



**TO:** Elizabeth Pauli, City Manager  
**FROM:** Jennifer Hines, Public Works Division Manager Assistant  
Pat Beard, Business Development Manager, Community and Economic Development  
Jeff Robinson, Director, Community and Economic Development  
**COPY:** City Council, Deputy City Manager and City Clerk  
**SUBJECT:** Request for Resolution Approving Purchase and Sale and Development Agreements by and between the City of Tacoma and Foss Harbor, LLC for Sites 9 and 10 on the Foss Waterway - 6/22/2021  
**DATE:** 5/24/2021

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**SUMMARY & PURPOSE:**

The Community and Economic Development Department is requesting approval of a proposed Purchase and Sale Agreement and a Development Agreement for Sites 9 and 10 on the Foss Waterway with Foss Harbor, LLC. Site 10 has been subject of a Property Development Agreement adopted by the City Council on July 10, 2001, and Sites 8, 9, 10, and the Municipal Dock were the subject of a competitive Request for Proposals issued by the Foss Waterway Development Authority (“FWDA”) on December 3, 2015, to which Foss Harbor responded. The proposed Purchase and Sale and Development Agreements will supersede prior Agreements, update terms as appropriate and remove a previously approved and recorded covenant on Site 9. Proceeds from the sale will be used to repay a portion of the FWDA’s approximately \$2.5 million General Fund loan balance.

**BACKGROUND:**

The City Council approved the sale of Foss Waterway Site 11 and a lease agreement and option to purchase Site 10 (Resolution 34654) with related entities now named Foss Harbor, LLC on January 25, 2000. Foss Harbor owns and operates a 416-slip marina that abuts Site 8, Site 9, the Municipal Dock, Site 10, and Site 11 and proposes to develop two mixed-use projects as well as to retain upland marina amenities on the Agreement sites. On December 3, 2015, the Foss Waterway Development Authority (“FWDA”) issued a competitive Request for Proposals (“RFP”) for Site 8, Site 9, the Municipal Dock, and Site 10. The RFP provided that in the event the selected proposer did not move forward with a project, the FWDA could select an alternative proposer from the 2015 RFP and was not required to issue a new solicitation. Foss Harbor responded to the RFP but was not the selected proposer for the project and subsequently, the selected developer withdrew its plans for a project. Foss Harbor renewed its efforts to design a project for Site 10 and 11 and, later, a concept design for a mixed-use project on Site 9. Foss Harbor will continue to lease the Municipal Dock from the City to serve as parking for its marina.

In 2007, City Council approved Resolution 37158, which authorized a General Fund loan to the FWDA of \$4.1 million. The loan was secured by various properties and revenues of the FWDA. In 2014, the loan agreement was amended to extend the term of the loan and to add additional properties as security for the loan. In the intervening years, as properties were sold, proceeds of the sales were used to repay the General Fund loan. Currently the loan has outstanding principal balance of \$2,456,525.



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 & 11. In view of that approval and the 2015 RFP terms allowing a secondary proposer to be selected for the remainder of the project, the Community and Economic Development Department recommends moving forward on disposition of the properties for mixed use development consistent with City and Shoreline requirements and the Foss Redevelopment Plan.

Terms of the Purchase and Sale Agreement provide that Site 10 will be sold for \$1,034,000, the amount approved in the City Council's prior action, and that Site 9 will be sold for \$945,000, the current fair market value as agreed-upon by the parties. The developer will be solely responsible for constructing the waterfront esplanade required on all Foss Waterway sites and the City of Tacoma will construct a necessary seawall replacement, funded in the current Capital Improvement Program and scheduled for 2022. The developer has an option, after a 120-day feasibility period, to solely purchase Site 10 if it determines Site 9 development is unfeasible. Foss Harbor will release its covenant restricting certain development of Site 9, regardless of whether it moves forward in acquiring that property. 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. The developer will commence paying annual assessments for the properties to the Foss Waterway Owners association which are currently paid by the City. Also at closing the City will no longer receive current lease revenues for Sites 9 and 10.

The terms of the Development Agreement call for mixed use development for one project called The Village at Foss Harbor and another, smaller, project on Site 9. Sites 10 and 11 could be developed in two phases or one phase 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 the waterfront esplanade consistent with the Design Guidelines for the Foss Waterway. 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 those certain conditions established by the City. The developer has prepared a conceptual plan for a three-story mixed use townhouse development on Site 9 and intends to develop the property itself. Restrictions and conditions on re-selling Site 9 mirror the restrictions for Site 10.

A schedule for performance is included in the Agreements allowing the City to repurchase the sites at the approved prices above for non-performance. Many milestones are included in the schedule, attached to the Agreement. The development of Sites 10 & 11 must commence by no later than June 2025, unless certain acknowledged events or circumstances occur.

**COMMUNITY ENGAGEMENT/CUSTOMER RESEARCH):**

Foss Harbor, LLC, under a different legal name, was selected for the proposed development project through a publicly advertised Request for Proposals/Qualifications Process conducted by the FWDA under its policies and practices.



**2025 STRATEGIC PRIORITIES:**

- **Equity and Accessibility:** *Equity Index Score:* High Opportunity  
The Purchase and Sale Agreement provides the future opportunity to expand access to the Waterway due to City development requirements for a public Esplanade and other offsite improvements. The project will extend the public waterfront Esplanade connecting it to Thea’s Park to the north, improving access to those with disabilities, young children, and the elderly. It will also beautify and improve view corridors within the project, further inviting the larger community to enjoy Tacoma’s restored Foss Waterway. The Development Agreement further provides that the developer will encourage contractors and sub-contractors building the project to comply with the City’s 15-percent LEAP (“Local Employment Apprenticeship Program”) participation goal.

**Economy/Workforce:** *Equity Index Score:* High Opportunity

Increase the number of infrastructure projects and improvements that support existing and new business developments.

Decrease the number of vacant properties downtown and in the neighborhood business districts.

**Livability:** *Equity Index Score:* High Opportunity

Increase positive public perception of safety and overall quality of life.

This Purchase and Sale and Development Agreements will increase the likelihood of continuing redevelopment of formerly hazardous and currently under-utilized sites on the downtown waterfront.

**STAFF RECOMMENDATION:**

The recommendation is to:

- Approve the Purchase and Sale Agreement.
- Approve the Development Agreement.

**ALTERNATIVES:**

Alternatives.

Alternative	Positive Impacts	Negative Impacts
1. Do not approve the Purchase and Sale and Development Agreements.	Preserve flexibility to obtain a different buyer through issuance of a new RFP.	Decrease the likelihood of redevelopment due to supporting agreements currently in place including a Shoreline Lease and Municipal Dock lease to Foss Harbor, adjacent to the project site and a restrictive covenant Foss Harbor holds over Site 9.

**EVALUATIONS AND FOLLOW UP:**

The City will closely monitor milestones required in the Purchase and Sale Agreement and accompanying Development Agreement with the intent to enforce all terms.



City of Tacoma

City Council Action Memorandum

**FISCAL IMPACT:**

The City will receive \$1,979,000 for deposit into the General Fund and will be applied to the repayment of the outstanding loan balance of \$2,456,525 million. The developer will commence paying annual assessments for the properties to the Foss Waterway Owners Association, currently paid by the City. At closing, the City will stop receiving current lease revenues on Sites 9 and 10.

**ATTACHMENTS:**

Proposed Purchase and Sale and Development Agreements.