



City of Tacoma
Hearing Examiner

May 23, 2011

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Real Property Services, City of Tacoma
747 Market Street Room 737
Tacoma WA 98402
(Inter-Office Delivery)

Re: Vacation Petition No. 124.1282

Petitioner: Point Ruston, LLC

Enclosed please find a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation to the Tacoma City Council entered in the above referenced matter as the result of a public hearing held on May 19, 2011.

LOUISA LEGG
Legal Assistant

Enclosures (2): Attachments C & G to Exhibit 1

Cc: Point Ruston, LLC, ATTN: Loren Cohen, 5219 N Shirley St STE 100, Tacoma WA 98407
McCament & Rogers, ATTN: J.J. McCament, 708 Broadway STE 150, Tacoma WA 98402
City Clerk, City of Tacoma
Legal Department, Civil Division, City of Tacoma
Department of Public Works, City of Tacoma (Env. Svcs. Eng./M. Trohimovich-Pollard)
Department of Public Works, City of Tacoma (Solid Waste Mgmt./R. Coyne)
Community & Economic Development Dept. City of Tacoma (BLUS/L. Spadoni)
Community & Economic Development Dept. City of Tacoma (BLUS/J. Magoon)
Department of Public Works, City of Tacoma (Construction/LID/S. Simpson)
Department of Public Works, City of Tacoma (Engineering/S. O'Neill)
Tacoma Fire Department, City of Tacoma (Carl Anderson, P.E.)
Tacoma Power, City of Tacoma (Transmission & Distribution/J. Martinson)
Tacoma Water, City of Tacoma (R. Oster)
CEDD, City of Tacoma (L. Wung)
Pierce County Assessor-Treasurer

c

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION

TO THE

TACOMA CITY COUNCIL

FILE NO.: 124.1282

PETITIONER: Point Ruston, LLC

SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate a 40 to 65-foot wide portion of Ruston Way lying northwesterly of North 49th Street within the City of Tacoma.

RECOMMENDATION OF THE HEARING EXAMINER:

The request is recommended for approval, subject to conditions with the appraised value of the portion of Ruston Way right-of-way proposed to be vacated be determined in accordance with the agreement between the City of Tacoma and Point Ruston entitled, "Agreement for Improvements Within the Asarco-Tacoma Smelter Superfund Site Area OU2", excerpts which are set forth in Exhibit 1 at Exhibit G.

PUBLIC HEARING:

After reviewing the report of the Department of Public Works, Real Property Services Division, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on May 19, 2011.

COPY

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. Point Ruston, LLC (Point Ruston) is requesting the vacation of a portion of Ruston Way right-of-way lying northwesterly of North 49th Street. The length of the right-of-way requested to be vacated is approximately 1,100 linear feet and varies in width between 40 and 65 feet. The proposed vacation area is more particularly described in Exhibit 1 at 1 and 2.
2. The portion of Ruston Way right-of-way sought to be vacated was dedicated for public street purposes when the Map of Tacoma Tidelands was filed for record in April 1895.¹ Exhibit 1 at 2.
3. Ruston Way abuts property owned by Point Ruston that is under development as a large mixed use development that will ultimately occupy the site of the former Asarco Smelter. Point Ruston's development plans, which, for the most part, have received permit approvals, call for re-alignment of Ruston Way adjacent to Point Ruston's development. Exhibit 1 at Exhibit C and Exhibit G. Point Ruston has dedicated from its site additional right-of-way for Ruston Way in order to accomplish the planned re-alignment. Exhibit 1 at Exhibit A.
4. The vacation petition represents a 100 percent joinder by owners of property abutting the right-of-way proposed to be vacated. The Burlington North Santa Fe Railroad (BNSF) is an owner of property abutting the right-of-way sought to be vacated by Point Ruston and has joined in the vacation petition. A contract of sale between Point Ruston and BNSF for the purchase of BNSF's property is currently pending closure of the sale which is expected to occur shortly.
5. Ruston Way is designated as a collector arterial street from McCarver Street in Old Town to the City's northerly city limits and for much of its length extends along the shoreline of Commencement Bay. Provided Ruston Way is re-aligned as contemplated in Point Ruston's development plans and utilities are re-located or retained in easements, the proposed vacation would be considered minor since it would not unreasonably limit the public's right to travel along Ruston Way, nor would it interfere with the ancillary right to occupy the street for utility purposes.
6. The City requires the payment by a petitioner of 100 percent of the value of right-of-way vacated pursuant to state statutory authority unless the City Council waives the charge or a portion thereof. *Tacoma Municipal Code (TMC) 9.22.010*. Here, the City and Point Ruston have entered into an agreement which requires the City to consider, in evaluating right-of-way vacated, the value of the right-of-way dedicated by Point Ruston to the City and the value of Point Ruston's release of rights against the City under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). Exhibit 1, Exhibit G at 7 (subpara. iii).

¹ The Map of New Tacoma Tidelands denotes the public way now known as "Ruston Way" as "Front Street."

7. The vacation of the portion of Ruston Way right-of-way here under consideration, which would become surplus to the City for street purposes with the planned re-alignment of Ruston Way, would benefit the public to the extent that it would provide an improved street route and an upgrade to the physical condition of the street. Also, Point Ruston will be remediating the soil within the new and old Ruston Way rights-of-way as the rights-of-way are part of a Federal Superfund Clean-up site which would also result in a benefit to the public.

8. Since Ruston Way will be re-aligned and improved, the vacation requested would not adversely affect the street pattern or traffic circulation in the area provided the right-of-way is not vacated until Ruston Way is re-aligned and the associated street improvements are completed.

9. With the re-alignment and reconstruction of Ruston Way, the vacation of the portion of Ruston Way right-of-way sought by Point Ruston, the public interest would not be adversely affected and the right-of-way would not be needed for future public use.

10. No property would become landlocked or have its access substantially impaired as a result of the proposed vacation.

11. The portion of Point Ruston right-of-way sought to be vacated by Point Ruston is located upland and away from the shoreline of Commencement Bay (Exhibit 1 at Exhibit E, aerial photograph and plat map). Thus, the provisions of RCW 35.79.035 are not implicated.

12. The street vacation request submitted by Point Ruston has been reviewed by a number of City departments, utility providers, and other governmental agencies. None object to granting of the vacation petition. Certain conditions, however, have been recommended including:

- A. The existing storm sewer line in Ruston Way shall be re-located to the new street alignment and cannot be abandoned until it is re-located and the street vacation finalized.
- B. A power easement shall be retained in the street vacation ordinance over the southerly 15 feet of the vacated Ruston Way right-of-way.
- C. The re-alignment and reconstruction of Ruston Way adjacent to Point Ruston's site, including re-location of utilities, shall be a condition precedent to the final granting of the street vacation described herein.

13. The Department of Public Works, Real Property Services, advises that it intends to compute the value of the vacated right-of-way in accordance with the agreement between the City and Point Ruston. Exhibit 1 at Exhibit G (excerpts).

14. Point Ruston concurs in the conditions recommended and agrees to comply with the same.

15. No one appeared at hearing in opposition to Point Ruston's proposed vacation of a portion of Ruston Way right-of-way.

16. Pursuant to WAC 197-11-800(2)(h), the vacation of streets or roads is exempt from the threshold determination and Environmental Impact Statement requirements of RCW 43.21.C, the State Environmental Policy Act (SEPA).

17. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by *Tacoma Municipal Code (TMC) 9.22.060*.

18. Any conclusion hereinafter stated which may be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction in the matter. *TMC 1.23.050.A.5* and *TMC 9.22.070*.

2. Proceedings involved in the consideration of petitions for the vacation of public rights-of-way are quasi-judicial in nature. *State v. City of Spokane*, 70 Wn.2d 207, 442 P.2d 790 (1967).

3. Petitions for the vacation of public rights-of-way must reviewed for consistency with the following criteria:

1. The vacation will provide a public benefit, and/or will be for 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 land-locked 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 the vacation of right-of-way shall not be in violation of RCW 35.79.035.

TMC 9.22.070.

4. Point Ruston bears the burden of proof to establish that its petition for vacation is consistent with the foregoing criteria. *TMC 1.23.070.A.*

5. Findings entered herein, based on substantial evidence, support a conclusion that the Point Ruston's vacation petition satisfies the legal standards for approval of vacation of rights-of-way provided the following conditions are imposed:

A. SPECIAL CONDITIONS:

1. PUBLIC WORKS / ENVIRONMENTAL SERVICES (ESSE)

- a. The existing storm sewer line in Ruston Way shall be re-located to the new street alignment and cannot be abandoned until it is re-located and the street vacation finalized.

2. PUBLIC WORKS / REAL PROPERTY SERVICES (RPS)

- a. A power easement shall be retained in the street vacation ordinance over the southerly 15 feet of the vacated Ruston Way right-of-way.

3. MISCELLANEOUS

- a. The re-alignment and reconstruction of Ruston Way adjacent to Point Ruston's site, including re-location of utilities, shall be a condition precedent to the final granting of the street vacation described herein.

B. USUAL CONDITIONS:

1. THE RECOMMENDATION SET FORTH HEREIN IS BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.

2. THE AUTHORIZATION GRANTED HEREIN IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES IS A CONDITION PRECEDENT TO THE APPROVALS GRANTED AND IS A CONTINUING REQUIREMENT OF SUCH APPROVALS. BY ACCEPTING THIS/THESE APPROVALS, THE PETITIONER REPRESENTS THAT THE DEVELOPMENT AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVAL GRANTED, THE DEVELOPMENT AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE PETITIONER AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.

6. Accordingly, the Hearing Examiner recommends that the street vacation petition submitted by Point Ruston be granted subject to the conditions set forth in Conclusion 5 above.

7. Any finding hereinbefore stated which may be deemed to be a conclusion herein is hereby adopted as such.

RECOMMENDATION:

The vacation petition is recommended for approval, subject to conditions with the appraised value of the portion of Ruston Way right-of-way proposed to be vacated be determined in accordance with the agreement between the City of Tacoma and Point Ruston entitled Agreement for Improvements Within the Asarco-Tacoma Smelter Superfund Site Area OU2, excerpts which are set forth in Exhibit 1 at Exhibit G.

DATED this 23rd day of May, 2011.



RODNEY M. KERSLAKE, Hearing Examiner

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision/recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

Appeals shall be reviewed and acted upon by the City Council in accordance with TMC 1.70.

GENERAL PROCEDURES FOR APPEAL:

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

Notice - No Fee

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

CITY OF TACOMA WATERWALK
AREA (APPROX 7.84 AC.)

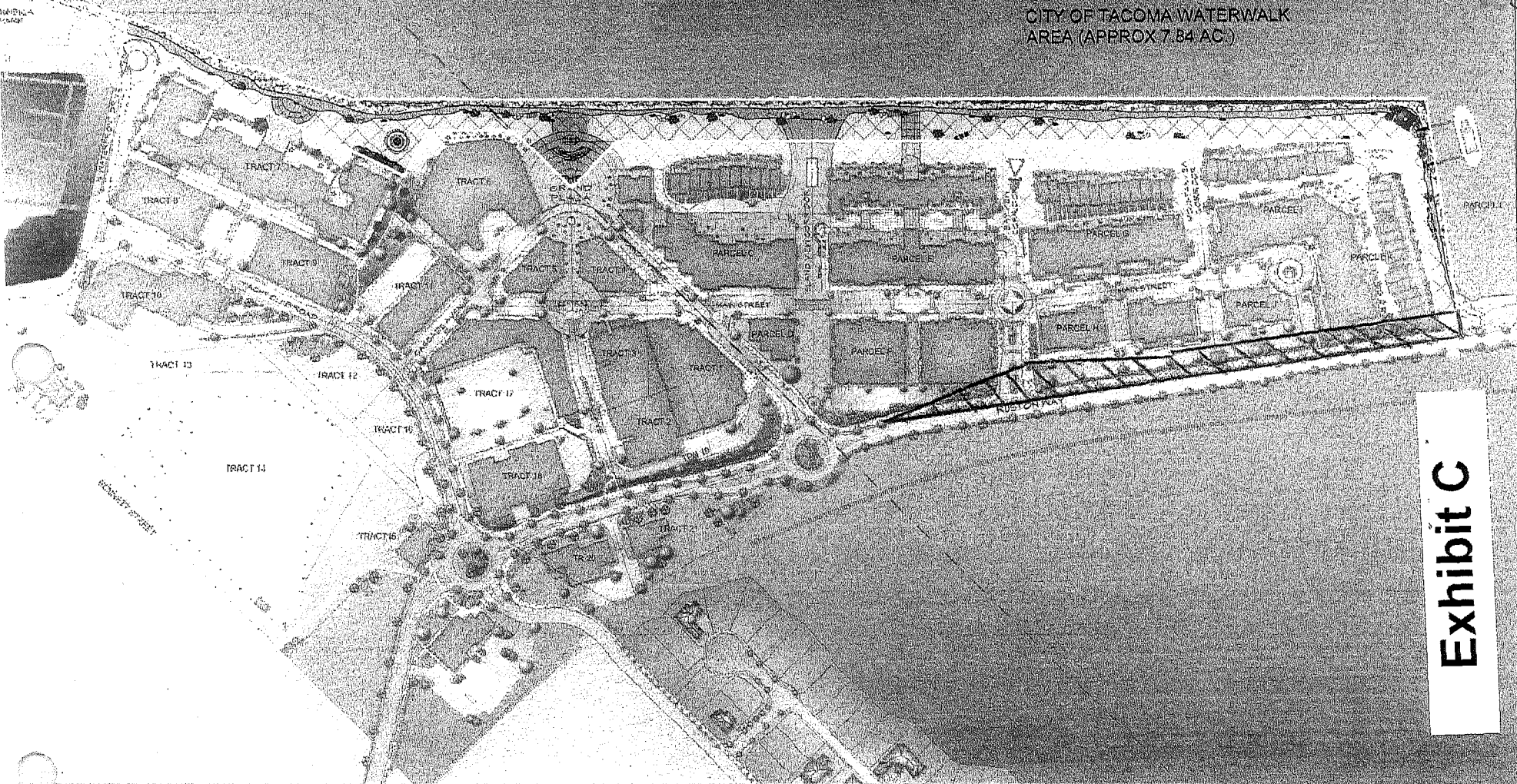
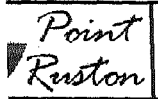


Exhibit C



WATERWALK

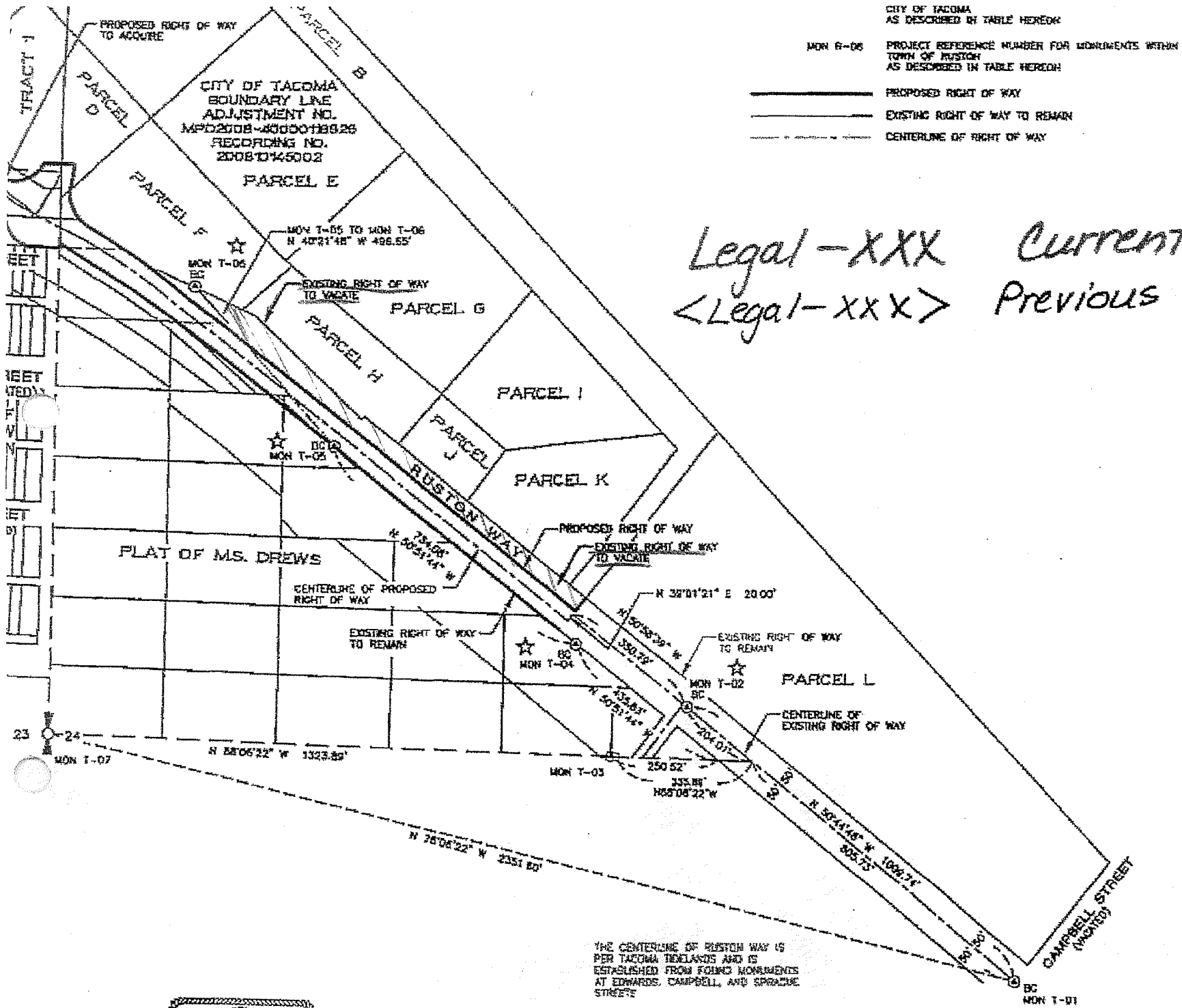
Point Ruston, LLC
 5219 N SHIRLEY ST, STE 100, RUSTON WA 98407

DATE:
2/3/2010

SCALE:
N.T.S.

REVISIONS:

EXHIBIT NUMBER:
EXHIBIT XX



CITY OF TACOMA
AS DESCRIBED IN TABLE HEREOF

MON T-06 PROJECT REFERENCE NUMBER FOR MONUMENTS WITHIN
TOWN OF RUSTON
AS DESCRIBED IN TABLE HEREOF

- PROPOSED RIGHT OF WAY
- EXISTING RIGHT OF WAY TO REMAIN
- CENTERLINE OF RIGHT OF WAY

Legal-XXX Current
<Legal-xxx> Previous versions

THE CENTERLINE OF RUSTON WAY IS
PER TACOMA RECORDS AND IS
ESTABLISHED FROM FOUND MONUMENTS
AT EDWARDS, CAMPBELL, AND SPRAGUE
STREETS



**AGREEMENT FOR IMPROVEMENTS WITHIN THE ASARCO TACOMA
SMELTER SUPERFUND SITE AREA OU2**

THIS AGREEMENT FOR IMPROVEMENTS WITHIN THE ASARCO TACOMA SMELTER SUPERFUND SITE AREA OU2 (this "Agreement") is made as of this 28th day of April, 2009 between the City of Tacoma, a Washington municipal corporation (the "City") and Point Ruston LLC, a Washington limited liability company (the "Developer").

RECITALS

A. The Point Ruston project is a unique combination of a large property development project, and a large and complex environmental remediation project, and is located within the site contaminated by the former Asarco copper smelting operation (the "Site").

B. The Developer and remediator, Point Ruston, LLC, was selected to acquire and remediate the site in competitive public process administered through the United States Bankruptcy court, and approved by the United States Environmental Protection Agency ("EPA").

C. In its remedial responsibilities, Point Ruston is working under a Consent Decree with EPA which directs and governs Point Ruston's responsibility to clean up the Site. The Site is located both in the City of Tacoma (the "City") and the Town of Ruston (the "Town"), and in the absence of a successful completion of the Point Ruston project, issues associated with an unfinished clean-up could create significant problems for the City and the Town.

D. Ruston Way as it passes through the Site, is entirely within an area designated in the Consent Decree as OU2 including properties located in the jurisdiction of both Tacoma and Ruston, and is one of the areas that has been part of the required remedial action from the inception of the original Consent Decree between EPA and Asarco.

