

RESOLUTION NO. 432

A RESOLUTION of the Board of Commissioners of Birch Bay Water District No. 8, Whatcom County, Washington, amending Resolution No. 431 of the District which authorized the issuance of sewer revenue bonds in the sum of \$1,000,000, designating the Bonds as qualified tax-exempt obligations, and permitting the District to avoid compliance with certain provisions of Resolution No. 431 relating to the rebate of certain sums to the Internal Revenue Service, if advised by nationally recognized bond counsel to the District that such compliance is unnecessary under federal law.

WHEREAS, the District, by its Resolution No. 431 adopted October 2, 1986, has authorized the issuance of its Sewer Revenue Bonds, 1986, in the aggregate principal amount of \$1,000,000 (the "1986 Bonds"); and

WHEREAS, it is in the best interests of the District that the 1986 Bonds be designated "qualified tax-exempt obligations" in order that they may be sold to financial institutions; and

WHEREAS, Resolution No. 431 (the "Bond Resolution") contains certain provisions relating to the rebate of excess earnings to the Internal Revenue Service pursuant to the Tax Reform Act of 1986; and

WHEREAS, the Bond Resolution contains certain provisions relating to the establishment of various subaccounts and funds in the office of the Whatcom County Treasurer in order to carry out the rebate provisions of the Bond Resolution; and

WHEREAS, the District has been advised by bond counsel that under the final language of the federal Tax Reform Act of 1986, and subject to the provisions of implementing regulations, the District may not be required to comply with the aforesaid rebate and related provisions in the Bond Resolution; and

WHEREAS, it is deemed to be in the best interests of the taxpayers of the District to provide the District with a mechanism

whereby compliance with the rebate and related provisions in the Bond Resolution is not required if the District is not required to do so by federal law;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS of Birch Bay Water District No. 8, Whatcom County, Washington, as follows:

Section 1. Resolution No. 431 of the Birch Bay Water District No. 8, Whatcom County (the "District"), adopted on October 2, 1986, is hereby amended by the addition of a new section thereto to read as follows:

Section 26. Compliance With Provisions Relating to Rebate of Excess Earnings. In the event the District obtains an opinion from nationally-recognized bond counsel stating that the District is not subject to the provisions of the Tax Reform Act of 1986, as it may hereafter be enacted and amended, relating to the rebate of arbitrage profits to the Internal Revenue Service, then the District need not comply with the provisions in this resolution relating to the rebate of arbitrage profits. In particular, the District, if it is in receipt of such opinion, need not establish or maintain the Excess Earnings Fund or keep any of the covenants in Section 14 of this resolution. In addition, if it is in receipt of such opinion, the District need not establish or maintain the 1986 Bonds Subaccount of the Sewer Revenue Bond Fund or the 1986 Bonds Subaccount of the Reserve Account. In such event, any reference to the 1986 Bonds Subaccount of the Sewer Revenue Bond Fund shall be understood to refer instead to the Sewer Revenue Bond Fund, and any reference to the 1986 Bonds Subaccount of the Reserve Account shall be understood to refer instead to Reserve Account; provided further, that in such event the monies in the Reserve Account need not be yield restricted as stated in Section 12.B and Section 13 of this resolution.

B. In the event the District receives an opinion from nationally-recognized bond counsel stating that the District is required once again to comply with the provisions of the Tax Reform Act of 1986, as it may hereafter be enacted or amended, relating to the rebate of arbitrage profits to the Internal Revenue Service, then the District shall once again comply with such provisions as required in this Resolution. Such opinion shall not, however, be required in order to authorize the District to carry out such provisions if no opinion of bond counsel to the contrary has previously been received by the District.

C. The Treasurer is hereby authorized and directed to carry out the provisions of this Section upon receipt of the aforementioned opinion or opinions of bond counsel,

in accordance with this Section and any further instructions of bond counsel.

Section 2. Resolution No. 431 of the District is hereby amended by the addition of a new section thereto to read as follows:

Section 27. 1986 Bonds Designated "Qualified Tax-Exempt Obligations." If acquired by a person authorized by the laws of the State of Washington to do business as a financial institution in the State of Washington, the 1986 Bonds are hereby designated as "qualified tax-exempt obligations" as defined in Section 902 of the Tax Reform Act of 1986.

Section 3. Severability. If any one or more of the provisions or covenants provided in this resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provisions or provision, covenant or covenants, shall be null and void and shall be deemed separable from the remaining provisions and covenants and shall in no way affect the validity of the other provisions of this resolution.

Section 4. Amendments. This resolution may subsequently be amended by resolution of the Board of Commissioners in any respect not prejudicial to the rights of the holders of the District's Sewer Revenue Bonds, 1986, in the aggregate principal amount of \$1,000,000, issuance of which was authorized by Resolution No. 431 of the District, adopted October 2, 1986.

BIRCH BAY WATER DISTRICT NO. 8  
WHATCOM COUNTY, WASHINGTON

Francis A. Fischer  
President and Commissioner

Harold J. J. J. J.  
Commissioner

George W. W. W.  
Commissioner

Attest:

Harold J. J. J. J.  
Secretary of its Commission


SECRETARY'S CERTIFICATE

I, the undersigned, the duly chosen, qualified and acting Secretary of the Board of Commissioners of Birch Bay Water District No. 8, Whatcom County, Washington (the "District"), and keeper of the records of the Commission (herein called the "Board"), DO HEREBY CERTIFY:

1. That the attached Resolution No. 432 (herein called the "Resolution") is a true and correct copy of a resolution of the District, as finally adopted at a regular meeting of the Board held on the \_\_\_\_\_ day of October, 1986, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Board voted in the proper manner for the adoption of said Resolution; that all other requirements and proceedings incident to the proper adoption of said Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the District as of this 23<sup>rd</sup> day of October, 1986.

  
Secretary, Board of Commissioners  
Birch Bay Water District No. 8  
Whatcom County, Washington

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