

**FIRST AMENDMENT TO FOSS WATERWAY DEVELOPMENT AUTHORITY  
LOAN AGREEMENT, Balfour Dock, Pier and Moorage**

This FIRST AMENDMENT TO FOSS WATERWAY DEVELOPMENT AUTHORITY LOAN AGREEMENT (separately this "First Amendment") is entered into this \_\_\_\_\_ day of \_\_\_\_\_ between the **CITY OF TACOMA**, a first-class municipal corporation of the State of Washington ("City"), and the **FOSS WATERWAY DEVELOPMENT AUTHORITY**, a public corporation chartered by the City of Tacoma pursuant to chapter 35.21 RCW and Chapter 1.60 of the Tacoma Municipal Code ("Borrower" or "FWDA"), in consideration of the mutual covenants herein. The parties hereby agree as follows:

**1. 1.1 EXISTING AGREEMENT MODIFIED:** The City and the FWDA entered into that certain Loan Agreement, dated November 14, 2007 (separately the "Original Agreement"), which is incorporated herein by reference (as amended hereinafter collectively with this First Amendment referenced as the "Agreement"). The parties hereby modify the Original Agreement.

**1.2** Any and all capitalized terms used in this First Amendment shall have the same meaning set forth in the Original Agreement except as may be expressly otherwise designated herein.

**2. MODIFICATIONS TO EXISTING AGREEMENT:** The parties hereby modify and amend the Original Agreement in the following respects:

**2.1** The security agreement first referenced at subsection 2.(e) of the Original Agreement as being attached at Exhibit "F" is hereby amended as set forth in Exhibit "F-1" attached to this First Amendment and incorporated into the Agreement by this reference.

**2.2** Section 4 of the Original Agreement is hereby deleted and replaced with the following:

4. Security. The Balfour Dock, Pier and Moorage Loan shall be secured by 1) a first lien security interest ("Personal Property Security Interest") in the gross revenues of any kind, form, or nature derived from the Delin Docks (formerly City Marina) and Dock Street Marina, described in Exhibit "G", and 2) repledging the

collateral from an existing loan (The Foss Waterway Development Authority Loan Agreement- Floats and Pilings), including a first lien security interest on, and assignment of, all of the proceeds of the sale of all real property described in Exhibit "H" (the "Real Property"), a first lien security interest ("Delin Docks Revenue Security Interest") in the gross revenues of any kind, form or nature derived from the Delin Docks, depicted in attached Exhibit "A" ("Delin Docks"), a first lien security interest ("Pier "A" Revenue Security Interest") in the gross revenues of any kind, form or nature derived from Pier "A," depicted in Exhibit "1," (Pier "A"), and a first lien security interest ("Parking Lot Revenue Security Interest") in the gross revenues of any kind, form or nature derived from the use, operation, rental or lease of the development Site 12 Parking Lot, described in Exhibit " J," ("Site 12 Parking Lot"), which liens shall be superior to any and all other secured interests in and to the Real Property, the Delin Docks, Pier "A," and the Site 12 Parking Lot;. Said security interests shall be evidenced by a security agreement ("Security Agreement") in the form attached hereto as Exhibit "F" in form and content as agreed to by the City and consistent with this Loan Agreement, the Security Agreement, and the Promissory Note. Provided that, so long as there is no Event of Default, Borrower has the license and right to use the revenue collateral as provided in the Security Agreement.

**2.3** Exhibit "H" of the Original Agreement is hereby amended as set forth in Exhibit "H-1" attached to this First Amendment and incorporated into the Agreement by this reference.

**3. TERMS AND CONDITIONS OF EXISTING LOAN AGREEMENT REMAIN THE SAME:**

The parties agree that, except as specifically provided in this First Amendment, the terms and conditions of the Loan Agreement continue in full force and effect.

