

RESOLUTION NO. 598

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF POINT ROBERTS WATER DISTRICT NO. 4 OF WHATCOM COUNTY, WASHINGTON, CONDITIONALLY APPROVING AN AGREEMENT PROVIDING FOR THE CONSTRUCTION OF A RESERVOIR TO PROVIDE ADDITIONAL WATER SUPPLY AND CAPACITY FOR THE BENEFIT OF THE DISTRICT; AND AUTHORIZING AND DIRECTING THE DISTRICT MANAGER TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE DISTRICT.

WHEREAS, Point Roberts Water District No. 4 (“District”), as a special purpose water district, is authorized to provide water supply within its municipal corporate and service area boundaries pursuant to Title 57 RCW; and

WHEREAS, when acting under Title 57 RCW the District exercises the police power of the State of Washington which has been delegated to it to provide for the public health, safety and welfare by providing potable water to its customers; and

WHEREAS, the District previously provided for the allocation of available District water supply ("Available ERUs") by the adoption of Resolution No. 591 on July 20, 2007; and, pursuant to the provisions of Resolution No. 591, an allocation of Available ERUs was held on September 10, 2007; and Available ERUs were made available to parties who were successful in the allocation of such ERUs; provided, Resolution No. 591 also created MIR ERUs as that term is defined in Resolution No. 591 to be allocated to parties applying for water allocation where the District and such parties have entered into a written agreement ("MIR Agreement") providing for the construction of major infrastructure improvements to the District's water system such as water storage tanks which will create additional water supply and capacity; and

WHEREAS, the District received applications from Stanton Land Holding, LLC, a Washington limited liability company (“Stanton”), Point Roberts Resort Limited Partnership, a Washington limited partnership ("Point Roberts Resort"), and Yamato Development Canada, Inc., a Canadian corporation ("Yamato") (Stanton, Point Roberts Resort and Yamato individually a "Developer" and collectively the "Developers") for the MIR ERUs; and, pursuant to the terms and conditions set forth in Resolution No. 591, the Developers proposed, in the form of an MIR Agreement, to construct major infrastructure improvements to the District's water system in the form of a three million gallon (3 mg) water reservoir ("Reservoir") to create additional water supply and capacity for their proposed projects and for other property owners on Point Roberts desiring water service from the District; and

WHEREAS, the District and the Developers have undertaken the good faith negotiation of an MIR Agreement presently in the form attached hereto as **Exhibit A** and incorporated herein by this reference providing for the construction of the Reservoir (the "Agreement"), although the Developers have requested that Section 5(d) of the Agreement be revised to address potential future credit to the Developers if they construct the Reservoir against the portion of the District's general facility connection charge ("GFC") for the construction of the tank; and

WHEREAS, the District Board of Commissioners has determined that the Agreement contains terms and conditions in the best interest of the District and its present and future customers to provide for the construction of the Reservoir by the Developers, subject to the final revision, preparation and approval of the Agreement by the District Manager, Dan Bourks, and the District's general counsel; and the Board now desires to authorize and direct the District Manager to execute the Agreement on behalf of the District when he determines that the Agreement is in a form to his satisfaction and consistent with the intent of the version attached hereto and complies with the terms and conditions of Resolution No. 591; now, therefore,

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

1. The Agreement in the form attached hereto as **Exhibit A** is hereby approved subject to the final revision, preparation and approval of the Agreement by the District Manager and the District's general counsel, and the District Manager is authorized and directed to execute the Agreement on behalf of the District when he determines that the Agreement is in a form to his satisfaction and consistent with the intent of the version attached hereto and complies with the terms and conditions of Resolution No. 591.
2. This resolution shall be effective the date set forth below.

ADOPTED at a special open public meeting of the Board of Commissioners, Point Roberts Water District, Whatcom County, Washington, held on the 26th day of March, 2008.

N. Madeleine Anderson, Commissioner

Scott Hackleman, Commissioner

William H. Meursing, Commissioner