

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the Fort Smith Water and Sewer District, Montana (the "District"), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: "RESOLUTION OF THE FORT SMITH WATER AND SEWER DISTRICT AUTHORIZING LEVIES OF SPECIAL ASSESSMENTS WITHIN THE DISTRICT FOR THE PURPOSE OF REPAYING SPECIAL ASSESSMENT BONDS TO BE ISSUED TO FINANCE A PORTION OF THE COSTS OF DESIGNING, ENGINEERING AND CONSTRUCTING CERTAIN IMPROVEMENTS TO THE DISTRICT'S WASTEWATER SYSTEM AND COSTS INCIDENTAL THERETO" (the "Resolution"), on file in the original records of the District in my legal custody; that the Resolution was duly adopted by the Board of Directors of the District at a meeting on December 8, 2023, and that the meeting was duly held by the Board of Directors and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution, the following Directors voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent _____.

WITNESS my hand officially this 8th day of December, 2023.

Secretary

RESOLUTION NO. _____

RESOLUTION OF THE FORT SMITH WATER AND SEWER DISTRICT
AUTHORIZING LEVIES OF SPECIAL ASSESSMENTS WITHIN THE
DISTRICT FOR THE PURPOSE OF REPAYING SPECIAL ASSESSMENT
BONDS TO BE ISSUED TO FINANCE A PORTION OF THE COSTS OF
DESIGNING, ENGINEERING AND CONSTRUCTING CERTAIN
IMPROVEMENTS TO THE DISTRICT'S WASTEWATER SYSTEM AND
COSTS INCIDENTAL THERETO

WHEREAS, Fort Smith Water and Sewer District, Montana (the "District") is a county water and sewer district, validly organized pursuant to Montana Code Annotated, Title 7, Chapter 13, Parts 22 and 23, as amended (the "Act"); and

WHEREAS, the Board of Directors (the "Board") of the District has determined with the assistance of RPA Engineering, its consulting engineer (the "Engineer"), that it is in the best interests of the District to undertake certain improvements to its wastewater system, including replacement of existing collection systems with conventional gravity sewers; construction of a new wastewater treatment system which includes a new facultative lagoon system; installation of a centralized lift station and forcemain; and related improvements (the "Project"); and

WHEREAS, the Project and associated financing costs is expected to cost a total of \$9,185,452, which the District plans to pay from: a Montana Coal Endowment Program grant in the amount of \$750,000, a Renewable Resource grant in the amount of \$125,000, an American Rescue Plan Act ("ARPA") competitive grant in the amount of \$2,000,000, an allocation of ARPA grant monies from Big Horn County in the amount of \$769,952, a federal EDA grant in the amount of \$2,000,000, additional grants in the aggregate amount of \$31,500, and by the issuance of bonds in the aggregate amount of \$3,509,000; and

WHEREAS, the District has applied for and received a funding offer from the Department of Natural Resources and Conservation of the State of Montana (the "DNRC"), pursuant to which a portion of the costs of the Project would be paid from proceeds of a bond to be issued by the District in an aggregate principal amount of up to \$2,759,000 (the "Assessment Bond") and a portion of the costs of the Project would be paid from proceeds of a subordinate lien bond of the District in the amount of \$750,000, payment of which is expected to be forgiven (the "Forgiveness Bond"); and

WHEREAS, the Board of Directors of the District has determined that it is in the best interest of the District and owners of property in the District and users of the District's sewer system (the "System") to issue the Assessment Bond as a special assessment bond that will be repaid by the levy of special assessments against each lot, tract, or parcel in the District to be and benefitted by the Project; and

WHEREAS, the Board previously adopted a resolution on August 8, 2023 (the "Prior Resolution"), declaring the District's intention to authorize special assessments against properties in the District, and during the related public process, information came to light that

caused the Board to reconsider aspects of the proposed assessment, including correcting certain information set forth on Exhibit A to the Prior Resolution; and

WHEREAS, the Board determined to supersede and terminate the Prior Resolution and to re-initiate the process to authorize the levy of special assessments; and

WHEREAS, pursuant to Section 7-13-2333, M.C.A. and as provided in Sections 7-13-2280 through 7-13-2289, M.C.A., the District is authorized to levy special assessments against property located in the District and to be benefitted by the Project and to pledge the collections of the special assessments to the payment of its special assessment bonds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors (the “Board”) of the District as follows:

Section 1. Passage of Resolution of Intention. This Board, on October 27, 2023, adopted Resolution No. 10-27-23 (the “Resolution of Intention”), pursuant to which this Board declared its intention to undertake the Project and to undertake to authorize special assessments to finance a portion of the costs thereof and incidental thereto through the issuance of special assessment bonds.

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on December 8, 2023, this Board conducted a public hearing on the special assessments. At the hearing, this Board heard and passed on all protests made during the period ended 32 days after the first date of publication of the notice of passage of the Resolution of Intention (the “Protest Period”).

Section 3. Protests. Within the Protest Period, _____ protests were duly filed. This Board has considered the proposed assessments and any other comments made at the public hearing. This Board hereby determines that the assessment of costs of constructing the Project against the properties benefitted thereby as prescribed by the Resolution of Intention is equitable and in proportion to and does not exceed the special benefits derived from the costs of constructing the Project by the lots, tracts, or parcels to be assessed therefor within the District, and the special assessments to be levied by this Resolution are in accordance with the methods and do not exceed the amounts prescribed by the Resolution of Intention. The protests are found to be less than 50% of the costs of the Project and incidental costs to be financed with the Assessment Bond and therefore insufficient to defeat the proposed method of assessment described in the Resolution of Intention. The Board finds that under Section 7-13-2282, M.C.A., it is authorized to proceed with the assessment methodology and the assessments as described in the Resolution of Intention and this Resolution to pay the Assessment Bond.