**CITY OF TACOMA**

**FOSS WATERWAY DEVELOPMENT  
AUTHORITY**

\_\_\_\_\_  
T.C. Broadnax, City Manager

\_\_\_\_\_  
Susan Dowie, Executive Director

\_\_\_\_\_  
Kurtis D. Kingsolver, Director  
Public Works Department

\_\_\_\_\_  
Andrew Cherullo  
Finance Director

\_\_\_\_\_  
Debbie Dahlstrom, Risk Manager

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

Attest:

\_\_\_\_\_  
Doris Sorum, City Clerk

**EXHIBIT "F-1"**  
**to First Amendment to Loan Agreement**

**FIRST AMENDMENT TO SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO SECURITY AGREEMENT (separately this "First Amendment"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Tacoma, Washington, a municipal corporation operating as a first class city under the laws of the state of Washington ("Secured Party" or "City") and the Foss Waterway Development Authority, a public corporation chartered by the City of Tacoma pursuant to chapter 35.21 RCW and Chapter 1.60 of the Tacoma Municipal Code ("Borrower" or "FWDA").

RECITALS

WHEREAS the City and the FWDA entered into that certain Security Agreement dated November 14, 2007 (separately the "Original Security Agreement"), and

WHEREAS the Original Security Agreement was entered into in conjunction with that certain Foss Waterway Development Authority Loan Agreement, Balfour Dock, Pier and Moorage also dated November 14, 2007 (the "Loan Agreement"), and

WHEREAS the parties have agreed to amend the Loan Agreement, and such amendment requires a corresponding amendment to the Original Security Agreement;

NOW, THEREFORE, in consideration of the recitals set forth above, as well as the amendments being made to the Loan Agreement and the Promissory Note, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree to amend the Original Security Agreement as follows:

1. Definitions. Any and all capitalized terms used in this First Amendment shall have the same meaning set forth in the Original Security Agreement except as may be expressly otherwise designated herein.

2. Original Security Agreement Amended. The Original Security Agreement is hereby amended as follows:

2.1 Section 1 of the Original Security Agreement is hereby deleted and replaced with the following:

1. Grant of Security Interest. To secure the prompt and complete payment, observance and performance of all the Liabilities, Borrower grants to Secured Party a first lien security interest in and assigns for security purposes all of Borrower's right, title and interest in and to the following property ("Collateral"):

a. Borrower's interest in the proceeds of the sale of real property legally described in Exhibit "D" commonly known as "Development Site 10", "Development Site 12" and the "Delin Docks" (the "Real Property") under all present and future real estate purchase and sale agreements, option agreements and all other agreements for the sale of the Real Property between Borrower as seller and various buyers ("Buyers") as Buyer for any of the Real Property, as the same may be modified from time to time (singly and collectively, "Purchase Agreement" and "Purchase Agreements") ("Personal Property Security Interest"); and

b. Borrower's interest in any and all gross revenues of any kind, form or nature, in any way derived from the Delin Docks the ("Delin Docks Revenue Security Interest"); and

c. Borrower's interest in the gross revenues of any kind, form or nature derived from "Pier 'A'", (Pier "A" Revenue Security Interest); and

d. Borrower's interest in the proceeds received by the FWDA from any entity, for the use, operation, rental or lease of Pier "A" in support of the year 2008 Tall Ships event (Pier "A" Assignment); and

e. Borrower's interest in the gross revenues of any kind, form or nature derived from the use, operation, rental or lease of the development site 12 Parking Lot ("Parking lot Revenue Security Interest").

f. Notwithstanding anything to the contrary herein or in the Loan Agreement, so long as no Event of Default exists, Borrower shall have a license and right to collect and use all of the Collateral and proceeds thereof and to retain, use and enjoy the same.

g. The parties agree and acknowledge that the security interest granted in "Development Site 1" in the Original Security Agreement is hereby released.

2.2 Exhibit "D" of the Original Security Agreement is hereby deleted and replaced with Exhibit "D-1" as attached to this First Amendment and incorporated into the Security Agreement by this reference.

**3. TERMS AND CONDITIONS OF EXISTING SECURITY AGREEMENT**  
**REMAIN THE SAME:** The parties agree that, except as specifically provided in this First Amendment, the terms and conditions of the Security Agreement continue in full force and effect.

IN WITNESS WHEREOF, the parties to this First Amendment to Security Agreement have executed this First Amendment or caused the same to be executed and delivered by their duly authorized officers as of the date first set forth above.

