



ORDINANCE NO. 28568

1 AN ORDINANCE relating to public rights-of-way; amending the franchise granted
2 to the Puyallup Tribe of Indians pursuant to Ordinance No. 27957;
3 authorizing the installation, operation, maintenance, repair, replacement,
4 and removal of certain private improvements to include, but not limited to,
5 irrigation, stormwater/surfacewater infrastructure, communications, and
6 power facilities within portions of the East 29th Street, East 31st Street,
7 East R Street, and East 32nd Street.

8 WHEREAS the Puyallup Tribe of Indians (“Puyallup Tribe”) is undertaking a
9 project to expand its existing Emerald Queen casino, which will include construction
10 of a hotel, parking garage, and transportation improvements (“Project”), and will, in
11 the future, undertake the construction of an elder’s assisted living center and other
12 economic development projects, and

13 WHEREAS the transportation improvements will include construction of a
14 public connector road from East 30th Street to a roundabout to be constructed on
15 East 29th Street, and

16 WHEREAS, as part of this Project and to support both completed and future
17 projects, the Puyallup Tribe would like to expand the boundaries of the franchise
18 limits to include private infrastructure within portions of East 29th Street, East 31st
19 Street, East 32nd Street, East R Street, and alley rights-of-way for the support of
20 such development as described in the attached Schedule II and Schedule III, and

21 WHEREAS City staff has reviewed the plans cataloged under City Work
22 Order Numbers 60000036298 and 60000037578 for the installation, operation,
23 maintenance, repair, replacement, and removal of certain private improvements to
24 include, but not limited to, irrigation, stormwater/surfacewater infrastructure,
25 communications, and power facilities, and have determined that the planned
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installation of such infrastructure will not interfere with the City’s current or planned use of East 29th Street, East 31st Street, East R Street, and East 32nd Street, and

WHEREAS the Washington State Department of Transportation (“WSDOT”) has reviewed and approved the infrastructure improvements in that portion of East R Street under WSDOT control that will, in the future, be returned to the City, and

WHEREAS the City previously granted a franchise to the Puyallup Tribe pursuant to Ordinance No. 27957 (“Franchise”), passed December 14, 2010, authorizing the Puyallup Tribe to construct, install, and operate such facilities within the Franchise area consisting of public right-of-way as described in Exhibit “A” attached to the Franchise, and

WHEREAS the Puyallup Tribe has asked the City to amend the Franchise so that the Franchise Area will include those portions of East 29th Street, East 31st Street, East R Street, and East 32nd Street within and upon which the Puyallup Tribe will install or has installed infrastructure for the purposes already authorized pursuant to the Franchise, and

WHEREAS the City Council has considered the request of the Puyallup Tribe and finds that it would be in the best interest of the public to amend the Franchise as set forth herein; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Subsection 1.5 of Section 1 of Ordinance No. 27957 is hereby amended to read in its entirety as follows:



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1.5 "Franchise Area" means that certain area within the jurisdictional boundaries of the Grantor designated on ~~Exhibit A~~ Schedules I, II, and III.

Section 2. That Ordinance No. 27957 is hereby amended by the addition of new Schedules II and III, attached hereto as Exhibit "A," immediately following Schedule I to the Franchise.

Section 3. That Subsection 17.1 of Section 17 of Ordinance No. 27957 is hereby amended to adjust the annual fee for the increase in linear footage of occupancy of the right-of-way represented in Schedules II and III by increasing the annual fee from \$3,623.00 per year to \$5,800.50, such amendment to read in its entirety as follows:

17.1 In consideration for granting this Franchise and for the use of the Franchise Area, there is hereby established an annual fee equal to ~~Three Thousand Six Hundred Twenty Three Dollars (\$3,623.00)~~ Five Thousand Eight Hundred Dollars and Fifty Cents (\$5,800.50) per year.

Section 4. That Subsection 17.2 of Section 17 of Ordinance No. 27957 is hereby amended to provide for prorated payment of the fee increase of \$2,177.50 as section forth in Section 3 of this Ordinance, with such amendment adding the following at the end of Subsection 17.2:

. . . In the event of an increase in the annual fee, such amount shall be due and payable to the City within 30 days following execution of acceptance of the Franchise amendment implementing the annual



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fee increase; provided that, the amount of the annual fee increase due and payable shall be prorated based upon the number of months remaining in the annual payment period to which the payment applies.

Section 5. That all other provisions of the Franchise shall remain in full force and effect.

Section 6. That the Puyallup Tribe shall, within 30 days after passage of this Ordinance, file with the City Clerk, its unconditional written acceptance of all the terms and conditions of this amendment to the Franchise (Ordinance No. 27957) in substantially the form of Exhibit "B" attached hereto (Unconditional Acceptance). If the Puyallup Tribe shall fail to so file its written acceptance within such period, then the rights and privileges granted hereunder shall be deemed forfeited.

