

# Port of Port Angeles

*Port Angeles, Washington*

## Commissioner's Resolution No. 25-1314

**A Resolution of the Port of Port Angeles Commission, Port Angeles Washington pursuant to RCW 53.08.090 and RCW 53.20.020 declaring certain real property surplus to its needs due to the unique characteristics of that Property, which will allow a future planned action to transfer the property to the Lower Elwha Klallam Tribe in exchange for the LEKT transferring to the Port three stormwater ponds and to amend the Port's Comprehensive Scheme of Harbor Improvements to add and delete the properties accordingly.**

WHEREAS, the U.S. Department of Transportation (DOT) Maritime Administration (MARAD) plans to provide funding through a MARAD FY 2022 Port Infrastructure Development Program (PIDP) grant to the Port of Port Angeles (Port) for the Intermodal Handling & Transfer Facility Project (Undertaking or Project); and

WHEREAS, MARAD is responsible for complying with Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101), (NHPA) with respect to this undertaking and consulted with the Washington State Historic Preservation Officer (SHPO or DAHP<sup>1</sup>, as defined herein below) pursuant to 36 C.F.R Part 800; and

WHEREAS, the Undertaking will be located in the city of Port Angeles, Clallam County, Washington at the Port's Terminal 7 with an approximate address of 1301 Marine Drive, Port Angeles, Washington; and

WHEREAS, the Undertaking will consist of the following Project components: site grading and resurfacing approximately 10 acres with asphalt pavement; installing aboveground biofiltration treatment system with pretreatment tanks, biofiltration cell, polishing cell, and associated aboveground piping and appurtenances; and

WHEREAS, pursuant to Section 106 of the NHPA and its implementing regulations, 36 C.F.R Part 800, MARAD is required to consider the effects of the Undertaking on properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), and to consult with the SHPO; and

WHEREAS, MARAD, as the Lead Federal Agency for the purposes of complying with Section 106 of the NHPA, complied with Section 106 of the NHPA as memorialized by a Memorandum of Agreement (MOA or Agreement); and

WHEREAS, MARAD, in consultation with the State Historic Preservation Office (SHPO), the Lower Elwha Klallam Tribe (LEKT), and the Port, has determined that the Undertaking will have an adverse effect on an adjacent NRHP-listed archaeological site pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the State, Port, and LEKT are parties to the *Settlement Agreement among the State of Washington, Lower Elwha Klallam Tribe, City of Port Angeles, and Port of Port Angeles*, dated August 14, 2006 (the "4

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<sup>1</sup> The SHPO is the director of the Department of Archaeology and Historic Preservation, or DAHP, Washington State's primary agency with knowledge and expertise in historic preservation.



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Party Agreement") concerning the preservation and protection of that NRHP-listed archaeological site; and

WHEREAS, in Section 2 of the 4 Party Agreement, the State, Port, and LEKT agreed to cooperate with the preservation and use of the stormwater treatment ponds along the western boundary of the property transferred to the Tribe in Section 3 of the 4 Party Agreement (consisting of a portion of the NRHP-listed archaeological site; and

WHEREAS, in Sections 8, 9, and 10 of the 4 Party Agreement, the State, Port, and LEKT agreed on protocols for the identification of archeological resources, project permitting, mitigation, and disposition of artifacts and human remains located within the geographic scope of the 4 Party Agreement; and

WHEREAS, LEKT agreed to be a signatory to the agreement, the Jamestown S'Klallam Tribe and Suquamish Tribe responded, both deferring to LEKT; and

WHEREAS, MARAD, the Port, LEKT, and SHPO (hereinafter referred to together as Consulting Parties) all agreed to be signatories to the Grant funding MOA; and

WHEREAS, MARAD, pursuant to 36 CFR § 800.6(a)(4), provided the public an opportunity to comment on the MOA and has considered the recommendations of the public and reviewing agencies in the preparation of the MOA; and

WHEREAS, MARAD, the Port, LEKT, and SHPO have consulted and agree that the Port's Undertaking shall be implemented in accordance with the stipulations contained in the MOA in order to take into account the effect of the Undertaking on historic properties, and

WHEREAS, one stipulation in the MOA is that the Port's agreement to transfer to the LEKT the "Protection Area" property ("Protection Area" or "Property"), which is approximately 6.13 acres at the Port's Terminal 7 with an approximate address of 1301 Marine Drive, Port Angeles, Washington, and that the Port will take all necessary steps to create a separate parcel consisting of the Protection Area with boundaries as depicted in the MARAD MOA, preparation of deed, and transfer title from the Port to the LEKT, and that prior to transfer, the Port will remove from the Protection Area the existing storage warehouse building, office Conex, travel trailer, truck weigh scale, existing paving, quarry spalls, and bark and woody debris.

WHEREAS, pursuant to RCW 53.08.090, Port has determined that it is appropriate that the Protection Area be declared surplus and transferred to the LEKT in order to take into account the effect of the Undertaking on historic properties pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the NHPA;

WHEREAS, the Port Executive Director has certified the Protection Area to be surplus to the Port's need on this basis, and

WHEREAS, because the estimated value of the real property proposed to be declared surplus exceeds \$22,000, this action requires Commission approval, and



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WHEREAS, the MOA also provides that the LEKT agrees to transfer to the Port three stormwater ponds located adjacent to the Northwest property line of the LEKT's property ("Storm Pond Property");

WHEREAS, pursuant to RCW 53.08.090, the property which is part of the Port's Comprehensive Scheme of Harbor Improvements or modification thereof shall not be disposed of until the comprehensive scheme has been modified to find the property surplus to port needs, after public notice and hearing as provided by RCW 53.20.020; and

WHEREAS, public notice was given and a public hearing was held as required by statute.


NOW, THEREFORE, be it resolved by the Port of Port Angeles Commission that:

1. The Protection Area Property is no longer needed for Port District purposes due to the unique characteristics of the Property, is surplus to the Port's needs, and the transfer of ownership of said Property to the LEKT is in the public interest conditioned upon the Port's and LEKT's future approval of the MOA.
2. The Port's Comprehensive Scheme shall be, and is hereby amended to:
  - i. remove the property from the Port's Comprehensive Scheme of Harbor Improvements to permit the proposed transfer of the Protection Area Property to the LEKT for the uses stated in the MARAD MOA, and
  - ii. is further amended to add the Stormwater Pond Property; both amendments are conditioned upon the Port's and LEKT's future approval of the MOA.

ADOPTED by a majority of the members of the Port of Port Angeles Commission at Special Meeting held on the 7<sup>th</sup> day of January, a majority of the members being present and voting on this resolution and signed by its President and attested by its Secretary under the official seal of said Commission in authentication of its passage this 7<sup>th</sup> day of January 2025.

PORT OF PORT ANGELES  
BOARD OF COMMISSIONERS

  
Connie L. Beauvais, President

  
Colleen M. McAleer, Vice President

  
Steve D. Burke, Secretary