**CITY OF TACOMA**

**FOSS WATERWAY DEVELOPMENT  
AUTHORITY**

\_\_\_\_\_  
T.C. Broadnax, City Manager

\_\_\_\_\_  
Susan Dowie, Executive Director

\_\_\_\_\_  
Kurtis D. Kingsolver, Director  
Public Works Department

\_\_\_\_\_  
Andrew Cherullo  
Finance Director

\_\_\_\_\_  
Risk Manager

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

Attest:

\_\_\_\_\_  
Doris Sorum, City Clerk

**EXHIBIT "D-1" (to Security Agt.)**

**LEGAL DESCRIPTION OF REAL PROPERTY**

**DEVELOPMENT SITE 10**

That portion of the Northeast quarter of the Northwest quarter of Section 04, Township 20 North, Range 03 East, W.M. more particularly described as follows:

The West 120 feet of Lots 1 through 6, less the South 40 feet of Lot 6, Block 63, according to the Official Map of the Tacoma Tide Lands filed in the Office of the Commissioner of Public Lands at Olympia, Washington 3 September 1895. Together with the West 120 feet of vacated South 9<sup>th</sup> Street South of a line parallel with and 622.68 feet South of the North line of Lot 33, Block 66, said Plat, including vacated Dock Street abutting. Subject to an easement for a view corridor over the North 40 feet and the South 40 feet of the above described property; and subject to a 25 foot public sewer easement dedicated to the City of Tacoma and described as follows: Commencing at the Southwest corner of Lot 6, Block 63 of said Plat; Thence North 07°21'44"West, 225.52 feet to the Point of Beginning; Thence North 83°59'28"East, 170.05 feet; Thence North 07°21'44"West, 25.01 feet; Thence South 83°59'28"West, 190.05 feet; Thence South 07°21'44"East, 25.01 feet; Thence North 83°59'28"East 20.00 feet to the Point of Beginning.

Also known as New Parcel "A" of the Boundary Line Adjustment recorded under Auditor's File Number 200008305001 records of Pierce County Auditor.

**DEVELOPMENT SITE 12**

That portion of the Southwest quarter of the Southwest quarter of Section 33, Township 21 North, Range 03 East, W.M. more particularly described as follows:

Lots 20 through 24, inclusive, and the northerly 20 feet of Lot 25, Block 66, according to the Official Map of the Tacoma Tide Lands filed in the Office of the Commissioner of Public Lands at Olympia, Washington 3 September 1895. Together with that portion of vacated Dock Street abutting thereon and attaching thereto by operation of law, as vacated by City of Tacoma Ordinance Number 1450.

## **DELIN DOCKS**

A parcel of land situate in the Southeast and Southwest quarters of Section 04, Township 20 North, Range 03 East, W.M. more particularly described as follows:

Beginning at the Southwest corner of Block 51 of the Map of Tacoma Tide Lands as filed September 17, 1895;  
Thence along the West line of said Block 51, North  $01^{\circ}13'27''$ West, 986.63 feet;  
Thence South  $85^{\circ}16'35''$ East, 201.08 to the East line of said Block 51;  
Thence along said East line South  $01^{\circ}13'27''$ East, 944.30 to the Southeast corner of Block 51;  
Thence along the South line of said Block 51, South  $82^{\circ}38'30''$ West, 201.15 feet to the Point of Beginning.

Also known as New Parcel "A" of the Boundary Line Adjustment as recorded under Auditor's File Number 200805065005 records of Pierce County Auditor.



**EXHIBIT "H-1"**  
**to First Amendment to Loan Agreement**

**LEGAL DESCRIPTION OF THE "REAL PROPERTY"**

**DEVELOPMENT SITE 10**

That portion of the Northeast quarter of the Northwest quarter of Section 04, Township 20 North, Range 03 East, W.M. more particularly described as follows:

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Thence along the West line of said Block 51, North  $01^{\circ}13'27''$  West, 986.63 feet;

Thence South  $85^{\circ}16'35''$  East, 201.08 to the East line of said Block 51;

Thence along said East line South  $01^{\circ}13'27''$  East, 944.30 to the Southeast corner of Block 51;

Thence along the South line of said Block 51, South  $82^{\circ}38'30''$  West, 201.15 feet to the Point of Beginning.

Also known as New Parcel "A" of the Boundary Line Adjustment as recorded under Auditor's File Number 200805065005 records of Pierce County Auditor