pole Agreement with TPU and the Cable Act.

RECEIVED
AUG 20 2013



CenturyLink®

August 15th, 2013

CITY OF TACOMA
FACILITIES MANAGEMENT

City of Tacoma
Real Property Services
Attn: Richard Price
747 Market Street, Room 737
Tacoma, Washington 98402

EXHIBIT 16

RE: Street Vacation Request No. 124.1108 -- Milwaukee Way Lying Between East 11th Street and Lincoln Avenue

Dear Mr. Price,

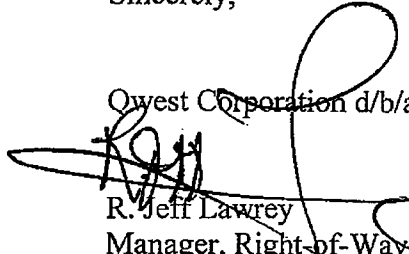
This letter is in response to the notice for the above referenced vacation. **Qwest Corporation (d/b/a CenturyLink, and formerly US West) has facilities in the area addressed by this action and wishes to retain any and all rights to remain in said area and to add facilities in the future as needed.** This was noted in the Hearing Examiner's Report from January of 2000 on page 3 under item #10. However, the notation does not address the width and/or length of the area, nor does it spell out how Centurylink will be able to access this easement.

At this time, Qwest (d/b/a CenturyLink) will not have issues with the proposed vacation **so long as provisions are made to retain our rights by means of an easement containing explicit language granting to "Qwest Corporation d/b/a CenturyLink QC and its successors" rights that will cover our existing & future facilities.** Also, said easement must contain a notation stating that CenturyLink must have 24/7 access to all equipment. For example, 'No cargo containers shall be stacked on top of vault lids.'

Please feel free to contact me as needed; I can be reached at 206-345-0333 or R.Lawrey@CenturyLink.com. Thank you for your time.

Sincerely,

Qwest Corporation d/b/a CenturyLink QC


R. Jeff Lawrey
Manager, Right-of-Way
Western Washington
1208 NE 64th St. Rm 401
Seattle, WA 98115

1208 NE 64th St., 4th floor
Seattle, WA 98115-6722
www.centurylink.com



TO: Rich Price

FROM: Joshua Diekmann, P.E. PTOE

SUBJECT: Milwaukee Way Vacation (No. 124.1108)

DATE: September 13, 2013

The City Public Works Engineering Division has reviewed the applicant's proposed street vacation request for a portion of Milwaukee Way lying between East 11th Street and Lincoln Avenue. The proposal was reviewed in 2000 with limited conditions. Since then, there have been substantial changes to the City's arterial street system serving the Port-area properties, which warrant revisions to the previously recommended conditions of approval.

The Engineering Division understands that emergency access provisions are being arranged in conjunction with Tacoma Fire. Similarly, the comments herein are provided in the context of the established process for right-of-way (ROW) vacations, which includes public outreach. The Engineering Division believes it is important to capture the comments from other area businesses, particularly from those properties on East 11th Street and Thorne Road which may rely on Milwaukee Way as the alternate point of connection to Lincoln west of Milwaukee Way.

Based on review of the proposal and existing traffic conditions, staff provides the following comments and recommended conditions:

- 1) In 2011, the Lincoln Avenue Grade Separation was constructed to eliminate rail and car conflicts. As a result, the overpass limits access to Lincoln Avenue from Milwaukee Way. By vacating Milwaukee Way north of Lincoln Avenue, the proposal creates a dead end, adversely impacting an arterial and heavy haul route. The applicant must provide a public roadway connection from Milwaukee Way to Lincoln Loop Road. The roadway must be designed to accommodate truck traffic commensurate with its anticipated role as a heavy haul route. The roadway could include providing a public easement over the private drive that connects Lincoln Loop Road to Milwaukee Way or improving the roadway adjacent to the Lincoln Avenue Grade Separation. If the roadway is not a public right-of-way maintained by the City, the easement must specifically allow Heavy Haul traffic, and must stipulate that the owner maintains the roadway in a condition suitable to support heavy-haul traffic. Construction of the new public roadway connection may require a Work Order.
- 2) The following amendments to the Tacoma Municipal Code will be required within 180 days of approval of the proposed vacation:
 - a. Delete Milwaukee Way between Lincoln Avenue and East 11th Street from TMC 11.05.540 Forty miles per hour limit – Streets designated.
 - b. Delete Milwaukee Way between Lincoln Avenue and East 11th Street from TMC 11.55.020 Defined Terms that identifies this section as a "Heavy Haul Industrial Corridor"

- c. In the case that an alternate street connection is a Public Highway as defined in TMC 11.55.020, the new connection between Lincoln Loop Road and Milwaukee Way, and Lincoln Loop Road, shall be described in TMC 11.55.020.C.

