

**POINT ROBERTS WATER DISTRICT NO. 4  
79 TYEE DRIVE, SUITE 4  
POINT ROBERTS, WA 98281**

**RESOLUTION NO. 608**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF POINT ROBERTS WATER DISTRICT NO. 4, WHATCOM COUNTY, WASHINGTON, RESCINDING RESOLUTIONS NOS. 591 AND 597 RELATING TO THE ISSUANCE OF WATER AVAILABILITY NOTIFICATIONS THROUGH A WATER ALLOCATION PROCESS; AND ESTABLISHING POLICIES AND PROCEDURES RELATING TO THE ISSUANCE OF WATER AVAILABILITY NOTIFICATIONS AND ASSOCIATED WATER DEVELOPER EXTENSION AGREEMENTS BY THE DISTRICT.**

**WHEREAS**, Whatcom County ("County") requires parties undertaking certain land use actions such as the subdivision of, development of and construction upon real property to obtain water availability notifications from a public purveyor of such utility services as a condition of the County's consideration and approval of various permits and approvals relating to such land use actions; and

**WHEREAS**, Point Roberts Water District No. 4 ("District"), as a purveyor of water service, receives requests for water service and requests to certify to Whatcom County the availability of water utility service for certain land use actions; and

**WHEREAS**, the District allocates water supply to certain properties identified by the District through service applications, previously approved/issued Water Availability Notifications, Developer Extension Agreements and other service agreements; and

**WHEREAS**, the District experienced significant growth during the last five years and imposed a moratorium on the issuance of additional connections to the District's water system and the issuance of Water Availability Notifications by the adoption of Resolution No. 573 on July 20, 2005, because its ability to provide water supply under its long-term wholesale water supply agreement ("Water Supply Agreement") with the Greater Vancouver Regional District ("GVRD") is limited to 3,182.2 cubic meters per day and the State of Washington Department of Health ("DOH") previously limited the number of connections the District may have to its water system to 2,212 equivalent residential units ("ERU") based on the District's water system and the transmission and treatment water system located in Canada providing such water supply; and

**WHEREAS**, the District by the adoption of additional resolutions thereafter continued and extended such moratorium; and,

**WHEREAS**, by the adoption of Resolution No. 591 on July 20, 2007, the District rescinded the moratorium and established policies and procedures relating to the issuance of Water Availability Notifications through periodic water allocations (“Water Allocations”) and established a reserve requirement of 12 ERUs (the “Reserve Water ERUs”) prior to the Water Allocation held on September 10, 2007; and

**WHEREAS**, RCW 57.16.010 authorizes and requires the District to adopt a general comprehensive water system plan and state law and administrative regulation, including WAC 246-290-100, require that the District's comprehensive water system plan be updated periodically; and the District Board of Commissioners previously approved an updated and revised comprehensive water system plan entitled "Point Roberts Water District No. 4 Water System Plan" dated March 8, 2007 ("Comprehensive Plan") which was prepared by Hammond Collier Wade Livingstone, the District's consulting engineers ("Consulting Engineer") by the adoption of Resolution No. 586 on March 20, 2007; and

**WHEREAS**, the Comprehensive Plan was approved and adopted by the District Board of Commissioners subject to the approval of the Comprehensive Plan by Whatcom County, the Washington State Department of Health ("DOH") and other public agencies with jurisdiction as provided and required by law; and

**WHEREAS**, DOH thereafter approved the Comprehensive Plan by letter dated July 28, 2008 and approved the District's water system for 2,953 equivalent residential units ("ERUs"); and the Whatcom County Council also approved the Comprehensive Plan as approved by DOH by the adoption of Resolution No. 2008-064 on September 23, 2008; and

**WHEREAS**, the District Board of Commissioners by Resolution No. 607 adopted on October 14<sup>th</sup>, 2008, readopted and reapproved the Comprehensive Plan as approved by DOH, Whatcom County and other public agencies with jurisdiction, and the District now has 741 additional ERUs available for connection to and service from the District's water system; and

