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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

NINTH AMENDMENT TO CONSENT
DECREE TO ADD
PARTY DEFENDANT

(SUCCESSOR OWNER OR
OPERATOR AGREEMENT)

This Amendment is to add Thea Foss Holdings LLC as a party Defendant to the Consent Decree in this case, pursuant to Section 17 of the Decree. Thea Foss Holdings LLC is acquiring, or has acquired, an ownership interest in property covered under the Decree. The property is known as Development Site 5, 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.

Thea Foss Holdings 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 Thea Foss Holdings 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 Thea Foss Holdings 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 Thea Foss Holdings 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 Thea Foss Holdings LLC is added as a party Defendant to the Consent Decree and is bound by it.

DATED THIS ____ day of _____, 2005.

JUDGE/COMMISSIONER
Pierce County Superior Court

IT IS SO AGREED TO BY THE UNDERSIGNED

Thea Foss Holdings LLC

By: _____
Printed Name: _____
Title: _____
Date: _____

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DEPARTMENT OF ECOLOGY

ROB McKENNA
Attorney General

JAMES PENDOWSKI
Program Manager
Toxics Cleanup Program
Date: _____

MELISSA P. ROURKE, WSBA #34549
Assistant Attorney General
Attorneys for Plaintiff
Department of Ecology
Date: _____

CITY OF TACOMA

JAMES L. WALTON
City Manager
Date: _____

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

FOSS WATERWAY DEVELOPMENT
AUTHORITY

DONALD G. MEYER
Executive Director
Date: _____

NINTH AMENDMENT TO CONSENT
DECREE - 3

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Appendix A
Legal Description

BLOCK 59-PARCEL "D": Lots 1 through 7, and the North 30 feet of Lot 8, of Block 59, according to the Map of Tacoma Tide Lands, as filed in the Office of the Commissioner of Public Lands at Olympia, Washington 3 September 1895; less the east 120 feet measured parallel to the east line of said Plat.