



RESOLUTION NO. 40806

1 A RESOLUTION relating to the Thea Foss Waterway; authorizing the execution
2 of a Purchase and Sale Agreement and a Development Agreement with
3 Foss Harbor, LLC, in the total amount of \$1,979,000, for Sites 9 and 10
4 on the Foss Waterway, to supersede prior agreements, update terms as
appropriate, and remove a previously approved and recorded covenant
on Site 9.

5 WHEREAS, on January 25, 2000, pursuant to Resolution No. 34654, the
6 City Council approved the sale of Foss Waterway Site 11 and a lease agreement
7 and option to purchase Site 10 with related entities now named Foss Harbor,
8 LLC ("Foss Harbor"), and
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10 WHEREAS Foss Harbor owns and operates a 416-slip marina that abuts
11 Site 8, Site 9, the Municipal Dock, Site 10, and Site 11, and

12 WHEREAS, on December 3, 2015, the Foss Waterway Development
13 Authority ("FWDA") issued a competitive Request for Proposals ("RFP") for Site 8,
14 Site 9, the Municipal Dock, and Site 10; the RFP provided that in the event the
15 selected proposer did not move forward with a project, the FWDA could select an
16 alternative proposer from the 2015 RFP and was not required to issue a new
17 solicitation, and
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19 WHEREAS Foss Harbor responded to the RFP, but was not the selected
20 proposer for the project, and
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22 WHEREAS, subsequently, the selected developer withdrew its plans for a
23 project, and Foss Harbor renewed its efforts to design a project for Site 10 and 11
24 and, later, a concept design for a mixed-use project on Site 9, and
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WHEREAS the FWDA engaged in negotiations with Foss Harbor for the sale and development of Sites 9 and 10 in conjunction with Site 11, and over a period of years established most material terms of the transaction, and

WHEREAS the FWDA's operations ceased on December 31, 2020, following concept approval by the Authority's Board of Directors of Foss Harbor's proposed project "The Village at Foss Harbor" on Sites 10 and 11, and authority and responsibility to complete the transaction transitioned to the City, and

WHEREAS, in coordination with the City Attorney's Office and Real Property Services Division of the Public Works Department, the Community and Economic Development Department completed negotiation and drafting of the Purchase and Sale and Development Agreements, and

WHEREAS the proposed Purchase and Sale and Development Agreements will replace and supersede all prior agreements, update terms as appropriate, and remove a previously approved and recorded restrictive covenant on Site 9, and

WHEREAS the terms of the Development Agreement call for mixed-use development of "The Village at Foss Harbor" and another, smaller, project on Site 9; Sites 10 and 11 could be developed in one or two phases, to include approximately 330 market-rate residential units, 563 parking stalls, 145 parking stalls for the marina, 18,060 square feet of commercial space, residential amenity space, enhanced view corridors, and waterfront esplanade consistent with the Design Guidelines for the Foss Waterway, and



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WHEREAS Sites 10 and 11 will be developed by an experienced, third-party developer as approved by the City, and can only be sold with prior approval of and with certain conditions established by the City, and

WHEREAS the developer has prepared a conceptual plan for a three-story mixed-use townhouse development on Site 9, and will be solely responsible for constructing the waterfront esplanade required on all Foss Waterway sites; the City will construct a necessary seawall replacement, funded in the current Capital Improvement Program and scheduled for 2022, and

WHEREAS the developer has an option, after a 120-day feasibility period, to solely purchase Site 10 if it determines Site 9 development is unfeasible, and Foss Harbor will release its covenant restricting certain development of Site 9 regardless of whether it moves forward in acquiring that property, and

WHEREAS the proposed Purchase and Sale Agreement provides that Site 10 will be sold for \$1,034,000, the amount approved in prior action of the City Council, and that Site 9 will be sold for \$945,000, the current fair market value as agreed-upon by the parties, and

WHEREAS the City will receive \$1,979,000 from the sale of Sites 9 and 10, which will be applied toward the Foss Waterway Development Authority's outstanding General Fund loan of \$2,456,525, and the developer will commence paying annual assessments for the properties, currently paid by the City, to the Foss Waterway Owners Association; additionally, at closing, the City will no longer receive current lease revenues for Sites 9 and 10, and



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WHEREAS a schedule for performance is included in the Agreements, allowing the City to repurchase the sites at the approved prices above for non-performance, and the City will closely monitor milestones required in the Purchase and Sale Agreement and accompanying Development Agreement to ensure compliance with all terms, and

WHEREAS, the City's administration recommends approval of the proposed Purchase and Sale Agreement and a Development Agreement with Foss Harbor for Sites 9 and 10 and development of Site 11, which are consistent with City and Shoreline requirements and the Foss Redevelopment Plan; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That the proper officers of the City are hereby authorized to execute a Purchase and Sale Agreement and a Development Agreement with Foss Harbor, LLC, in the total amount of \$1,979,000, for Sites 9 and 10 on the Foss Waterway, to supersede prior agreements, update terms as appropriate, and remove a previously approved and recorded covenant on Site 9, said documents to be substantially in the form of those on file in the office of the City Clerk.

Section 2. That the City Manager, or designee, is hereby authorized to take and execute any additional measures or documents that may be necessary



1 to complete this transaction which are consistent with the approved form of
2 documents referenced by this Resolution, and the intent of this Resolution.

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4 Adopted _____

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Mayor

7 Attest:

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City Clerk

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11 Approved as to form:

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Deputy City Attorney

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