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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  
  
ELEVENTH AMENDMENT TO  
CONSENT DECREE TO ADD  
PARTY DEFENDANT  
  
(SUCCESSOR OWNER OR  
OPERATOR AGREEMENT)

This Amendment is to add Site 4 Foss Waterway LLC as a party Defendant to the Consent Decree in this case, pursuant to Section 17 of the Decree. Site 4 Foss Waterway LLC is acquiring, or has acquired, an ownership interest in property covered under the Decree. The property is known as Development Site 4, 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.

Site 4 Foss Waterway 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 Site 4 Foss Waterway LLC jointly and severally liable for properties covered by the Decree for which it is not a Successor Owner or Operator.

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The undersigned parties agree to amend the Consent Decree to add Site 4 Foss Waterway LLC as a party Defendant. These parties agree that this Amendment will be submitted for entry with the Court only after the transfer in interest to Site 4 Foss Waterway LLC is consummated.

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

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Site 4 Foss Waterway LLC is added as a party Defendant to the Consent Decree and is bound by it.

DATED THIS \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
JUDGE/COMMISSIONER  
Pierce County Superior Court

IT IS SO AGREED TO BY THE UNDERSIGNED

Site 4 Foss Waterway LLC

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
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 31 TACOMA TIDELANDS PARCEL "C" OF DBLA 2005-06-29-5008 A CORRECTION OF DBLA 2005-01-07-5002 DESC AS FOLL S 20 FT OF L 8, L 9 THRU 13 & N 5 FT OF L 14 OF B 59 EXC E 120 FT MEAS PAR/W E LI OF SD PLAT TOG/W EASE OF REC OUT OF 189-1 SEG 2005-1243 2/3/05JK DC03/10/06LW