If circumstances change and the proposal is modified then the City reserves the right to reconsider this recommendation. If you have any questions, please contact me at (253) 591-5756 or jdiekmann@cityoftacoma.org.

Milwaukee Way

Property

- Address
- ▭ Parcel

Street

- Abc Street Name
- - - PW Off Street Line
- Street Centerline
- == Highway

County

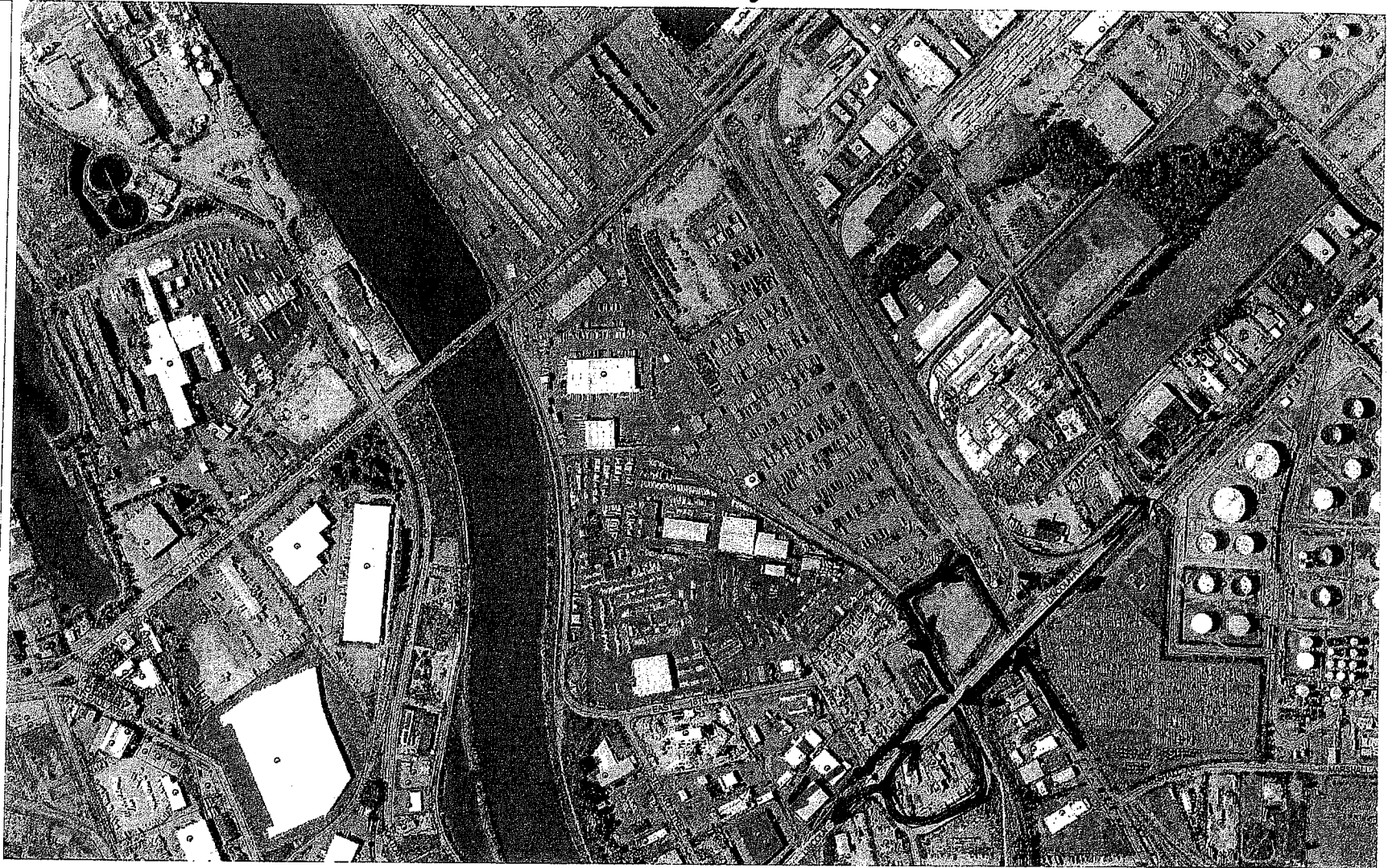
- ▨ Puget Sound
- ▨ Pierce County
- ▨ King County
- ▨ Thurston County