**WHEREAS**, the District Board of Commissioners finds that the infrastructure is in place to distribute the additional water supply to District customers in compliance with local, state and federal water quality regulations; now therefore,

**BE IT RESOLVED** by the Board of Commissioners of Point Roberts Water District No. 4, Whatcom County, Washington, as follows:

1. Resolution No. 591, as amended by Resolution No. 597, is hereby rescinded and the use of the periodic Water Allocations to identify and determine parties that will have an opportunity to have water service allocated through the issuance of Water Availability

Notifications and/or the approval of water service requests is hereby terminated.

2. The Reserve Water ERUs are hereby released, and all District water supply of approximately 770 ERUs as of the date of this Resolution shall be available for new water service requests and requests for Water Availability Notifications.
3. Water supply shall be made available to parties applying to the District for water service on the terms and conditions set forth in and consistent with all other applicable District rules, regulations, policies and procedures, including the Comprehensive Plan; and for water service to be considered allocated to an Applicant by the issuance of a Water Availability Notification or provision of water service to an Applicant, the Applicant shall comply with all District policies and procedures for such actions.
4. The administrative process as set forth on **Exhibit "A"** attached hereto and incorporated herein by this reference for applying for water service from the District and for the issuance of Water Availability Notifications by the District, and for entering into District water developer extension agreements, is hereby approved and adopted.
5. An application in the form attached hereto as **Exhibit "B"** and incorporated herein by this reference for a Water Availability Notification and any associated water developer extension agreement is hereby approved and adopted.
6. Standard conditions to Water Availability Notifications attached hereto as **Exhibits "C"** and **"D"** and incorporated herein by this reference, imposing additional terms and conditions thereon for applications for water service requiring either (a) a water developer extension agreement, or (b) not requiring a water developer extension agreement are hereby approved.
7. Water Availability Notifications shall be issued by the District on the following terms and conditions:
  - a. Parties desiring such Water Availability Notifications shall be required to pay a non-refundable administrative fee to the District in the amount of \$250 per availability notification, together with a charge of \$500 per ERU requested by such party to be credited against the total Water General Facility Connection Charges owing the District relating to the notification as a precondition to its issuance by the District;

- b. Any Availability Notification issued by the District requiring a developer extension agreement as provided herein relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions/development proposals shall expire, be null and void, and have no further validity and effect if the party receiving the notification fails to apply for the designated land use approval/development proposal to Whatcom County within one (1) year of the issuance of such notification by the District.
- c. Any party applying to the District for the issuance of a water availability notification for any land use action/development proposal requiring Whatcom County approval and/or the issuance of permits relating to such land use action/development proposal requiring (i) the extension of the District's water system, (ii) the subdivision of property, and/or (iii) as otherwise required by the District, shall also be required to enter into a water developer extension agreement with the District as a condition of the issuance of any such water availability notification. When the land use action/development proposal receives its first County approval for the land use process/procedure for which the Availability Notification was issued, or when the extension design phase of the project for the water extension begins, whichever is sooner, the remaining General Facility Connection Charge shall be paid by the applicant to the District; provided that if the General Facility Connection Charge is revised by District resolution after the water developer extension agreement has been entered into and before the water extension improvements have been granted final acceptance by the District for ownership, the General Facility Connection Charge in effect at the time of final acceptance shall apply and shall be paid by the applicant to the District. The resolution establishing the General Facility Connection Charge shall be available at the District office.
- d. In the event any party receiving a notification as referenced in Paragraph 7(b) above fails to apply for the designated land use approval to Whatcom County within one year of the issuance of the notification and the notification is thereafter invalidated as referenced in Paragraph 7(b) above, such party shall only be entitled to a refund of \$250.00 of the charge of \$500.00 per ERU paid to the District for the notification; provided, however, in the event the District expended all or a portion of the \$500.00 per ERU in an amount greater than \$250.00 per ERU, the party shall only be entitled to receive that portion of the charge paid not expended by the District up to a maximum refund of \$250.00 per ERU.