E. The Developer had originally considered effecting clean up and reconstruction of Ruston Way (the "Project", as more particularly defined below) through a conventional process with the City, however, the unique circumstances of the Site make such a process complex, difficult and would increase the City's and the Town's risk. Point Ruston LLC and Asarco are signatories to the Consent Decree with EPA for remedial work on the Site that was approved by the federal courts.

F. A conventional LID approach with the City constructing the Project would require some assignment of remedial responsibility under the EPA Consent Decree to the

and apply them toward the repayment of the Bonds, and shall enforce the liens created by those assessments.

(iii) Street Vacation and Rededication. Prior to completion of the Project, the City and Developer will agree to schedules for a vacation and rededication process to create a sixty (60) foot Right-of-Way for Ruston Way on its new alignment, together with an adjoining ten (10) foot utility easement, including dedication of existing Developer Property to the City and Town within their respective jurisdictions, and City release of surplus Right-of Way to Developer. In valuing any Right-of-Way vacated to Developer, the City will consider the value of the Developer Property dedicated to the City and the value of Developer's release of its rights against the City pursuant to Section 6.2 of this Agreement. *

3. Developer's Responsibilities and Obligations.

3.1 Developer's Design, Construction and Project Transfer Responsibilities. Except as otherwise expressly provided herein, Developer shall at its sole cost and expense obtain all permits and furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for completion of the Project, all consistent with this Agreement. The Developer shall designate a project manager, and provide contact information to the City for that project manager, his/her successors, and for other Developer personnel involved in interfacing with the City in connection with Developer's work on the Project. The Developer shall pay the City out of the proceeds of the Bonds to provide for the City's actual costs for engineering, survey, appraisal, legal and other expenses related to the improvements and the formation of the LID. The Developer shall also pay the City amounts customarily required in connection with City permits associated with construction of the Project, to assure consistency with City standards and to verify quantities of materials used in connection with the construction. The Developer shall provide all interim financing for the project during the design and construction period, and transfer by warranty deed, bill of sale and/or right-of-way dedication (as applicable) the completed improvements comprising the Project to the City and the Town respectively, in exchange for the proceeds of the Bonds issued to pay for the improvements within the LID. The Developer shall provide the City with sufficient documentation for the City to determine that, based on the work and materials involved, the amount to be paid to the Developer from Bond proceeds is appropriate. In the event that the actual cost of the Project is greater than may be lawfully assessed against the Developer Property, the Developer shall nevertheless finance, complete and transfer the completed improvements comprising the Project to the City and the Town respectively for an amount equal to the portion of Bonds issued to pay for those improvements (i.e., the amount of the Bonds less costs of funding the Guaranty Fund, the Supplemental Reserve Fund and the portion of Project costs comprised of the City's LID formation/assessment costs and Bond issuance costs). The Developer shall be responsible for any and all costs of the Project in excess of that amount. In carrying out the Project, the Developer shall conduct remedial

5.7 Substantial Completion. Upon Developer's determination that Substantial Completion of the Project has been achieved, Developer shall provide to City a written Notice of Substantial Completion. The City shall have ten (10) business days working in coordination with the Town to reasonably identify any incomplete items that would preclude Substantial Completion ("punch-list items"). If no response is received from the City within the required time, the Project shall be deemed Substantially Complete as of the date of the Notice of Substantial Completion.

6. Disclaimer of City Liability, Indemnity.

6.1 Preparation of Site; Utilities. The City shall not be responsible for any excavation, demolition or site preparation in connection with the Project or any existing improvements on the Ruston Way Property. The City makes no representations as to the availability or suitability of utility connections to the Ruston Way Property. The Developer shall make agreements for all utility services directly with the service provider.

6.2 AS IS. Except as expressly set forth herein, Developer undertakes the Project improvements on the Ruston Way Property "as is" and "where is" with all faults, of any nature or kind, without any representations or warranties, express or implied or statutory of any kind whatsoever by the City, or any employee, officer, agent or representative of the City. Upon sale of the Bonds and City's acquisition of the Project, Developer shall be deemed to have accepted such Ruston Way Property and to have waived and released its right to recover from the City any and all damages, losses liabilities, costs, including but not limited to "remedial action" and "response" costs as these terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601(24) and (25), as amended, expenses whatsoever (including attorneys' fees and costs) and claims therefor, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way arising out of the design and construction of the Project, or Ruston Way Property that may be conveyed to the Developer by street vacation. Without limitation of the foregoing waiver and release, the parties agree that the above waiver and release shall not serve to release any third party from any such damage, loss liability, cost, expense or claim incurred by Developer. The City makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Ruston Way Property or structures thereon for any Project improvements to be constructed by the Developer, and Developer warrants that it has not relied on representations or warranties, if any, made by the City as to the physical or environmental condition of the Ruston Way Property or the structures thereon for any Project improvements to be constructed by the Developer.

6.3 Indemnification of the City and Town. Developer shall indemnify, defend and hold the City and Town harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with the construction of the Project,



PRELIMINARY REPORT

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

**For the Hearing to be Held
Thursday, May 19, 2011 at 9:30 AM**

PETITIONER: Point Ruston, LLC

FILE NO. 124.1282

A. SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate a 40 to 65 foot wide portion of Ruston Way lying northwesterly of North 49th Street, as shown on the attached map exhibit.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

Vacating that portion of Ruston Way within Section 24, Township 21 North, Range 2 East, W.M., City of Tacoma, Pierce County, Washington, described as follows:

COMMENCING at the west quarter corner of said section, being a 2" brass disk scribed with an "X";
THENCE along the center line of said section, S 88°06'22" E, 1323.89 feet to the southeast corner of the southwest quarter of the northwest quarter thereof, being a stone scribed with an "X";
THENCE continuing S 88°06'22" E, 46.00 feet to the northerly margin of N. 49th Street as dedicated by Deed D-1097 on file in the office of Real Property Services at Tacoma, Washington;
THENCE along said northerly margin, N 37°40'36" E, 125.84 feet to the southwesterly margin of Front Street (also known as Ruston Way);
THENCE along said southwesterly margin of Ruston Way, N 50°58'39" W, 320.88 feet;
THENCE N 39°10'44" E, 60.00 feet to the TRUE POINT OF BEGINNING;
THENCE N 50°58'39" W, 1001.83 to the southwesterly margin of Ruston Way;
THENCE along said southwesterly margin, N 40°18'49" W, 56.41 feet;
THENCE continuing along said southwesterly margin, N 88°06'22" W, 17.29 feet;
THENCE N 50°58'39" W, 172.22 feet to a point of curvature;

THENCE northwesterly 127.14 feet along the arc of a tangent curve to the left, having a radius of 1069.00 feet, through a central angle of 06°48'51" to a point of tangency;

THENCE N 57°47'30" W, 10.00 feet;

THENCE N 55°59'27" W, 31.03 feet to the northeasterly margin of Ruston Way;

THENCE along said northeasterly margin, the following courses:

S 56°51'07" E, 144.96 feet;

N 51°29'32" E, 2.71 feet;

S 64°35'50" E, 251.65 feet;

S 45°11'50" E, 348.88 feet;

N 51°24'10" E, 10.08 feet;

S 50°58'39" E, 672.45 feet;

THENCE S 39°10'44" W, 40.00 feet to the TRUE POINT OF BEGINNING;

Except that portion conveyed to the City of Tacoma by the Tacoma Smelting Company by Deed recorded April 17, 1912, under Pierce County recording number 359283, also known as City of Tacoma Deed number D-548; and

Except that portion conveyed to the City of Tacoma by the American Smelting and Refining Company June 24, 1964, by the Quit Claim Deed and Easement recorded under Pierce County Recording number 2129771, also known as City Deed number D-3339; and

Except that portion, if any, dedicated to the City of Tacoma by Point Ruston, LLC, on October 1, 2010, under Pierce County Recording number 201010011015, also known as City Deed Number D-7126.

2. Notification:

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.

C. PURPOSE OF REQUEST:

The Petitioner plans on acquiring the vacated area for the purpose of a mixed use development. As part of the development, a new public street and associated utility improvements will be constructed on the remaining 60 foot right of way under Work Order Numbers 6-22216 (Sanitary Sewer), 6-16816 (Storm & Woody Debris Removal), and 6-21064 (Roadway Improvements).

D. HISTORY:

The City of Tacoma acquired the right of way proposed to be vacated within the plat of Tacoma Tide Lands, as per plat recorded in volume 2 of Plats, Pages 18 and 19, records of Pierce County, Washington.

E. PHYSICAL LAND CHARACTERISTICS:

Ruston Way is a 70 to 120 foot wide right of way and is improved with a 28 foot wide asphalt road surface running down the center. The proposed vacation area is approximately 1,100 feet in length, the topography is mostly level, and runs in a northwesterly direction toward the town of Ruston. Ruston Way is designated as a collector arterial street from McCarver Street to the northerly city limits. The vacation is of a minor nature and will not impact the road alignment once constructed.

F. 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.

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.

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

G. ADDITIONAL INFORMATION:

The city has secured a right of way deed from the Petitioner for the new Ruston Way alignment. The new alignment is shown on the site map and sketch shown in Exhibit C. The street vacation ordinance will not come before the City Council for final reading or recorded with Pierce County until the new road is constructed and all applicable utilities have been relocated, per Work Order numbers 6-22216 (Sanitary Sewer), 6-16816 (Storm & Woody Debris Removal), and 6-21064 (Roadway Improvements).

H. PROJECT RECOMMENDATIONS:

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Real Property Services Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

Plat Map and BLA – Exhibit A

City Deed Numbers D-548, D-3339, and D-7126 – Exhibit B
New Ruston Way Alignment Map and Sketch – Exhibit C
PW/Review Panel and Land Use Email– Exhibit D
PW/Traffic Engineering – Exhibit E
PW/Real Property Services – Exhibit F
ASARCO Tacoma Smelter Superfund Site Area OU2 (*Excerpts*) – Exhibit G
Tacoma Power – See Real Property Services Comment – Exhibit F

Puget Sound Energy – No objections
Tacoma Fire Department – No objections
PW/BLUS, Plan Review Section – No objection
Pierce Transit – No objection
Comcast Communications – No objection

I. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, the Real Property Services Division recommends that the following conditions be made conditions of approval for this street vacation petition.

1. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way.

In consideration of a road dedication deed(s) granted to the city, the petitioner will receive a credit equal to the value of the dedicated land toward the cost of this street vacation pursuant to the Agreement for Improvements within the ASARCO Tacoma Smelter Superfund Site Area OU2, attached as Exhibit G. The petitioner will be required to pay 100% of the remaining cost of the vacated right of way.

2. PUBLIC WORKS REVIEW PANEL

- a. Please contact Craig Kuntz at 594-7820 regarding the Review panel's comments.
- b. Item 5, (3/3/ 09) – The Review Panel has no objections, except: 1) Traffic and Construction will respond via separate memorandum or email by staff already reviewing the Point Ruston Work Order and right of way improvements; and 2) ESSE staff will provide comments separate via email or memorandum; and 3) Land Use staff will provide comments separate via email or memorandum.

Via email in response to comment 3 Land Use said the following: “It looks like the proposed street vacation for Point Ruston roughly conforms with the BLA that was approved in 2008. If there are any concerns about the area, I’d suggest working with Jeff Webster since he reviewed the BLA from a surveyor’s perspective. Also,

be sure to connect with the people working on the Pt. Ruston LID to make sure the areas match up.”

3. PUBLIC WORKS / TRAFFIC ENGINEERING

- a. Please contact Jennifer Kammerzell at 591-5511 regarding Traffic Engineering’s comments.
- b. *The vacation is consistent with the new roadway plans. This is something that has been underway for quite awhile now and Rich [Price], Josh [Diekmann], & the rest of the Point Ruston review team have seen and reviewed.*

4. PW/ENVIRONMENTAL SERVICES (ESSE)

- a. Please contact Jessica Knickerbocker at 502-2219 regarding Environmental Service’s comments.
- b. No objections; however, the existing storm sewer in Ruston Way must be relocated to the new alignment before the existing storm sewer can be abandoned and the street vacation can become final.

5. PW/REAL PROPERTY SERVICES (RPS)

- a. Please contact Troy Stevens at 591-5535 regarding RPS comments.
- b. According to the Point Ruston, LLC, Public Utility Plan 6-19292, a power easement will be reserved in the ordinance over the entire southerly 15 feet of vacated Ruston Way for the benefit of Tacoma Power. Please see Exhibit F

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.

STATE OF WASHINGTON,
Board of Tide Land Appraisers,
PIERCE COUNTY,
Washington

MAP OF TACOMA TIDE LANDS.

Volume 2.

April, 1895.

Scale of Sheets 1 inch to 100 ft.

WASHINGTON:

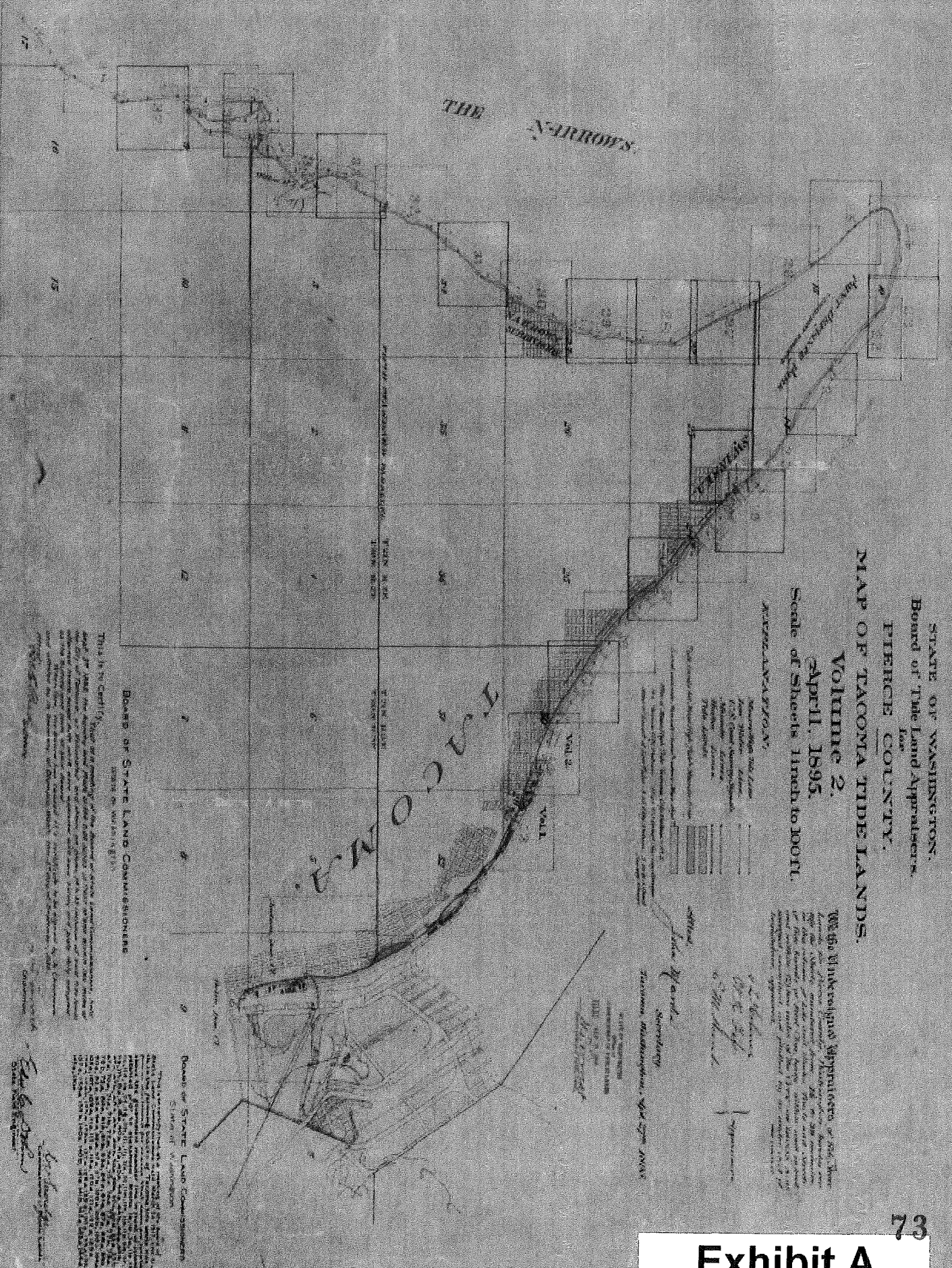
Published by the
State of Washington,
at the office of the
Board of Tide Land Appraisers,
Tacoma, Washington.

100,000 U.S. Acres
of the State of Washington
are under the management of the
Board of Tide Land Appraisers,
and it is the duty of the Board
to determine the value of the
lands and to sell the same for
the benefit of the State. The
lands are divided into three
classes, and are sold to the
highest bidder. The Board
is composed of five members,
and is elected by the voters of
the State.

W. C. B. S. Appraiser

John Ward Secretary

W. C. B. S. Appraiser



BOARD OF STATE LAND COMMISSIONERS
STATE OF WASHINGTON

BOARD OF STATE LAND COMMISSIONERS
STATE OF WASHINGTON

The Board of State Land Commissioners, created by the State of Washington, is responsible for the management of the State's public lands. The Board is composed of five members, and its duties include determining the value of the lands, selling them for the benefit of the State, and overseeing the development and use of the lands. The Board's actions are subject to the review and approval of the State's Governor.

W. C. B. S. Appraiser

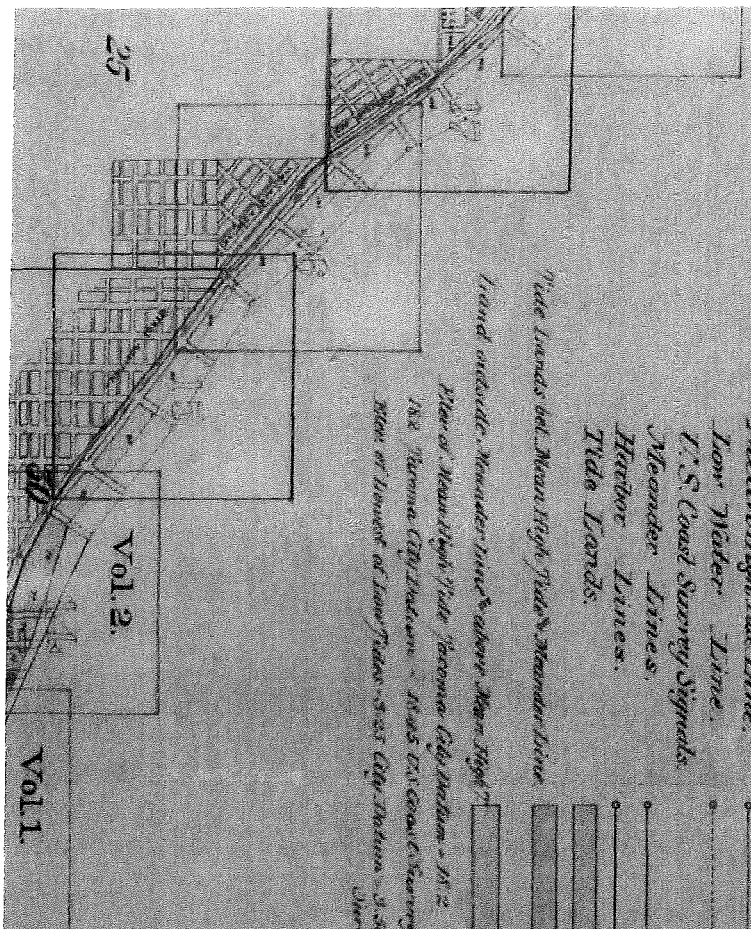
Volume 2.

April, 1895.

Scale of Sheets 1 inch to 100 ft.

EXPLANATION:

- Mean High Tide Line
- Low Water Line
- U.S. Coast Survey Signals
- Meander Lines
- Harbor Lines
- Tide Lands
- Tide Lands bet. Mean High Tide & Meaner Line
- Tide Lands bet. Meaner Line & above Mean High Tide
- Plan of Mean High Tide Tacoma City Division - 1882
- Plan of lowest of Low Tides - 1885 City Division - 1885
- Plan of lowest of Low Tides - 1885 City Division - 1885
- Survey of 1885



Walter Underreigned Appraisers of Tide Shore Lands for Pierce County, Washington, hereby certify the sheets numbered from 14 to 39 inclusive, in this volume of lots and blocks, tracts and streets of Tide Lands of West Pass, lying within and adjacent and within 12 1/2 mile miles of the City of Tacoma, W. A., as surveyed, examined, and plotted by us under title of Legislature, approved.