Aerial Photo 2012

- ▨ 4 foot pixel

City Backgrounds

- ▨ Tacoma
- ▨ Federal Way
- ▨ Fife
- ▨ Fircrest
- ▨ Lakewood
- ▨ Ruston
- ▨ University Place

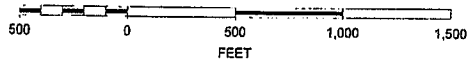


RECEIVED
AT HEARING

SEP 26 2013

HEARING EXAMINER

SCALE 1 : 6,823



EX. 18

- adj. ingress/egress for emergencies >
nature!
- easement over Post



City of Tacoma

Memorandum

RECEIVED
OCT 10 2013
HEARING EXAMINER

TO: HEARING EXAMINER'S OFFICE

FROM: RICHARD PRICE, PW/REAL PROPERTY SERVICES

SUBJECT: REQUEST TO LEAVE THE RECORD OPEN - MILWAUKEE WAY -
124.1108

DATE: OCTOBER 11, 2013

Real Property Services is making a request of the Hearing Examiner to leave the record open for a one week, until October 18, 2013, to afford the Port of Tacoma the opportunity to enter into discussions with Tacoma Rail and Environmental Services on the conversion of public storm sewer to a private system to be owned and maintained by Port of Tacoma.

Should this conversion occur, then revised conditions of approval will be submitted from Environmental Services and Tacoma Rail to the Examiner for consideration and inclusion into the record.

ORIGINAL

EX-21

Price, Richard

From: McAboy, Kell <kmcaboy@portoftacoma.com>
Sent: Friday, October 11, 2013 10:05 AM
To: Price, Richard; Mathison, Olivia
Cc: McCarthy, Conor; Fletcher, Gloria; Mason, Evette; Omegna, Suzanne; Fichthorn, Anita; Elmaleh, Andre; Mauermann, Sue; Howard, Thais
Subject: RE: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

Hi Rich,

The Port requests that the Hearing Examiner keep the record open for one-week to allow City of Tacoma Environmental Services and Tacoma Rail to determine the impact of transferring ownership of the storm sewer to the Port of Tacoma.

Proposed conditions per Hearing Examiner's request:

1. "The City will work with the Port of Tacoma to adopt a new Ordinance amending Ordinance No. 28016 relating to cable communications and franchise services based on the change in ownership."
2. "The City will amend the stormwater utility fee currently charged to the Port per TMC Chapter 12.08 based on the change in ownership"

Kell McAboy, AICP | Planning Manager | Port of Tacoma | PO Box 1837, Tacoma, WA 98401-1837 | p. (253) 592.6217 | www.portoftacoma.com

From: Price, Richard [<mailto:RPRICE@ci.tacoma.wa.us>]
Sent: Friday, October 11, 2013 9:36 AM
To: Mathison, Olivia; McAboy, Kell
Cc: McCarthy, Conor; Fletcher, Gloria
Subject: RE: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

I too have just spoken with Kell. I will be making a request to the Hearing Examiner's Office by Memo this morning requesting the record be left open for a one-week period of time to allow the affected parties the opportunity to work through the issues presented this morning.

-R-

From: Mathison, Olivia
Sent: Friday, October 11, 2013 9:12 AM
To: Price, Richard
Cc: McCarthy, Conor; Fletcher, Gloria
Subject: FW: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

Rich,

I spoke with Kell McAboy this morning and informed her that we are looking into her request and granted an extension to provide her with an answer by Tuesday.