e Any party applying to the District for the issuance of a water availability notification for a single tax lot which (i) is not proposed by the party to be subdivided, (ii) only requires the water availability notification for water service for only one equivalent residential unit, and (iii) does not require extension of the District's water system to serve the real property shall not be required to enter into a developer extension agreement with the District as a condition of the issuance of a water availability notification. Any Availability Notification issued by the District as provided in this subsection relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions/development proposals such as a building permit application shall expire, be null and void, and have no further validity and effect if the party receiving the notification fails to apply for the designated land use approval/development proposal to Whatcom County within one (1) year of the issuance of such notification by the District. When the Availability Notification has been accepted by the County as part of a land use application, such as a building permit application, the Notification shall remain valid with the land use application. The party or applicant shall be required to pay, within thirty (30) days of the County approval of the land use application, all required District fees and charges, including but not limited to, water service application, meter installation and all Water General Facility Connection Charges owing relating to the Availability Notification; provided that if the General Facility Connection Charge is revised by District resolution after the Availability Notification is issued by the District and before the party or applicant is required to pay such General Facility Connection Charge to the District as provided in this subsection, the revised General Facility Connection Charge shall apply and the applicant shall pay such revised charge to the District. The resolution establishing the General Facility Connection Charge shall be available at the District office.

8. The policies and procedures set forth in this resolution shall be effective October 17th, 2008 and shall supersede and modify all prior District resolutions, policies and procedures to the extent such resolutions, policies and procedures are inconsistent with this resolution.

**ADOPTED** at a Special Open Public Meeting of the Board of Commissioners of Point Roberts Water District No. 4, Whatcom County, Washington, held on the 17th day of October, 2008.

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William H. Meursing, Secretary

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Scott Hackleman, Commissioner

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N. Madeleine Anderson, Chairperson

EXHIBIT A

**POINT ROBERTS WATER DISTRICT NO. 4  
PROCESS TO OBTAIN  
WATER SERVICE  
WATER AVAILABILITY NOTIFICATION  
AND ASSOCIATED DEVELOPER EXTENSION AGREEMENTS**

1. Obtain and fill out an Application for Water Service, a Water Availability Notification and associated Developer Extension Agreement (“DEA”) from the District. [DEAs are required if the application is for a project of more than 1 Equivalent Residential Unit (“ERU”) or requires, in the District’s opinion, an extension or improvement to water facilities to provide water utility service to the property which is the subject of the application.]
2. Applications will be accepted by the District during normal working hours, usually 9:00 AM - 12:00 PM and 1:00 P.M. – 5:00 P.M., Monday - Friday, at the District’s office located at 79 Tyee Drive, Suite A, Point Roberts, WA 98281. Applications must be complete as determined by the District to be considered, including a description of the proposed project, the number of ERUs requested, property legal description, and applicant and property owner signatures.
3. Applications received shall be reviewed by District staff and, if determined to be complete, the District will inform the applicant of the expected conditions for obtaining the requested water availability notification or DEA. The identification of these conditions does not guarantee that the District Board of Commissioners will subsequently approve a DEA, if required, or approve the issuance of a water availability notification.

**SERVICE CONNECTION ONLY**

4. The Applicant pays required fees, including but not limited to, water service application, meter installation and general facility connection charges, and executes the documents necessary to receive service from the District. Water Meter Application required.

**WATER AVAILABILITY NOTIFICATION, WITH NO DEA REQUIREMENT**

5. Applicant provides required fees to the District.  
For Single Family Residential Projects the fees shall include, where applicable:  
A non-refundable administrative fee in the amount of \$250 per Water Availability Notification.  
\$500 per ERU requested to be credited against the total water general facility connection charges owing the District related to the Notification.  
For Non Single Family Residential Projects the fees shall include, where applicable:  
A non-refundable administrative fee in the amount of \$250 per Water Availability Notification.  
\$500 per ERU requested to be credited against the total water general facility connection charges owing the District related to the Notification.
6. District staff will prepare the Water Availability Notification and provide it to the Applicant.
7. If the Water Availability Notification is not submitted to Whatcom County (County) within ONE (1) YEAR of its date of issuance by the District, as part of a complete project/land use application, the Notification shall be invalidated by the District and the Applicant shall be required to repeat the District application process.