W. L. Holman

W. H. Gale

C. M. Wood

Appraisers

Attest,

John M. Arden

Secretary

Tacoma, Washington, April 27th 1895.

STATE OF WASHINGTON
Office of
COMMISSIONER OF PUBLIC LANDS
FILED SEP 3 1895
W. J. Tompsett
Commissioner of Public Lands

7

8

9

BOARD OF STATE LAND COMMISSIONERS

State of Washington

This is to Certify

That at a meeting of the Board of State Land Commissioners, held Sept. 3rd 1895, the survey and plots of the tide lands in front of and within two miles of the City of Tacoma, as delineated and shown on plans 14b, 33 inclusive of said tide lands as the survey and plots of said Board.

Wherefore, the Board has caused this certificate to be signed by its Chairman and attested by its Secretary, of Olympia, Wash., this 3rd day of September, 1895.

Attest:

M.C. Burt
Secretary

W.M. Jernick
Chairman

E.W. S. Johnson
State Field Engineer

W. Swartzel
Commissioner of Public Lands

Swain, Dom. Cl.

BOARD OF STATE LAND COMMISSIONERS

State of Washington

This is to certify that at a meeting of the Board of State Land Commissioners held March 24, 1917, the title to the following blocks of Tacoma tide lands was forever disclaimed for reason that same are located above the government meander line in front of uplands patented prior to statehood: blocks 1a, 1b, 2a, 1b, 11c, 11d, 11e, 11f, 11g, 11h, 11i, 11j, 11k, 11l, 11m, 11n, 11o, 11p, 11q, 11r, 11s, 11t, 11u, 11v, 11w, 40a, 41a, 42a, 43a, 44a, 45a, 46a, 47a, 47b, 48a, 49a, 49b, 50a, 50b, 50c, 50d, 55a, 55b, 67a, 70a, 71a, 71b, 72a, 74a, 75a, 76a, 77a, 77b, 79a, 79b, 79c, 80a, 81a, 81b, 82a, 84a, 86a, 87a, 88a, 89a, 90a, 92a, 93a, 94a, 95a, 97a, 97b, 100a, 100b, 105a, 106a, 107a, 107b, 109a, 111a, 112a, 115a, 120a, 121a, 122a, 125a, 124a, 124b, 125a, 125b, 127a, 128a, 129a, 130a, 135a, 136a, 137a, 139a, 139b, 140a, 140b, 141a, 141b, 142a, 143a, 144a, 145a, 150a.

TF27-058

SEC 21 T 43 N R 25 E
SEC 24

City Limits

D. H. E. W. S.
W. L. A. N. T.

FRONT

50' 0" 5' 0" 5' 0"
WATER STREET

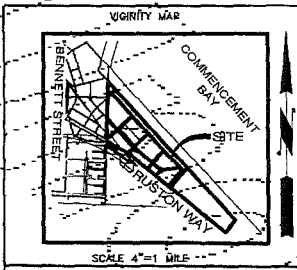
CAMPBELL

CITY OF WASHINGTON
COMMISSIONERS OF THE DISTRICT OF COLUMBIA
OFFICE OF THE SURVEYOR
NO. 1000 M STREET, N.W.

76

TRENTON

For reference only, not for re-sale.



THIS BOUNDARY LINE ADJUSTMENT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE OWNERS.
Michael A. Cohen
POINT RUSTON, LLC.

CITY OF TACOMA
BOUNDARY LINE ADJUSTMENT 4000018326
MPD2008-40018826

A PORTION OF GOVERNMENT LOTS 1 AND 2,
SECTION 24, T21N, R2E, W.M.

ORIGINAL TRACT:
ASSESSOR'S PARCEL NO(S) 8950003310 (FOR ALL PARCELS)

THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION

LAND USE ADMINISTRATOR
APPROVED IN COMPLIANCE WITH CHAPTER 13.04 OF THE OFFICIAL CODE OF THE CITY OF TACOMA.

Janet Moore
LAND USE ADMINISTRATOR

APPROVED FOR RECORDING
Janet Moore 10/14/08
CHIEF SURVEYOR, PUBLIC WORKS

CITY TREASURER
I HEREBY CERTIFY THAT ALL DELINQUENT ASSESSMENTS HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREON, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED. 10/14/08
Janet Moore / *Morgan D. Jacobson*
CITY TREASURER

ASSESSOR/TREASURER
I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREON, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED.
Ken Madson 10/14/08
ASSESSOR/TREASURER

AUDITOR'S CERTIFICATE
20081015002
FILED FOR RECORD THIS 14th DAY OF October 2008 AT 2:42 P.M. IN BOOK OF AT PAGE 2008 AT THE REQUEST OF *Pat McCarthy by Invalland* \$143.00
CITY AUDITOR

SURVEYOR'S CERTIFICATE
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF PT. RUSTON, LLC, IN JANUARY, 2008.
NAME DANIEL W. ACKERMAN
CERTIFICATE NO. 39572
EMPLOYED BY. ESM CONSULTING ENGR'S.

ORIGINAL TRACT OWNER FULL NAME ADDRESS & ZIP
POINT RUSTON, LLC. PHONE 253-752-2185
5219 N. SHIRLEY STREET, SUITE 100
RUSTON, WA 98407-36599

EXISTING ZONING S-0
SOURCE OF WATER CITY OF TACOMA
TYPE OF ACCESS TACOMA WA 98423-2901
SEWER SYSTEM CITY OF TACOMA
SCALE NO. OF ADJUSTED PARCELS 12
DRAWN BY DLR CHECKED BY BWA JOB NO. 260810145002

ACKNOWLEDGMENTS

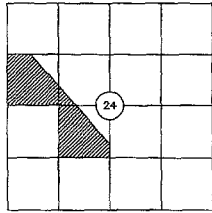
STATE OF WASHINGTON)
COUNTY OF PIERCE) SS
ON THIS 13 DAY OF October 20 08 BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, PERSONALLY APPEARED MICHAEL A. COHEN TO ME KNOWN TO BE MANAGER OF THE LLC THAT EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID COMPANY FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE SAID INSTRUMENT.
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.
SIGNATURE OF NOTARY PUBLIC
PRINTED NAME MARY M. OLDFIELD
DATED 13 October 2008
MY APPOINTMENT EXPIRES 4/19/2012



ORIGINAL LEGAL DESCRIPTIONS:

THAT PORTION OF THE FOLLOWING DESCRIBED PARCELS LYING WITHIN THE CORPORATE LIMITS OF THE CITY OF TACOMA, PIERCE COUNTY, WASHINGTON:
PARCEL A:
ALL OF BLOCKS 112, 112A, 113, 113A AND 114 OF TACOMA TIDE LANDS, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGES 18 AND 19, RECORDS OF PIERCE COUNTY AUDITOR;
TOGETHER WITH THAT PORTION OF VACATED ENELL STREET ADJOINING, WHICH, UPON VACATION, ATTACHED TO SAID PROPERTY BY OPERATION OF LAW;
TOGETHER WITH PORTIONS OF SPRAGUE STREET, WHICH HAVE BEEN HERETOFORE VACATED, LYING BETWEEN RUSTON WAY AND THE INNER HARBOR LINE OF THE 1961 SUPPLEMENTAL MAPS OF TACOMA TIDE LANDS, AS SHOWN ON THE OFFICIAL MAPS OF SAID TIDELANDS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON;
PARCEL B:
THAT CERTAIN STRIP OF LAND 24 FEET IN WIDTH AND RUNNING THROUGH LOT "C" AND LOT 1 AS THE SAME ARE SHOWN AND DESIGNATED ON M.S. DREW'S PLAT OF LOT 1 OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE W.M., RECORDED IN THE OFFICE OF THE AUDITOR OF PIERCE COUNTY WASHINGTON, ON OCTOBER 24, 1872 AND RECORDED IN VOLUME 1 OF PLATS, PAGE 16, RECORDS OF PIERCE COUNTY AUDITOR, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
IN SAID LOT C, BEGINNING AT THE NORTHWEST CORNER OF SAID LOT C;
THENCE SOUTH 28.2 FEET;
THENCE SOUTH 51°14'00" EAST, 72.1 FEET;
THENCE SOUTH 48°44'00" EAST ON A LINE 12 FEET FROM CENTER LINE OF RAILROAD SURVEY 145.8 FEET;
THENCE EAST 38.4 FEET;
THENCE NORTH 48°44'00" WEST ON A LINE PARALLEL WITH AND 12 FEET DISTANT FROM CENTER LINE OF RAILROAD SURVEY 175.8 FEET;
THENCE NORTH 51°14'00" WEST, 77.2 FEET;
THENCE WEST 13.6 FEET TO PLACE OF BEGINNING;
IN SAID LOT 1, BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1;
THENCE WEST 28.5 FEET;
THENCE SOUTH 51°14'00" EAST, 37.9 FEET;
THENCE NORTH 23.7 FEET TO THE POINT OF BEGINNING;
EXCEPT THAT PORTION, IF ANY, CONVEYED TO THE PORT TOWNSEND SOUTHERN RAILROAD COMPANY BY INSTRUMENT RECORDED UNDER RECORDING NO. 368323, RECORDS OF PIERCE COUNTY AUDITOR;
AND
LOTS 1 THROUGH 16, INCLUSIVE, IN BLOCK 110 AND LOTS 1 THROUGH 18, INCLUSIVE, OF BLOCK 109 AND LOTS 1 THROUGH 19, INCLUSIVE, OF BLOCK 108 OF TACOMA TIDE LANDS, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGES 18 AND 19, RECORDS OF PIERCE COUNTY AUDITOR;
TOGETHER WITH THAT PORTION OF VACATED ENELL STREET, RUSTON WAY (FRONT STREET) AND SPRAGUE STREET, ADJOINING, WHICH, UPON VACATION, ATTACHED TO SAID PROPERTY BY OPERATION OF LAW;
AND TOGETHER WITH THAT PORTION OF VACATED RUSTON WAY AS VACATED BY ORDINANCE NO. 17957 OF THE CITY OF TACOMA RECORDED NOVEMBER 22, 1965 UNDER RECORDING NO. 2125358, RECORDS OF PIERCE COUNTY AUDITOR, WHICH UPON VACATION, ATTACHED TO SAID PROPERTY BY OPERATION OF LAW;
AND
BLOCK 111 OF TACOMA TIDE LANDS, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGES 18 AND 19, RECORDS OF PIERCE COUNTY AUDITOR;
EXCEPT THAT PORTION CONVEYED TO THE CITY OF TACOMA BY DEED RECORDED DECEMBER 30, 1985 UNDER RECORDING NO. 2129771, RECORDS OF PIERCE COUNTY AUDITOR;

INDEX DATA



T21N, R2E, W.M.

ORIGINAL LEGAL DESCRIPTIONS, CONT.

AND EXCEPT THAT PART OF SAID BLOCK 111 LYING SOUTH OF A PROLONGATION OF THE LINE BETWEEN LOTS C AND D IN M.S. DREW'S PLAT AS SAID LOTS APPEAR OF RECORD ON SAID PLAT IN THE OFFICE THE AUDITOR OF SAID PIERCE COUNTY;
AND EXCEPTING ALSO THE PART OF SAID LOT 111 HERINAFTER EXCEPTED;
AND
LOTS A AND B OF M.S. DREW'S PLAT, AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 16, RECORDS OF PIERCE COUNTY AUDITOR;
EXCEPT FROM SAID LOT B, THAT PORTION THEREOF DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT B;
THENCE NORTH 140 FEET;
THENCE SOUTHEASTERLY 245 FEET TO THE SOUTH LINE OF SAID LOT B;
THENCE WEST 205 FEET TO THE POINT OF BEGINNING;
AND EXCEPT THE PARCELS OF LAND BOUNDED AND DESCRIBED AS FOLLOWS:
BEGINNING ON THE WESTERLY LINE OF FRONT STREET AS SHOWN ON PLAT OF TACOMA TIDE LANDS, AT THE INTERSECTION OF SAID WESTERLY LINE WITH THE EXTENSION EAST OF THE SOUTH LINE OF LOT B OF M.S. DREW'S PLAT IN SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE W.M.;
THENCE ON SAID SOUTH LINE AND ITS EXTENSION NORTH 89°31'53" WEST, 130.78 FEET TO ITS INTERSECTION WITH THE EASTERLY LINE OF THE RIGHT OF WAY DEEDED BY CHARLES A. ENELL AND WIFE TO DENIS RYAN AS RECORDED IN THE OFFICE OF COUNTY AUDITOR OF PIERCE COUNTY IN VOLUME 58 OF DEEDS, PAGE 230, RECORDS OF PIERCE COUNTY AUDITOR;
THENCE ALONG SAID EASTERLY LINE OF RIGHT OF WAY AS DESCRIBED IN SAID DEED, NORTH 56°14'00" WEST, 126.2 FEET;
THENCE NORTH 58°44'00" WEST 202.0 FEET TO THE WEST LINE OF LOT "A" OF SAID M.S. DREW'S PLAT AT A POINT 10 FEET NORTH OF THE SOUTHWEST CORNER THEREOF;
THENCE ALONG SAID WEST LINE NORTH 07°03'27" EAST, 98.44 FEET TO AN INTERSECTION WITH THE EXTENSION EAST OF THE NORTH LINE OF DOCK STREET AS SHOWN ON PLAT OF BAY VIEW;
THENCE ALONG SAID EXTENSION OF NORTH LINE OF DOCK STREET SOUTH 87°02'25" EAST, 38.675 FEET TO A LINE PARALLEL WITH AND 70 FEET NORTHEASTERLY FROM MEASURED AT RIGHT ANGLES TO SAID EASTERLY LINE OF DENIS RYAN RIGHT OF WAY;
THENCE ALONG SAID PARALLEL LINE SOUTH 38°44'00" EAST, 218.64 FEET TO AN EXTENSION SOUTHWESTERLY OF THE LINE COMMON TO LOTS 10 AND 11, BLOCK 110 OF SAID TACOMA TIDE LANDS;
THENCE ALONG SAID EXTENSION NORTH 50°01'39" EAST, 60.37 FEET TO SAID WESTERLY LINE OF FRONT STREET;
THENCE ALONG SAID WESTERLY LINE SOUTH 39°58'21" EAST, 210.64 FEET TO THE POINT OF BEGINNING;
AND EXCEPT THE PARCELS OF LAND BOUNDED AND DESCRIBED AS FOLLOWS:
IN SAID LOT A, BEGINNING AT THE WEST LINE OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE W.M., AT A POINT 155 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT A;
THENCE SOUTH 10 FEET TO THE SOUTHWEST CORNER OF SAID LOT A;
THENCE EAST 16.4 FEET;
THENCE NORTH 58°44'00" WEST, 49.2 FEET ON A LINE PARALLEL TO AND 12 FEET DISTANT FROM THE CENTER LINE OF RAILROAD SURVEY TO POINT OF BEGINNING;
AND EXCEPT THE PARCEL OF LAND BOUNDED AND DESCRIBED AS FOLLOWS:
IN SAID LOT B, BEGINNING AT THE NORTHWEST CORNER OF SAID LOT B;
THENCE SOUTH 18 FEET;
THENCE SOUTH 58°44'00" EAST ON A LINE PARALLEL TO AND 12 FEET DISTANT FROM THE CENTER LINE OF RAILROAD SURVEY, 187 FEET;
THENCE SOUTH 56°14'00" EAST 89.8 FEET;
THENCE EAST 4.1 FEET;
THENCE NORTH 56°14'00" WEST, 126.2 FEET;
THENCE NORTH 58°44'00" WEST ON A LINE PARALLEL TO AND 12 FEET FROM THE CENTER LINE OF RAILROAD SURVEY, 182.5 FEET;
THENCE WEST 16.4 FEET TO POINT OF BEGINNING;
PARCEL C:
BLOCK B OF SUPPLEMENTAL MAPS OF TACOMA TIDE LANDS, AS SHOWN ON THE OFFICIAL MAPS OF SAID TIDELANDS ON FILE IN THE OFFICE OF COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON.
EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PARCELS A, B, AND C LYING WITHIN THE TOWN OF RUSTON.

ESM CONSULTING ENGINEERS LLC
33915 1st Way South #200
Federal Way, WA 98003
www.esmcivil.com
Civil Engineering Public Works
Land Surveying Project Management
Land Planning Landscape Architecture
JOB NO. 1278-002-006 DATE: 10-13-2008
DRAWN: DLR SHEET 1 OF 8

ADJUSTED LEGAL DESCRIPTIONS, CONTINUED:

PARCEL 1
 THAT PORTION OF LOTS 8 THROUGH 14, INCLUSIVE, BLOCK 109 OF THE PLAT OF TACOMA TIDE LANDS, AS RECORDED IN VOLUME 2 OF PLATS, PAGES 18 AND 19, RECORDS OF PIERCE COUNTY, WASHINGTON, ALSO BEING A PORTION OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION, BEING A 2" BRASS DISK SCRIBED WITH AN "X", SET IN AN IRON CASE FROM WHICH THE CENTER WEST SIXTEENTH CORNER OF SAID SECTION 24, BEING A STONE SCRIBED WITH AN "X", BEARS S 88°06'22" E, 1323.89 FEET;

THENCE ALONG THE WEST LINE OF SAID SECTION 24, N 04°29'42" E, 1625.67 FEET;

THENCE S 42°51'51" E, 729.26 FEET;

THENCE S 48°52'33" E, 700.58 FEET TO THE TRUE POINT OF BEGINNING;

THENCE N 83°55'30" E, 380.32 FEET TO THE SOUTHWESTERLY LINE OF BLOCK B OF THE 1981 SUPPLEMENTAL MAPS OF TACOMA TIDELANDS AS SHOWN ON THE OFFICIAL MAPS OF SAID TIDELANDS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON;

THENCE ALONG SAID SOUTHWESTERLY LINE, S 42°35'02" E, 50.49 FEET;

THENCE S 39°10'25" W, 409.63 FEET TO THE SOUTHWESTERLY LINE OF SAID BLOCK 109;

THENCE ALONG SAID SOUTHWESTERLY LINE, N 50°58'39" W, 315.18 FEET;

THENCE N 38°11'00" E, 147.63 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 1
 THOSE PORTIONS OF BLOCK B OF THE 1981 SUPPLEMENTAL MAPS OF TACOMA TIDELANDS AS SHOWN ON THE OFFICIAL MAPS OF SAID TIDELANDS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON;

TOGETHER WITH LOTS 1 THROUGH 6 INCLUSIVE, BLOCK 109, AND LOTS 1 THROUGH 19, INCLUSIVE 7, BLOCK 108, OF THE PLAT OF TACOMA TIDE LANDS, AS RECORDED IN VOLUME 2 OF PLATS, PAGES 18 AND 19, RECORDS OF PIERCE COUNTY, WASHINGTON, ALSO BEING A PORTION OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION, BEING A 2" BRASS DISK SCRIBED WITH AN "X", SET IN AN IRON CASE FROM WHICH THE CENTER WEST SIXTEENTH CORNER OF SAID SECTION 24, BEING A STONE SCRIBED WITH AN "X", BEARS S 88°06'22" E, 1323.89 FEET;

THENCE ALONG THE WEST LINE OF SAID SECTION 24, N 01°29'42" E, 2076.57 FEET;

THENCE N 47°24'58" E, 207.15 FEET TO THE NORTHEASTERLY LINE OF SAID BLOCK B;

THENCE ALONG SAID NORTHEASTERLY LINE, S 42°35'02" E, 2026.39 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE, S 42°35'02" E, 1374.50 FEET TO THE CENTER LINE OF VACATED CAMPBELL STREET;

THENCE ALONG SAID CENTERLINE, S 39°08'28" W, 308.73 FEET TO THE NORTHWESTERLY MARGIN OF FRONT STREET;

THENCE ALONG SAID NORTHWESTERLY MARGIN, N 50°44'48" W, 1009.74 FEET;

THENCE CONTINUING ALONG SAID NORTHWESTERLY MARGIN, N 50°58'39" W, 350.78 FEET TO THE SOUTHEASTERLY LINE OF LOT 7 OF SAID BLOCK 109;

THENCE ALONG SAID SOUTHEASTERLY LINE, N 39°10'44" E, 503.31 FEET TO THE TRUE POINT OF BEGINNING.

