

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**ACTION ITEM**

**Item No.** 6d  
**Date of Meeting** November 25, 2014

**DATE:** November 18, 2014  
**TO:** Ted Fick, Chief Executive Officer  
**FROM:** Ralph Graves, Acting Director, Stormwater Utility  
Stephanie Jones Stebbins, Director Seaport Environmental & Planning  
Marilyn Guthrie, Stormwater Program Manager  
**SUBJECT:** Second Reading of Resolution No. 3696, as amended, Authorizing Stormwater Utility Formation

**ACTION REQUESTED**

Request Second Reading of Resolution No 3696, as amended: A Resolution of the Port Commission of the Port of Seattle establishing a Port Stormwater Utility and adopting a Stormwater Utility Charter pursuant to RCW 53.08.040 et seq. and other statutes, for the purpose of establishing, operating, furnishing, and funding a stormwater system comprising facilities, services, and programs for the management, collection, control, conveyance, treatment, and discharge of stormwater within the Port of Seattle.

**SYNOPSIS**

The Port of Seattle and its tenants manage nearly all of the stormwater runoff from our Seaport and Real Estate (Marine) properties under municipal and industrial permits and the Seattle-Tacoma International Airport (Airport) under its individual NPDES Waste Discharge permits issued by the Washington State Department of Ecology. Both the Airport and Marine stormwater systems are extensive and require a significant cost to maintain, inspect, upgrade and operate to meet regulatory requirements. In addition, the Port and its tenants pay fees to support the City of Seattle's and City of SeaTac's stormwater utility with little return investment in the maintenance and operation of the port system. In 2014, the Port and its tenants will pay an estimated \$4.1 million to the City of Seattle in stormwater fees.

The State law RCW 53.08.040, RCW 53.08.043 and other statutes grant port districts the authority to establish and operate municipal stormwater systems and stormwater utilities to serve port district properties and to set the terms, conditions, and rates for such an enterprise. Establishing and operating a port stormwater utility will provide direct funding dedicated to local oversight, attention, and management of the Port's stormwater system.

The utility service area proposed in the Resolution and Charter would broadly encompass all Port-owned property in King County. The Utility would consist of two divisions: the Marine Utility and the Airport Utility. The Utility Director will determine the actual physical boundaries of the Marine Utility and Airport Utility. For Port-owned land that discharges to other

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

November 18, 2014

Page 2 of 4

jurisdictions, the Director can negotiate agreements with other jurisdictions about management of stormwater systems and payment of stormwater fees.

The Port Commission would set the Stormwater Service Charge applicable to all properties within the Utility. The Utility Director would have the authority to establish other charges for administrative costs, individual customer charges, and design review fees, as determined to be necessary.

The Resolution directs staff to implement the Port Stormwater Utility by January 1, 2015; however, the Airport Utility will be activated by subsequent Commission action.

## **BACKGROUND**

The Port and the City of Seattle have discussed the Port's concern about the inequity of this situation for several years. In the meantime, the costs to the Port and our tenants for stormwater management have continued to escalate, due to increasingly stringent water quality permits and the need to maintain and upgrade Port infrastructure, as well as comply with programmatic requirements. The Port has harbor wide stormwater costs to the Port and our tenants totaling approximately \$85 million to \$135 million over the next five years.

Since 2011, the Port has paid the City's drainage fees under protest. Starting in 2013, and most recently after the Stormwater Issues Briefing on June 3, Port staff met with Seattle city officials to identify our concerns and the financial needs of our system. The current City administration and Port staff discussed options for reimbursement of funds to the Port under the current city utility structure, but found none that would result in sufficient funds to meet the Port's stormwater system requirements.

The Port has not only the need, but also the legal authority to establish a Stormwater Utility for the Divisions. The action to create a Port Stormwater Utility would also allow the future Utility expansion to encompass certain Aviation Division properties associated with the Airport system.

In previous briefings, the detailed background and history of stormwater fees have been presented. On September 11, 2014, the Commission had the First Reading of Resolution 3696, heard testimony on whether to authorize the Stormwater Utility, and voted to move the Resolution to Second Reading.

Since First Reading, the Port staff has continued discussions with both the City of Seattle and the City of Sea-Tac. The Port has reached an agreement in principle with the City of Seattle, under which the Port intends reimburse the City for the fees it would have collected in 2015 had it not been displaced by the Port Utility. In exchange, the City intends to assist the Port with the transition process by addressing such issues as jurisdictional boundaries, ownership and maintenance of infrastructure, and clarifying tax issues, and intends to waive any legal claims regarding the Port's creation of the Stormwater Utility. This agreement in principle will be formalized in a written Memorandum of Agreement during the 2<sup>nd</sup> quarter of 2015.

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

November 18, 2014

Page 3 of 4

## **STRATEGIES AND OBJECTIVES**

Implementing the Port of Seattle stormwater utility supports the following Century Agenda Goals and Green Port Principles:

- Implement stormwater-related policies and program that enhance the Port's economic competitiveness (Century Agenda Green Port Principle #4)
- Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities (Century Agenda Goal)
- Build partnerships that advance aquatic stewardship and promote the environmental awareness of Port tenants
- Serve as a model of sustainable growth while enhancing water quality at the Port (Century Agenda Green Port Principle #1)
- Allocate funds to those efforts that will yield the greatest environmental and water quality benefits (Century Agenda Green Port Principle #2)

## **FINANCIAL IMPLICATIONS**

In 2014, the Port and its tenants will pay an estimate \$4.1 million to the City of Seattle in stormwater fees. Once the Port stops paying the City the estimated \$4 million per year, the Port will be spending a similar sum to meet the obligations of the Port utility. At least initially, the costs to the Port and our tenants will be little changed.

## **TRIPLE BOTTOM LINE**

### ***Economic Development***

- Creates a funded, stormwater management program dedicated to the implementation of projects on Port-owned property that will lead to reduction of pollutants to Puget Sound.
- Stormwater fees to operate, maintain, and improve the Port's system will be directed into programs to maintain and upgrade assets to help meet or exceed compliance requirements.

### ***Environmental Responsibility***

- Creates a funded stormwater management program dedicated to control surface runoff in the urban environment to control and prevent water pollution to a level that meets or exceeds regulatory criteria.
- Reliable funding source helps achieve water quality improvements faster.

### ***Community Benefits***

- Communities around the Puget Sound will be able to directly benefit from cleaner water and healthier environment.
- Preserve Port and Port Tenant competitiveness keeping working waterfront jobs in the community.

## **ATTACHMENTS TO THIS BRIEFING**

## **COMMISSION AGENDA**

Ted Fick, Chief Executive Officer

November 18, 2014

Page 4 of 4

- Port Commission Resolution No. 3696 as amended with redline
- Port Commission Resolution No. 3695 as amended
- Port of Seattle Stormwater Utility Charter with redlines

## **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- June 3, 2014 – Stormwater Issues Briefing
- September 11, 2014 – First Reading of Resolution 3696