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When a Notification has been accepted by the County as part of a complete land use application such as a building permit application, the Notification shall remain valid with the project/land use application through that process. The party or applicant shall be required to pay, within thirty (30) days of the county approval of the land use application, all required District fees and charges, including but not limited to, water service application, meter installation and all Water General Facility Connection Charges owing relating to the Availability Notification; provided that if the General Facility Connection Charge is revised by District resolution after the Availability Notification is issued by the District and before the party or applicant is required to pay such General Facility Connection Charge to the District as provided herein, the revised General Facility Connection charge shall apply and the applicant shall pay such revised charge to the District. The resolution establishing the General Facility Connection charge shall be available at the District office.

**DEVELOPER EXTENSION AGREEMENTS**

8. Based on the information provided in the Application, District will prepare a DEA and provide it to the Applicant.
9. Applicant and Property Owner execute the DEA and return it to the District with applicable fees required by the District to enter into the DEA. The DEA and fees must be returned to the District within 60 days of the District providing the DEA to the Applicant. If Applicant fails to return the fully-executed DEA and fees to District within 60 days, Applicant shall be required to repeat the application process.
10. The fees include, at a minimum, a \$3,000 administration fee and partial payment of water general facility charges of \$500 per ERU.
11. District staff will schedule consideration of the DEA for the next regular Board of Commissioner meeting, when the approval of the execution of the DEA by Resolution will be considered by the Board.
12. If the Board approves the DEA, District will execute the DEA, prepare the related Water Availability Notification (if appropriate), and return the DEA and Notification to the Applicant.
13. If the Notification is not submitted to the County having land use jurisdiction over the project/property within one year of the date of its issuance by the District, as part of a complete land use application, the Notification shall be invalidated by the District. If the Applicant is unable to meet the one year deadline, the Applicant may request an extension, to be considered on a case by case basis by the Board of Commissioners.

When a Certificate(s) has been accepted by the County as part of a complete land use application, the Notification shall remain valid with the project/land use application through that process.

14. When the development proposal receives its first County approval for the land use process/procedure for which the Certificate was issued, or when the Design phase of the project for water extension

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begins, whichever is sooner, the remaining Water General Facility Charges shall be paid by the applicant to the District; provided that if the General Facility Connection Charge is revised by District resolution after the water developer extension agreement has been entered into and before the water extension improvements have been granted final acceptance by the District for ownership, the General Facility Connection Charge in effect at the time of final acceptance shall apply and shall be paid by the applicant to the District. The resolution establishing the General Facility Connection Charge shall be available at the District office.

15. The Design/Inspection phase of the DEA also has associated fees and charges which must be paid to the District as detailed in the Developer Extension Agreement. See the DEA for the remaining procedure for the DEA process which is provided in a checklist format.

All fees and charges provided in this process description are those in effect at the time this description was printed, and are subject to change at any time, without prior notice. The fees charged will be those in effect when the fees are paid to the District, or at the time of the District's final acceptance of the DEA extension improvements, whichever event is later, in accordance with District rules and regulations in effect at that time.