TITLE EXCEPTIONS

LEGAL DESCRIPTION, EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS AS SHOWN HEREON ARE FROM LAND AMERICA/TRANSACTION TITLE INSURANCE COMPANY THIRD SUBDIVISION GUARANTEE ORDER NO. 10979327, DATED JULY 21, 2008. IN PREPARING THIS BOUNDARY LINE ADJUSTMENT, ESM HAS NOT CONDUCTED AN INDEPENDENT TITLE SEARCH NOR IS ESM AWARE OF ANY TITLE ISSUES AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN ON THIS MAP. ESM HAS RELIED SOLELY UPON THE INFORMATION CONTAINED IN SAID CERTIFICATE IN REGARDS TO TITLE ISSUES TO PREPARE THIS BOUNDARY LINE ADJUSTMENT AND THEREFORE QUALIFIES THE MAP'S ACCURACY AND COMPLETENESS TO THAT EXTENT.

1. SUBJECT TO (A) UNPATENTED MINING CLAIMS; (B) RESERVATIONS OR EXCEPTIONS IN PATENTS OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF; (C) INDIAN TREATY OR ABORIGINAL RIGHTS, INCLUDING, BUT NOT LIMITED TO, EASEMENTS OR EQUITABLE SERVITUDES; OR, (D) WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT THE MATTERS EXCEPTED UNDER (A), (B), (C) OR (D) ARE SHOWN BY THE PUBLIC RECORDS.
2. SUBJECT TO GENERAL PROPERTY TAXES AND SERVICE CHARGES FOR TAX ACCOUNT NO. 8950003310.
3. SUBJECT TO GENERAL TAXES AND POTENTIAL SUPPLEMENTAL ASSESSMENTS IN REGARDS TO TAX EXEMPTION STATUS, AND ANY SUPPLEMENTAL ASSESSMENTS FOR GENERAL PROPERTY TAXES FOR PRIOR YEARS FOR TAX ACCOUNT NO. 8950003310.
4. SUBJECT TO A NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED AND RECORDED UNDER RECORDING NO. 2864651, AND AS AMENDED BY RECORDING NOS. 2881434 AND B01201030.
5. SUBJECT TO A NOTICE OF A FEDERAL LIEN CLAIMED BY UNITED STATES OF AMERICA RECORDED UNDER RECORDING NO. 200811140938.
6. SUBJECT TO A DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 200701240864.
7. SUBJECT TO A DEED OF TRUST AND SECURITY AGREEMENT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 200711060812, AFFECTS BLOCK 14 OF PARCEL.
8. SUBJECT TO A MEMORANDUM OF OPTION AND DEVELOPMENT AGREEMENT AND THE TERMS AND CONDITIONS THEREOF AS RECORDED UNDER RECORDING NO. 200711060813.
9. SUBJECT TO RIGHT-OF-WAY FOR RUSTON WAY, IF ANY, AND ANY EASEMENT RIGHTS OF ADJOINING PROPERTIES OR THE PUBLIC TO THAT PORTION OF THE LAND INCLUDED WITHIN SUCH ROAD.
10. SUBJECT TO RIGHT-OF-WAY FOR 51ST STREET, IF ANY, AND ANY EASEMENT RIGHTS OF ADJOINING PROPERTIES OR THE PUBLIC TO THAT PORTION OF THE LAND INCLUDED WITHIN SUCH ROAD.
11. SUBJECT TO RIGHT-OF-WAY FOR 52ND STREET, IF ANY, AND ANY EASEMENT RIGHTS OF ADJOINING PROPERTIES OR THE PUBLIC TO THAT PORTION OF THE LAND INCLUDED WITHIN SUCH ROAD.
12. SUBJECT TO RIGHT OF WAY FOR RAILROAD AND THE TERMS AND CONDITIONS THEREOF RECORDED IN VOLUME 24 OF DEEDS, PAGES 299 AND 300, THE LOCATION OF SAID EASEMENT CANNOT BE DETERMINED FROM THE DOCUMENT OF RECORD.
13. SUBJECT TO RIGHT OF WAY FOR RAILROAD AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 34552, THE LOCATION OF SAID EASEMENT CANNOT BE DETERMINED FROM THE DOCUMENT OF RECORD.
14. SUBJECT TO RIGHT OF WAY FOR RAILROAD AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 69772, THE LOCATION OF SAID EASEMENT CANNOT BE DETERMINED FROM THE DOCUMENT OF RECORD.
15. SUBJECT TO AN EASEMENT FOR SPUR TRACK AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 209224.
16. SUBJECT TO AN AGREEMENT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 382317.
17. SUBJECT TO A WAIVER OF CLAIM FOR DAMAGES AND CONSENT TO LOCATE ROAD AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 368134.
18. SUBJECT TO THE RIGHT TO MAKE NECESSARY SLOPES FOR CUTS OR FILLS UPON THE LAND HEREIN DESCRIBED AS GRANTED TO PORT TOWNSEND SOUTHERN RAILROAD COMPANY BY DEED RECORDED UNDER RECORDING NO. 388323.
19. SUBJECT TO AN EASEMENT FOR A CULVERT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 386791.
20. SUBJECT TO RESERVATIONS CONTAINED IN INSTRUMENT RECORDED UNDER RECORDING NO. 702790.
21. SUBJECT TO AN EASEMENT FOR A CULVERT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 932813.
22. SUBJECT TO AN EASEMENT FOR SEWER AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 1311585.
23. SUBJECT TO AN EASEMENT FOR TRUNK SEWER AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 1424037.

TITLE EXCEPTIONS, CONTINUED:

24. SUBJECT TO RESERVATIONS CONTAINED IN INSTRUMENT RECORDED UNDER RECORDING NO. 1992607.
25. SUBJECT TO RESERVATIONS CONTAINED IN INSTRUMENT RECORDED UNDER RECORDING NO. 1992608.
26. SUBJECT TO AN EASEMENT FOR WATER SERVICE AND METER, AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 2100958.
27. SUBJECT TO AN EASEMENT FOR SEWER AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 2146952.
28. SUBJECT TO AN EASEMENT FOR SEWER LINE AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 2227237.
29. SUBJECT TO THE OBLIGATION TO PROVIDE ACCESS AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 9206010427.
30. SUBJECT TO A CONSENT DECREE AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 5206010428.
- 29A. SUBJECT TO AN ACCESS AGREEMENT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 9207060404.
31. SUBJECT TO AN ACCESS AGREEMENT AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 9207060405.
32. SUBJECT TO AN ORDER FOR REMEDIAL DESIGN AND REMEDIAL ACTION AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 9309010623.
33. SUBJECT TO A CONSENT DECREE AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 9505170257.
34. SUBJECT TO AN EASEMENT FOR INGRESS AND EGRESS AND THE TERMS AND CONDITIONS THEREOF RECORDED UNDER RECORDING NO. 200108280018.
35. SUBJECT TO RIGHTS AND EASEMENTS OF THE PUBLIC FOR COMMERCE, NAVIGATION, RECREATION AND FISHERIES.
36. SUBJECT TO ANY RESTRICTIONS ON THE USE OF THE LAND RESULTING FROM THE RIGHTS OF THE PUBLIC OR RIPARIAN OWNERS TO USE ANY PORTION WHICH IS NOW, OR HAS BEEN, COVERED BY WATER.
37. SUBJECT TO MATTERS SET FORTH BY SURVEY RECORDED UNDER RECORDING NO. 200508285010.
38. SUBJECT TO EASEMENT RIGHTS AND MAINTENANCE AGREEMENTS, IF ANY, FOR UTILITIES WHICH MAY HAVE BEEN GRANTED IN VACATED STREETS AND ALLEYS PRIOR TO THEIR VACATION.

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 Federal Way, WA 98003
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 ELLENBURG (206) 874-1500

Civil Engineering Public Works Land Surveying Project Management Land Planning Landscape Architecture

JOB NO. 1278-002-006 DATE: 09-23-2008
 DRAWN: BLR SHEET 3 OF 8

200810145002

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LEGEND

- LOT LINE TO BE REVISED BY B/LA
- - - EXISTING LOT LINE
- ++++ RAILROAD TRACKS
- FOUND QUARTER CORNER AS DESCRIBED
- ⊙ BC FOUND BRASS SURFACE DISK
- ⊕ FOUND MONUMENT IN CASE AS DESCRIBED
- ⊞ FOUND STONE MONUMENT
- 5398 CONTROL COORDINATE POSITION HELD AS FIXED PER RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200006295005.
- 5399 EASEMENT AS REFERENCED IN CORRESPONDING TITLE EXCEPTION NUMBER ON SHEET 2 OF 5.
- 20' BUILDING SETBACK LINE

SITE DATA

SITE ADDRESS: 5005 RUSTON WAY
TACOMA, WA 98402

PARCEL NUMBERS: 8950003310

ZONING: S-6

MINIMUM LOT AREA: 5,000 SF (COMMERCIAL)
6,000 SF (RESIDENTIAL MULTI-FAMILY)

MINIMUM LOT WIDTH: 50 FEET

BUILDING SETBACKS: FRONT: 20'
SIDE: 5' (W/ 30X VIEW CORRIDOR)
REAR: 20'
STREET FRONTAGE: 25'

MAXIMUM BUILDING HEIGHT: 35' (WITHIN 100' O.H.W.M.)
50' (100' TO 200' O.H.W.M.)
80' (200'+ O.H.W.M.)

CITY OF TACOMA 40000118826
BOUNDARY LINE ADJUSTMENT MPD2008-400118826

A PORTION OF GOVERNMENT LOTS 1 AND 2,
SECTION 24, T21N, R2E, W.M.

ORIGINAL TRACT:
ASSESSOR'S PARCEL NO(S) 8950003310

BASIS OF BEARINGS

S 89° 06' 22" E ALONG THE SOUTH LINE OF GOVERNMENT LOT 1 OF SECTION 24, TWP. 21 N, RGE. 02 E, W.M., BETWEEN FOUND MONUMENTS DEPICTED HEREON.

HORIZONTAL DATUM

WASHINGTON STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83/91.

THE PROJECT IS REFERENCED VIA GPS TO POINTS 5398 AND 5399 AS DEPICTED ON THAT RECORD OF SURVEY BY THE STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES RECORDED UNDER RECORDING NO. 200006295005.

5398 IS THE N 1/4 CORNER OF SECTION 23, T 21 N, R 2 E, W.M., A MONUMENT IN CASE AT THE INTERSECTION OF PARK AVENUE AND PEARL STREET.
5399 IS A MONUMENT IN CASE AT THE INTERSECTION OF PARK AVENUE (ALSO KNOWN AS NORTH 54TH STREET) AND WINNERFRED ST.

VERTICAL DATUM

CITY OF TACOMA (MVD 28)
BASED ON C.O.T. BENCHMARK 3199
A BRASS SURFACE MONUMENT AT THE INTERSECTION OF N. 46TH AND ORCHARD STREET.

CITY OF TACOMA MONUMENT TIES

THE PROJECT IS REFERENCED VIA GPS TO POINTS 640 AND 645 OF THE CITY OF TACOMA GRID SYSTEM.
C.O.T. 640 IS A BRASS SURFACE MONUMENT AT THE INTERSECTION OF N. 46TH AND ORCHARD STREET.
C.O.T. 645 IS A MONUMENT IN CASING AT THE INTERSECTION OF N. 49TH AND ORCHARD STREET.

MEASURED BEARING AND DISTANCE 645-640 = S 01°32'30"W 1314.67'
RECORD BEARING AND DISTANCE 645-340 = S 01°32'24"W 1314.54'

NOTES

- FOR FURTHER SECTION SUBDIVISION INFORMATION AND TIES TO CITY OF TACOMA CONTROLLING MONUMENTATION, REFER TO "RECORD OF SURVEY FOR ASARCO" RECORDED UNDER RECORDING NUMBER 200508265010, RECORDS OF PIERCE COUNTY, WA
- AT THE TIME OF THE SURVEY UPON WHICH THIS LOT LINE ADJUSTMENT IS BASED, NO BUILDINGS STOOD WITHIN THE BOUNDS OF THE SUBJECT LOTS.
- CORNERS HAVE BEEN SET IN CONJUNCTION WITH THIS BOUNDARY LINE ADJUSTMENT AS DEPICTED HEREIN.
- BUILDINGS UNDER CONSTRUCTION UNDER CITY OF TACOMA FOUNDATION PERMIT 40000112181. SEE SHEET 6 OF 8 FOR DETAILS.

LOT AREAS

ORIGINAL TAX PARCEL 8950003310
TOTAL ORIGINAL AREA = 40.78 ACRES
UPLAND AREA = 26.6 ACRES
SUBMERGED AREA = 14.2 ACRES

MODIFIED

PARCEL	ACREAGE	SQUARE FEET
PARCEL A	0.51 ACRES	22,156 S.F.
PARCEL B	5.13 ACRES	223,639 S.F.
PARCEL C	4.19 ACRES	182,337 S.F.
PARCEL D	0.94 ACRES	40,850 S.F.
PARCEL E	4.02 ACRES	175,287 S.F.
PARCEL F	2.60 ACRES	113,255 S.F.
PARCEL G	3.77 ACRES	164,349 S.F.
PARCEL H	1.70 ACRES	74,056 S.F.
PARCEL I	2.37 ACRES	103,449 S.F.
PARCEL J	0.71 ACRES	30,836 S.F.
PARCEL K	2.21 ACRES	96,268 S.F.
PARCEL L	12.63 ACRES	550,272 S.F.



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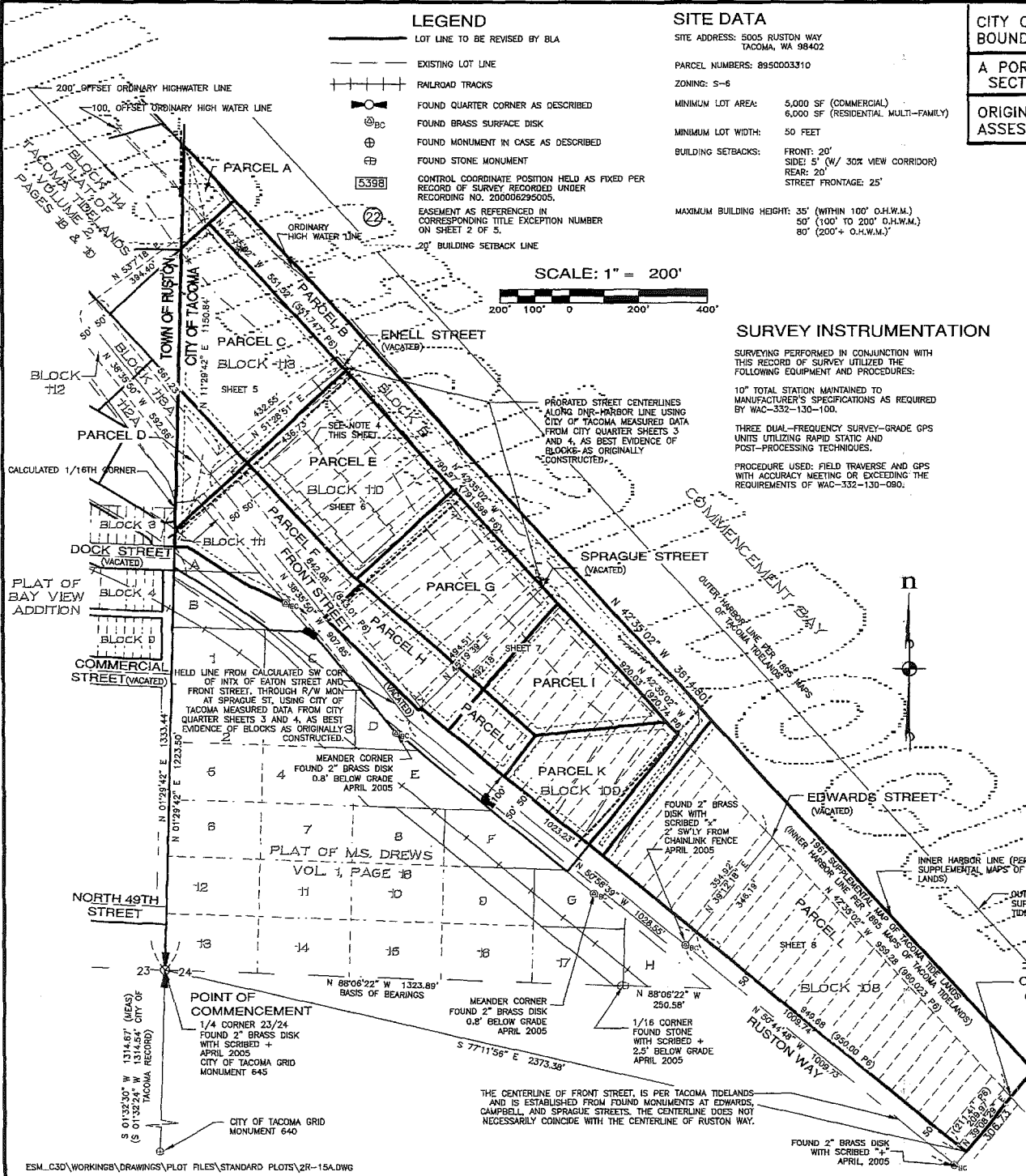
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ELENSBURG (206) 675-1900

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JOB NO. 1278-002-006
DRAWN: DLR

DATE: 09-23-2008
SHEET 4 OF 8



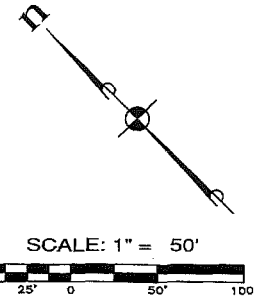
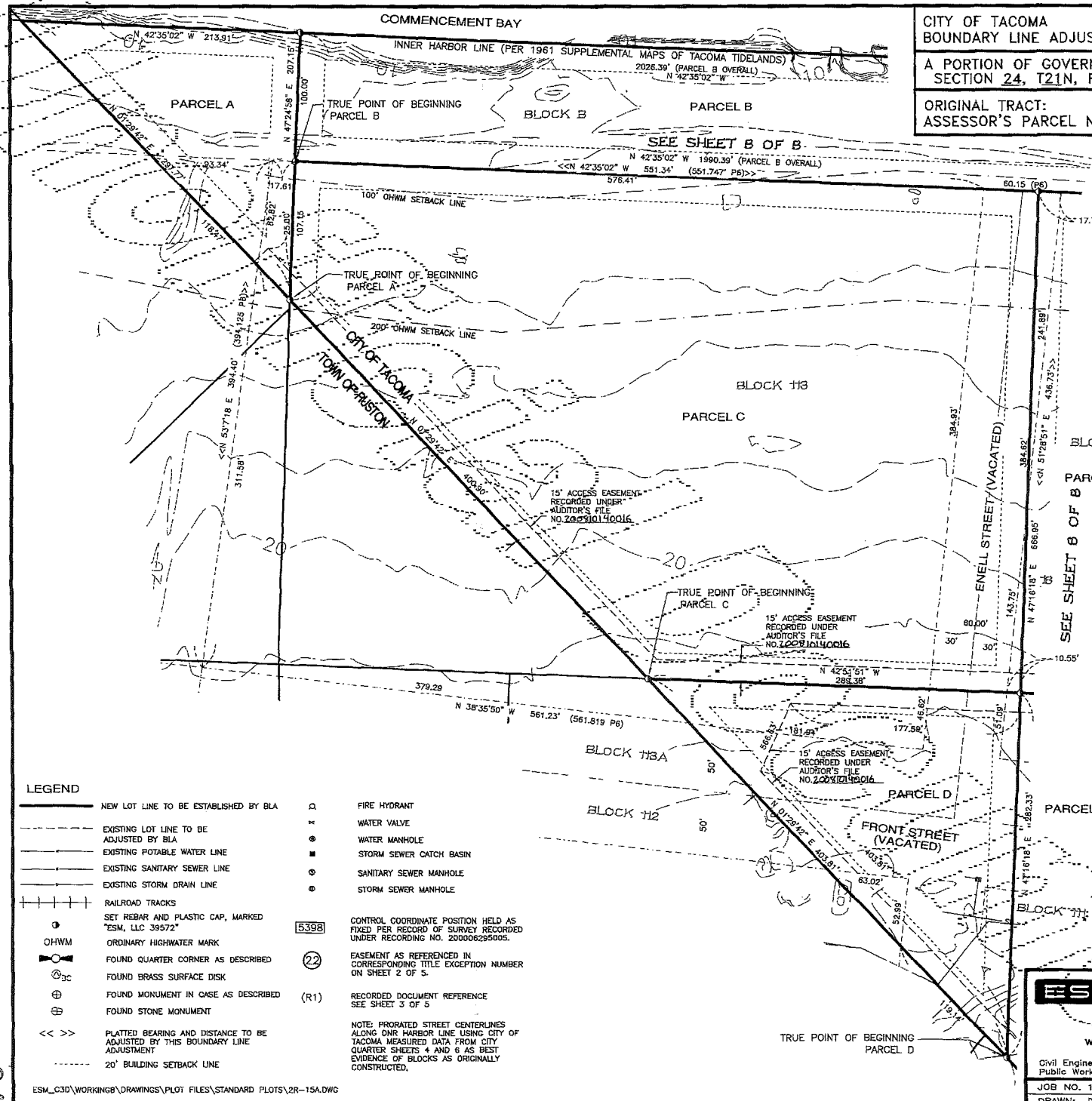
ORIGINAL

