



TO: T.C. Broadnax, City Manager
FROM: Ricardo Noguera, Director, Community and Economic Development Department
COPY: City Council and City Clerk
SUBJECT: Amendment to Lease with Foss Waterway Management LLC and Approval of a Development Contribution Agreement
DATE: January 27, 2015

SUMMARY:

A resolution authorizing an amendment to the Foss Waterway Management LLC marina lease dated March, 2006, extending the term of the lease by adding ten five-year extensions, subject to Department of Natural Resources aquatic lease, and authorizing approval of a \$1,500,000 Development Contribution Agreement.

STRATEGIC POLICY PRIORITY:

This amendment aligns with the following strategic policy priorities:

- Strengthen and maintain a strong fiscal management position.
- Foster neighborhood, community, and economic development vitality and sustainability.

BACKGROUND:

FWDA Board directed staff to establish a plan or method for sustainability of the FWDA's public assets. In consideration of meeting that obligation, the FWDA has negotiated an amendment to the marina lease with Foss Waterway Management LLC that will shift the long term management, maintenance and capital replacement of the marinas and their supporting infrastructure from the FWDA to the Marina Operator. This will provide financial relief to the public sector and provide for long term quality facilities for boaters and visitors to Tacoma's waterfront. Additionally, in consideration of the lease extension, a Development Contribution Agreement will provide for debt repayment on the Delin Docks Marina and provide funding for the sustainability of parks on the Foss.

As a result of an RFP process, the FWDA entered into a Marina Lease Agreement with Foss Waterway Management LLC in August, 2005 which stipulated management of the Dock Street Marina to accommodate the Super Fund cleanup. The Dock Street Marina, at that time, was used to relocate boats from other marinas that were being displaced for the waterway cleanup. Following the cleanup, a lease extending from March 2006 to April 2024 went into effect and regular marina operations commenced. There have been three amendments to the lease for the following items: rent modification, development contributions from the tenant, and the addition of facilities (Human Powered Watercraft Float and 16th Street Pier).

The Fourth Amendment to the Lease provides for the following:

- The Tenant will assume all maintenance costs and repairs for all the marinas and shore side infrastructure under the lease. This includes the Dock Street Marina, The 16th Street Pier, the 15th Street Float, The Human Powered Watercraft Float and Delin Docks Marina. A schedule for maintenance will be determined by an annual insurance report (yearly), any requirements by the Department of Natural Resources under the Master Harbor Lease (every 20 years) and by the Landlord's inspection as part of each extension period (every 5 years).



- The Tenant will assume all responsibility for the capital replacement of revenue producing marinas and their supporting shore side infrastructure. The Human Powered Watercraft float and the 15th Street transient moorage is the responsibility of the Landlord given both are non-revenue producing. The Guest moorage in Dock Street Marina is a shared 50/50 responsibility of the Tenant and Landlord. This is due to the State RCO restriction on that portion of the marina.
- All repairs or capital improvements in excess of \$100,000 will require a construction performance bond.
- Annual reports stipulating the level of investment in the maintenance of the marinas is required. Landlord has the right to review and audit accounting at their expense.
- Term of the Agreement: The Amendment extends options for extensions beyond April 2024 to add 10 each 5 year renewal options subject to DNR lease remaining in force. Extensions require no default under the lease and performance on all repairs under the maintenance schedule, or capital replacement as stipulated in the Schedule of Capital Improvements which is determined by the Landlord after 2025 (given age and current excellent condition of marinas).
- Rent – Tenant will pay base rent which will be the equivalent of all expenses under the Master Harbor Lease with DNR. In 2025, with the first of the 5 year extensions, an annual rent will be added to the base rent. The annual rent will be \$60,000 adjusted for inflation from 2015 by one-and-a half percent per year or CPI-U (Consumer Price Index for the Seattle/Tacoma region) whichever is greater. The rent starting in 2025 will be calculated from 2015 to 2025. This will form the annual rent which will then be adjusted annually thereafter.

The Development Contribution of \$1,500,000 provides for the following in consideration of the extension to the lease:

- Disposition of Development payment is \$1,000,000 to the FWDA for debt repayment to the City of Tacoma for marina construction and \$500,000 to a reserve fund with Greater Tacoma Community Foundation. The \$500,000 fund is restricted to use for maintenance of parks on the Foss to include George H. Weyerhaeuser Jr. Park (currently known as 21st Street Park), Central Park and Waterway Park.
- In the event the lease is terminated on or before December 3, 2024 for reasons other than default, the FWDA or successor would be obligated to a termination payment.



ISSUE:

The agreements require the approval of the Tacoma City Council because; (1) as stipulated in the Third Operating Agreement for any lease agreement in excess of a 1 year term, and (2) the FWDA has pledged the revenues from dock leases as security for its General Fund loan. The agreements will also be provided to DNR consistent with the Master Harbor Lease.

ALTERNATIVES:

Not approving the amendment will delay repayment of debt to the City and will require seeking other funds for any necessary marina repairs and maintenance on the 16th St. pier, the 15th St. float, the human-powered watercraft float and for park maintenance. Also, if the amendment is not approved the current marina lease would continue to be in effect and will provide \$120,000 per year in lease revenue to support FWDA operations. This lease revenue was not assumed in the 2015-16 budget as approval of this amendment was anticipated.

RECOMMENDATION:

The lease was discussed at the November 25 Economic Development Committee. The Committee recommended that the item move forward to the full Council, pending legal review and continued outreach to Council Members not in attendance at the meeting.

Staff recommends that City Council approve the fourth amendment to the marina lease and approve the \$1,500,000 Development Contribution Agreement.



FISCAL IMPACT:

EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
TOTAL			

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
Foss Waterway Management LLC		Repayment of Loan (2440000)	\$1,000,000
TOTAL			\$1,000,000

POTENTIAL POSITION IMPACT:

POSITION TITLE	PERMANENT/ PROJECT TEMPORARY POSITION	FTE IMPACT	POSITION END DATE
NA			
TOTAL			

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: \$1,000,000 to partially repay existing debt.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? No, the revenue will be utilized to partially repay an existing general fund loan.