District offices are located at:

Point Roberts Water District No. 4  
79 Tyee Drive, Suite A  
Point Roberts, WA 98281  
Tel:(360) 945-4696  
FAX: (360) 945-3021

EXHIBIT B

**POINT ROBERTS WATER DISTRICT NO. 4  
APPLICATION FOR  
WATER SERVICE  
WATER AVAILABILITY NOTIFICATION &  
ASSOCIATED DEVELOPER EXTENSION AGREEMENT**

<b>PROJECT NAME:</b> _____	
<b><u>APPLICANT</u></b>	<b><u>APPLICANT'S AGENT</u></b> (OPTIONAL INFORMATION)
Name:	Name:
Designate Applicant Status __ Corporation, __ Partnership __ Joint Venture, __ Sole Proprietorship __ LLC, __ Other: _____	Address:
Address:	e-mail:
	Telephone:
	Fax:
e-mail:	<b><u>APPLICANT'S ENGINEER</u></b> (OPTIONAL INFORMATION)
Telephone:	
Fax:	
Is Applicant the Property Owner: <b>Yes/No</b> If No: <b><u>OWNER</u></b>	Name:
Name:	Address:
Address:	e-mail:
	Telephone:
	Fax:
e-mail:	PRIMARY CONTACT __ Applicant, __ Owner __ Agent, __ Engineer
Telephone:	
Fax:	

**PROPERTY INFORMATION**

Tax Lot Number(s): _____ <b>Attach legal description</b>
Property Size: _____ Property Zoning: _____

**79 Tye Drive, Suite A, Point Roberts, WA 98281  
(360) 945-4696, FAX (360) 945-3021**

**Application Form including Number of requested ERUs, Legal Description, and Applicant Signature and Owner Signature (if Applicant is not the Owner) are all required to be considered a complete application.**

District Use Only	Date Received _____
Legal Description Attached _____	ERUs Requested _____ Applicant and Owners Signed _____

**PROJECT INFORMATION**

Project Name: _____							
Description of Proposed Project: _____							
Water _____	Water & On-Site Septic _____	Water Only (Irrigation) _____					
New Service Only _____ Use for service _____							
Certificate Requested: _____ Building Permit; _____ Short Subdivision _____ Preliminary Plat; _____ Rezone; _____ Other _____							
<b>Calculation of Equivalent Residential Units (ERUs)</b>							
Meter Size	3/4"	1"	1-1/2"	2"	3"	4"	Total
<b># Existing Meters</b>							
x ERUs/ size meter	1	2.5	5	8	16	25	
# Total Existing ERUs							
Meter Size	3/4"	1"	1-1/2"	2"	3"	4"	Total
<b># New Domestic Meters</b>							
<b># New Irrigation Meters</b>							
Total # New meters							
x ERUs/ size meter	1	2.5	5	8	16	25	
# Total New ERUs							
Fill in Total ERUs from calculations above	<b>WATER SERVICE</b>						
	EXIST	NEW	TOTAL				
<b>ERU Summary</b>							

The following terms and conditions, including all other District Resolutions, policies and procedures, apply to this Application to the District for Water Service, Water Availability Notification(s) and associated Developer Extension Agreement, if required by District:

1. This application is valid only for the real property referenced on this application.
2. This application is not transferable or assignable to any party.
3. The District makes no representations, express or implied, that the applicant will be able to obtain the necessary permits, approvals, and authorizations from Whatcom County or any other governmental agency necessary before the applicant can utilize the utility service which is the subject of this application.
4. The District's receipt of this application creates no contractual relationship between the District and the applicant, and the receipt of this application does not imply or guarantee that water service, Water Availability Notification(s) and/or Developer Extension Agreements will be approved and issued by the District. **District reserves the right to discontinue processing applications at any time without prior notice for any reason, including limited, diminished or lack of supply, and/or demand considerations.**

APPLICANT: (printed name) _____  Organization: _____  Title: _____  Signature: _____  Date: _____	OWNER: (printed name) _____  Organization: _____  Title: _____  Signature: _____  Date: _____
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## EXHIBIT C

### SUPPLEMENTAL TERMS AND CONDITIONS TO WHATCOM COUNTY AVAILABILITY NOTIFICATION FOR PUBLIC WATER

#### POINT ROBERTS WATER DISTRICT NO. 4

The following terms and conditions apply to the attached Whatcom County Availability Notification for Public Water (**Availability Notification**) issued by Point Roberts Water District No. 4 (**District**):

1. This Availability Notification is valid only for the real property referenced herein for the sole purpose of submission to the Whatcom County Health Department and/or Whatcom County Planning & Development Services (collectively "**Whatcom County**"). This Availability Notification is between the District and the Applicant only, and no third person or party shall have any rights hereunder whether by agency or as a third-party beneficiary or otherwise.

