

KITSAP COUNTY SEWER DISTRICT NO. 7
RESOLUTION NO. 2021-04

A RESOLUTION of the Board of Commissioners of KITSAP COUNTY SEWER DISTRICT NO. 7, Kitsap County, Washington, Approving a Settlement Agreement with the City of Bainbridge Island.

WHEREAS, Kitsap County Sewer District No. 7 (the "District") operates a wastewater treatment plant that serves a portion of the south end of the City of Bainbridge Island (the "City"); and

WHEREAS, by interlocal agreement dated October 3, 1997, the District reserved for the City and accepted for treatment 80 equivalent residential units ("ERUs") of capacity in the District's wastewater treatment plant for the purpose of reducing existing water pollution problems in the Lynwood Center area of the City ("First Interlocal Agreement"). All connection fees for the 80 ERUs were prepaid at closing at an agreed upon amount; and

WHEREAS by amendment dated August 8, 2002, the District and the City amended the 1997 interlocal agreement to clarify the monthly service charge to be paid per ERU ("First Amendment"); and

WHEREAS by interlocal agreement dated September 24, 2003, the District and the City entered into a new interlocal agreement, which acknowledged the existing reservation of 80 ERUs for the Lynwood Center area and reserved for the City 231 additional ERUs upon creation of the proposed south end sewer local improvement district, plus 19 additional ERUs for use as determined by the City ("Second Interlocal Agreement"). All connection fees for the 250 ERUs were prepaid at closing at an agreed upon amount; and

WHEREAS the City created the south end sewer local improvement district ("LID 20") and constructed the sewer improvements therein, thereby utilizing the sewer connections authorized by the 2003 interlocal agreement; and

WHEREAS by interlocal agreement dated March 29, 2007, the District and the City entered into a new interlocal agreement, which acknowledged the existing reservation of 80 ERUs for the Lynwood Center area and the 250 additional reserved connections for the City, and provided 150 additional ERUs to serve Lynwood Center, LID 20, and the Adjacent "Open Space" Residential areas that were identified in the 2007 interlocal agreement, for a total of 480 ERUs, plus additional provisions regarding the treatment of wastewater and the payment of connection and service charges for the south end of the City ("Third Interlocal Agreement" and collectively with the First Interlocal Agreement, the First Amendment, and the Second Interlocal Agreement, "Interlocal Agreement"). Each connection fee for the 150 ERUs was scheduled to be paid upon connection within 30 days of connection at the then current connection charge, subject to certain notice requirements; and

WHEREAS The Interlocal Agreement requires that: (a) within 30 days of a binding commitment to an owner of sewer service, the City shall give notice of the binding commitment to the District; (b) within 30 days of connection, the City shall give notice of the connection to the District; and (c) within 30 days of the date of the connection, the City shall pay to the District the applicable connection charge; AND

WHEREAS, disputes regarding the interpretation and application of the terms and conditions of the Interlocal Agreement have arisen between the District and the City (collectively, the "Disputes"); and

WHEREAS, to avoid the expense and uncertainty of arbitration, the District and the City have agreed to settle the Disputes by Settlement and Release Agreement in the form attached hereto as **Exhibit A** and incorporated herein in full by this reference ("Settlement Agreement"); and

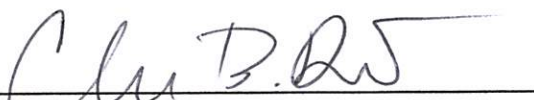
WHEREAS, District staff and general counsel have recommended the District Board of Commissioners approve the Settlement Agreement and authorize the execution of said agreement; now, therefore,

BE IT RESOLVED by the Board of Commissioners of Kitsap County Sewer District No. 7, Kitsap County, Washington, as follows:

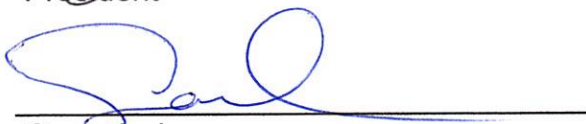
1. The recitals set forth above are hereby incorporated herein by this reference.
2. The Settlement Agreement is hereby approved.
3. The District Manager is hereby authorized and directed to execute the Settlement Agreement on the District's behalf.
4. District staff and counsel are authorized and directed to perform the terms and conditions set forth in the Settlement Agreement.
5. All District resolutions, policies and procedures are hereby modified, amended, rescinded, and superseded to be in accordance with the foregoing.

Adopted by the Board of Commissioners of Kitsap County Sewer District No. 7, Kitsap County, Washington, at the regular open public meeting thereof held the 9th day of December, 2021.

Board of Commissioners



President



Commissioner



Commissioner