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SUPERIOR COURT OF WASHINGTON IN AND FOR PIERCE COUNTY

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF TACOMA and FOSS
WATERWAY DEVELOPMENT
AUTHORITY,

Defendants.

No. 94-2-10917-6

TWELFTH AMENDMENT TO
CONSENT DECREE TO ADD
PARTY DEFENDANT

(SUCCESSOR OWNER OR
OPERATOR AGREEMENT)

This Amendment is to add Porpoise Landing LLC as a party Defendant to the Consent Decree in this case, pursuant to Section 17 of the Decree. Porpoise Landing LLC is acquiring, or has acquired, an ownership interest in property covered under the Decree. The property is known as Development Site 1, which is within the geographic boundary described in Amended Exhibit A to the Decree. A legal description of the property is provided in Appendix A to this Amendment.

Porpoise Landing LLC agrees to be bound by all provisions of the Consent Decree previously entered in this case as they apply to the particular parcel in which it is acquiring an ownership interest. This Amendment is not intended to make Porpoise Landing LLC jointly and severally liable for properties covered by the Decree for which it is not a Successor Owner or Operator.

1 The undersigned parties agree to amend the Consent Decree to add Porpoise Landing
2 LLC as a party Defendant. These parties agree that this Amendment will be submitted for entry
3 with the Court only after the transfer in interest to Porpoise Landing LLC is consummated.

4 Being fully advised of the reasons for entering this Amendment to the Consent Decree
5 and good cause having been shown,

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Porpoise Landing
7 LLC is added as a party Defendant to the Consent Decree and is bound by it.

8 DATED THIS ____ day of _____, 2007.

9
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11 _____
12 JUDGE/COMMISSIONER
13 Pierce County Superior Court

14 IT IS SO AGREED TO BY THE UNDERSIGNED

15
16 Porpoise Landing LLC

17 By: _____
18 Printed Name: _____
19 Title: _____
20 Date: _____
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DEPARTMENT OF ECOLOGY

ROBERT M. McKENNA
Attorney General

JAMES PENDOWSKI
Program Manager
Toxics Cleanup Program
Date: _____

SARAH BENDERSKY, WSBA #30481
Assistant Attorney General
Attorneys for Plaintiff
Department of Ecology
Date: _____

CITY OF TACOMA

ERIC ANDERSON
City Manager
Date: _____

DOUGLAS F. MOSICH, WSBA #18341
Assistant City Attorney
City of Tacoma
Date: _____

FOSS WATERWAY DEVELOPMENT
AUTHORITY

DONALD G. MEYER
Executive Director
Date: _____

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Appendix A
Legal Description

Pierce County
Section 04 Township 20 Range 03 Quarter 34 TACOMA TIDELANDS: PARCEL B OF BLA
2006-11-29-5003 DESC AS L 14 THRU 18 B 58 EXC ELY 100 FT THEREOF AS MEASURED
PERPENDICULAR TO INNER HARBOR LI OUT OF 187-2 & 185-2 SEG R0392BL 11-27-02BL
DC12/28/06LW