2. The Applicant has entered into an agreement dated the \_\_ day of \_\_\_\_\_, 20\_\_ with the District to construct extensions to the District's water system (**Developer Extension Agreement**) to provide the water system facilities necessary to adequately provide water service to the real property referenced in Section Four "Certification" herein. The Developer Extension Agreement provides that the water facilities will be designed, approved and installed per WAC 246-290. The terms and conditions of the Developer Extension Agreement are hereby incorporated in this Availability Notification by this reference as if set forth herein in full.

3. Any Availability Notification issued by the District, in conjunction with a District Developer Extension Agreement, relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions referenced in this Availability Notification **shall expire, be null and void, and have no further validity and effect if the Applicant receiving the Availability Notification fails to apply for the designated land use approval to Whatcom County within one (1) year of the issuance of this Availability Notification** by the District, unless **this Availability Notification** is specifically updated or extended by approval of the District.

4. The District makes no representations, express or implied, that the Applicant/owners of the real property which is the subject of this Availability Notification will be able to obtain the necessary permits, approvals, and authorizations from Whatcom County or any other governmental agency necessary before the owners of the real property may utilize the water service which is the subject of this Availability Notification. In addition, other governmental agencies may establish requirements, as a condition of granting any such permits, approvals, or authorizations relating to this Availability Notification that may make the provision of utility services impractical or impossible to the real property which is the subject of this Availability Notification.

## EXHIBIT D

### SUPPLEMENTAL TERMS AND CONDITIONS TO WHATCOM COUNTY AVAILABILITY NOTIFICATION FOR PUBLIC WATER

#### POINT ROBERTS WATER DISTRICT NO. 4

The following terms and conditions apply to the attached Whatcom County Availability Notification for Public Water (**Availability Notification**) issued by Point Roberts Water District No. 4 (**District**):

1. This Availability Notification is valid only for the real property referenced herein for the sole purpose of submission to the Whatcom County Health Department and/or Whatcom County Planning & Development Services (collectively "**Whatcom County**"). This Availability Notification is between the District and the Applicant only, and no third person or party shall have any rights hereunder whether by agency or as a third-party beneficiary or otherwise.

2. Any Availability Notification issued by the District relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions referenced in this Availability Notification **shall expire, be null and void, and have no further validity and effect if the Applicant receiving the Availability Notification fails to apply for the designated land use approval to Whatcom County within one year of the issuance of this Availability Notification** by the District, unless **this Availability Notification** is specifically updated or extended by approval of the District.

3. The District makes no representations, express or implied, that the Applicant/owners of the real property which is the subject of this Availability Notification will be able to obtain the necessary permits, approvals, and authorizations from Whatcom County or any other governmental agency necessary before the owners of the real property may utilize the water service which is the subject of this Availability Notification. In addition, other governmental agencies may establish requirements, as a condition of granting any such permits, approvals, or authorizations relating to this Availability Notification that may make the provision of utility services impractical or impossible to the real property which is the subject of this Availability Notification.

4. As of the date of the issuance of this Availability Notification, the District has water available to provide water utility service to the property which is the subject of this Availability Notification, and the water utility system exists or may be extended to provide water service to the property. However, the issuance of this Availability Notification creates no contractual relationship between the District and the Applicant, and the issuance of this Water Availability may not be relied upon and does not constitute the District's guarantee that water service will be available at the time the Applicant may apply to the District for such service unless the Applicant has made such application to the District and has fully paid all applicable District fees and charges, including meter, meter installation and water general facility connection charges, as a precondition to receiving water service from the District.