200810145002

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81

CITY OF TACOMA
 BOUNDARY LINE ADJUSTMENT MPD2008-400118826
 40000118826
 A PORTION OF GOVERNMENT LOTS 1 AND 2,
 SECTION 24, T21N, R2E, W.M.
 ORIGINAL TRACT:
 ASSESSOR'S PARCEL NO(S) 8950003310



LEGEND	
	NEW LOT LINE TO BE ESTABLISHED BY BLA
	EXISTING LOT LINE TO BE ADJUSTED BY BLA
	EXISTING POTABLE WATER LINE
	EXISTING SANITARY SEWER LINE
	EXISTING STORM DRAIN LINE
	RAILROAD TRACKS
	SET REBAR AND PLASTIC CAP, MARKED "ESM, LLC 39572"
	ORDINARY HIGHWATER MARK
	FOUND QUARTER CORNER AS DESCRIBED
	FOUND BRASS SURFACE DISK
	FOUND MONUMENT IN CASE AS DESCRIBED
	FOUND STONE MONUMENT
	PLATTED BEARING AND DISTANCE TO BE ADJUSTED BY THIS BOUNDARY LINE ADJUSTMENT
	20' BUILDING SETBACK LINE
	FIRE HYDRANT
	WATER VALVE
	WATER MANHOLE
	STORM SEWER CATCH BASIN
	SANITARY SEWER MANHOLE
	STORM SEWER MANHOLE
	CONTROL COORDINATE POSITION HELD AS FIXED PER RECORD OF SURVEY RECORDED UNDER RECORDING NO. 20080625005
	EASEMENT AS REFERENCED IN CORRESPONDING TITLE EXCEPTION NUMBER ON SHEET 2 OF 5
	RECORDED DOCUMENT REFERENCE SEE SHEET 3 OF 5
NOTE: PRORATED STREET CENTERLINES ALONG DNR HARBOR LINE USING CITY OF TACOMA MEASURED DATA FROM CITY QUARTER SHEETS 4 AND 6 AS BEST EVIDENCE OF BLOCKS AS ORIGINALLY CONSTRUCTED.	



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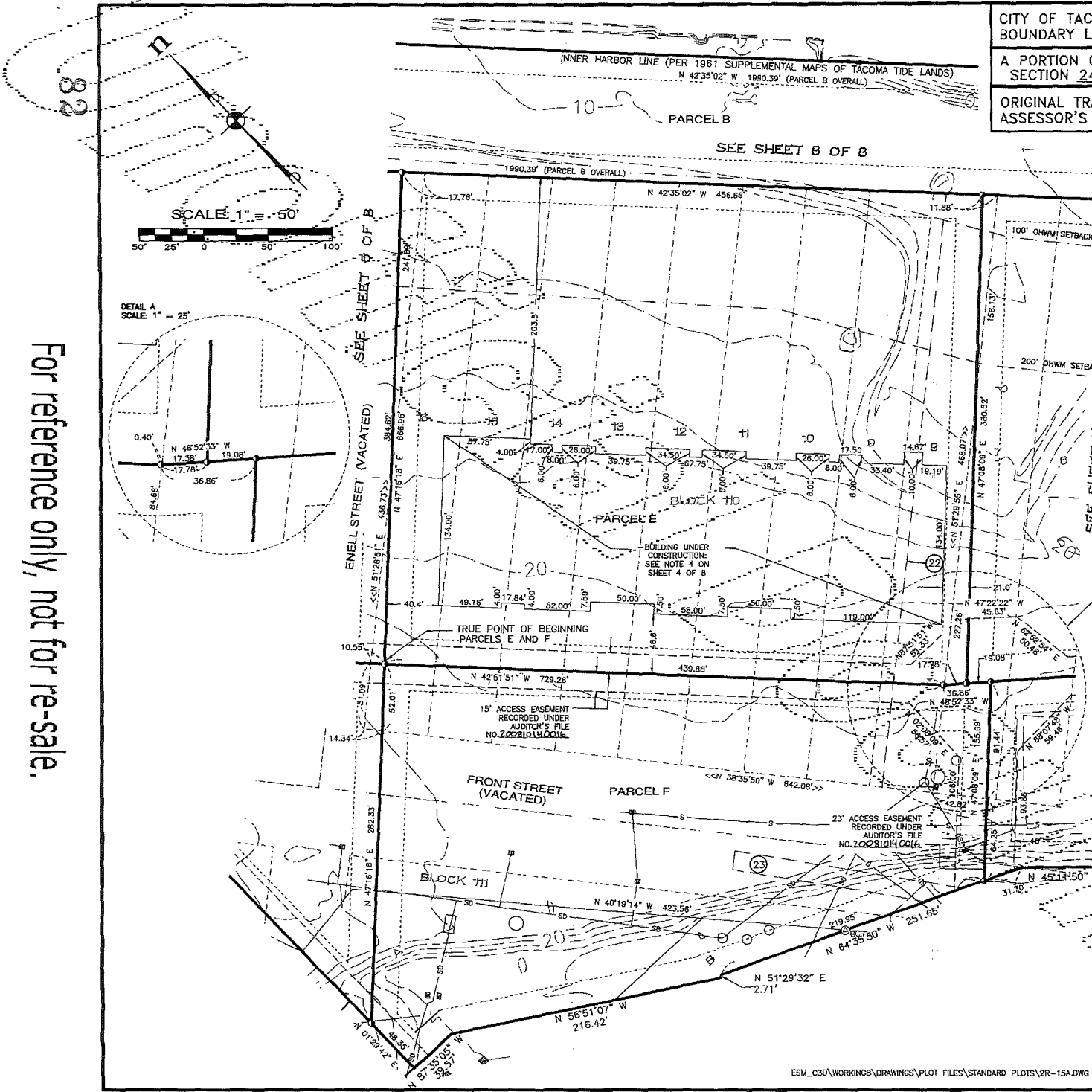
JOB NO. 1278-002-006 | DATE: 08-29-2008
 DRAWN: DLR | SHEET 5 OF 8

20081014/2002

A PORTION OF GOVERNMENT LOTS 1 AND 2,
 SECTION 24, T21N, R2E, W.M.

ORIGINAL TRACT:
 ASSESSOR'S PARCEL NO(S) 8950003310

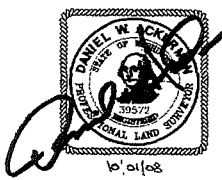
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LEGEND

- NEW LOT LINE TO BE ESTABLISHED BY BLA
- - - EXISTING LOT LINE TO BE ADJUSTED BY BLA
- EXISTING POTABLE WATER LINE
- EXISTING SANITARY SEWER LINE
- EXISTING STORM DRAIN LINE
- RAILROAD TRACKS
- SET REBAR AND PLASTIC CAP, MARKED "ESM, LLC 39572"
- ORDINARY HIGHWATER MARK
- ⊕ FOUND QUARTER CORNER AS DESCRIBED
- ⊕ FOUND BRASS SURFACE DISK
- ⊕ FOUND MONUMENT IN CASE AS DESCRIBED
- ⊕ FOUND STONE MONUMENT
- << >> PLATTED BEARING AND DISTANCE TO BE ADJUSTED BY THIS BOUNDARY LINE ADJUSTMENT
- ⊕ FIRE HYDRANT
- ⊕ WATER VALVE
- ⊕ WATER MANHOLE
- ⊕ STORM SEWER CATCH BASIN
- ⊕ SANITARY SEWER MANHOLE
- ⊕ STORM SEWER MANHOLE

- [539B] CONTROL COORDINATE POSITION HELD AS FIXED PER RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200008265005.
- [22] EASEMENT AS REFERENCED IN CORRESPONDING TITLE EXCEPTION NUMBER ON SHEET 2 OF 5.
- (R1) RECORDED DOCUMENT REFERENCE SEE SHEET 3 OF 5
- NOTE: PRORATED STREET CENTERLINES ALONG INNER HARBOR LINE USING CITY OF TACOMA MEASURED DATA FROM CITY QUARTER SHEETS 4 AND 6 AS BEST EVIDENCE OF BLOCKS AS ORIGINALLY CONSTRUCTED.
- - - 20' BUILDING SETBACK LINE



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JOB NO. 1278-002-006 DATE: 09-23-2008
 DRAWN: DLR SHEET: 6 OF 8

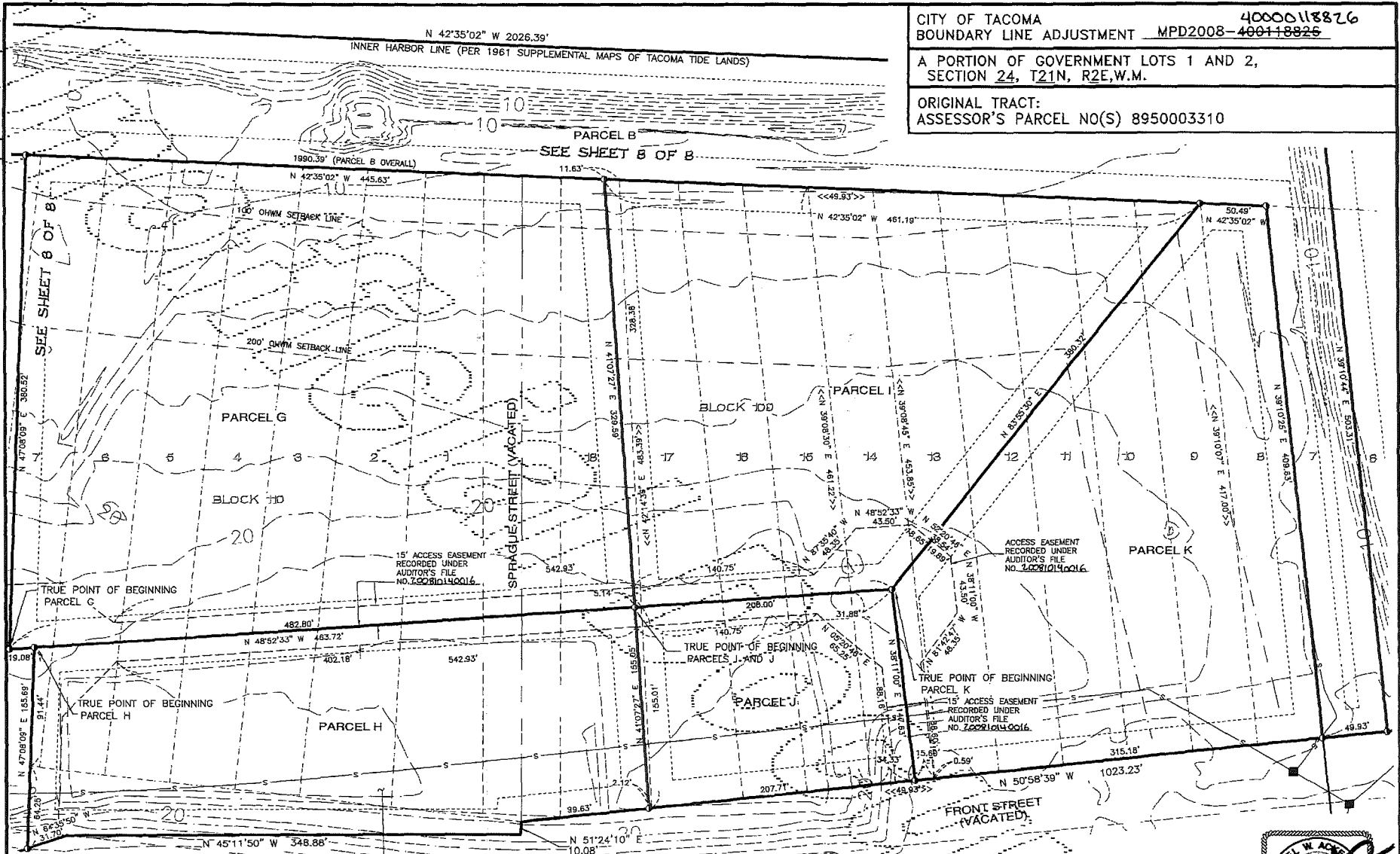
20081014002

E. KANAL

A PORTION OF GOVERNMENT LOTS 1 AND 2,
 SECTION 24, T21N, R2E,W.M.

ORIGINAL TRACT:
 ASSESSOR'S PARCEL NO(S) 8950003310

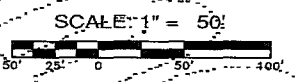
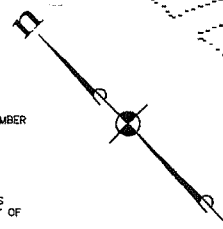
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LEGEND

- NEW LOT LINE TO BE ESTABLISHED BY BLA
- EXISTING LOT LINE TO BE ADJUSTED BY BLA
- EXISTING POTABLE WATER LINE
- EXISTING SANITARY SEWER LINE
- EXISTING STORM DRAIN LINE
- RAILROAD TRACKS
- SET REBAR AND PLASTIC CAP, MARKED "ESM, LLC 39572"
- OHWM
- ORDINARY HIGHWATER MARK
- FOUND QUARTER CORNER AS DESCRIBED
- FOUND BRASS SURFACE DISK

- FOUND MONUMENT IN CASE AS DESCRIBED
- FOUND STONE MONUMENT
- PLATTED BEARING AND DISTANCE TO BE ADJUSTED BY THIS BOUNDARY LINE ADJUSTMENT
- 20' BUILDING SETBACK LINE
- FIRE HYDRANT
- WATER VALVE
- WATER MANHOLE
- STORM SEWER CATCH BASIN
- SANITARY SEWER MANHOLE
- STORM SEWER MANHOLE
- CONTROL COORDINATE POSITION HELD AS FIXED PER RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200006295005.



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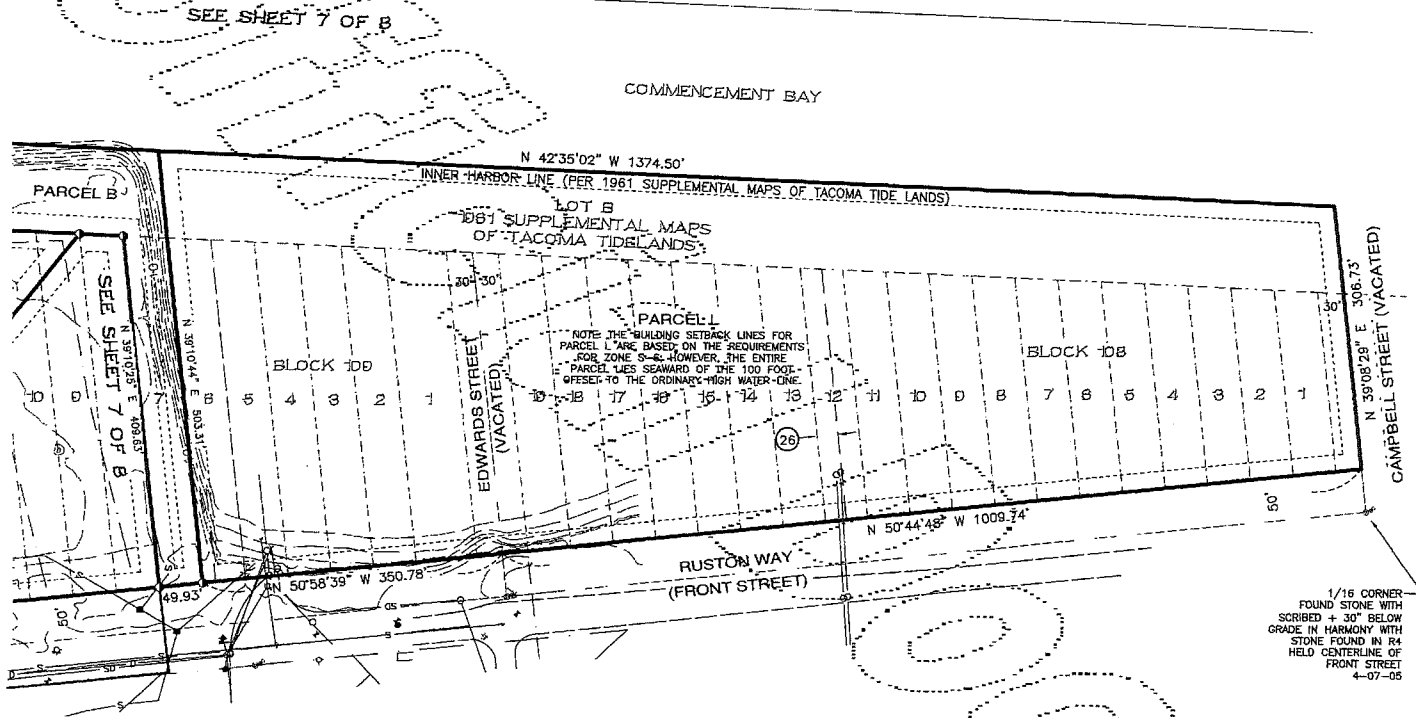
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JOB NO. 1278-002-006 DATE: 09-23-2008
 DRAWN: DLR SHEET 7 OF 8

20081014002

ORIGINAL

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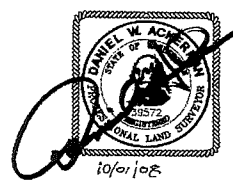
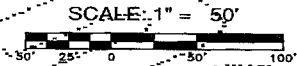
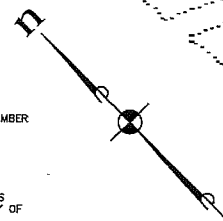


LEGEND

- | | | | | |
|-------|--|-------|--|---|
| — | NEW LOT LINE TO BE ESTABLISHED BY B/LA | ⊕ | FOUND MONUMENT IN CASE AS DESCRIBED | |
| - - - | EXISTING LOT LINE TO BE ADJUSTED BY B/LA | ⊕ | FOUND STONE MONUMENT | |
| — | EXISTING POTABLE WATER LINE | << >> | PLATTED BEARING AND DISTANCE TO BE ADJUSTED BY THIS BOUNDARY LINE ADJUSTMENT | |
| — | EXISTING SANITARY SEWER LINE | ⊠ | 20' BUILDING SETBACK LINE | |
| — | EXISTING STORM DRAIN LINE | ⊠ | ⊙ | EASEMENT AS REFERENCED IN CORRESPONDING TITLE EXCEPTION NUMBER ON SHEET 2 OF 5. |
| + | RAILROAD TRACKS | ⊠ | (R1) | RECORDED DOCUMENT REFERENCE SEE SHEET 3 OF 5 |
| ⊙ | SET REBAR AND PLASTIC CAP, MARKED "ESM, LLC 39572" | ⊠ | ⊠ | NOTE: PRORATED STREET CENTERLINES ALONG ONR HARBOR LINE USING CITY OF TACOMA MEASURED DATA FROM CITY QUARTER SHEETS 4 AND 6 AS BEST EVIDENCE OF BLOCKS AS ORIGINALLY CONSTRUCTED. |
| ⊙ | ORDINARY HIGHWATER MARK | ⊠ | ⊠ | |
| ⊙ | FOUND QUARTER CORNER AS DESCRIBED | ⊠ | ⊠ | |
| ⊙ | FOUND BRASS SURFACE DISK | ⊠ | ⊠ | |

5398

CONTROL COORDINATE POSITION HELD AS FIXED PER RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200005295005.