Section 4. Capital Costs; Assessments.

4.01. Estimated Cost of Project; Estimated Principal Amount of Assessment Bond. The total estimated cost of the Project, including associated costs of financing, is approximately \$9,185,452. The Assessment Bond is proposed to be issued in the total principal amount of \$2,759,000 to pay a portion of the costs of the Project, fund a deposit to a reserve account, and pay costs of issuance of the Assessment Bond. (The Forgiveness Bond is expected to be issued as a subordinate lien revenue bond, and properties in the District will not be assessed in

connection with the Forgiveness Bond. However, if the District's obligation to repay the Forgiveness Bond is not forgiven as expected, the District will be required to implement rates and charges sufficient to produce surplus net revenues sufficient to repay the Forgiveness Bond.)

4.02. Property to be Assessed. All property served or reasonably capable of being served by the System within the boundaries of the District will benefit from the Project and will be assessed for the costs of the Project. Exhibit A hereto (which is hereby incorporated herein and made a part hereof) contains a description of each lot, tract, or parcel in the District to be assessed and the name of the owner of such lot, tract, or parcel. The estimated total principal amount of the assessment against each lot, tract, or parcel and the day when semi-annual payments of principal of and interest on the assessment become delinquent are also provided in Exhibit A.

4.03. Assessment Methodology. Each benefited lot, tract, or parcel in the District will be assessed an equal amount per lot, tract or parcel, based on the total cost of the Project and costs incidental thereto to be financed with the Assessment Bond, which is expected to be \$2,759,000.00. There are currently 229 benefited properties in the District. By dividing the estimated cost (\$2,759,000) equally among all benefited lots, tracts and parcels in the District (currently 229), the total principal amount of the assessment per lot, tract or parcel is estimated to be \$12,048.04, which amount does not include interest on the special assessment. The total principal amount of the assessment for each lot, tract or parcel of land for the cost of Project to be financed by proceeds of the Assessment Bond and incidental costs is shown on Exhibit A hereto.

Under the DNRC funding offer, special assessments are expected to be payable, together with interest thereon, over a term of approximately 30 years. Assuming a special assessment in the total principal amount of \$12,048.04, an interest rate on special assessments of 3.00% and a 30-year term (60 semi-annual installments), the total annual amount of the special assessment for each benefited lot, tract or parcel is expected to be approximately \$612.

If an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the District prior to issuance of the Assessment Bond or during the term of the Assessment Bond, the Board will recalculate the amount assessable to each benefited lot, tract, or parcel. The recalculation will be based on the amount of the outstanding principal of and interest on the Assessment Bond for the upcoming fiscal year and the District will spread the assessments across the District based on the number of benefited lots, tracts, or parcels within the boundaries of the District as of the July 1 following the action that resulted in the increase in the number of benefited lots, tracts, or parcels.

The lien of the special assessments to pay or finance the costs of the System and incidental costs is not extinguished or diminished by the combination or consolidation of multiple lots, tracts, or parcels into fewer lots, tracts, or parcels; accordingly, the area consisting of the combined or consolidated lots, tracts, or parcels will be assessed in an amount equal to the amount it would have been assessed had the combination or consolidation of lots, tracts, or parcels not occurred.

4.04. Assessment Methodology Equitable and Consistent with Benefit. This Board hereby determines that the methods of assessment and the assessment of costs of the Project and incidental costs paid with proceeds of the Assessment Bond against the properties benefited thereby as prescribed in the Resolution of Intention and herein are equitable and in proportion to and not exceeding the special benefits conferred on the properties by the Project.

Section 5. Levy of Assessments. The assessments for the costs of constructing the Project and incidental costs paid from proceeds of the Assessment Bond shall be payable over a term not exceeding 30 years at the expected interest rate of 3.00% per annum, each in equal semiannual installments of principal, plus interest, or substantially equal semiannual payments of principal and interest, as this Board shall prescribe in the resolution authorizing the issuance of the Assessment Bond. Property owners have the right to prepay assessments as provided by law. Assessments collected in excess of amounts then owing on the Assessment Bond will be applied to prepay the Assessment Bond.

Exhibit A to this Resolution contains a description of each lot, tract, or parcel in the District to be assessed and the name of the owner of such lot, tract, or parcel, if known, the amount of each partial payment of the special assessment, and the date when each such partial payment shall become delinquent.

Section 6. Certification of Assessments. A copy of this resolution, including Exhibit A hereto, certified by the Secretary shall be delivered to the Yellowstone County Clerk and Recorder within two days after the adoption hereof and no later than December 11, 2023.

Section 7. Further Actions. Officers of the District and the County are further authorized and directed to take all actions as may be required by law to assure that the special assessments levied by this resolution are duly certified, assessed and collected in accordance with law.

ADOPTED by the Board of Directors of the Fort Smith Water and Sewer District, Montana, this 8th day of December, 2023.

President

Attest:

Secretary

EXHIBIT A

Assessment Roll

The total principal amount of the assessment per lot, tract or parcel is estimated to be \$12,048.04, which will be spread in semi-annual assessments of principal and interest over a term of approximately 30 years (commencing at the time of issuance of the Assessment Bond) at an interest rate expected to be 3.00% per annum.

Assuming a special assessment in the total principal amount of \$12,048.04, an interest rate on special assessments of 3.00% and a 30-year term, the total annual amount of the special assessment for each benefited lot, tract or parcel is expected to be approximately \$612.

Semiannual payments of special assessments are due on November 30 and May 31, commencing with the first November 30 to occur following substantial completion of the Project. Special assessments are delinquent if assessed and not paid by November 30 or May 31, as applicable.