Passed _____

Mayor

Attest:

City Clerk

Approved as to Form:

Chief Deputy City Attorney



EXHIBIT "A"

(Schedule II to Franchise Ordinance No. 27957)

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All that portion of East 31st Street, lying between the easterly margin of Portland Avenue and the westerly margin of East R Street; AND the westerly 57 feet of that certain alley, lying easterly of Portland Avenue and between East 31st Street and East 32nd Street, as dedicated to the City of Tacoma, within the Map of Indian Addition to the City of Tacoma, according to the Plat thereof filed of record on May 1, 1896 in Book 7 of Plats at Pages 30 and 31, records of Pierce County, Washington.

All as specifically depicted within the City of Tacoma's Work Order Number 60000036298, on file with the City of Tacoma, Public Works Department.

SITE



SOURCE: GOOGLE MAPS (2009)



EXHIBIT "A"

(Schedule III to Franchise Ordinance No. 27957)

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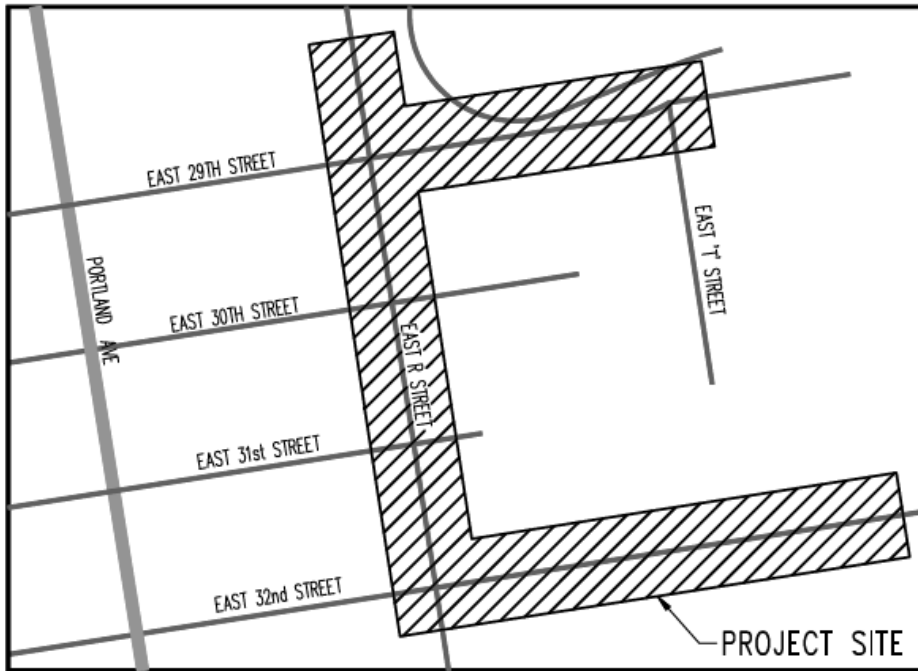
Inclusive of the franchised area described in Schedule 1;

All that portion of East 32nd Street, lying between the westerly margin of East R Street and a point 300 feet easterly of the easterly margin of East T Street;

AND all that portion of East R Street, lying between East 28th and East 29th Streets, beginning at a point lying 20 feet northerly of the alley and terminating at the north line of East 29th Street;

AND East 29th Street between the westerly margin of East R Street and the easterly margin of East T Street, all as dedicated to the City of Tacoma, within the Map of Indian Addition to the City of Tacoma, according to the Plat thereof filed of record on May 1, 1896 in Book 7 of Plats at Pages 30 and 31, records of Pierce County, Washington.

All as specifically depicted within the City of Tacoma's Work Order Number 60000036298, on file with the City of Tacoma, Public Works Department.



 **VICINITY MAP**
NO SCALE



EXHIBIT "B"

(Unconditional Acceptance)

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UNCONDITIONAL ACCEPTANCE BY GRANTEE:

I, the undersigned Chairman of the Puyallup Tribal Council, governing body of the Puyallup Tribe of Indians, am authorized to bind the Tribe and to unconditionally accept the terms and conditions of the amendment to the Franchise (Ordinance No. 27957), which amendments are set forth at Ordinance No. _____ and are hereby accepted by the Puyallup Tribe this ____ day of _____, 2019.

PUYALLUP TRIBE OF INDIANS

Name: Herman Dillon, Sr.
Chairman, Puyallup Tribal Council

Subscribed and sworn to before me this ____ day of _____, 2019.

Notary Public in and for the State of Washington,
residing at _____
Printed Name: _____
My commission expires _____

Received on behalf of the City of Tacoma this ____ day of _____, 2019.

Name: _____
Title: _____