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JOB NO. 1278-002-006 DATE: 09-23-2008
 DRAWN: DLR SHEET 8 OF 8

200810145002

OLD MAIN A2

400: 721- 5542 13
Vol. 357, Page 594
Recorded - 4-17-1912

359283

Entered on City Maps
10/7/12

D E E D .

THIS INDENTURE WITNESSETH, That TACOMA SMELTING COMPANY, a corporation and existing under the laws of the State of Nevada, party of the first part, for and in consideration of the vacation by the City of Tacoma, Washington, of that part of Front Street in the City of Tacoma lying north of the southerly line of Lot Ten (10) in Block One Hundred and Ten (110), Tacoma Tide Lands, produced across said Front Street, and all that part of Enell Street lying within the limits of said City, and the surrender of the property so vacated by said City and the attachment of the same to the lots and blocks/ordering thereon, has GRANTED, BARGAINED and SOLD, and by these presents does Grant, Bargain and Sell and Convey unto the said City of Tacoma, Pierce County, Washington, party of the second part, for all purposes of public streets the following described real property, situate, lying and being in the County of Pierce, State of Washington, to-wit:

1142
See D-115
for Plat
S.W.D.

1. Lot numbered Ten (10) in Block numbered One Hundred and ten (110), Tacoma Tide Lands, according to the official plat thereof on file in the office of the Auditor of Pierce County, Washington.

2nd. A parcel of land bounded and described as follows:

Beginning on the westerly line of Front Street as shown on Plat of said Tacoma Tide Lands, at the intersection of said westerly line with the extension east of the south line of Lot "B" of M.S. Drew's Plat in Section 24, Township 21 North, Range 2 East, W.M., thence on said south line and its extension North 89° 31' 53" West 130.78 feet to its intersection with the easterly line of right of way deeded by Charles A. Enell and wife to Denis Ryan as recorded in the office of County Auditor on page 230 of Volume 58 of Record of Deeds; thence along said easterly line of right of way as described in said deed, North 56° 14' West 126.2 feet; North 58° 44' West 202.0 feet to the west line of Lot "A" of said M.S. Drew's Plat at a point 10 feet north of the South-west corner thereof; thence along said west line North 0° 3' 27" East 58.437 feet to an intersection with the extension east of the north line of Dock Street as shown on plat of Bay View; thence along said

360540

extension of north line of Dock Street South $89^{\circ} 2' 23''$ East 39.673 feet to a line parallel with and 70 feet northeasterly from, measured at right angles to, said easterly line of Denis Ryan right of way; thence along said parallel line South $58^{\circ} 44'$ East 218.64 feet to an extension southwesterly of the line common to lots 10 and 11, Block 110, of said Tacoma Tide Lands; thence along said extension North $50^{\circ} 1' 39''$ East 60.37 feet to said westerly line of Front Street; and thence along said westerly line South $39^{\circ} 58' 21''$ East 210.64 feet to place of beginning.

TO HAVE AND TO HOLD, the said premises with all their appurtenances, unto the said party of the second part, for all purposes of public streets forever; and the said Tacoma Smelting Company, party of the first part, for itself and its successors, does hereby covenant to and with the said party of the second part, that it is the owner in fee simple of said premises, and that they are free from all incumbrances and that it will WARRANT and DEFEND the title thereto against all lawful claims whatsoever.

IN WITNESS WHEREOF, the said party of the first part has caused its corporate name and seal to be hereto subscribed and affixed; and these presents to be executed by its officers thereunto duly authorized, this 6th day of January, A. D. 1912.

TACOMA SMELTING COMPANY

By

A. R. Reed

Its President.

Attest

L. D. Young

Its Secretary.

STATE OF WASHINGTON,)
) ss.
County of Pierce.)

On this 6th day of January, A.D.1912, before me personally appeared W.R.Rust and L.D. Craig, to me known to be the President and Secretary, respectively, of TACOMA SMELTING COMPANY, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Russ Petrie

Notary Public in and for the State of
Washington, residing at Tacoma,
in said County.

1-6-12

M.C.

338
Mortgage Deed

Tacoma Smelting Co.

City of Tacoma

Dated: July 6 1912

FILED BY J. P. ...

APR 17 1912

Deed ... Record 357, Page 594

AT 2:02 P.M.

W. A. Stewart,
County Auditor
Pierce County, Wash.

W. A. Nelson
Deputy

Made to ...

Handwritten signature and initials

RECORDED BY TROMPETER

110

QUIT CLAIM DEED
AND EASEMENT

THE GRANTOR, AMERICAN SMELTING AND REFINING COMPANY,
a New Jersey corporation, authorized to do business in the
State of Washington, with an office at 120 Broadway, New York
City, New York, for the consideration of One Dollar and other
valuable consideration, conveys and quitclaims to the CITY
OF TACOMA, a municipal corporation of the State of Washington,
all interest in the following described real estate, situated
in the County of Pierce, State of Washington:

Parcel A

THE west 30 feet and the east 35 feet of the following
described property: The southeast quarter of the
northeast quarter of the southwest quarter of the
southwest quarter of Section 23, Township 21 North,
Range 2 East of the W.M.;
And said grantor does hereby grant and convey to said
grantee the right and easement to make the necessary
cuts and fills for slopes to be occasioned by the
original grading of North Whitman and Vassaults
Streets on the following described property: The
east 5 feet of the west 35 feet and the west 5 feet
of the east 40 feet of the southeast quarter of the
northeast quarter of the southwest quarter of the
southwest quarter of Section 23, Township 21 North,
Range 2 East of the W.M.;

Parcel B

BEGINNING at the northeast corner of the southeast
quarter of the northeast quarter of Section 23, Town-
ship 21 North, Range 2 East, W.M., thence south along
east line of said section bearing S 0° 03' 27" W a
distance of 342.537 feet; thence east along a line
bearing S 89° 31' 53" E a distance of 393.30 feet to
the true point of beginning; thence southeasterly
along a line bearing S 41° 47' 55" E a distance of
217.59 feet; thence east along a line bearing S 89°
31' 53" E a distance of 6 feet; thence northwesterly
along a line bearing N 39° 58' 21" W a distance of
211.55 feet; thence west along a line bearing N 89°
31' 53" W to the true point of beginning.

Dated this 24th day of June, 1964.

AMERICAN SMELTING AND
REFINING COMPANY

By J. X. [Signature]
Vice President

Attest: [Signature]
Secretary

003339

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss:

On this 24th day of June, A.D., 1964,
before me personally appeared R. L. HENNERACH,
to me known to be the Vice President of the corporation
that executed the within and foregoing instrument, and
acknowledged the said instrument to be the free and volun-
tary act and deed of said corporation, for the uses and pur-
poses therein mentioned, and on oath stated that he was
authorized to execute said instrument and that the seal
affixed is the corporate seal of said corporation.

In witness whereof, I have hereunto
set my hand and affixed my official seal the day and year
first above written.

W. Thomas Reed
Notary Public of the
State of New York
W. THOMAS REED
Notary Public, State of New York
No. 24-BE16130
Qualified in Kings County
Commission Expires March 30, 1966

34
Filed for record Dec. 30, 1965 10 am.
City of New York
Notary Public, State of New York

2129771

JED

RECEIVED
VOL. 1392
PAGE 199 REPORT OF

SEP 20 1934

J. W. L. ...
TREASURER

DEPUTY
C. C. ...

M

Handwritten notes:
...
...
...

AMERICAN
SMELTING
AND
REFINING
COMPANY



P. O. BOX 1905, TACOMA 1, WASHINGTON

R. E. SHINKOSKEY
MANAGER
M. C. TEATS
ASSISTANT MANAGER
M. L. PLASS
GENERAL SUPERINTENDENT
BEN R. PETRIE
ACCOUNTING MANAGER

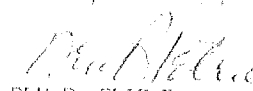
December 16, 1965

Mrs. Josephine Melton, City Clerk
City of Tacoma
County-City Building
Tacoma, Washington

Dear Mrs. Melton:

Enclosed is the Quit Claim Deed and Easement for Parcels
A and B conveying to the City of Tacoma two strips of property 30
and 35 feet wide between Vassault and Whitman Streets at the Tacoma
Plant, and a strip 6 feet by 217 feet lying in the center of Ruston
Way.

Yours truly,


BEN R. PETRIE

BRP:cg
enc.

cc: Mr. C. M. Patterson, Property Management Supervisor
City of Tacoma Department of Public Utilities
Tacoma, Washington

1-1-11

201010011015 7 PGS
10/01/2010 04:18:45 PM \$68.00
PIERCE COUNTY WASHINGTON

WHEN RECORDED RETURN TO:

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

Document Title:	DEED	ORIGINAL
Reference Number:		
Grantor:	POINT RUSTON, LLC	
Grantee:	CITY OF TACOMA	
Legal Description:	NW 1/4 OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 02 EAST, W. M.	
Additional Legal Description:	SEE PAGE 5, EXHIBIT "A"	
Assessor's Tax Parcel Number:	A PORTION OF 355500-0070, 355500-0190, 895000-3360, 895000-3314, 895000-3316	

RIGHT OF WAY DEED NO. 7126

The **GRANTOR, POINT RUSTON, LLC**, a Washington Limited Liability Company, owner of the real property described herein, for and in consideration of mutual and offsetting benefits, the sufficiency of which is hereby acknowledged, hereby grants, conveys, and dedicates to **GRANTEE, the CITY OF TACOMA**, a municipal corporation of the State of Washington, the following described real property, including any after acquired title, as and for public right of way, to be used for all lawful right of way purposes including, but not limited to, public roads, streets, surface transportation and associated uses as well as the installation, operation and maintenance of utilities, over, under, and along the following described real property in the City of Tacoma, County of Pierce, State of Washington:

See EXHIBIT "A", attached hereto and
by this reference made a part hereof.

09-298RP/D7126 (Legal 77)
Pt. Ruston Dedication Deed

Page 1 of 7

10/01/2010 04:14:17 PM KYOHN 4245665 2 PGS
EXCISE COLLECTED: \$0.00 PROC FEE: \$5.00
AUDITOR
PIERCE COUNTY, WA TECH FEE: \$5.00


The Grantor shall indemnify and hold the City of Tacoma, and its departments and divisions harmless from liability for any and all claims under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., and the Model Toxics Control Act, Chapter 70.105D RCW, which arise from this Deed.

It is understood and agreed that the delivery of this deed is hereby tendered and it shall not become binding upon the City of Tacoma unless and until accepted by its Public Works Director or his designee.

This instrument is executed on this 1st day of October, 2010.

**GRANTOR:
POINT RUSTON, LLC**

This instrument is executed on this 15th day of September, 2010.

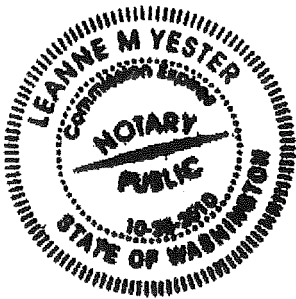


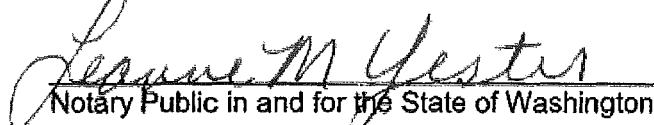
Michael Cohen
Managing Member

STATE OF WASHINGTON)
) SS
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Michael Cohen 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 Managing Member, of Point Ruston, LLC to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this 15th day of September, 2010.



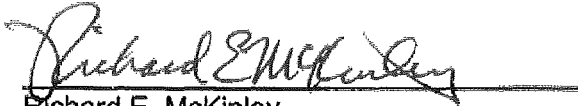


Notary Public in and for the State of Washington
My Commission Expires 10.25.10

GRANTEE:

CITY OF TACOMA

ACCEPTED:



Richard E. McKinley
Public Works Director

APPROVED:



Jeffrey K. Jenkins
Facilities Division Manager



Debbie L. Dahlstrom
Risk Manager

Approved as to Form:



Deputy City Attorney

Legal Description Approved:



Leonard J. Webster, P. L. S.
Chief Surveyor

EXHIBIT "A"

LEGAL DESCRIPTION FOR PROPOSED RIGHT OF WAY TO ACQUIRE FOR RELOCATED RUSTON WAY

(CITY OF TACOMA)

That portion of Lots 3, C and D of the Plat of M.S. Drew's as recorded in Volume 1 of Plats, Page 16, records of Pierce County, Washington, situate in Section 24, Township 21 North, Range 2 East, W.M., City of Tacoma, Pierce County, Washington, being more particularly described as follows:

COMMENCING at the west quarter corner of said section, being a 2" brass disk scribed with an "X", set in an iron case;

THENCE along the center line of said section, S 88°06'22" E, 1323.89 feet to the southeast corner of the southwest quarter of the northwest quarter thereof, being a stone scribed with an "X";

THENCE continuing S 88°06'22" E, 46.00 feet to the northerly margin of N. 49th Street as dedicated by Deed D-1097 on file in the office of Real Property Services at Tacoma, Washington;

THENCE along said northerly margin, N 37°40'36" E, 125.84 feet to the southwesterly margin of Front Street (also known as Ruston Way);

THENCE along said southwesterly margin, N 50°58'39" W, 1003.90 feet to a 2" brass disk scribed with an "X" AND the TRUE POINT OF BEGINNING;

THENCE N 50°57'11" W, 466.86 feet to the northerly line of said Lot C AND a point hereinafter referred to as Point A;

THENCE along said northerly line, S 88°06'22" E, 116.36 feet to the easterly line of said Lot C;

THENCE along the easterly lines of said Lots C and D, S 40°18'49" E, 380.65 feet to the TRUE POINT OF BEGINNING;

ESM Federal Way 181 S 323rd St. Bldg C, Ste 210 Federal Way, WA 98003 202.838.4173 tel 800.248.2892 toll free 252.838.7104 fax	ESM Everett 1010 SE Everett Mall Way, Ste 200 Everett, WA 98200 425.297.1100 tel 800.415.6144 toll free 425.297.7908 fax	ESM Eastern Washington 2211 W Datsigway Rd, Ste 1 Ellensburg, WA 98924 907.192.2500 tel 877.942.2408 toll free 509.942.2411 fax
---	---	--

MC Construction Consultants, Inc.
May 4, 2010
Page 2

TOGETHER WITH that portion of Parcels D and F of City of Tacoma Boundary Line Adjustment No. MPD2008-40000118826 as recorded under Recording No. 200810145002, being more particularly described as follows:

COMMENCING at said Point A;

THENCE along said southwesterly margin of Ruston Way, N 54°28'04" W, 127.40 feet;

THENCE continuing along said southwesterly margin, N 56°58'04" W, 202.15 feet to the west line of said section at a point being 1165.13 feet northerly of said west quarter corner of Section 24 (as measured along said west line);

THENCE along said west line, N 01°29'42" E, 58.37 feet to the northerly margin of said Ruston Way AND the TRUE POINT OF BEGINNING;

THENCE continuing along said west line, N 01°29'42" E, 128.06 feet;

THENCE S 88°30'18" E, 29.93 feet to a point of curvature;

THENCE southerly 17.99 along the arc of a non-tangent curve to the right, having a radius of 138.00 feet, the radius point of which bears N 86°39'20" W, through a central angle of 07°28'15" to a point of tangency;

THENCE S 10°48'52" W, 36.84 feet to a point of curvature;

THENCE southeasterly 104.17 feet along the arc of a tangent curve to the left, having a radius of 87.00 feet, through a central angle of 68°36'22" to a point of tangency;

THENCE S 57°47'30" E, 10.00 feet;

THENCE S 55°59'22" E, 33.41 feet to the northerly margin of said Ruston Way;

THENCE along said northerly margin, N 56°51'07" W, 71.46 feet;

THENCE continuing along said northerly margin, N 87°35'05" W, 39.57 feet to the TRUE POINT OF BEGINNING.

Containing 19,910 square feet, more or less.

See attached Exhibit B.

Written By: DLR
Checked By: CAF

\\esm-jobs\12781002\00810011\document\legal-062.doc

05-04-2010






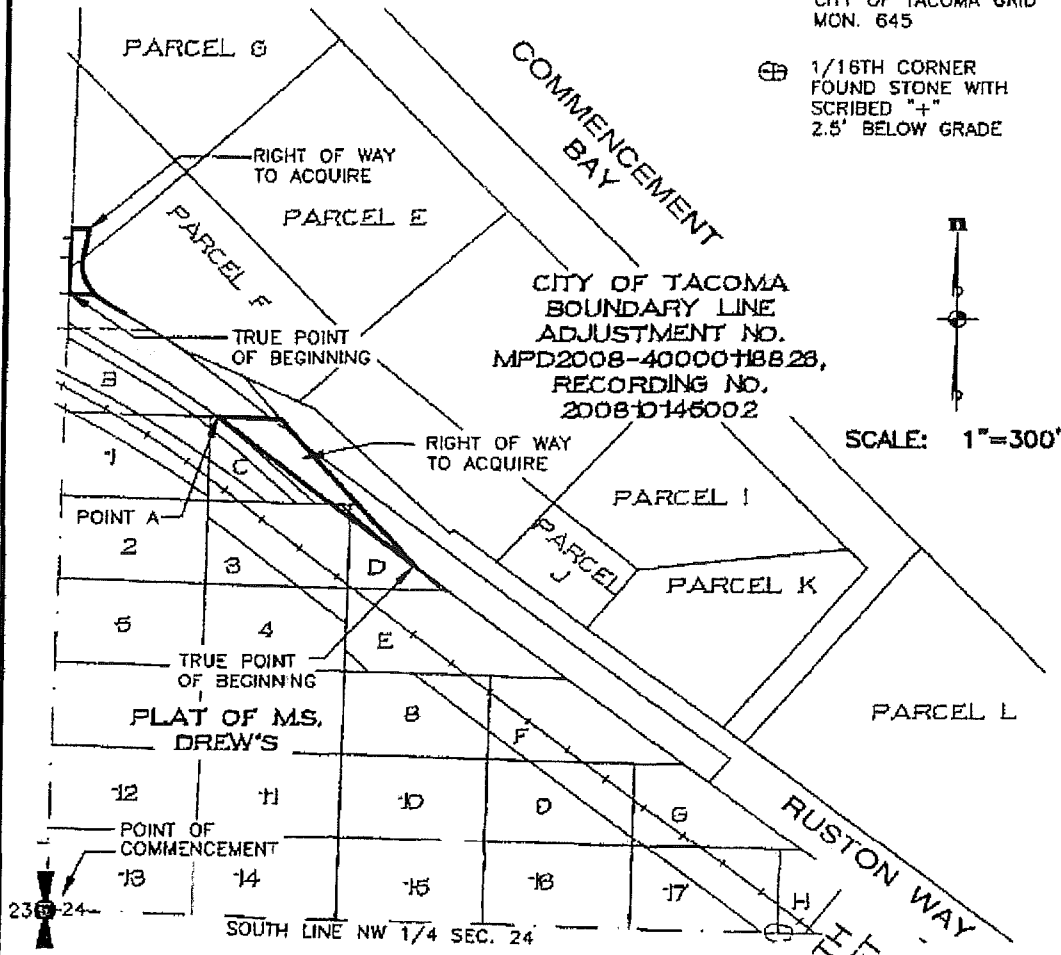
EXHIBIT B

TO ACCOMPANY LEGAL DESCRIPTION FOR
PROPOSED RIGHT OF WAY TO ACQUIRE
FOR RELOCATED RUSTON WAY

SECTION 24, T. 21 N., R. 2 E., W.M., GOV'T LOT 1

LEGEND

-  1/4 CORNER SEC. 23/24
-  2" BRASS DISK WITH SCRIBED "+" CITY OF TACOMA GRID MON. 645
-  1/16TH CORNER FOUND STONE WITH SCRIBED "+" 2.5' BELOW GRADE



127B\002\008\0004\EXHIBITS\SR-44.DWG

ESM CONSULTING ENGINEERS LLC		
181 S. 333rd Street Building C Suite 210 Federal Way, WA 98003		
www.esmcivil.com		
Civil Engineering Public Works	Land Surveying Project Management	Land Planning Landscape Architecture

JOB NO. 1278-002-006
DRAWING NAME : SR-44
DATE : 05-04-2010
DRAWN : DLR/CAF
SHEET 1 OF 1

CITY OF TACOMA WATERWALK
AREA (APPROX 7.84 AC.)