From: Fletcher, Gloria
Sent: Friday, October 11, 2013 9:06 AM
To: Price, Richard; Mathison, Olivia
Cc: McCarthy, Conor
Subject: RE: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

Thanks Rich.

ORIGINAL

Olivia and I just spoke and my understanding is that we will need to add a condition to Rail's report that Rail is aware that the Port of Tacoma may assume ownership of the existing Storm Sewer infrastructure and if that happens Tacoma Rail will continue to utilize said infrastructure.

Additionally, there may be a need for additional encroachment consents since to get to the Sewer Infrastructure you have to cross over the storm line – but I'm not sure at this point how necessary that is.

Finally, Tacoma Rail may need to grant a limited easement to the Port for any portion of that Storm system that exists on Tacoma Rail property.

Olivia was going to check on the current configuration before I submit any revised language. In the meantime I'll confirm with Tacoma Rail that this is okay.

THANKS!
-Gloria

From: Price, Richard
Sent: Friday, October 11, 2013 8:33 AM
To: Mathison, Olivia
Cc: Fletcher, Gloria; McCarthy, Conor
Subject: RE: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

Olivia:

Please work with Gloria Fletcher 502-8573. She is in charge of the real estate group at TPU and can coordinate with Tacoma Rail. Please keep me informed on any revision for ES comments. At this point, we are waiting for the Hearing Examiner's report to be issued, but also understand Kell McAboy is working on conditions of approval. From our last email from Kell, she was hoping to submit something to the Examiner's office today.

Let us know how to help,

-RP-

From: Mathison, Olivia
Sent: Friday, October 11, 2013 8:08 AM
To: Price, Richard
Subject: Tacoma Rail Reviewer of Milwaukee Way Vacation Request

Rich,

Can you provide me the name of the reviewer from Tacoma Rail for the Milwaukee Way Vacation Request from S. 11th St. to Lincoln Ave? Port of Tacoma has asked to take over the existing storm sewer system and this will affect future connections to the existing storm system for Tacoma Rail. There will need to be some revision to the existing conditions in the report that was provided to the Hearing Examiner on Sept. 26, 2013.

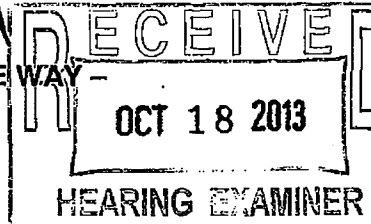


People. Partnership. Performance.

All e-mail communications with the Port of Tacoma are subject to disclosure under the Public Records Act and should be presumed to be public.



TO: HEARING EXAMINER'S OFFICE
FROM: RICHARD PRICE, PW/REAL PROPERTY SERVICES
SUBJECT: REQUEST TO LEAVE THE RECORD OPEN - MILWAUKEE WAY -
124.1108
DATE: OCTOBER 18, 2013



Pursuant to the request to leave the record open, the parties have met and would like to submit revised conditions of approval for the Examiner's consideration. Changes include a request by the Port of Tacoma to take over ownership of the existing 18 inch and 21inch storm sewer mains in Milwaukee Way. As part of the agreement, the Port of Tacoma agrees to allow Tacoma Rail to connect into the storm main.

Attachments include:

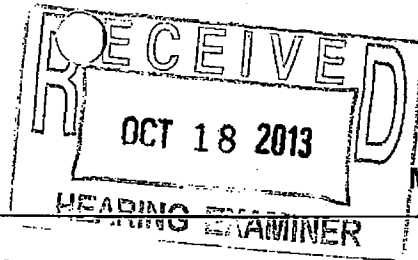
1. Revised comments by Environmental Services
2. Email concurrence from Port of Tacoma to ES memo, and request to consider:
 - a. An ordinance amendment to Ord. No. 28016 - cable communications franchise.
 - b. Amending stormwater utility fees once the infrastructure is transferred to Port of Tacoma.

If I can provide any additional information, please let me know.

