

## Legislation Text

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Clerk 11/12/2010

AN ORDINANCE authorizing the King County executive to amend a gravel purchase and extraction agreement as partial consideration for the acquisition of property on Maury Island known as the Maury Island Sand and Gravel property, located in council district 8, from Northwest Aggregates Co., an Oregon corporation.

### PREAMBLE:

In March 2010, the Washington state Legislature appropriated \$15,000,000 solely for the Washington state Department of Ecology to assist King County in the acquisition and remediation of property on Vashon and Maury Islands.

The Maury Island shoreline initiative project protects critical shoreline along Maury Island in Puget Sound. As part of its Maury Island shoreline initiative project, King County has negotiated the purchase of approximately two hundred fifty acres of land on Maury Island owned by Northwest Aggregates Co., an Oregon corporation ("NWA"). The property ("the NWA property") has been developed as a sand and gravel mine, including a conveyor system and dock for loading gravel onto barges.

The NWA property has significant ecological value vital to the Puget Sound ecosystem and recovery of species listed under the federal Endangered Species Act.

More than seventy percent of Puget Sound's coastal wetlands and estuaries have been lost to development and other shoreline modifications. Permanent conservation of the NWA property

will protect this valuable nearshore habitat. The NWA property includes one mile of Puget Sound shoreline adjacent to the Maury Island aquatic reserve.

Part of the consideration to be given to NWA for the NWA property is an amendment to a Gravel Purchase and Extraction Agreement ("the gravel agreement") between King County and Vashon Sand and Gravel ("VSG"), which was authorized by the King County Council in Ordinance 14371. The gravel agreement grants VSG the right to extract gravel from twenty-six acres of county-owned park property on Maury Island. Ordinance 14371 authorized the sale of approximately one million to one million five hundred thousand cubic yards (which is one million seven hundred to two million five hundred and fifty tons) of sand and gravel from the twenty-six-acre parcel.

The twenty-six-acre area was purchased by the county in 1994 along with three hundred acres of adjacent property. The acquisition was for the purpose of eventually establishing a park on the acquired property. The property acquired by the county in 1994 is known as the Maury Island regional park.

The twenty-six-acre area was being mined at the time King County acquired the property, which was acquired subject to the right to continue mining until 2004. The master plan for the Maury Island regional park, adopted by Motion 11047, states that mining could continue on the twenty-six acres until 2020 or some other date established by county officials.

The gravel agreement allows VSG to extract sand and gravel until the earlier of 2020 or until all the sand and gravel has been removed from the property to the depths specified in the permits that regulate the mining and the reclamation of the property. If King County gives timely notice, it may terminate the gravel agreement before 2014.

The gravel agreement provides for a royalty payment to the county of 1.55 dollars for each ton of gravel extracted ("the royalty rate"), subject to an annual escalation based on the consumer

price index. The current royalty rate is 2.17 dollars per ton.

VSG assigned the gravel agreement to Glacier Northwest, Inc., with King County's consent, under an Assignment and Assumption Agreement dated January 1, 2005.

As part of the transaction for the purchase of the NWA property, the gravel agreement is to be amended to:

1. Eliminate the royalty payment to the county for the first one hundred thousand tons of sand and gravel removed from the twenty-six-acre parcel each year. Payment would be made at the then-current royalty rate for any amount over one hundred thousand tons in a year;
2. Eliminate the county's ability to terminate the lease before its expiration; and
3. Amend the time limit for removing the sand and gravel from 2020 to 2030.

An amendment reflecting these terms is found in Attachment A to this ordinance.

The remaining terms of the gravel agreement will remain in force, including the limitations regarding the area that can be mined and payment of any leasehold excise tax that might be levied against the county as a result of the gravel agreement.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County executive is hereby authorized to execute the amendment to the Gravel Purchase and Extraction Agreement in substantially the form of Attachment A to this ordinance, and to execute any documents necessary to carry out the amendment.