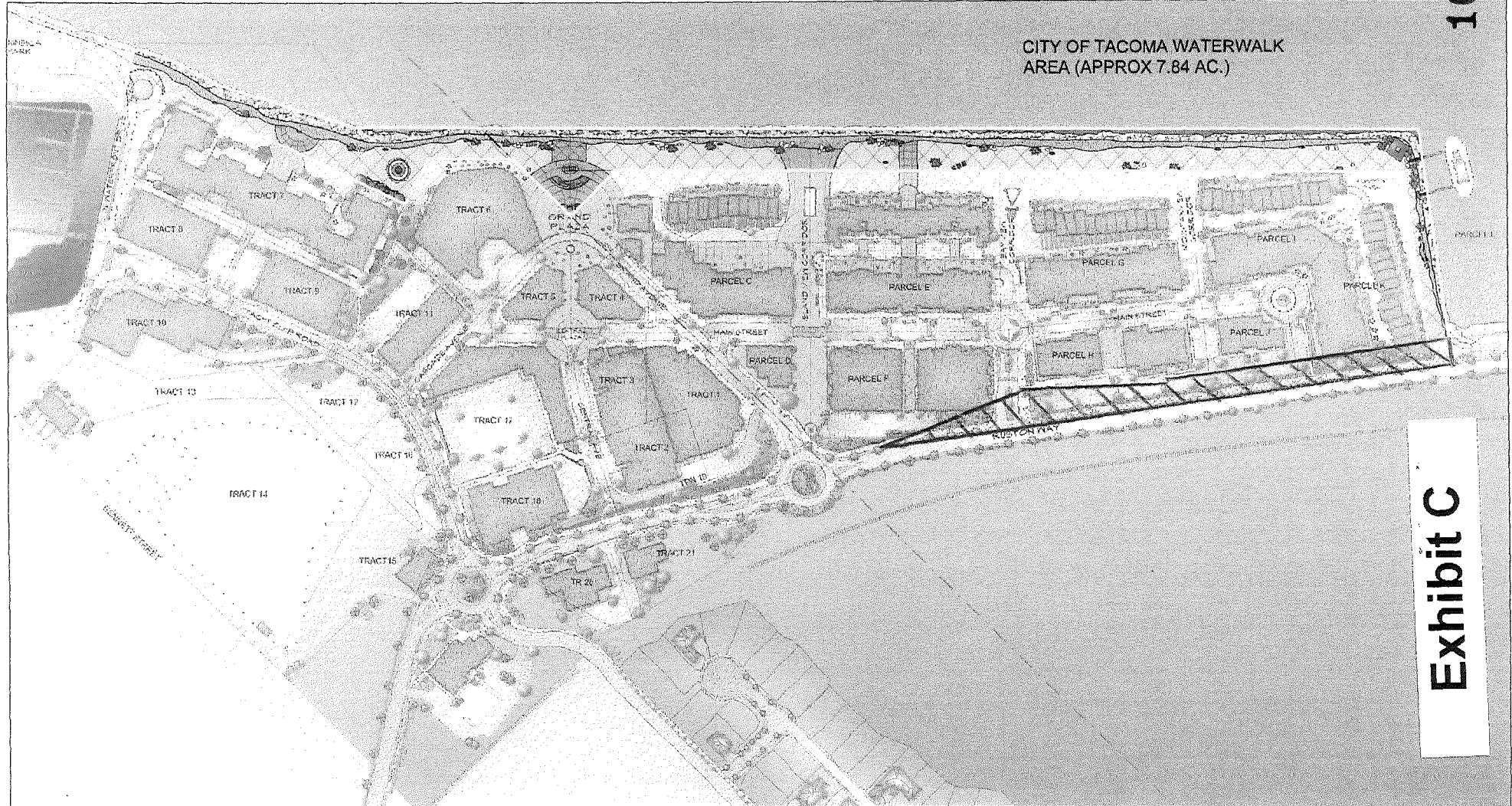


Exhibit C



NOT TO SCALE



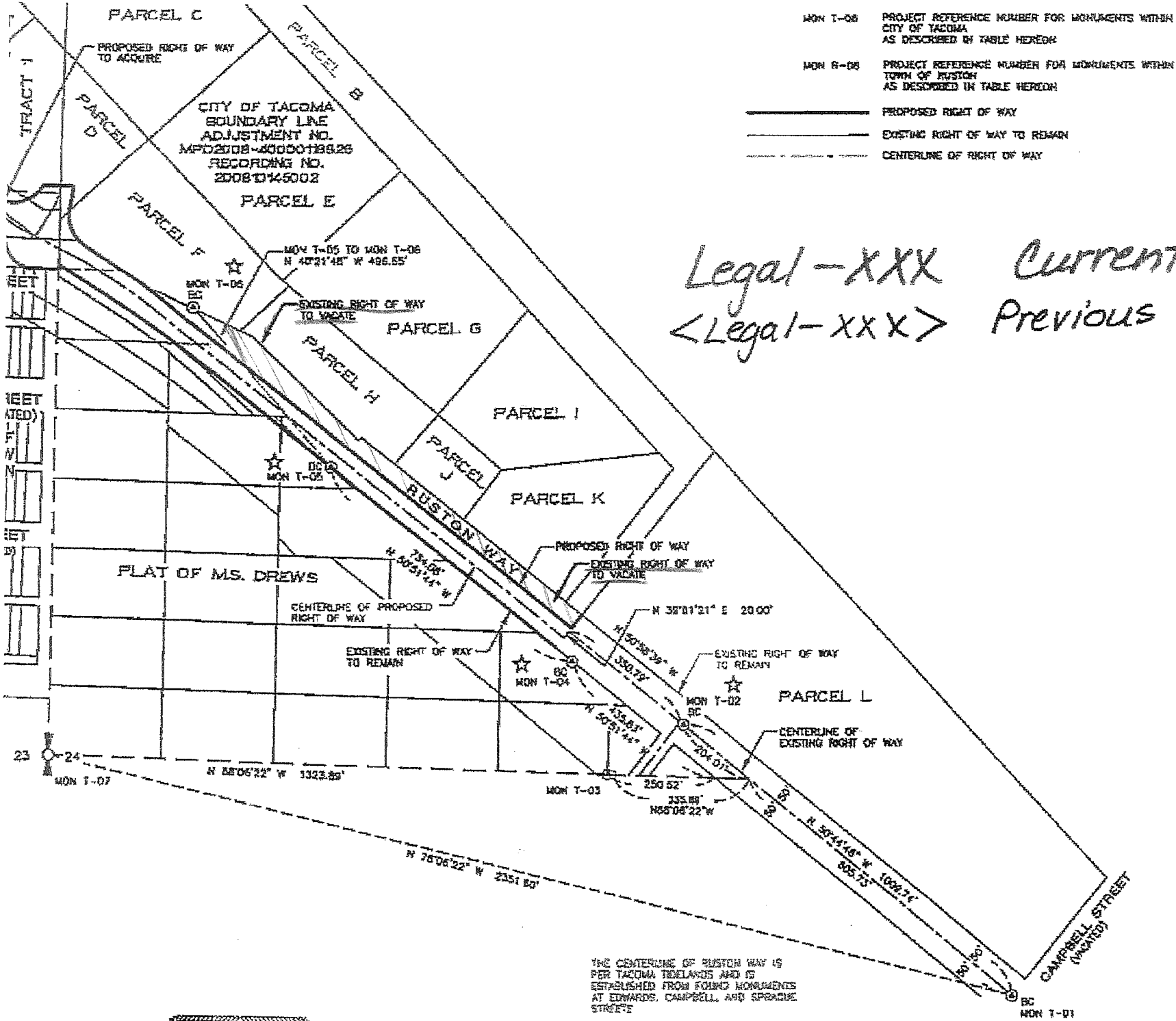
WATERWALK

Point Ruston, LLC
5219 N SHIRLEY ST, STE 100, RUSTON WA 98407

DATE:
2/3/2010
SCALE:
N.T.S.

REVISIONS:

EXHIBIT NUMBER:
EXHIBIT XX



Legal-XXX Current
 <Legal-xxx> Previous versions

THE CENTERLINE OF RUSTON WAY IS
 PER TACOMA ISLANDS AND IS
 ESTABLISHED FROM FOUND MONUMENTS
 AT EDWARDS, CAMPBELL, AND SPRAGUE
 STREETS





BUILDING AND LAND USE SERVICES DIVISION



REVIEW PANEL MINUTES

Wednesday, March 3, 2011

10:00 am

Third Floor Conference Room

ATTENDEES:

Craig Kuntz
Shanta Frantz
Jennifer Kammerzell

Troy Stevens
Terry Caillier
Pete Rambow

Drew Randolph
Dan Oliver
Tony Vasquez

1.	
Action:	Street Vacation – Existing portion of Ruston Way near Pt. Ruston
File Number:	Street Vacation (Project No.: 124.1282)
Applicant:	Point Ruston, LLC
Staff Contact:	Troy Stevens
Location:	Northwesterly of North 49 th Street, ending toward the NW corner of Parcel F, BLA MPD2008-40000118826 , Parcel Number 8950003311, et al
<input checked="" type="checkbox"/>	<p>Miscellaneous:</p> <p>The Panel made the following comments with regards to this Street Vacation (Project No.: 124.1282):</p> <ol style="list-style-type: none"> 1. Traffic and Construction will respond via separate memorandum or email by staff already reviewing the Point Ruston Work Order and right-of-way improvements. 2. ESSE staff will provide comments separate via email or memorandum. 3. Land Use staff will provide comments separate via email or memorandum.

INTERNAL SCOPING REVIEWS:

2.	
Action:	To build a new Medical Office Building and Parking Garage for Franciscan Health System
File Number:	Scoping Review – PRE2011-40000159577
Applicant:	Brad Hinthorne
Staff Contact:	Craig Kuntz
Location:	1011 S 17TH ST, 1602 S J ST, Parcel Numbers 2016210011,2016210020, 2017210010 - 2017210070
	<p>Work Order Required?</p> <p><input checked="" type="checkbox"/> Yes. All street work shall be accomplished as stated herein unless otherwise approved by the City Engineer. A licensed professional civil engineer shall submit the street plans for review and approval following the City's work order process. To initiate a work order, contact the Public Works Construction Division at 591-5760 and note the bond requirements below.</p>

Stevens, Troy

From: Spadoni, Lisa
Sent: Tuesday, March 08, 2011 4:45 PM
To: Stevens, Troy
Subject: Street Vacation - Existing portion of Ruston Way near Pt. Ruston
Attachments: RPM-2011-03-02.doc

Hi Troy,

It looks like the proposed street vacation for Point Ruston roughly conforms with the BLA that was approved in 2008. If there are any concerns about the area, I'd suggest working with Jeff Webster since he reviewed the BLA from a surveyor's perspective. Also, be sure to connect with the people working on the Pt. Ruston LID to make sure the areas match up.

Lisa



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: TROY STEVENS
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1282

DATE: April 13, 2011

Real Property Services has received a petition to vacate a 40 to 60 foot portion of Ruston Way lying northwest of North 49th Street, as shown on the attached vicinity map.

The Petitioner proposes to add the lands to be vacated to the adjoining property for the development of Point Ruston.

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, May 6, 2011**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

Attachment(s)

- AT&T Broadband
- Pierce Transit
- Puget Sound Energy
- Qwest Communications
- Fire Department
- Police Department
- TPU/Power/T&D
- TPU/Water/LID
- PW/Director (3)
- PW/BLUS (2)
- PW/Construction
- PW/Engineering ✓
- PW/Engineering/LID
- PW/Engineering/Traffic
- PW/Environmental Services
- PW/Solid Waste
- PW/Street & Grounds
- Tacoma Economic Development
- Click! Network

RESPONSE

_____ No Objections

X _____ Comments Attached

5/10/11 _____ Date

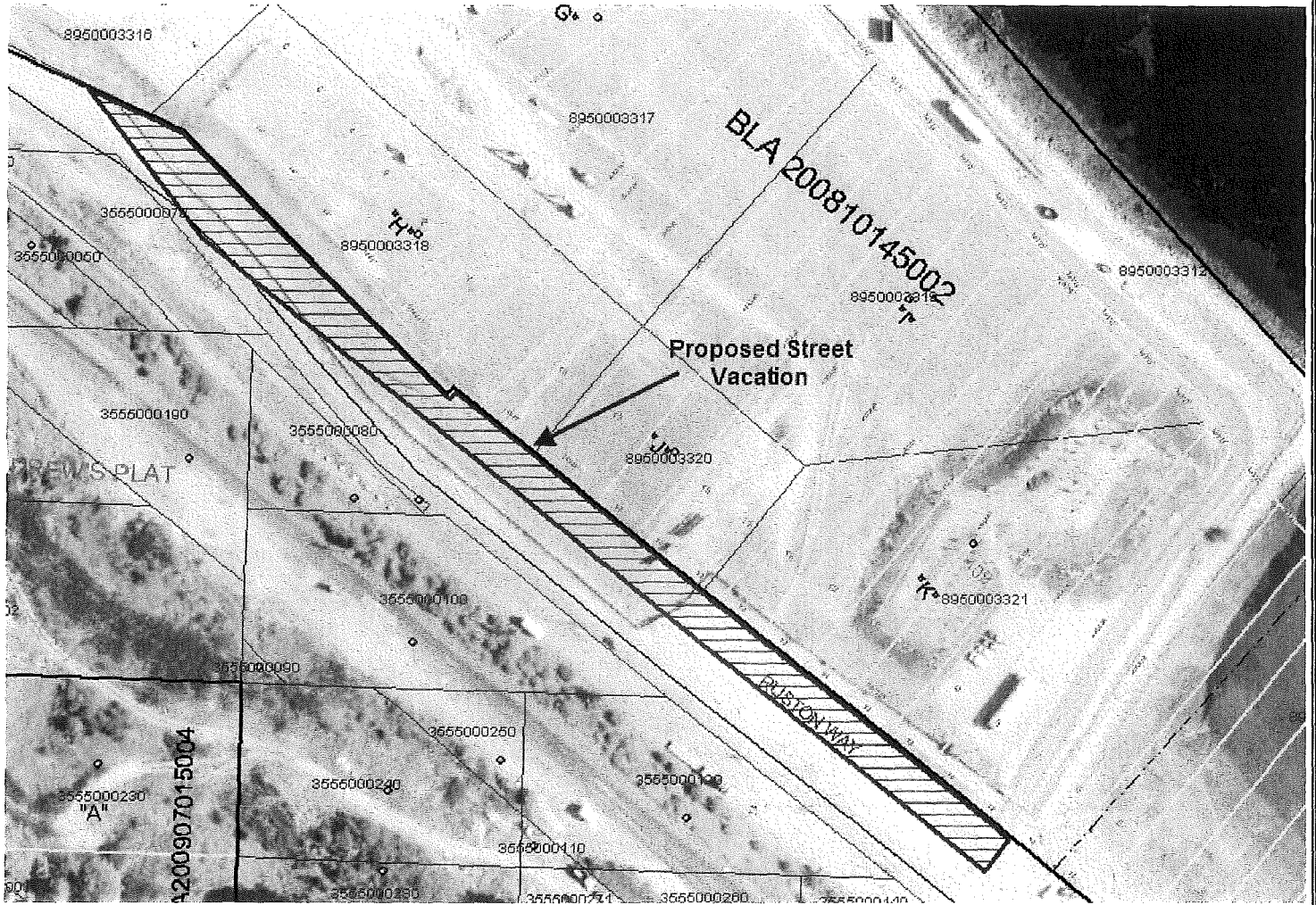
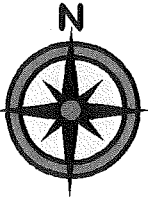
J. D. Kaplan _____ Signature

PW/ENGINEERING _____ Department

From: O'Neill, Sue
Sent: Tuesday, May 10, 2011 8:19 AM
To: Stevens, Troy; Kammerzell, Jennifer
Cc: Price, Richard; Diekmann, Joshua; Kingsolver, Kurtis
Subject: RE: Point Ruston Street Vacation 124.1282 - Request for Agency Comments

The vacation is consistent with the new roadway plans. This is something that has been underway for quite awhile now and Rich, Josh & the rest of the Point Ruston review team have seen and reviewed.

Sue



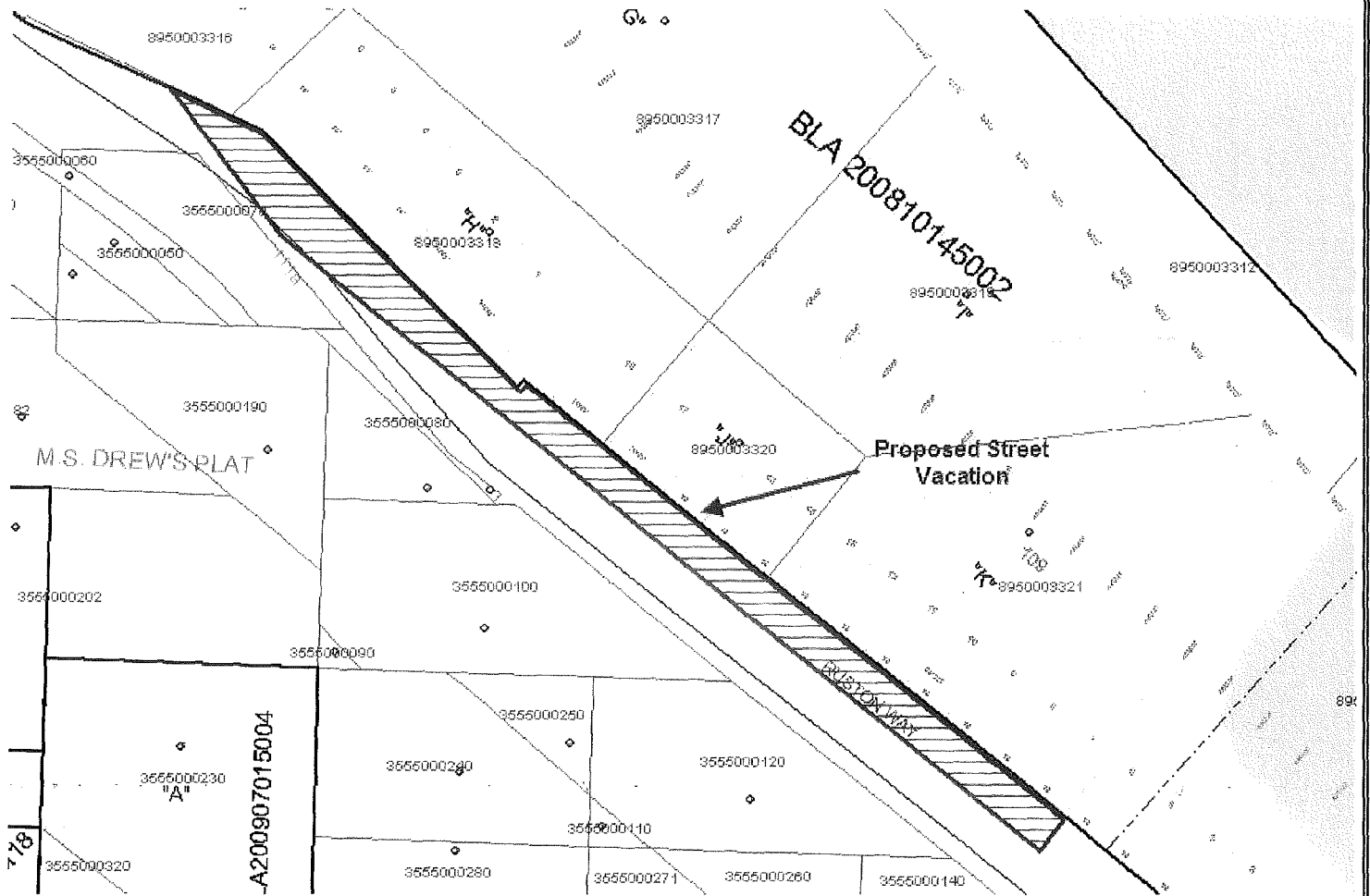
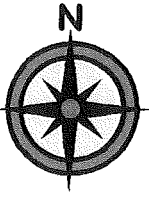
POINT RUSTON, LLC

