

**FIRST AMENDMENT
TO THE
INTERLOCAL AGREEMENT AUTHORIZING A FLEXIBLE APPROACH
TO SHORELINE PUBLIC ACCESS PROVISION
BETWEEN
THE CITY OF TACOMA
AND
THE PORT OF TACOMA**

THIS FIRST AMENDMENT (the “First Amendment”) **TO THE INTERLOCAL AGREEMENT AUTHORIZING A FLEXIBLE APPROACH TO SHORELINE PUBLIC ACCESS PROVISION BETWEEN THE CITY OF TACOMA AND THE PORT OF TACOMA** (the “Agreement”), is entered into this 19th day of December, 2023, by and between the City of Tacoma, a municipal corporation of the State of Washington (the “City”), and the Port of Tacoma, a port district organized under the laws of the State of Washington (the “Port” and, together with the City, the “Parties”).

RECITALS

WHEREAS, the Parties executed the Agreement on December 13, 2013, which provided a flexible approach to shoreline public access for the Port and its tenants to use in fulfilling the public access permit requirements of the City’s Shoreline Master Program;

WHEREAS, paragraph 13 of the Agreement – Duration of Agreement and Termination – states that the Agreement “shall continue for a term of 10 years from the execution date of this Agreement, and may be extended by mutual agreement of the Parties and upon approval of each Parties’ respective legislative body”; and

WHEREAS, the Parties wish to amend the Agreement to allow it to remain in effect for an additional 10-year period.

AGREEMENT

NOW, THEREFORE, pursuant to paragraph 13 of the Agreement, which allows the Parties to extend the Agreement’s term through mutual agreement and approval by their respective legislative bodies, the Parties wish to amend the Agreement as follows:

1. Paragraph 13 of the Agreement – Duration of Agreement and Termination – shall be replaced with the following:

This Agreement shall continue for a term of two (2) years from the execution date of this First Amendment, and shall be further extended automatically thereafter in one (1) year increments until such time as the pending Tideflats Subarea Plan is both adopted and final (inclusive of any appeals). This Agreement may also be further extended by mutual

agreement of the Parties and upon approval of each Parties' respective legislative body, provided however, that any Project for which a completed Shoreline permit application was filed before termination of this Agreement shall be vested to the terms of this Agreement as it exists at the time of permit application.

IN WITNESS WHEREOF, the Parties have executed this Agreement this _____ day of _____, 2023.

CITY OF TACOMA

DocuSigned by:
By: Peter Huffman
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Its: _____

APPROVED AS TO FORM:
DocuSigned by:
Steve Victor, Deputy City Attorney
97EA3E5E13EF4D3...
Its: _____

City Attorney

CITY OF TACOMA

DocuSigned by:
By: City Manager Elizabeth Pauli
5EF9F48393D34A8...
Its: _____

PORT OF TACOMA

Eric Johnson
By: _____
Eric Johnson
Executive Director

APPROVED AS TO FORM:
Heather L. Burgess
Heather L. Burgess
Port Legal Counsel



RESOLUTION NO. 41298

1 A RESOLUTION relating to planning and development; authorizing an execution of
2 an amendment to the Interlocal Agreement with the Port of Tacoma,
3 regarding shoreline public access under the Shoreline Master Program, until
4 such time as the Tideflats Subarea Plan is complete.

5 WHEREAS under the City's Shoreline Master Program, the Port of Tacoma
6 ("Port") is required to provide public access as mitigation for developing shoreline
7 areas in a manner that preempts public use, and

8 WHEREAS given the limited opportunities to provide high quality public
9 access on Port property, the City's Shoreline Master Program authorizes the City
10 to enter into agreements with the Port and other public agencies for public access
11 provision geographically separate from the new development site, including the
12 use of a public access fund and an in-lieu fee, and

13 WHEREAS upon finalization of the Shoreline Master Program, the City
14 adopted Resolution No. 38706 authorizing the City Manager to execute an
15 Interlocal Agreement ("Agreement") between the City and Port that: (1) provided a
16 mechanism to better ensure that public access mitigation helps to create an
17 integrated and connected public access system, (2) identifies shared priority public
18 access projects, (3) streamlines permitting for both the Port and private applicants,
19 (4) provides certainty to the City, Port, and private sector applicants for the
20 duration of the agreement, and (5) provides a methodology for the use of a public
21 access fee-in-lieu that can be utilized by the Port and private parties, and

22 WHEREAS the parties executed the Agreement on December 13, 2013,
23 which provided a flexible approach to shoreline public access for the Port and its
24 tenants to use in fulfilling the public access permit requirements of the City's
25 Shoreline Master Program, and
26



1 WHEREAS paragraph 13 of the Agreement – Duration of Agreement and
2 Termination – states that the Agreement “shall continue for a term of 10 years from
3 the execution date of this agreement, and may be extended by mutual agreement
4 of the parties and upon approval of each parties’ respective legislative body”, and

5 WHEREAS the Agreement is set to expire on December 13, 2023, and

6 WHEREAS on February 10, 2019, the City, Port, Puyallup Tribe of Indians,
7 City of Fife and Pierce County finalized a Work Plan to jointly develop the Tideflats
8 Subarea Plan, which includes consideration of Shoreline Management Act
9 planning requirements, including public access and recreation provisions, and
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11 WHEREAS the Tideflats Subarea Plan is expected to be completed within
12 the next two years and will include recommendations on the provision of public
13 access in the Tideflats area; Now, Therefore
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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Manager, or designee, is hereby authorized to enter into an extension of an Interlocal Agreement with the Port of Tacoma, regarding shoreline public access under the Shoreline Master Program for an additional term of two years, and providing for further automatic extensions in one (1) year increments, if necessary, until such time as the pending Tideflats Subarea Plan is both adopted and final.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney