

**BIRCH BAY WATER AND SEWER DISTRICT
RESOLUTION NO. 787**

A RESOLUTION OF THE COMMISSIONERS OF THE BIRCH BAY WATER AND SEWER DISTRICT,
WHATCOM COUNTY, WASHINGTON, AUTHORIZING THE SALE OF SURPLUS REAL PROPERTY.

WHEREAS, the Birch Bay Water and Sewer District ("District") is the owner of the real property legally described as follows:

Lot 1 and Lot 2, Block 11, Birch Bay Park, according to the Plat thereof, recorded in Volume 6 of Plats, page 8 records of Whatcom County Washington (Whatcom County Auditor File No. 143263).

Situate in Whatcom County, Washington. (Hereafter, "Lot 1 and Lot 2").

WHEREAS, Lot 1 and Lot 2 share a common boundary line; and

WHEREAS, on information and belief, the District is also the owner in fee of that portion of the unopened Maple Street county right-of-way abutting Lot 1 and Lot 2 to the south ("Maple Street ROW"); and

WHEREAS, on information and belief, the Maple Street ROW is held by Whatcom County ("County") as an exclusive perpetual easement for use of the public, pursuant to dedication on the Plat, effectively precluding use thereof for any District purposes; and

WHEREAS, the District Board of Commissioners ("Board") may convey property belonging to the District if the Board determines that the property is not and will not be needed for District purposes; and

WHEREAS, District staff have advised the Board that the Maple Street ROW is not and will not be needed for District purposes; and

WHEREAS, the Board wishes to convey by quit claim deed any existing District interest in the Maple Street ROW, with the exception of the District's franchise right over the County right-of-way; and

WHEREAS, pursuant to RCW 39.33.010, the District may convey real property to a municipality or political subdivision of the state such as Whatcom County; and

WHEREAS, Lot 1 and Lot 2 are zoned URM6; and

WHEREAS, pursuant to Whatcom County Code 20.20.252, the minimum lot size for a lot in the URM6 zone is 4,000 square feet; and

WHEREAS, the total area of the Maple Street ROW is estimated to be 2,656 square feet; and

WHEREAS, the entire surplus area is (1) completely encumbered by the Maple Street ROW, (2) unable to be formed into a separate parcel under the Whatcom County Code, (3) unable to be used for any District purpose; and (4) lacks any other significant utility other than use as a public right-of-way; and

WHEREAS, the District's conveyance of any and all fee interest it holds in the Maple Street ROW (excluding the District's franchise right over the County right-of-way) will merge Whatcom County's perpetual easement into the fee, thereby establishing unencumbered fee title in the Maple Street ROW in Whatcom County; and

WHEREAS, given the factors listed above, the Board has determined that its fee interest in the Maple Street ROW will be of most use to Whatcom County as the owner of the Maple Street ROW easement; and

WHEREAS, the foregoing recitals are findings of the Board and a material part of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: The District's underlying fee interest in the Maple Street ROW is not and will not be needed for District purposes and is hereby declared surplus.

Section 2: The Board finds that the District's interest in the Maple Street ROW has *de minimis* benefit only to the owner of the ROW easement (Whatcom County) and may not be conveyed to anyone else without subdivision or lot line adjustment. The Board further finds that the District's real property interest is entirely subordinate to Whatcom County's perpetual public easement in the Maple Street ROW. Therefore, the Board estimates that the District's fee interest in the land underlying the Maple Street ROW has no value.

Section 3: The Board also finds that conveyance of the District's interest in the Maple Street ROW will benefit the District by eliminating potential District liability arising from injury or damages suffered by anyone walking or otherwise travelling or traversing upon the Maple Street ROW.

Section 4: The District General Manager is hereby authorized and directed to convey any and all District interest in the Maple Street ROW, with the exception of the District's franchise right over the County right-of-way, by quit claim deed to Whatcom County for no consideration and to prepare and execute all documents necessary for and related to said conveyance.

Section 5: Any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 6: If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid, or unconstitutional, then the original Resolution shall be in full force and effect.

Section 7: This Resolution shall be effective immediately.

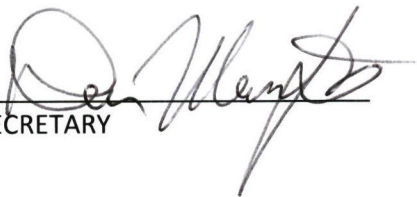
ADOPTED by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington, at a regular meeting thereof, on the 14 day of September, 2023.


Don Montfort, Commissioner


Jeff Benner, Commissioner


Fred Reid, Commissioner

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 787 of Birch Bay Water and Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on September 14, 2023.


SECRETARY