STREET VACATION NO. 124.1282

A PORTION OF RUSTON WAY NORTHWESTERLY OF NORTH 49TH STREET

NW1/4 SEC. 24, T21N, R2E

NOT TO SCALE



POINT RUSTON, LLC

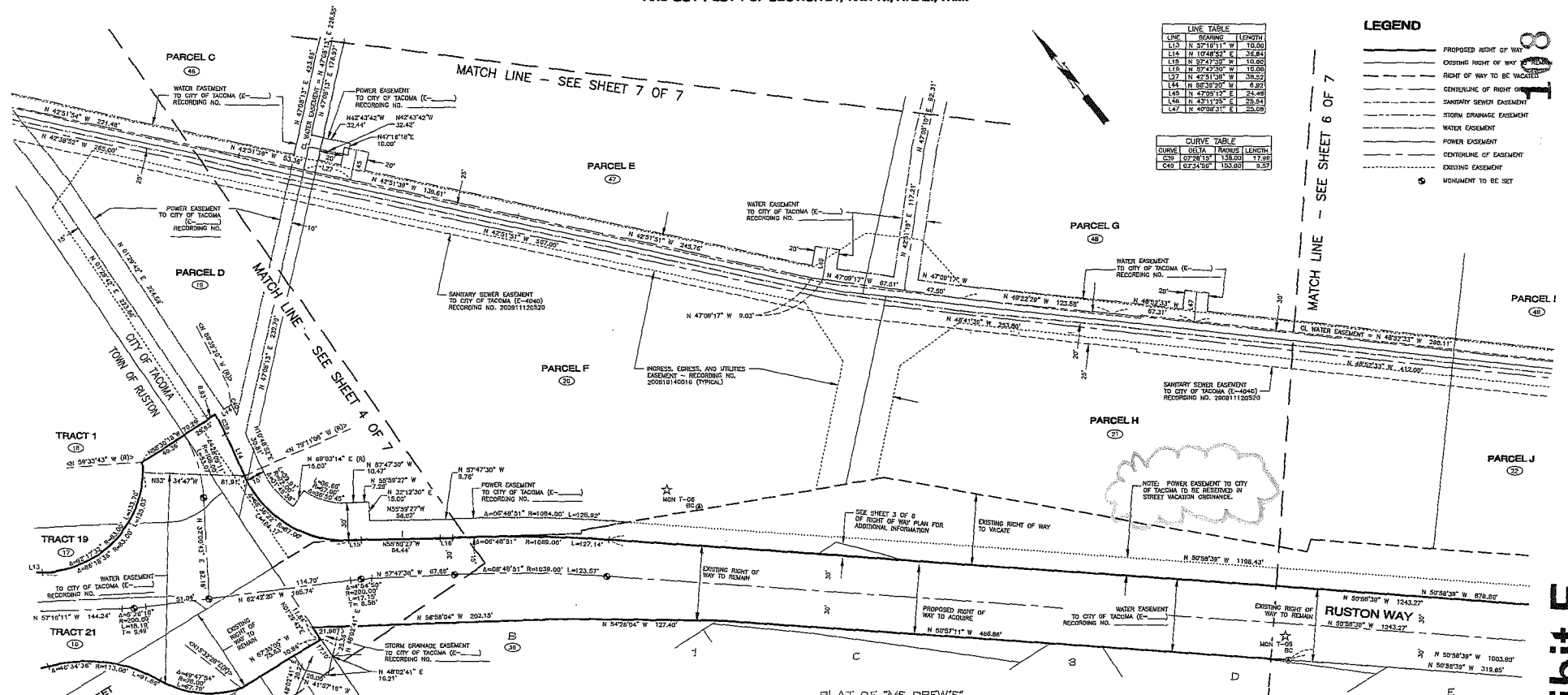
STREET VACATION NO. 124.1282

A PORTION OF RUSTON WAY NORTHWESTERLY OF NORTH 49TH STREET

NW1/4 SEC. 24, T21N, R2E

NOT TO SCALE

A PORTION OF GOV'T LOT 1 AND OF THE SE 1/4 OF THE NE 1/4 OF SECTION 23 AND GOV'T LOT 1 OF SECTION 24, T. 21 N., R. 2 E., W.M.



LINE	BEARING	LENGTH
L13	N 57°10'11" W	10.00
L14	N 10°48'55" W	31.84
L15	N 57°47'35" W	10.00
L16	N 57°25'05" W	10.00
L17	N 42°51'35" W	38.52
L18	N 50°23'20" W	8.25
L19	N 47°25'12" E	24.48
L40	N 43°11'25" E	25.04
L41	N 40°02'31" E	25.00

CURVE	CHORD	RADIUS	LENGTH
C39	407.9151	135.00	31.98
C40	673.4558	183.00	6.57

LEGEND

- PROPOSED RIGHT OF WAY
- - - - - EXISTING RIGHT OF WAY
- RIGHT OF WAY TO BE VACATED
- CENTERLINE OF RIGHT OF WAY
- SANITARY SEWER EASEMENT
- STORM DRAINAGE EASEMENT
- WATER EASEMENT
- POWER EASEMENT
- CENTERLINE OF EASEMENT
- EXISTING EASEMENT
- MONUMENT TO BE SET

NO.	PARCEL NO.	ADDRESS	NAME	PARCEL AREA	CALCULATED PARCEL AREA (ESM)	SANITARY SEWER EASEMENT	STORM DRAINAGE EASEMENT	WATER EASEMENT	POWER EASEMENT
18	895000314	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	40,880 S.F.	40,880 S.F.	3,655 S.F.	N/A	1,150 S.F.	7,340 S.F.
20	895000316	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	113,256 S.F.	113,280 S.F.	9,726 S.F.	N/A	3,500 S.F.	9,290 S.F.
21	895000318	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	74,558 S.F.	74,500 S.F.	10,100 S.F.	N/A	3,920 S.F.	N/A
30	335000060	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	11,965 S.F.	13,410 S.F.	N/A	270 S.F.	N/A	N/A
38	235000140	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	4,011 S.F.	7,889 S.F.	N/A	488 S.F.	N/A	N/A
46	895000313	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	102,816 S.F.	103,340 S.F.	1,400 S.F.	N/A	10,470 S.F.	3,450 S.F.
47	895000315	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	175,111 S.F.	175,290 S.F.	2,070 S.F.	N/A	8,850 S.F.	9,970 S.F.
48	895000317	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	104,221 S.F.	104,350 S.F.	2,800 S.F.	N/A	15,130 S.F.	N/A

NOTES:
 1) "PARCEL AREA" AS SHOWN HEREON IS PER THE PIERCE COUNTY ASSESSOR'S OFFICE. ESM ASSUMES NO LIABILITY FOR THE ACCURACY OF SAID AREAS.
 2) N/A = NOT APPLICABLE TO THIS PARCEL.
 3) AREAS FOR EASEMENTS RECORDED PRIOR TO 2009 ARE NOT INCLUDED IN THE CHART HEREON.

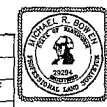
ESM CONSULTING ENGINEERS, LLC
 181 S. 333rd Street
 Bag C, DuBois WA 99003
 www.esmcivil.com
 Civil Engineering
 Land Surveying
 Public Works
 Project Management
 Land Planning
 Landscape Architecture



REVISION

NO.	DATE	APP'D	DESCRIPTION

DATE: 2010-03-03
 SCALE: 1"=40'
 DRAWN: [Signature]
 CHECKED: [Signature]
 PROJECT NAME: [Signature]
 DRAWING NAME: [Signature]
 DESIGNED BY: ESM-05



CITY OF TACOMA
 DEPARTMENT OF PUBLIC WORKS
 POINT RUSTON, LLC
 PUBLIC UTILITY PLAN

6-19292
 1278-002-008
 SHEET NO.
 5 OF 7

Exhibit F

A PORTION OF GOVT LOT 1 AND OF THE SE 1/4 OF THE NE 1/4 OF SECTION 23
AND GOVT LOT 1 OF SECTION 24, T. 21 N., R. 2 E., W.M.

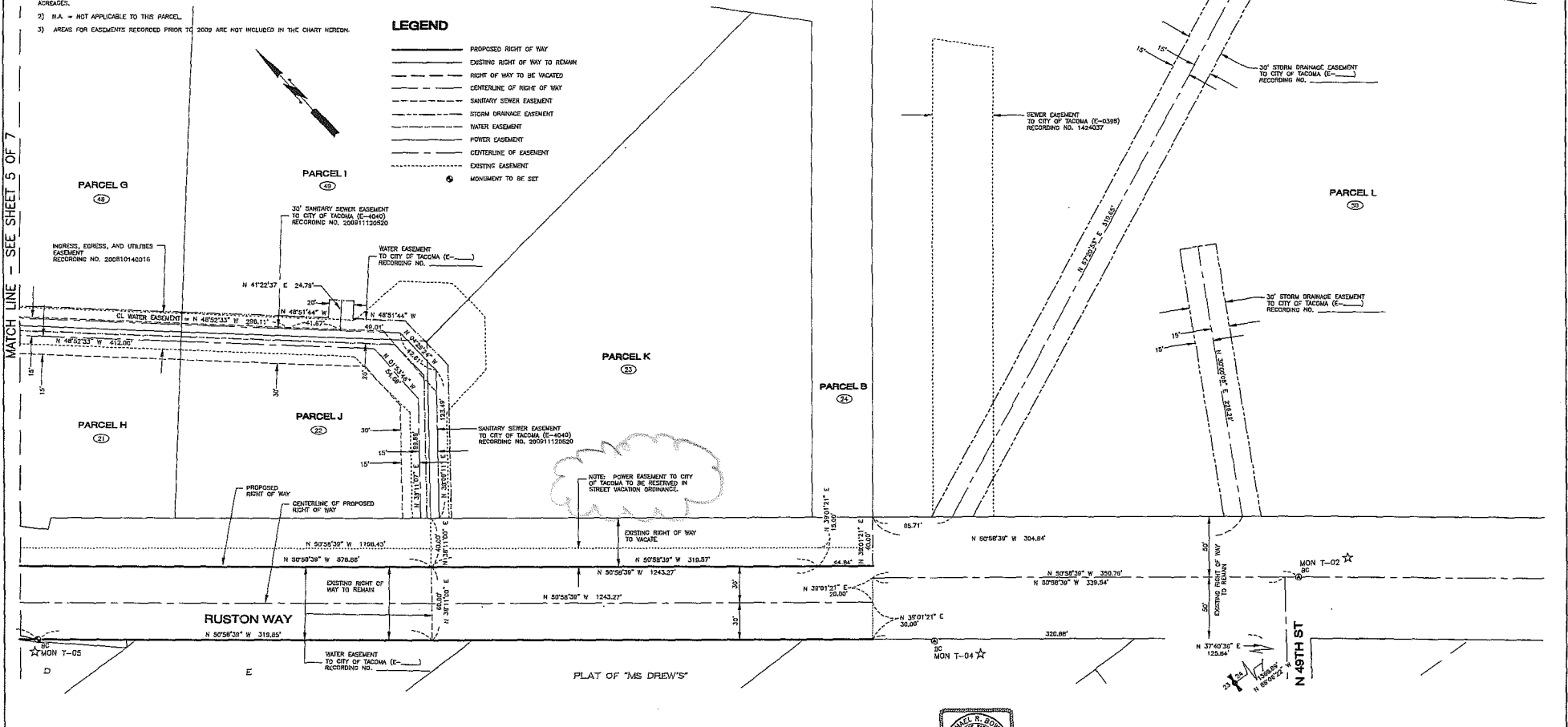
NO.	PARCEL NO.	ADDRESS	NAME	PARCEL AREA	CALCULATED PARCEL AREA (CSM)	SANITARY SEWER EASEMENT	STORM DRAINAGE EASEMENT	WATER EASEMENT	POWER EASEMENT
21	885003318	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	74,050 S.F.	74,050 S.F.	10,190 S.F.	N/A	1,830 S.F.	N/A
22	892003320	3005 RUSTON WAY	POINT RUSTON LLC	30,630 S.F.	30,840 S.F.	7,420 S.F.	N/A	1,510 S.F.	N/A
23	885003322	3008 RUSTON WAY	POINT RUSTON LLC	10,630 S.F.	10,630 S.F.	770 S.F.	N/A	2,330 S.F.	N/A
24	885003315	3005 RUSTON WAY	POINT RUSTON LLC	23,440 S.F.	23,540 S.F.	N/A	N/A	N/A	N/A
48	885003317	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	164,281 S.F.	164,280 S.F.	2,880 S.F.	N/A	13,130 S.F.	N/A
49	885003316	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	153,237 S.F.	153,650 S.F.	1,770 S.F.	N/A	3,340 S.F.	N/A
50	885003322	NO SITE ADDRESS ASSIGNED	POINT RUSTON LLC	550,183 S.F.	550,270 S.F.	N/A	N/A	22,350 S.F.	N/A

NOTES:

- "PARCEL AREA" AS SHOWN HEREON IS PER THE Pierce COUNTY ASSESSOR'S OFFICE. ESM ASSUMES NO LIABILITY FOR THE ACCURACY OF SAID AREA(S).
- N.A. = NOT APPLICABLE TO THIS PARCEL.
- AREAS FOR EASEMENTS RECORDED PRIOR TO 2009 ARE NOT INCLUDED IN THE CHART HEREON.

LEGEND

- PROPOSED RIGHT OF WAY
- EXISTING RIGHT OF WAY TO REMAIN
- - - RIGHT OF WAY TO BE VACATED
- - - CENTERLINE OF RIGHT OF WAY
- - - SANITARY SEWER EASEMENT
- - - STORM DRAINAGE EASEMENT
- - - WATER EASEMENT
- - - POWER EASEMENT
- - - CENTERLINE OF EASEMENT
- - - EXISTING EASEMENT
- ⊙ MONUMENT TO BE SET



ESM CONSULTING ENGINEERS, LLC

181 S. 302nd Street
Big C, Suite 210
Federal Way, WA 98003

www.esmengineers.com

Civil Engineering Land Surveying Land Planning
Public Works Project Management Landscape Architecture



REVISED

DATE

DATE	2010-05-05	SCALE	1"=40'
BY	DESIGNED	CHECKED	
DATE	DRAWN	PROJECT NAME	
FIELD BOOK	FILED/CAD/PLT	CHECKED BY	
		DATE	ESMT-08



CITY OF TACOMA
DEPARTMENT OF PUBLIC WORKS

POINT RUSTON, LLC
PUBLIC UTILITY PLAN

6-19292

1278-002-008

SHEET NO.

SHEET 6 OF 7

**AGREEMENT FOR IMPROVEMENTS WITHIN THE ASARCO TACOMA
SMELTER SUPERFUND SITE AREA OU2**

THIS AGREEMENT FOR IMPROVEMENTS WITHIN THE ASARCO TACOMA SMELTER SUPERFUND SITE AREA OU2 (this "Agreement") is made as of this 28th day of April, 2009 between the City of Tacoma, a Washington municipal corporation (the "City") and Point Ruston LLC, a Washington limited liability company (the "Developer").

RECITALS

A. The Point Ruston project is a unique combination of a large property development project, and a large and complex environmental remediation project, and is located within the site contaminated by the former Asarco copper smelting operation (the "Site").

B. The Developer and remediator, Point Ruston, LLC, was selected to acquire and remediate the site in competitive public process administered through the United States Bankruptcy court, and approved by the United States Environmental Protection Agency ("EPA").

C. In its remedial responsibilities, Point Ruston is working under a Consent Decree with EPA which directs and governs Point Ruston's responsibility to clean up the Site. The Site is located both in the City of Tacoma (the "City") and the Town of Ruston (the "Town"), and in the absence of a successful completion of the Point Ruston project, issues associated with an unfinished clean-up could create significant problems for the City and the Town.

D. Ruston Way as it passes through the Site, is entirely within an area designated in the Consent Decree as OU2 including properties located in the jurisdiction of both Tacoma and Ruston, and is one of the areas that has been part of the required remedial action from the inception of the original Consent Decree between EPA and Asarco.

E. The Developer had originally considered effecting clean up and reconstruction of Ruston Way (the "Project", as more particularly defined below) through a conventional process with the City, however, the unique circumstances of the Site make such a process complex, difficult and would increase the City's and the Town's risk. Point Ruston LLC and Asarco are signatories to the Consent Decree with EPA for remedial work on the Site that was approved by the federal courts.

F. A conventional LID approach with the City constructing the Project would require some assignment of remedial responsibility under the EPA Consent Decree to the

and apply them toward the repayment of the Bonds, and shall enforce the liens created by those assessments.

(iii) Street Vacation and Rededication. Prior to completion of the Project, the City and Developer will agree to schedules for a vacation and rededication process to create a sixty (60) foot Right-of-Way for Ruston Way on its new alignment, together with an adjoining ten (10) foot utility easement, including dedication of existing Developer Property to the City and Town within their respective jurisdictions, and City release of surplus Right-of Way to Developer. In valuing any Right-of-Way vacated to Developer, the City will consider the value of the Developer Property dedicated to the City and the value of Developer's release of its rights against the City pursuant to Section 6.2 of this Agreement. *

3. Developer's Responsibilities and Obligations.

3.1 Developer's Design, Construction and Project Transfer Responsibilities. Except as otherwise expressly provided herein, Developer shall at its sole cost and expense obtain all permits and furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for completion of the Project, all consistent with this Agreement. The Developer shall designate a project manager, and provide contact information to the City for that project manager, his/her successors, and for other Developer personnel involved in interfacing with the City in connection with Developer's work on the Project. The Developer shall pay the City out of the proceeds of the Bonds to provide for the City's actual costs for engineering, survey, appraisal, legal and other expenses related to the improvements and the formation of the LID. The Developer shall also pay the City amounts customarily required in connection with City permits associated with construction of the Project, to assure consistency with City standards and to verify quantities of materials used in connection with the construction. The Developer shall provide all interim financing for the project during the design and construction period, and transfer by warranty deed, bill of sale and/or right-of-way dedication (as applicable) the completed improvements comprising the Project to the City and the Town respectively, in exchange for the proceeds of the Bonds issued to pay for the improvements within the LID. The Developer shall provide the City with sufficient documentation for the City to determine that, based on the work and materials involved, the amount to be paid to the Developer from Bond proceeds is appropriate. In the event that the actual cost of the Project is greater than may be lawfully assessed against the Developer Property, the Developer shall nevertheless finance, complete and transfer the completed improvements comprising the Project to the City and the Town respectively for an amount equal to the portion of Bonds issued to pay for those improvements (i.e., the amount of the Bonds less costs of funding the Guaranty Fund, the Supplemental Reserve Fund and the portion of Project costs comprised of the City's LID formation/assessment costs and Bond issuance costs). The Developer shall be responsible for any and all costs of the Project in excess of that amount. In carrying out the Project, the Developer shall conduct remedial

5.7 Substantial Completion. Upon Developer's determination that Substantial Completion of the Project has been achieved, Developer shall provide to City a written Notice of Substantial Completion. The City shall have ten (10) business days working in coordination with the Town to reasonably identify any incomplete items that would preclude Substantial Completion ("punch-list items"). If no response is received from the City within the required time, the Project shall be deemed Substantially Complete as of the date of the Notice of Substantial Completion.

6. Disclaimer of City Liability, Indemnity.

6.1 Preparation of Site; Utilities. The City shall not be responsible for any excavation, demolition or site preparation in connection with the Project or any existing improvements on the Ruston Way Property. The City makes no representations as to the availability or suitability of utility connections to the Ruston Way Property. The Developer shall make agreements for all utility services directly with the service provider.

6.2 AS IS. Except as expressly set forth herein, Developer undertakes the Project improvements on the Ruston Way Property "as is" and "where is" with all faults, of any nature or kind, without any representations or warranties, express or implied or statutory of any kind whatsoever by the City, or any employee, officer, agent or representative of the City. Upon sale of the Bonds and City's acquisition of the Project, Developer shall be deemed to have accepted such Ruston Way Property and to have waived and released its right to recover from the City any and all damages, losses liabilities, costs, including but not limited to "remedial action" and "response" costs as these terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601(24) and (25), as amended, expenses whatsoever (including attorneys' fees and costs) and claims therefor, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way arising out of the design and construction of the Project, or Ruston Way Property that may be conveyed to the Developer by street vacation. Without limitation of the foregoing waiver and release, the parties agree that the above waiver and release shall not serve to release any third party from any such damage, loss liability, cost, expense or claim incurred by Developer. The City makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Ruston Way Property or structures thereon for any Project improvements to be constructed by the Developer, and Developer warrants that it has not relied on representations or warranties, if any, made by the City as to the physical or environmental condition of the Ruston Way Property or the structures thereon for any Project improvements to be constructed by the Developer.

6.3 Indemnification of the City and Town. Developer shall indemnify, defend and hold the City and Town harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with the construction of the Project,