EX. 22



City of Tacoma
Environmental
Services



Memorandum

TO: Richard Price, Real Property Services

FROM: Olivia Mathison, Environmental Services, Science & Engineering Division

SUBJECT: Street Vacation Request No. 124.1108
Vacation of Milwaukee Way between East 11th Street and Lincoln Avenue

DATE: October 16, 2013

The following information was provided to Environmental Services for evaluation as part of this proposal:

- Memorandum Re: Street Vacation Request No. 124.1108; Milwaukee Way Lying Between 11th Street and Lincoln Avenue from Richard Price (August 12, 2013)
- Map of Proposed Street Vacation Request No. 124.1108 (August 12, 2103)
- Hearing Examiner Report File No. 124.1108 (January 21, 2000)

Environmental Services has the following Conditions of Approval for the subject street vacation:

1. An easement shall be retained over the entire vacated area for the existing sanitary sewer systems. The entire length of the proposed Milwaukee Way vacation contains a 60-inch diameter sanitary sewer outfall for the City of Tacoma's Central Wastewater Treatment Plant, an 18-inch diameter sanitary sewer main, and an 18-inch diameter storm sewer main. The Port of Tacoma will assume ownership of the existing 18-inch diameter storm sewer main.
2. No permanent structure(s) shall be erected within the public easement area(s) unless specifically approved in writing by the City of Tacoma Environmental Services Director. Permanent structures shall include but not limited to any concrete foundation, wall, rockery, building, portable sheds, private utilities, fences, or other site improvement that will unreasonably interfere with the need to access or construct public storm and/or sanitary sewer utilities in said easement. Permanent structures shall not mean improvements such as normal landscaping, asphalt paving, concrete road paving, gravel, or other similar site improvements that do not prevent the access of men, materials, and machinery across, along, and within the said easement area.

The Port of Tacoma has requested to take over ownership of the existing 18-inch and 21-inch diameter storm sewer mains on Milwaukee Way, noted in SAP as pipe segments (6261437, 6261123, 6263479, 6261354, 6263724, 6261036, and 6266730) and all associated appurtenances. Environmental Services will approve the change of ownership with the following conditions:

3. A Consent to Encroach for the storm main will be required. The consent to encroach may be a part of the easement created for the sanitary sewer mains. The document shall be completed, signed and filed with Pierce County within 15 days after the street vacation becomes effective.

October 18, 2013

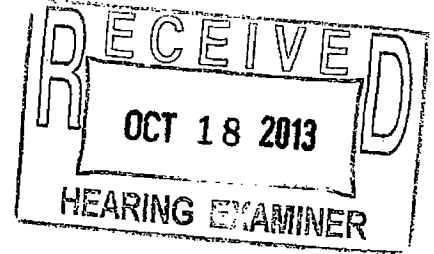
Page 2

4. The Port of Tacoma shall allow Tacoma Rail to connect into the storm main in Milwaukee at the request of Tacoma Rail subject to the requirements of the City of Tacoma's Stormwater Management Manual.
5. The Port of Tacoma shall retain and maintain all associated appurtenances to the storm main for roadway drainage purposes within the East 11th Street right-of-way. If the Port of Tacoma elects not to retain any or all of the associated appurtenances, the Port of Tacoma shall reroute the connections to a City of Tacoma storm main at the Port's expense. Reconnection shall meet all City of Tacoma standards and be approved in writing by Environmental Services prior to construction. The Port of Tacoma shall obtain all required permits for work in the City of Tacoma right-of-way.

OAM:mtp (G:\ENGRNG\Plan Review\Land Use - Non SAP and Pre SAP\Street Vacation\2013\Vacation No. 124.1108 - Milwaukee Way\124 1108 Milwaukee Vacation Conditions of Approval 10-16-13.docx)

Price, Richard

From: McAboy, Kell <kmcaboy@portoftacoma.com>
Sent: Friday, October 18, 2013 4:15 PM
To: Price, Richard
Subject: Milwaukee Way Vacation Request



Hello Rich,

The Port has reviewed the revised memo from Environmental Services and agrees to the amended conditions. We also respectfully submit the following conditions for consideration:

Proposed conditions per Hearing Examiner's request:

1. "The City will work with the Port of Tacoma to adopt a new Ordinance amending Ordinance No. 28016 relating to cable communications and franchise services based on the change in ownership."
2. "The City will amend the stormwater utility fee currently charged to the Port per TMC Chapter 12.08 based on the change in ownership"



People. Partnership. Performance.

All e-mail communications with the Port of Tacoma are subject to disclosure under the Public Records Act and should be presumed to be public.

8000



1000