

Port of Kingston
Kitsap County, WA

RESOLUTION NO. 07-03-2020

A Resolution of The Commission of The Port of Kingston

**AMEND RESOLUTION 07-31-2019 DECLARATION OF SUPPORT FOR THE KINGSTON REGIONAL
STORMWATER PROJECT AND INTENT TO ENTER INTO AN EASEMENT AGREEMENT WITH KITSAP
COUNTY TO ADD EASEMENT TERMS AND CONDITIONS**

WHEREAS, Kitsap County (County) has proposed construction of a Regional Stormwater Facility for the collection and treatment of stormwater in the Kingston area, and has developed preliminary plans showing pipelines and treatment facilities on Port of Kingston (Port) property; and

WHEREAS, the Port must periodically dredge the Marina entrance and such dredging requires approvals from a variety of state and federal agencies, and in the past, such dredging has also required mitigation action; and

WHEREAS, the Port is currently discussing dredge mitigation with regulatory agencies, and the possibility exists to use the Port participation, and contribution to the Regional Stormwater Project as mitigation, and the agencies would like documentation of the Port's participation in the project; and

WHEREAS, the proposed Regional Stormwater Facility has potential significant environmental, economic, and social benefits to the Kingston Community as outlined in Attachment A; and

WHEREAS, the Port will require an agreement with the County and perpetual easements over Port property for collection pipelines and treatment facilities as indicated in Attachment A; and

WHEREAS, final plans have not been completed and negotiations on final locations, easement and agreement conditions have not been negotiated; and it may take some time to reach a final design and agreements; and

WHEREAS, for all County and regulatory agencies and interested parties, it is important that the Port declare its support the Regional Stormwater Project, and its intent to negotiate agreements and easements such that the project can proceed using necessary Port property; and

WHEREAS, the Port would be willing to grant an easement to Kitsap County over the Easement Area for construction, maintenance and repair and alteration of the Facility, provided that the easement contains the following principal terms and conditions:

- **Easement Running with the Land.** The easement would run with the land in perpetuity.
- **Easement Area.** The Facility Service Area shall include all property owned by the Port on the effective date of the Easement, including but not limited to the boat rinse area.

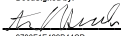
- **Compliance with Law.** The County would be solely responsible for ensuring compliance with all laws and regulations, including future upgrades or modifications necessary to comply with such laws and/or regulations.
- **Facility Costs.** All costs of construction, maintenance, repair and alteration of the Facility to be at the County’s sole expense. The Port will not be charged for connection charges or Stormwater Utility Fees for properties which the Port currently owns.
- **Advance Notice.** Except in the event of an emergency, the County will provide advance notice of not less than 2 days to the Port prior to commencing maintenance work and not less than 60 days prior to commencing repair or significant disruptive work in the Easement Area. Such notification will identify the dates of the work, the nature of the work to be performed and the level of disruption to the Easement Area.
- **Impact on Easement Area.**
 - The County will use reasonable efforts to minimize the impact on the Easement Area of any work performed on the Facility.
 - Upon completion of the initial construction or any subsequent work on the Facility, the County will promptly restore the Easement Area and/or any surrounding Port owned property which was disturbed to the condition previously existing.
- **Indemnification.** The County will defend and indemnify the Port from any claims arising out of its use of the Easement Area.
- **Reservation of Rights.** The Port reserves the right for itself, successors and assigns to use the Easement Area for any purposes not inconsistent with the Easement.

THEREFORE, BE IT RESOLVED by the Board of Commissioners for the Port of Kingston hereby as follows:

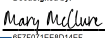
The Executive Director is directed to negotiate the terms of any necessary agreements and easements with the County to assure that the Regional Stormwater Facility can be constructed.

PASSED by the Board of Commissioners of the Port of Kingston, Kitsap County, Washington at the Commission meeting held this 22nd day of July 2020.

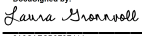
**PORT OF KINGSTON
KITSAP COUNTY, WASHINGTON**

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
 Steve Heacock, Commissioner

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 Mary McClure, Commissioner

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 Laura Gronnvoll, Commissioner

Attest:
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 Executive Director, Greg Englin