

RESOLUTION NO. 602

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF POINT ROBERTS WATER DISTRICT NO. 4 OF WHATCOM COUNTY, WASHINGTON, RATIFYING AND APPROVING AN AGREEMENT PROVIDING FOR THE CONSTRUCTION OF A RESERVOIR TO PROVIDE ADDITIONAL WATER SUPPLY AND CAPACITY FOR THE BENEFIT 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 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 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 then negotiated the terms and conditions of an agreement providing for the construction of the Reservoir, and the District Board of Commissioners approved the agreement by the adoption of Resolution No. 598 on March 26, 2008, conditioned on and subject to the revision and approval of such agreement by the District's General Manager; and

WHEREAS, however, after the District's conditioned approval of the agreement referenced in Resolution No. 598, the District's consulting engineer determined that the completion of certain water treatment facilities in the water system operated by the Greater Vancouver Regional District ("GVRD") may provide up to an additional seven hundred forty-one (741) ERUs in water supply to the District, and that the District may have additional peaking capacity for a total of up to two thousand nine hundred fifty-three (2,953) ERUs, which includes the additional 741 ERUs and the existing 2,212 ERUs that the Washington State Department of Health (DOH) has currently approved for the District's water system; and if DOH approves the additional peaking capacity and the additional ERUs estimated by the Consulting Engineer, the Reservoir will not be needed to create additional water supply, water storage capacity and ERUs for the Developers' water supply needs and those of other property owners within the District requiring water supply from the District now and in the reasonably foreseeable future; and

WHEREAS, the General Manager and the District's General Counsel have revised the agreement previously conditionally approved by Resolution No. 598 to address the alternatives for the Developers to construct the Reservoir if approved by DOH, or not be required to construct the Reservoir if DOH approves the additional peaking capacity and ERUs which may be connected to the District's water system; and such agreement in the form attached hereto as **Exhibit A** was approved by the District Board of Commissioners at its special meeting held on April 16, 2008 by motion ("Agreement"), and the General Manager was authorized and directed to sign the Agreement on the District's behalf once representatives of all of the Developers had signed the Agreement; and

WHEREAS, all of the Developers have signed the Agreement, the General Manager has signed the Agreement on behalf of the District, and the District Board of Commissioners now desires to ratify and approve the Agreement by resolution; 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 ratified and approved and the District Manager and the District's engineering and legal consultants are authorized and directed to perform and carry out the terms and conditions of the Agreement as appropriate.
2. This resolution shall be effective the date set forth below.

ADOPTED at a regular open public meeting of the Board of Commissioners, Point Roberts Water District, Whatcom County, Washington, held on the 13th day of May, 2008.

N. Madeleine Anderson, Commissioner

Scott Hackleman, Commissioner

William H. Meursing, Commissioner